2018-2019 ANNUAL REPORT

The Correctional Investigator Canada
L'Enquêteur correctionnel Canada
Canada

Cat. No.: PS100E-PDF
ISSN: 1493-5295

Cover Photo: Mental Health Unit Yard – Saskatchewan Penitentiary.

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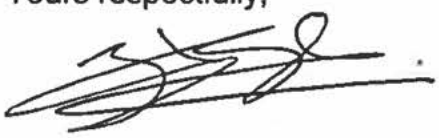
June 25, 2019

The Honourable Ralph Goodale
Minister of Public Safety
House of Commons
Ottawa, Ontario

Dear Minister,

In accordance with section 192 of the *Corrections and Conditional Release Act*, it is my privilege and duty to submit to you the 46th Annual Report of the Correctional Investigator.

Yours respectfully,



Ivan Zinger, J.D., Ph.D.
Correctional Investigator

Canada

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Correctional Investigator's Message

I am mindful that the function my Office serves – to act as an ombudsman for federally sentenced offenders – is not particularly well known and frequently misunderstood, sometimes even within the agency subject to my oversight. I fully understand and accept that the business of prison oversight, standing up for the rights of sentenced persons and advocating for fair and humane treatment of prisoners are not activities that are widely recognized or praised. Yet, to turn a phrase made famous by a young Winston Churchill, if prisons are places where the principles of human dignity, compassion and decency are stretched to their limits, then how we treat those deprived of their liberty is still one of the most enduring tests of a free and democratic society. Independent monitoring is needed to ensure the inmate experience does not demean or degrade the inherent worth and dignity of the human person. There are very few dedicated ombudsman bodies specializing in this kind of work anywhere in the world, and I take enormous pride in leading the Office of the Correctional Investigator of Canada.

When meeting with senior Correctional Service of Canada (CSC) management I am often asked a familiar, if somewhat rhetorical question – "why don't you ever say something nice about us, or mention our successes"? I will often answer with a standard comeback to the effect that "because the legislation directs that I investigate problems or complaints of offenders related to decisions, acts or omissions of the Service." Part III of the *Corrections and Conditional Release Act*, which spells out the function and mandate of my Office in legislation, neither directs me to praise or criticize the Correctional Service. Though my Office is often reduced to or misconstrued as a critic, advocate or watchdog agency, none of these terms does adequate justice to 'righting a wrong' by seeking resolution of complaints and systemic issues at their source.

Since assuming my duties, I have taken a special interest in identifying conditions of confinement and treatment of prisoners that fail to meet standards of human dignity, violate human rights or otherwise serve no lawful purpose. The issues investigated and highlighted in my report raise fundamental questions of correctional purpose challenging anew the assumptions, measures and standards of human decency and dignity in Canadian prisons:

- Introduction of a standardized "random" strip-searching routine and protocol (1:3 ratio) at women offender institutions.
- Staff culture of impunity and mistreatment at Edmonton Institution.
- Elevated rate of use of force incidents at the Regional Treatment Centres (designated psychiatric hospitals for mentally ill patient inmates).
- Lack of in-cell toilets on one living unit at Pacific Institution.
- Provision of the first medically assisted death in a federal penitentiary.
- Prison food that is substandard and inadequate to meet nutritional needs.
- Operational challenges in meeting the needs of transgender persons in prison.
- Housing maximum-security inmates with behavioural or mental health needs on "therapeutic" ranges that serve segregation diversion ends.

Many of the practices noted above would seem to run counter to the vision articulated in the Government's *Mandate Letter* issued to the newly appointed Commissioner of Corrections by the Public Safety Minister in early September 2018. This was the first time that a mandate letter from the government to the Deputy Head of the Correctional Service was made public. As such, it is an important expression of the Government's intention to move forward with a comprehensive correctional reform agenda. Making these commitments public marks a significant step forward in improving accountability and transparency within CSC. I support and commend the effort.

I would point out that several of the mandate commitments have been the focus of previous Office reporting including:

- Minimize barriers to prison visits, increase inmate contact with the outside world, and provide inmate access to supervised use of email.
- Prioritize education behind bars, implement digital learning platforms, and enhance offender access to post-secondary opportunities.
- Prohibit placement of inmates with mental health problems in segregation.
- Treat addiction as a health issue and ensure continuity of care upon release.
- Respect the full diversity of CSC's population, including Indigenous, Black Canadians, women, young adults, LGBTQ2 individuals, aging and elderly persons in prison.
- Enhance the use of Indigenous specific legislative provisions to address gaps and overrepresentation of Indigenous people in corrections.

In this year's report, relevant chapters on health care, conditions of confinement, Indigenous corrections, safe and timely reintegration and federally sentenced women touch on other mandate commitments to:

- Implement a safe needle exchange program in federal prisons.
- Adhere to the principles of *Creating Choices* in women's corrections.
- Provide nutrition adequate in quality and quantity to support well-being.
- Focus vocational programming on skills development linked to employability.
- Ensure CSC is a workplace free from bullying, harassment and sexual violence.
- Instill within CSC a culture of ongoing self-reflection.
- Ensure use of force incidents are investigated fully and transparently, and lessons learned implemented.
- Work with Indigenous partners to increase support for Healing Lodges and community-supported releases under Section 84.
- Examine the role of the National Aboriginal Advisory Committee.

As my report suggests, many moving and unaligned parts will need to come together for the current government's vision for federal corrections to be realized. The Minister acknowledges that some of these mandate initiatives may require new policy authorities (e.g., segregation reform) or additional funding.

However, a review of current resource allocation levels conducted by my Office suggests that there is considerable room to reallocate internally within the Correctional Service in order to meet new demands on programs and service delivery driven by changes in the diversity and distribution of the federal offender population.

According to Statistics Canada, in 2017-18, it cost $330 per day or $120,571 per year, to keep a federally sentenced individual behind bars. With a staff-to-inmate ratio of 1:1, CSC is among the highest resourced correctional systems in the world. Additional funding announced in December 2018 could add as many as 1,000 new staff to its ranks, most of them being Correctional Officers. While I acknowledge that there are definitional and methodological challenges in making international comparisons, by my estimates Canada could soon have the highest staff-to-inmate ratio in the world.[1]

Meantime, the number of inmates in prison today has declined from a high of 15,340 reached in 2013, and currently stands at almost the same number as ten years ago (a little over 14,000 incarcerated). By contrast, the number of offenders under community supervision increased from around 7,700 in 2013 to 9,200 today. Since 2007-08, CSC added approximately 1,200 correctional officer positions to its roster; its total staff complement has increased by over 2,500 employees – 80% of which were front-line security staff. Today, nearly four in ten prisons have more full-time employees than inmates. In some institutions, the number of Correctional Officers alone exceeds the number of inmates. There are approximately 2,000 prison cells now sitting vacant across the country, which represents the difference between a total rated capacity of 16,382 and a current inmate population of 14,081.

[1] Office of the Correctional Investigator (April 2019). *Resourcing, Performance, and Value for Investment* in Federal Corrections: A Comparative Review https://www.oci-bec.gc.ca/cnt/rpt/index-eng.aspx#OTH

With current spending, investment and staffing levels, Canada should be outstanding in every aspect of correctional performance. As my report indicates, there is room for considerable improvement. 2018-19 marked the highest number of inmate-on-inmate assaults, as well as inmate-on-staff assaults. Use of force incidents were the highest ever recorded in CSC facilities. The rate of self-inflicted injuries also reached new heights, both in terms of frequency and number of inmates engaging in self-injurious behaviour behind bars. There were five prison homicides in 2018-19, the highest in a decade. As noted, these outcomes were posted at a time when new and returning admissions to prison are declining and the community supervision population is surging to new levels. Despite changes in the distribution of the offender population, CSC only allocates 6% of its total budget to supervision of offenders in the community. Comparatively, the ratio of offenders to community supervision staff is around 6.5 offenders per community staff member.

Over the last decade, there has been effectively no new net growth in the total population under federal sentence, yet the distribution of that population has changed in some rather dramatic ways. For example, the Indigenous portion of the incarcerated population has grown by more than 50% overall and 74% for in-custody Indigenous women. CSC resources and priorities have not flowed in proportional or relative terms to meet the urgency of a crisis of over-representation of Indigenous people in federal corrections or address outcomes that are differentially and substantially worse for Indigenous offenders.

Other population drivers and dynamics of change would also suggest that resources should be allocated to areas that demonstrate the greatest pressure and need in order to increase efficiency and enhance outcomes. Three areas, in particular, should be examined for reallocation from institutional to community corrections:

1. Indigenous corrections (specifically Section 81 and 84).
2. Alternatives to incarceration for seriously mentally ill offenders.
3. Aging and elderly offenders (particularly those who, due to poor or declining health and time-served, pose no undue risk to society).

The Government's mandate letter closes by encouraging the Commissioner to instill within CSC a "culture of ongoing self-reflection," a professional approach and attitude that would welcome "constructive, good-faith critiques as indispensable drivers of progress." These are refreshing and encouraging messages, and my report provides a number of case studies that could contribute to a more self-reflective corporate culture that embraces new and different ways of thinking, learning and behaving. Indeed, if there is a recurring or unifying message to this year's report, it is that CSC's organizational "culture" – the patterns of beliefs, assumptions, norms, codes of conduct, and ways of thinking and doing that define how an organization acts and behaves – has become too insular, rigid and defensive. A professional culture that has grown wary and resistant to change, a practice steeped in a tired and worn belief that "this is the way we do things here," are holding the Service back from becoming the best it can be. It is not within my mandate to fix workplace or labour relations issues, but it is my responsibility and duty to report on them when they create adverse effects for offenders or otherwise jeopardize fair and humane treatment.

I remain committed to working collaboratively and constructively with the Minister and Commissioner in meeting the government's correctional reform agenda for Canada.

Ivan Zinger, JD., Ph.D.
Correctional Investigator
June 2019

Medical Service Delivery Vehicle – La Macaza

1 HEALTH CARE IN FEDERAL CORRECTIONS

United Nations Special Rapporteur on the 'Right to Health'

On November 6, 2018, I had the privilege to meet with Mr. Dainius Pūras, the United Nations Special Rapporteur on the 'Right to Health.' At our meeting, I explained that federal offenders are excluded from the *Canada Health Act* and not covered by Health Canada or provincial health care systems. I emphasized that CSC has a legal obligation to ensure reasonable access to essential health care in conformity with professionally accepted standards of practice, and that an offender's state of health and health care needs must be considered in all decisions (e.g., placements, transfers, segregation, etc.).

In our discussions, I provided the following summary of health care concerns in federal corrections:

- Canadian compliance with the United Nations *'Mandela Rules'* pertaining to the role of health care services and health care providers.
- Equivalence in standards and delivery of health care between community and corrections.
- Clinical independence and autonomy of correctional health care providers.
- Use of force involving inmates with mental health issues.
- Psychological and behavioural effects of isolation, seclusion and solitary confinement.
- Premature death and dying with dignity behind bars.
- Management of complex mental health needs.

Our positions seemed to converge on these and other areas of domestic and international health care concern and reform. Though the Special Rapporteur's final report is scheduled to be released outside the production phase of this Annual Report, his preliminary observations from his Canadian visit were released on November 16, 2018.[2] In this statement, Mr. Pūras highlights the fact that Canada has "yet to ratify important treaties, including the *Optional Protocol* [to the *Convention against Torture*] that would allow individuals to submit complaints on alleged violations of the right to health." He goes on to commend Canada's public health approach, but also identifies shortfalls stating that "Canada is yet to take the leap to comprehensively incorporate a right to health perspective, fully embracing the understanding that health, beyond a public service, is a human right."

From this light, barriers to accessing adequate health care become a question of justice. I concur with this perspective. Moreover, I would argue that human rights are violated whenever detained people are stigmatized or punished for behaviours stemming from underlying health or mental health factors.

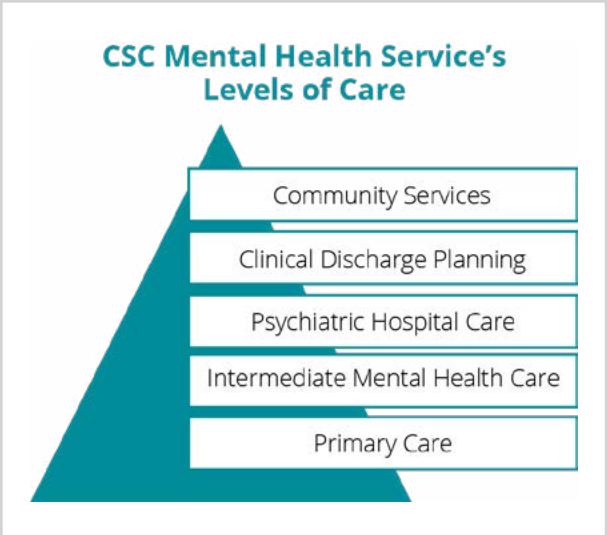
[2] Pūras, D. (November 2018). Preliminary observations - Country visit to Canada, 5 to 16 November 2018. *UN Special Rapporteur on the 'right to health.'* Retrieved (May 2019) from: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23896&LangID=E

Therapeutic Ranges (Maximum Security)

Therapeutic Ranges are intended to offer moderate intensity *Intermediate Mental Health Care* services at maximum-security sites.[3] They are used to manage maximum-security inmates who do not meet the admission criteria of Treatment Centres, or whose behavioural or security requirements cannot be safely met in a psychiatric hospital setting. First introduced in 2017-18, the admission criteria for these ranges include individuals who:

- Present with moderate impairment or significant mental health symptoms.
- Require more than what can be offered through Primary Care.
- Do not require 24-hour care.
- May also pose challenging behaviours that are secondary to their mental health needs, and often have heightened security requirements.

As stated in CSC's Corporate Business Plan, Therapeutic Ranges aim to provide a "therapeutic alternative" to segregation for offenders who engage in challenging behaviours that are secondary to mental health concerns.



That is, the current model intends to divert offenders with mental health needs away from administrative segregation and onto therapeutic units where they can receive programs, services and treatment.

In Budget 2017, CSC was allocated $58M in additional resources to expand mental health care capacity in federal corrections. Part of that new funding (just over $10M) was reserved for implementing and operating Therapeutic Ranges (over a five-year period) at maximum-security facilities in each of CSC's five regions.[4] To date, Therapeutic Ranges have been opened at the following maximum-security institutions: Atlantic, Kent and Edmonton Institutions. CSC has reported its intentions to proceed with the ongoing implementation of Therapeutic Ranges in the Quebec and Ontario regions.[5]

A preliminary review and site visits by my Office suggest that CSC's implementation of these ranges may not fully align with mental health care objectives. For example, the additional funding received by Atlantic Institution for its Therapeutic Unit was used to create four "Therapeutic Officer" positions classified as CX-02 (Correctional Officer). It is not clear how these positions differ from front-line security staff, except for some additional

[3] As per CSC's *Integrated Mental Health Guidelines* (March 28, 2019). Although this document states that therapeutic ranges will be implemented at "select medium and maximum security" sites, *CSC's Corporate Business Plan (2018-19 to 2022-23)* indicates that they will only be implemented in men's maximum-security institutions.

[4] In 2017, $1.8M was allocated to implement Therapeutic Ranges at male maximum-security sites. All regions were allocated funding in 2018-19 and 2019-20 to establish these ranges. According to CSC's internal *Resource Allocation Report 2018-19*, a total of $3.3 million was allocated for staffing Therapeutic Ranges in 2018-19. An additional $3.3M is allocated for 2019-20.

[5] *CSC Corporate Business Plan* (2018-19 to 2022-23).

training in mental health. Furthermore, as the photos illustrate, in infrastructure terms, the Therapeutic Unit is substantially no different from the Segregation Unit at Atlantic Institution. The situation seems more or less the same at Edmonton Institution.

In March 2019, my Office requested detailed information about the mental health services, supports and interventions that are offered on these ranges and the staffing and operational model upon which they are premised. In June 2019, CSC responded, noting that, because of new funding, each region now has one maximum-security site that can provide intermediate level mental health care. There are 110 therapeutic range beds at five sites, which represents about 6% of the total male maximum-security population. The resourcing and staffing model appears based on a 20-bed unit. For individuals on these ranges, the daily routine is similar to other maximum-security facilities, except for participation in group or individual clinical interventions.

In the absence of information or evidence provided by CSC to the contrary, I am led to the preliminary conclusion that Therapeutic Ranges in maximum-security institutions serve more as a segregation diversion strategy than enhancement of mental health treatment capacity. On the face of it, there seems to be little clinical value for employing this model over other segregation diversion/intervention strategies. Although the research on providing interventions to segregated inmates is sparse it does exist,[6] and it would be prudent for the Service to draw on the experience of other jurisdictions. There may even be valuable lessons to be gleaned from its own experience in attempting to implement the Segregation Intervention initiative,[7] which faced numerous operational challenges and failed to achieve most of its expected aims.

Therapeutic Range – Atlantic Institution

Segregation Unit – Atlantic Institution

[6] See, for example, Labrecque, R. M. (2018). *Specialized or segregated housing units: Implementing the principles of Risk, Needs, and Responsivity.* In Routledge Handbook on Offenders with Special Needs (pp. 69-83).

[7] CSC (Johnson, S., Talisman, E., & Weekes, J., September 2018). *Segregation Intervention initiative: An examination of the impact on offender outcomes (Research in Brief).*

Frankly, it is unclear what the new funding for Therapeutic Ranges has been used for, or even what results they are expected to achieve other than diverting maximum- security inmates with challenging behaviours away from segregation. More importantly, I do not see how these environments could be expected to serve any therapeutic aim. Going forward, it is even less clear what purpose these ranges will serve once segregastion is eliminated. Based on the experience to date, Therapeutic Ranges should serve as a cautionary tale for how CSC plans to manage inmates with mental health needs or behavioural needs in a post-segregation era. I intend to conduct a more in-depth review of these ranges in the coming year, including clinical care coordination, individual treatment plans and case progress reports.

Use of Force at the Treatment Centres

In the aftermath of the tragic and preventable death of Matthew Hines at Dorchester Penitentiary in October 2015,[8] CSC invested considerable effort to develop and implement a more "person-centred" approach to managing security incidents called the *Engagement and Intervention Model* (EIM). According to CSC, the EIM emphasizes "the importance of non-physical and de-escalation responses to incidents and to clearly distinguish response protocols for situations involving physical or mental health distress."[9] As outlined in Commissioner's Directive (CD) 567, *Management of Incidents*, these response protocols include:

- Take into consideration the inmate's mental and/or physical health and well-being, as well as the safety of other persons and the security of the institution.
- When possible, promote the peaceful resolution of the incident using verbal intervention and/or negotiation.
- Be limited to only what is necessary and proportionate.
- Take into consideration changes in the situation with continuous assessment and reassessment.
- When evaluating a response, staff will consider the many partners available [such as health care professionals] to create collaborative and appropriate interventions.
- Staff presence will be used generally and strategically to prevent and resolve incidents. The mere presence of a staff member demonstrating positive attitudes and behaviours can serve to de-escalate a situation.

Although I concur with these protocols in theory, I am not satisfied with how they are applied in practice. Since promulgation of CD 567 in January of 2018, my Office continues to review incidents of unnecessary and/or inappropriate uses of force in federal institutions. Some of the most troubling use of force incidents involve inmate-patients residing at the Regional Treatment Centres (RTCs) or psychiatric hospitals.

[8] Office of the Correctional Investigator (February 2017). *Fatal Response: An Investigation into the Preventable Death of Matthew Ryan Hines*.

[9] CSC (December 2017). Engagement and intervention model: training updates. *HR Monthly Fact Sheet*. Retrieved (April 2019) from CSC's internal intranet: http://thehub/En/security/emergency-management/Pages/management-model.aspx

| USE OF FORCE INCIDENT AT MILLHAVEN REGIONAL TREATMENT CENTRE (RTC) |

Range video evidence shows an inmate, diagnosed with a serious mental health disorder with significant impairments, engaged in a therapeutic interview with a Behavioural Technologist (BT) in the recreation room. During the interview, he asks an officer standing nearby at the control post if he could go to the yard for recreation after the interview. The officer declines, explaining that due to ongoing maintenance work the inmate would have to wait until later.

The inmate becomes agitated, directing a verbal protest towards an officer standing just outside the barrier of the recreation room. The officer's response further escalates the situation. While the BT attempts to de-escalate through verbal coaching, without warning or consultation, officers decide to discontinue the interview due to alleged "staff safety concerns". The BT's report would later state that at no point did s/he feel the inmate had put anyone's safety at risk, and that the inmate was "appropriate and polite" in all interactions.

An officer opens the barrier and orders the BT "get out of here." The BT attempted to leave the area; however, a group of four other officers had already gathered at the exit. The inmate lunges toward the officers attempting to strike one of them. The officers charge, tackling him to the floor. The inmate is held down by the weight of the four officers while lying prone. A nearby health practitioner reports later that an officer was kneeling across the inmate's neck and that his face was purple. The inmate is seen gasping. One of the officers is reported to have said, "want me to jizz on your face?" The others are seen laughing on video.

The inmate is handcuffed while on the ground and then lifted and slammed against a steel door, his head pressed against it while being held from the back of his neck. He is searched while restrained in this position. He is then escorted, without incident, to an observation cell.

Still handcuffed, he is forced onto the cell bed in a prone position with his face planted firmly onto the metal surface until his handcuffs are removed. The last officer to exit the cell is seen pinning the inmate's head to the bed and applying a "pain compliance" technique (forceful twisting and stretching of the arm and wrist) to maintain control as he exits the cell.

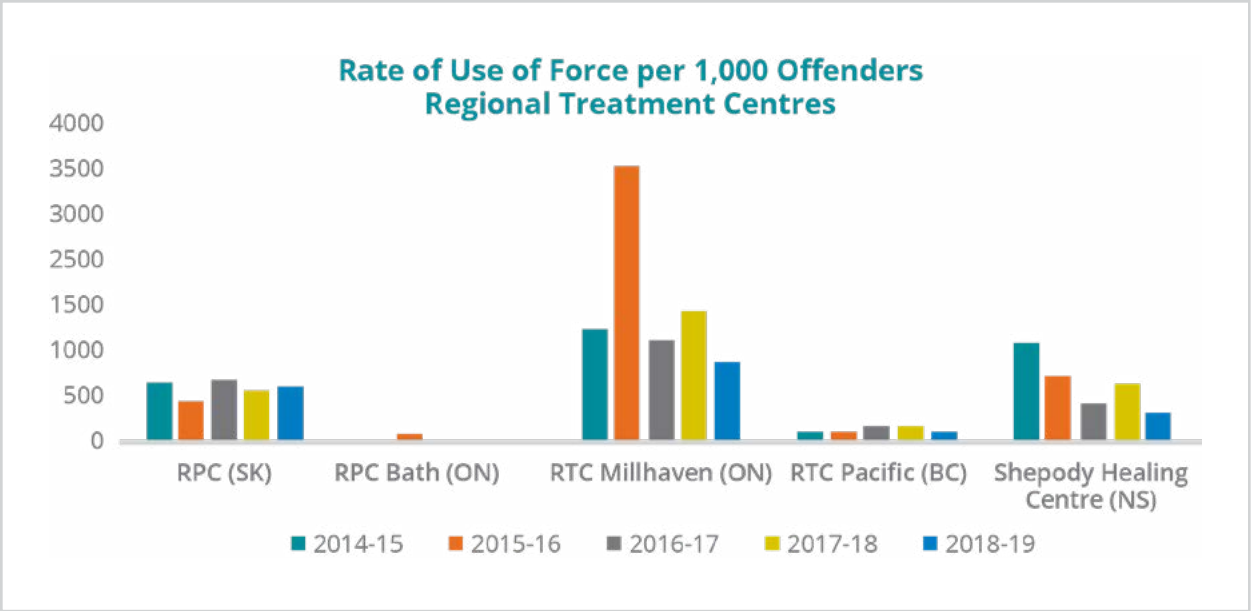
Inmate lying prone on floor with four officers on top of him – RTC Millhaven

Inmate pressed against steel door while being handcuffed – RTC Millhaven

The incident at Millhaven RTC is not an isolated case. Indeed, in 2018-19, my use of force review team identified a trend of inappropriate and/or unnecessary use of force incidents at Millhaven RTC. In the last fiscal year, the proportion of use of force incidents at Millhaven RTC deemed by my Office to be inappropriate and/or unnecessary was much higher (28%), compared to the proportion for all institutions (13%). Remove Millhaven RTC from the estimate and the overall national proportion drops to 9.3%.

As a whole, the five Treatment Centres accounted for roughly 20% of all use of force incidents reviewed by my Office in 2018-19 (296 out of 1,546). One out of ten incidents at the Treatment Centres was deemed unnecessary and/or inappropriate. Millhaven RTC accounted for 80% of these.

The level and rates of use of force at the Treatment Centres raise a familiar issue, namely, the competence and training of security staff. I raised this concern in my last Annual Report recommending that: "CSC ensure security staff working in a Regional Treatment Centre be carefully recruited, suitably selected, properly trained and fully competent to carry out their duties in a secure psychiatric hospital environment." CSC responded that, "All correctional staff, including those who are working in Regional Treatment Centres, are carefully recruited, selected and trained." The incident featured in the Case Study and rates of inappropriate/unnecessary uses of force at Millhaven RTC would suggest otherwise.



Source: Correctional Service of Canada. (April 2019). *Performance measurement and management reports.*

CSC's internal reviews of the Case Study incident concluded that – among numerous other policy violations – the use of force was not necessary and the amount of force used was not proportionate to the situation. I was pleased to hear that the institution took swift disciplinary action against the officers involved. These are important accountability measures, but post-incident reviews are not enough to ensure staff compliance with the EIM protocols. As RTCs are psychiatric facilities treating patients, every effort should be made to ensure force is used only when necessary.

During site visits, OCI investigative staff have noted the trend of front-line security staff at Treatment Centres sitting behind a desk or barrier largely disengaged with inmate patients. In fact, the majority of interactions between patients and correctional staff appear to be prompted by patients. This kind of security posture reinforces an "us-versus-them" culture at odds with the therapeutic aims of the Treatment Centres.

1. **I recommend that, in 2019-2020, CSC conduct a review of security practices and protocols that would ensure a more positive and supportive environment within which clinical care can be safely provided at the Regional Treatment Centres. This "best practices" review would identify a security model and response structure that would better serve the needs of patients, support treatment aims of clinicians and meet least restrictive principles of the law.**

CSC RESPONSE:

Correctional Service of Canada (CSC) committed to completing an evaluation of the Engagement and Intervention Model (EIM) in response to the Office of the Correctional Investigator's (OCI) 2017-2018 Annual Report. The evaluation is currently being undertaken and will provide information on achievements against expected results including those at Treatment Centres.

It is acknowledged there is an opportunity to look at security and health services protocols related to de-escalation and intervention activities, and build on best practices, to ensure the needs of patients are appropriately supported taking into account principles of least restrictive measures consistent with the protection of society, staff members and offenders. To this end, CSC will establish a forum with representation from CSC stakeholders.

Summary of Research

INJECTION DRUG USE AMONG FEDERALLY SENTENCED OFFENDERS

- 30% of women and 21% of men reported lifetime injection drug use. Of those who did, 53% of women and 39% of men reported sharing needles.[10]
- 51% of all men who reported lifetime injection drug use indicated recent injection drug use, and almost all of these individuals (94%) were assessed with a moderate to severe drug dependency problem.[11]
- The odds of self-reported HIV and HCV, among male offenders, was found to be significantly elevated among those reporting lifetime injection drug use, compared to those who never injected drugs.[12]

Prison Needle Exchange Program

In June 2018, CSC launched a Prison Needle Exchange Program (PNEP) at two federal institutions: Atlantic Institution in New Brunswick and Grand Valley Institution for Women in Ontario. Among other objectives, the purpose of the PNEP is to reduce the spread of infectious diseases such as HIV/AIDS and Hepatitis C. The Service began a planned national roll out of the PNEP (one site per month) in January 2019. As of spring 2019, the program had been implemented in all five of the regional women's facilities, as well as Atlantic Institution for men. A "phased" approach to implementation was adopted, ostensibly so that CSC can learn and adjust from experience gained from other sites.

Though I am encouraged by the decision to move forward with the implementation of PNEP in federal corrections, I have several concerns about the approach adopted so far. Harm reduction strategies can only be successful if there is uptake on the part of users, and the way that the PNEP has been developed and implemented thus far seems to have built-in restrictions to enrollment. As of April 2019, perhaps not surprisingly, there were only a handful of individuals enrolled in the program.

[10] CSC (Kelly, L., & Farrell MacDonald, S., March 2015). *Comparing lifetime substance use patterns of men and women offenders. (Research in Brief: 14-44).*

[11] CSC (Farrel, S., Ross, J., Ternes, M., & Kunic, D., 2010). *Prevalence of injection drug use among male offenders. (RS-10-02).*

[12] CSC (Zakaria, D., 2012). Relationship between lifetime health risk-behaviours and self-reported Human Immunodeficiency Virus and Hepatitis C virus infection status among Canadian federal inmates. *(R-259).*

Some elements of the program appear confusing or even contradictory. Currently, the program works on a one-to-one syringe exchange, which does not necessarily respect clinical need or demand. According to the contract that PNEP participants are obliged to sign, "disciplinary measures will continue to be implemented if the inmate is found to be in possession of illicit drugs or drug paraphernalia (except for the PNEP kit and supplies provided)." PNEP kits can be seized if the syringe or needle is altered, missing or observed outside the kit. In other words, a zero tolerance approach to drug possession in CSC facilities remains in effect. Drugs and drug paraphernalia (except official CSC-issued PNEP kit and supplies) are still considered contraband items, subject to disciplinary measures.

There are other possible explanations for low participation. When first implemented, the Parole Board of Canada (PBC) deemed all information regarding PNEP participation as "relevant to release decision-making," meaning that this information must be shared with PBC. The PBC has since removed this requirement. The program is open to criticism that it is driven by security versus clinical need:

1. Use of a Threat and Risk assessment as a condition of PNEP participation (same for access to other "sharps").
2. Access to needles/syringes not determined by need (one-to-one needle/syringe exchange).
3. Lack of multiple access and distribution points (must return used needle to Health Services).

Confidentiality is breached by requiring participants to show a kit for visual inspection during the daily stand-to-count, and upon request. That said, it is not clear that participation in a program of this nature in a prison context could ever be entirely confidential, much less anonymous. The daily pill parade and direct observation requirement for dispensing certain "high risk" medications are far from confidential or anonymous procedures. In a prison setting where everyone knows everybody else's business, the concern about confidentiality can be mitigated, but not entirely eliminated. Even still, patient confidentiality and "need to know" principles need to be respected to the extent possible. If these concerns are not adequately addressed, limited program uptake and participation is expected, and has been observed.

Harm reduction cannot be effective without buy-in of both users and providers. An effective harm reduction strategy recognizes the complex needs of drug users, and, in a prison setting, the reality of penal life and culture. Harm reduction seeks to inform and empower individuals in reducing the harms associated with drug use. CSC will fail to meet this objective if it continues to stigmatize and punish drug use behind its walls. Changing the culture and attitudes of an organization that has long adopted a zero-tolerance and punitive approach to illicit drug use will take time. Establishing a PNEP explicitly recognizes that zero-tolerance does not work, nor is it possible to ensure a drug-free prison. I am reminded that it took many years for correctional culture and practice to accept Opiate Substitution Therapy (now Opioid Agonist Treatment) as a legitimate treatment and harm reduction measure. I am also reminded of the fact that opposition to supervised injection sites in the community is still widespread across Canada.

Union of Canadian Correctional Officers (UCCO) picket against Needle Exchange

Some best practices appear to have been overlooked in the initial implementation phase of PNEP. Despite consultations with CSC's three main bargaining agents, and information sessions at select sites prior to implementation, there seems to be a lack of trust and confidence in the program, from both inmates and staff. Too much of what should be an exclusively health and harm reduction program has been shaped by security concerns. The United Nations Office on Drugs and Crime (UNODC) states that prisoners who inject drugs "should have easy and confidential access to sterile drug injecting equipment, syringes and paraphernalia."[13] This might be a hard pill to swallow for those who advocate a zero-tolerance, "war against drugs" approach. However, the fact is that a successful prison needle exchange program reduces the prevalence of communicable disease behind bars and enhances staff safety by reducing accidental needle stick injury resulting from cell and body searches.[14]

The United Nations has identified the following core principles where successful PNEPs have been established elsewhere in the world:

a. Support from leadership at the highest levels.

b. Steadfast commitment to public health objectives, to a harm reduction approach and to the right to health of people in prison to inform and empower themselves in reducing the harms associated with injection drug use.

c. Clear policy direction and oversight of the program.

d. Consistent policy guidelines and protocols.

e. Participation of staff and prisoners in the planning and operational process.[15]

[13] United Nations Office on Drugs and Crime (2013). *HIV Prevention, Treatment, and Care in Prisons and other Closed Settings: A Comprehensive Package of Interventions*, Retrieved from: https://www.unodc.org/documents/hiv-aids/HIV_comprehensive_package_prison_2013_eBook.pdf

[14] See, for example, Lines, R., Jürgens, R., Betteridge, G., Stöver, H. (2005). Taking action to reduce injecting drug-related harms in prisons: The evidence of effectiveness of prison needle exchange in six countries. *International Journal of Prison Health.* Researchers from Australia go so far as to suggest that needle and syringe programs can be a "pragmatic, inexpensive intervention for reducing the risk of needlestick injuries" in prisons. See, Larney, S. & Dolan, K. (2008). An exploratory study of needlestick injuries among Australian prison officers. *International Journal of Prisoner Health.*

[15] United Nations Office on Drugs and Crime (UNODC, 2014). *A Handbook for Starting and Managing Needle and Syringe Programmes in Prisons and other Closed Settings*. Retrieved from: https://www.unodc.org/documents/hivaids/publications/Prisons_and_other_closed_settings/ADV_COPY_NSP_PRISON_AUG_2014.pdf

In comparing these principles against CSC's approach to date, there are some obvious learning points. Ongoing and focused attention, oversight, innovation and direction is required in light of the need to make program adjustments to ensure the highest participation rate.

2. **I recommend that CSC revisit its Prison Needle Exchange Program purpose and participation criteria in consultation with inmates and staff with the aim of building confidence and trust, and look to international examples in how to modify the program to enhance participation and effectiveness.**

CSC RESPONSE:

Correctional Service of Canada's (CSC) Prison Needle Exchange Program (PNEP) was developed based on international examples and modified to fit the Canadian context. As mentioned in the Office of the Correctional Investigator's report, absolute anonymity cannot be guaranteed in community harm reduction program participation, and a prison environment restricts that ability even further.

CSC has gained experience managing inmates using needles in a safe and secure manner with its existing programs for EpiPens and insulin use for diabetes. A Threat Risk Assessment model, similar to the one currently in effect for EpiPens and insulin needles, has been used to determine which offenders can participate in the PNEP. Health promotion posters for the PNEP and inmate fact sheets have been developed and distributed to offenders and Frequently Asked Questions sheets for both inmates and staff have been distributed so that individuals are aware of the program, the process, and requirements for participation.

An integral piece of the PNEP implementation is the evaluation by an academic expert in harm reduction program evaluation. The evaluation includes thematic interviews with program participants and non-participants, nurses, correctional staff, and parole officers to explore issues and themes related to the program's acceptability and feasibility, including barriers to participation. Involving an independent and transparent academic will contribute to building confidence and trust from both staff and inmates. The program will continue to be developed and implemented according to scientific evidence. CSC is expecting to receive an interim report of initial findings related to concerns expressed from inmates and staff, from the academic expert, this fall.

CSC continues to engage with partners on PNEP at a national level via the National Health and Safety Policy Committee meetings, discussions with national union leadership, and comprehensive consultations at the site level as the program is rolled out across the country.

CSC is well-positioned to continue introducing harm reduction programs with the aim of reducing the harms associated with drug use in people unable or unwilling to stop. Consistent with the Government of Canada's Canadian Drug and Substances Strategy (CDSS), which includes Harm Reduction as a pillar of the response to substance misuse, the focus is on keeping people safe and minimizing harm, injury, disease or death while recognizing that the behaviour may continue despite the risks. Harm reduction keeps patients connected to healthcare, emphasizing helping patients understand their risk and the health consequences while striving to motivate patients into treatment. Harm reduction initiatives are based on a neutral-value approach to drug use and the individual.

In June 2019, CSC introduced an overdose prevention service at Drumheller Institution in the Prairie Region as another harm reduction measure available to inmates to manage their health needs.

FASD Pilot Project

For this pilot project at CSC's Regional Psychiatric Centre (RPC Prairies), a diagnostic team, including Health Services and the Interventions Division, aim to identify 15 to 35 offenders annually who meet the criteria for FASD and determine effective interventions to facilitate their safe transition to the community.

The goal is to develop a model that is transferable to other institutions. The initiative will also assist with responding to the *Truth and Reconciliation Commission of Canada's 'Call to Action'* to better address the needs of Indigenous offenders with FASD.

Fetal Alcohol Spectrum Disorder (FASD) in Federal Corrections

Fetal Alcohol Spectrum Disorder (FASD) is a term used to describe a variety of neurodevelopmental difficulties or deficits, such as impairments to executive functioning, memory, language, visuospatial skills, and social and emotional functioning, that can occur as a result of prenatal exposure to alcohol.

Given the diagnostic challenges of identifying individuals living with FASD, there are currently no confirmed national statistics; however, according to Health Canada, the prevalence rate is estimated to be around 1% of the general Canadian population (or 9.1 for every 1,000 births). Individuals with FASD are over-represented in the criminal justice system. While there are also no consistent national prevalence rates for FASD in correctional settings, it is estimated that 10% to 23% of federally incarcerated individuals meet the criteria for FASD.[16] Despite this high prevalence estimate and the complexities associated with assessing and diagnosing FASD in a correctional setting,[17] CSC still does not have a reliable or validated system to screen or identify this spectrum disorder at intake.

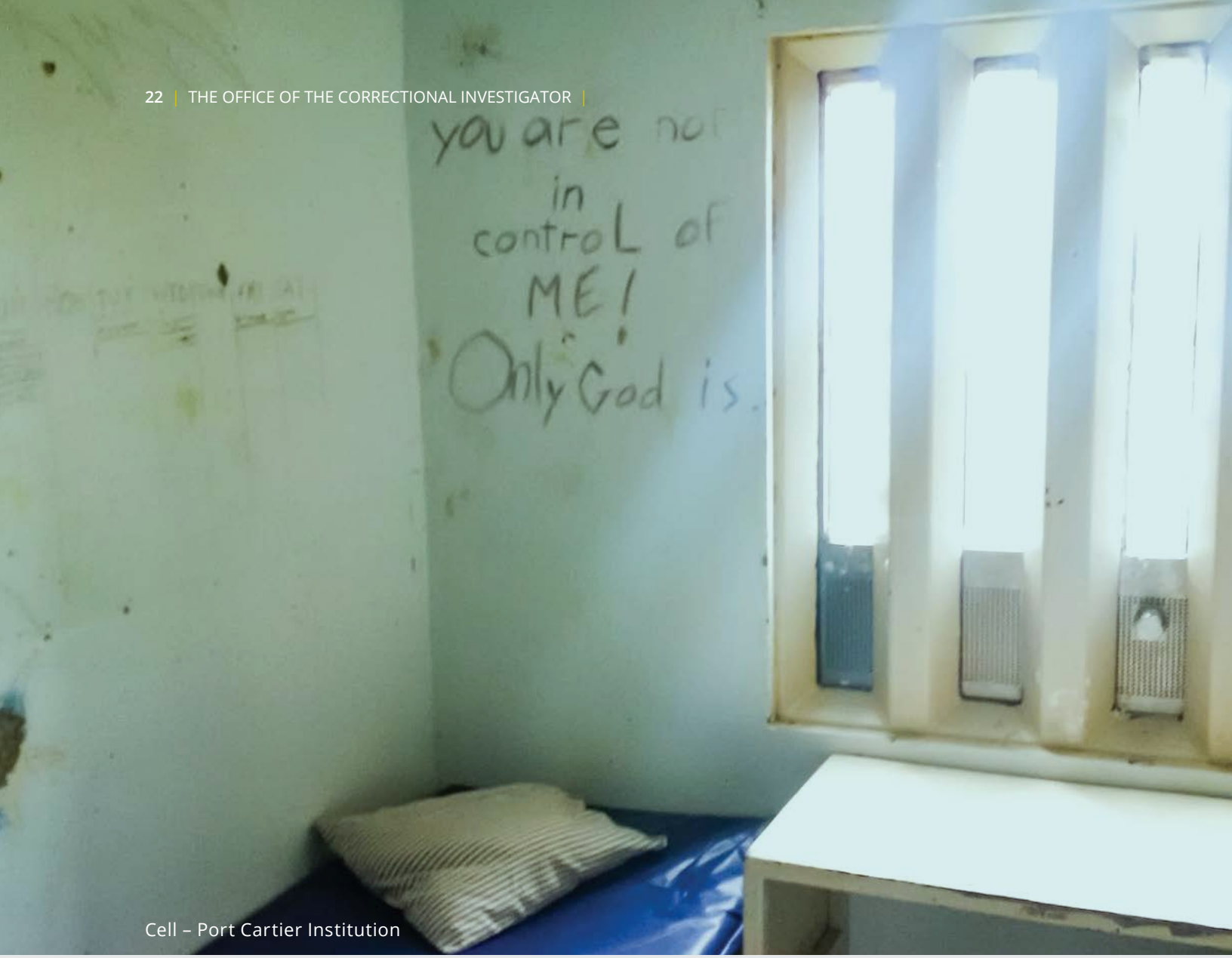
My Office has previously raised concerns regarding the lack of consistent and effective assessment and treatment practices for FASD-affected offenders, and I have recommended that CSC establish an expert advisory committee that leverages community-based expertise in the development of a formal strategy for FASD in federal corrections.

While it does not appear that CSC has established a formal committee on FASD, I was pleased to hear of the creation of a toolkit to guide program delivery staff in working with offenders with FASD, and importantly, the implementation of a pilot project for FASD diagnostic and support services at the Regional Psychiatric Center (RPC).

[16] Institute of Health Economics (Alberta, April 2013). *Systematic Review on the Prevalence of Fetal Alcohol Spectrum Disorders*. For CSC context see, MacPherson, P.H., Chudley, A.E. & Grant, B.A. (2011). *Fetal Alcohol Spectrum Disorder (FASD) in a correctional population: Prevalence, screening and characteristics, Research Report R-247.*

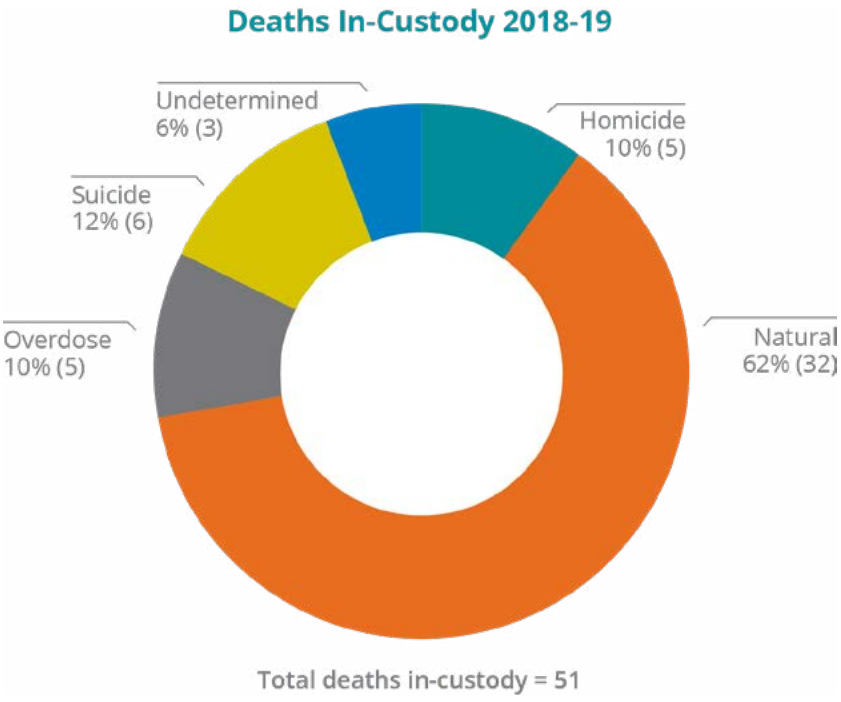
[17] See, for example, CSC (Forrester, P., Davis, C. G., Moser, A., MacPherson, P., Gobeil, R., & Chudley, A. E., 2015). *Assessing Fetal Alcohol Spectrum Disorder in Women Offenders (Research Report R-346)*, and; CSC (MacPherson, P.H., Chudley, A.E. & Grant, B.A., 2011). *Fetal Alcohol Spectrum Disorder (FASD) in a correctional population: Prevalence, screening and characteristics (Research Report R-247).*

Given the over-representation of offenders with FASD, I am looking forward to seeing the outcomes of this pilot project, and how CSC plans to implement an effective and evidence-based national strategy for FASD-affected offenders.



Cell – Port Cartier Institution

2 DEATHS IN CUSTODY



The number of inmate deaths in federal penitentiaries tends to fluctuate from year-to-year. There were slightly fewer in-custody deaths overall in 2018-19, primarily because there were less natural cause deaths (32 natural deaths in 2018-19 compared to 40 in 2017-18). The number of homicides in 2018-19 is concerning, the highest recorded since 2010-11 (5 homicides in 2010-11 and 2018-19). The overall number of prison suicides has generally been declining since 2014-15 and while the number of attempted suicides fell to 125 in 2018-19, it is still one of the highest numbers over the last ten years. Indigenous offenders are over-represented in the number of suicide attempts, comprising 39% of all such incidents over the last 10 years.

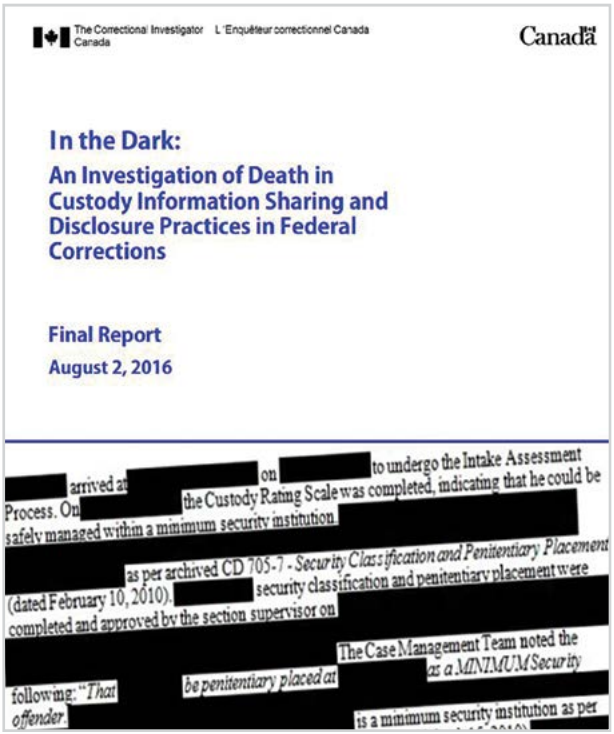
Update: *In the Dark*

On August 2, 2016, the Office released *In the Dark: An Investigation of Death in Custody Information Sharing Practices in Federal Corrections*.[18] The report documented the frustration of families when information is not openly and fully shared following the death of a loved one in custody. Following the release of this report, the Service took a number of important steps to address the issues identified during the course of the Office's investigation. Positively, the Office has noted a number of improvements with respect to communication and information sharing with families including, among others:

[18] Office of the Correctional Investigator (August 2016). *In the Dark: An Investigation of Death in Custody Information Sharing Practices in Federal Corrections* https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20160802-eng.aspx

- The establishment of a family liaison in each region responsible for being the point of contact for families.
- A modified approach to vetting and releasing information contained in National Board of Investigation reports.
- Staff training for those involved in communicating with families.
- The development of a guide for families explaining CSC policy and responsibilities following a death in custody.

Despite these positive developments, the Office has noted some slippage in the implementation of CSC's commitments following this investigation. Over the past fiscal year, the Office received a call from a lawyer of a family of a deceased inmate who indicated that the family was having difficulty accessing information following the death of their son.


The Correctional Investigator Canada / L'Enquêteur correctionnel Canada

Canada

In the Dark:

An Investigation of Death in Custody Information Sharing and Disclosure Practices in Federal Corrections

Final Report

August 2, 2016

[redacted] arrived at [redacted] on [redacted] to undergo the Intake Assessment Process. On [redacted] the Custody Rating Scale was completed, indicating that he could be safely managed within a minimum security institution. [redacted] as per archived CD 705-7 - *Security Classification and Penitentiary Placement* (dated February 10, 2010). [redacted] security classification and penitentiary placement were completed and approved by the section supervisor on [redacted]. The Case Management Team noted the following: "That [redacted] be penitentiary placed at [redacted] as a MINIMUM Security offender [redacted] is a minimum security institution as per

After my Office intervened, it appears that the difficulty the family had in accessing information was a result of an ATIP backlog at National Headquarters. Regardless of cause or fault, as my 2016 investigation found, when families cannot get information they become frustrated and suspicious. In this case, without the correct information, the family was left wondering if a CSC staff member had been involved in their son's death. They were relieved to find out that this was not the case, but this only occurred following my Office's intervention several months after the death. Sharing information, in a timely and responsive manner, is essential to alleviating these types of feelings during a very difficult time for a family.

The Office is also concerned that the implementation of the facilitated disclosure process, in practice, primarily involves staff providing the designated Family Liaison Coordinator with information who can then share it with the family. While this process may be appropriate and adequate for some families, others may wish to meet personally with those most closely involved in the care and custody of their loved one. This type of 'facilitated disclosure' appears to have only been used once and even then was used long after the death when information sharing had gone terribly wrong.

The Canadian Patient Safety Institute (CPSI) offers important guidance on a sensitive disclosure process.[19] The CPSI disclosure process involves a two-stage approach where the first stage occurs as soon as reasonably possible after the event and focuses on communicating the facts that are currently available and the follow-up actions that will be taken. The second stage provides families with additional information that has resulted since the initial disclosure. Each phase of disclosure is conducted within a framework that includes the following:

[19] Canadian Patient Safety Institute (2011). *Canadian Disclosure Guidelines: Being Open with Patients and Families.*

- Preparation for disclosure – involves identifying those that will participate and the plan on how to proceed.
- Identifying the disclosure team – who should be present at the disclosure meeting and who will assume the lead.
- Decisions regarding what information can be disclosed and how it will be disclosed (e.g. terminology, open approach, ensuring information is understood).
- Environment for the disclosure (e.g., in person, private area, time of individual's preference).
- Review of key decisions and action items at the end of the disclosure meeting.

Moving forward, families should be offered an opportunity to meet directly with senior staff most closely involved, particularly if the family feels they are not receiving sufficient information. In recent correspondence (*Undertakings and Commitment Grid*, received by the Office January 2019), the Service indicated that its commitment to develop and implement a facilitated disclosure process was complete. However, the response also indicated that the working group established to develop the process would continue to meet and refine the facilitated disclosure process. The ongoing work of this group should include consideration of the option to have more senior CSC staff members engage in direct facilitated meetings with families who wish to use such a procedure. Practices used in other fields, such as patient safety, could offer important guidance. Finally, an evaluation of the Family Liaison Coordinator role and responsibilities would provide an opportunity to assess its implementation and help shed light on ways a facilitated disclosure process, involving more senior CSC staff participating in meetings with families, could complement the role of the Family Liaison Coordinator.

Fourth Independent Review Committee (IRC) Report

In November 2018, the Fourth Independent Review Committee (IRC or Committee) released its review and report based on a sampling of 22 cases of non-natural deaths that occurred in federal custody between 2014 and 2017.[20] The Committee was largely tasked with identifying systemic issues and offering recommendations to CSC with a view to addressing non-natural deaths resulting from suicides, overdoses, and homicides. It also devoted a chapter to highlighting the case and systemic issues in the preventable death of Matthew Hines, echoing findings and recommendations made in my February 2017 Special Report to Parliament, *Fatal Response: An Investigation into the Preventable Death of Matthew Ryan Hines*.

In addition to their 17 recommendations, the Committee concluded their report with three key findings:

1. The number of incidents involving a non-natural death in federal custody is comparatively small.
2. CSC should concentrate suicide prevention and treatment efforts on subgroups of offenders who present risk factors known to be related to suicide (e.g., childhood negligence, interpersonal violence, inmates convicted of homicide of someone close to them).

[20] Nadeau, L. Brochu, S. & Cormier, R. (November 2018). *Fourth Independent Review Committee on Non-natural Deaths in Custody that occurred between April 1st, 2014 to March 31st, 2017* Retrieved from: https://www.csc-scc.gc.ca/publications/005007-2310-en.shtml

Fourth Independent Review Committee

SUICIDES IN FEDERAL PRISONS

- Suicide is the most common cause of non-natural deaths in custody.
- Of the 22 cases of non-natural deaths reviewed by the Committee, 12 involved suicide.
- ¾ of cases of suicide reviewed by the committee involved inmates serving sentences for homicide of a person close to them.
- While federal corrections in Canada has what is considered a low rate of suicide compared to other countries, the rate of suicide in federal prisons is still five times that of the general Canadian population (61 vs. 11.4 suicides per 100,000 people).
- Among their recommendations, the committee suggested that CSC more intentionally assess and target psychosocial and historical factors that are related to risk for suicide, and consider the impacts of prevention measures on quality of life for inmates who are considered high risk to ensure they are having a beneficial impact.

3. In cases where death can be linked to questionable practices by CSC staff, investigations should examine and report on issues such as the prevailing institutional culture as well as staff and inmate relations. These elements could assist in informing the development of measures that could prevent the occurrence of non-natural deaths in custody.

I concur with these findings and look forward to their incorporation into CSC's overall strategy to reduce and prevent non-natural deaths in custody.

Prison Homicides and the Case of Matthew Hines

The Committee reviewed three cases of homicide over the review period, which is representative of the average number of homicides in federal corrections each year. Further to these cases, the Committee recommended that CSC incident investigators should go beyond simply assessing adherence to policy, and their reports should more fully reflect this effort. They further suggested that internal National Board of Investigation reports should include a dedicated section to identifying areas of improper practice, policy gaps, and underlying problems that were prompted by the cases under review.

Given the circumstances, reviews and investigations surrounding the death of Matthew Hines, the Committee profiled this case separately in their report. Upon reviewing the Hines case, the Committee indicated that the Board of Investigation report and

their 21 areas for improvement were "not commensurate with the totality and gravity of the findings." The Committee not only concurred with, but also quoted the findings and recommendations directly from my *Fatal Response* report.

Furthermore, the Committee cited the OCI investigation as a demonstration of "how an investigation into a case of this nature can lead to significant recommendations regarding accountability for what occurred as well as strategic, organizational approaches to prevent a recurrence." They further suggested that my Office's report, as well as CSC's response, should be used as a training module for CSC investigators in the future. I, too, made a similar recommendation that CSC use this case as a national teaching and training tool for *all* staff and management. Matthew's death has indeed prompted some substantive operational and policy changes, particularly pertaining to use of force and situation management. Though some elements of Matthew's case have been adapted into learning and training materials (e.g. Arrest and Control and Escorting, and Sudden In-Custody Death Syndrome), it is concerning that a national Lessons Learned Bulletin records this preventable death in highly euphemistic terms:

SCENARIO #1: While inmates were returning to their cell for the stand-to-count, Correctional Officers ordered an inmate, who appeared to be acting "out of it" and behaving oddly, back to his cell for the count. They assumed he was likely intoxicated and touched the inmate's arm to gain compliance which caused the inmate to become agitated, resulting in a spontaneous use of force. This inmate, who was a large man, was cuffed from the rear and left in an awkward position. He struggled and OC spray was used several times, after which he complained he was having difficulty breathing. The inmate later died.

Best Practices in the Investigation Process and Engagement with Families

In the final component of their review, the Committee sought to identify best practices to improve investigations into deaths in custody. In doing so, the Committee suggested that the best approach for correctional agencies might be to develop their own best practices internally. Specifically, the Committee identified the need for best practices around how correctional agencies can more effectively engage and disclose information to next of kin during the investigative process. The Committee expressed support for the recommendations offered in my investigation of Matthew's death. The Committee did caution, however, that not all families have the same wishes regarding access to information following the death of a relative, and this too should be respected in the policies and procedures adopted by correctional agencies.

Prison infirmary – Dorchester Penitentiary

Aging and Dying in Prison

As part of my Office's joint investigation with the Canadian Human Rights Commission (CHRC) examining the challenges and vulnerabilities faced by older individuals in custody *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody* (February 2019),[21] we reported that many older individuals were living out their single greatest expressed fear – dying in prison. In 2018-19, 29 offenders 50 years of age and older died of natural causes in federal custody. The results of this joint investigation are addressed later in my report; however, I want to highlight one important and relevant finding here. Prisons were never meant to house sick, palliative, or terminally ill patients, but they are increasingly being required to perform such functions.

In November 2017, CSC released its *Annual Report on Deaths in Custody*, which examines all deaths (natural and non-natural) in custody that occurred in a CSC institution between 2009–10 and 2015–16.[22] During this time, 254 deaths from natural causes occurred. Significantly, among those who died of natural causes, 48% had a 'Do Not Resuscitate' order on file and 50% were receiving palliative care. If we agree that prison is not an appropriate place to provide palliative or end-of-life care, the question to be asked is this: why were these individuals, whose deaths were expected, allowed to die in prison?[23]

I have previously identified that criteria for granting compassionate release to a terminally ill offender are extremely restrictive.[24] Until recently, the documentation required by the Parole Board of Canada included medical evidence/rationale that end of life is not only imminent, but also certain; in some cases, the Parole Board has required medical doctors to provide a defined period of life expectancy. Such criteria make it very difficult for those in severe health decline behind bars to be released. The Parole Board, however, recently made changes to its *Decision-Making Policy Manual for Parole Board Members* to indicate that it is not necessary to require a defined period of life expectancy when reviewing cases for parole by exception under the "terminally ill" legislative criteria. Recent statistics from the Parole Board indicate that more releases are being made since these changes were put into effect.

Despite these efforts, far too many older terminally ill individuals are dying behind bars. As I detail later in my Annual Report, findings from the joint OCI/CHRC investigation found that many older individuals have spent decades behind bars, are institutionalized, some are now palliative, have little left to fight for and their sentences are no longer being appropriately managed. Many reported that they felt as though they have been 'forgotten,' and I would add that this occurs for many older and palliative individuals often until just days before they die. In the report, we identify two cases that were rushed through the parole system at the last minute only to have one terminally ill individual die two hours after his release to the community. While the second individual lived for nearly two months following release to a

[21] Full report can be accessed here: https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20190228-eng.aspx

[22] CSC (November 2017). *Annual Report on Deaths in Custody 2015-2016* https://www.csc-scc.gc.ca/research/005008-3010-en.shtml

[23] In the Factual Review exercise, CSC responded that a palliative individual may live with their illness for years and that, in some cases, they are considered too high risk to be released into the community.

[24] Pursuant to paragraph 121(1)a of the *Corrections and Conditional Release Act* (CCRA), the Parole Board may grant parole by exception to an offender *who is not yet eligible for day and/or full parole and who is terminally ill*. In accordance with the legislation, Board members must determine whether the offender is terminally ill and whether the offender meets the criteria for parole set out in section 102 of the *CCRA*.

hospice, there was a fury of work to get him out before a weekend as it was thought that he only had a few days remaining. Unfortunately, these are not isolated cases.

There seems to be little purpose or value in keeping palliative individuals who pose no undue risk to public safety behind bars. CSC has committed, in its proposed policy framework, "*Promoting Wellness and Independence: Older Persons in CSC Custody*," to monitor the timelines and quality of each step in the process from the designation of a terminal illness to submission to the Parole Board and decision. While this is an important step, CSC and the Parole Board must work together more closely to accelerate cases of dying inmates to be prepared and heard before the Parole Board in the timeliest manner possible. In addition to this, as I argue later in my Annual Report, CSC must better utilize the information arising from its recent review and assessment of chronic health conditions in individuals in federal custody 65 years of age and older. This information is key to identifying individuals with a terminal disease who could be safely transferred from prison to the community.

Providing comprehensive health care to sick and palliative individuals is costly. CSC has established two specialized healthcare units (Assisted Living Unit at Bowden and the Psycho-Geriatric Unit at the Pacific Regional Treatment Centre) no doubt at great cost. CSC health care costs have fluctuated over the past 10 years from a low of $201 million in 2008/09 to a high of $271 million in 2012/13. While healthcare costs are impacted by many factors, the aging offender population is no doubt an important driver of rising correctional health care costs. CSC does not currently track health care costs by age so it is not known how much is spent per capita on an older person in prison for health care; however, it likely resembles the trend in Canadian society more broadly.[25] At one of the institutions visited for the investigation, three of the five beds in the institution's infirmary were taken up by older individuals who were very ill and had been there for extensive periods of time. One older individual spent eight years in the prison infirmary, and had become increasingly dependent and bed-ridden.

Wheelchair that cannot fit through a cell door – Federal Training Centre

[25] For example, the Fraser Institute found that "... in 2014, the latest year of available data, the average per-person government spending on health care for Canadians between the ages of 15 and 64 was $2,664. Compare that to the cost for those 65 and over who had average annual per-capita health care costs of $11,625, which was 4.4 times greater than the 15–64 average. Retrieved from: https://www.fraserinstitute.org/studies/canadas-aging-population-and-implications-for-government-finances.

To improve human rights protection and cost effectiveness, my Office and the Canadian Human Rights Commission continue to call for better, safer and less expensive options in managing this older and vulnerable prison population that poses a reduced risk to public safety. A model involving medical or geriatric parole would allow individuals to apply for early release based on their age, number of years behind bars and current health status. The cost-savings of moving some of these individuals into a retirement/nursing home, or a specialized community based residential facility (halfway house) would be substantial. CSC could reallocate funds currently being used to maintain palliative individuals behind bars to pay for community placements that would be more responsive to dignity concerns.

An Update on *Medical Assistance in Dying* in Federal Corrections

Last year, I reported extensively on my concerns with how CSC proposed to give policy and operational effect to *Medical Assistance in Dying (MAiD)* legislation for federally sentenced terminally ill individuals. Beyond the optics of an agency of the state enabling or facilitating death behind bars, I stated in very specific and forceful terms the ethical and practical reasons for my objection to allowing *MAiD* to be carried out in a penitentiary setting. Despite my concerns and objections, CSC policy allows for an external provider to end the life of an inmate under "exceptional circumstances." The first such *MAiD* procedure was performed in a federal correctional facility during the reporting period.

The particular set of circumstances that allowed this decision to be made in this case are unclear, subject to privacy considerations and still under review by my Office. That said, though there was no advanced or formal notice given to my Office, I have no reason to doubt that the actual *MAiD* procedure was carried out professionally and compassionately. My review will be focused more on how and when CSC and Parole Board decision-makers got to the point that there was no other safer or more humane alternative to ending life than in a federal prison.

In the meantime, as my Office carries out a review of this case, I encourage the Parole Board of Canada and the Correctional Service to conduct a joint review of the eligibility and procedural criteria that gives effect to Section 121 "compassionate release" provisions of the *Corrections and Conditional Release Act*. This review would focus on ensuring decision-making in cases of terminal illness is fully compliant with the spirit and intent of *MAiD* legislation. I am suggesting that there is a fundamental conflict of law or procedure between *MAiD* and the current interpretation and application of Section 121 criteria. Such a review would be carried out mindful of the need for a terminally ill person still under federal sentence to be allowed to make the decision to hasten the end of their life in the community, in a manner, setting and timing that respects personal autonomy and informed choice.

3. **I recommend that the Correctional Service of Canada, in consultation with the Parole Board of Canada, conduct a joint review of the application of Section 121 "compassionate release" provisions of the *Corrections and Conditional Release Act* to ensure policy and procedure is consistent with the spirit and intent of *Medical Assistance in Dying* legislation.**

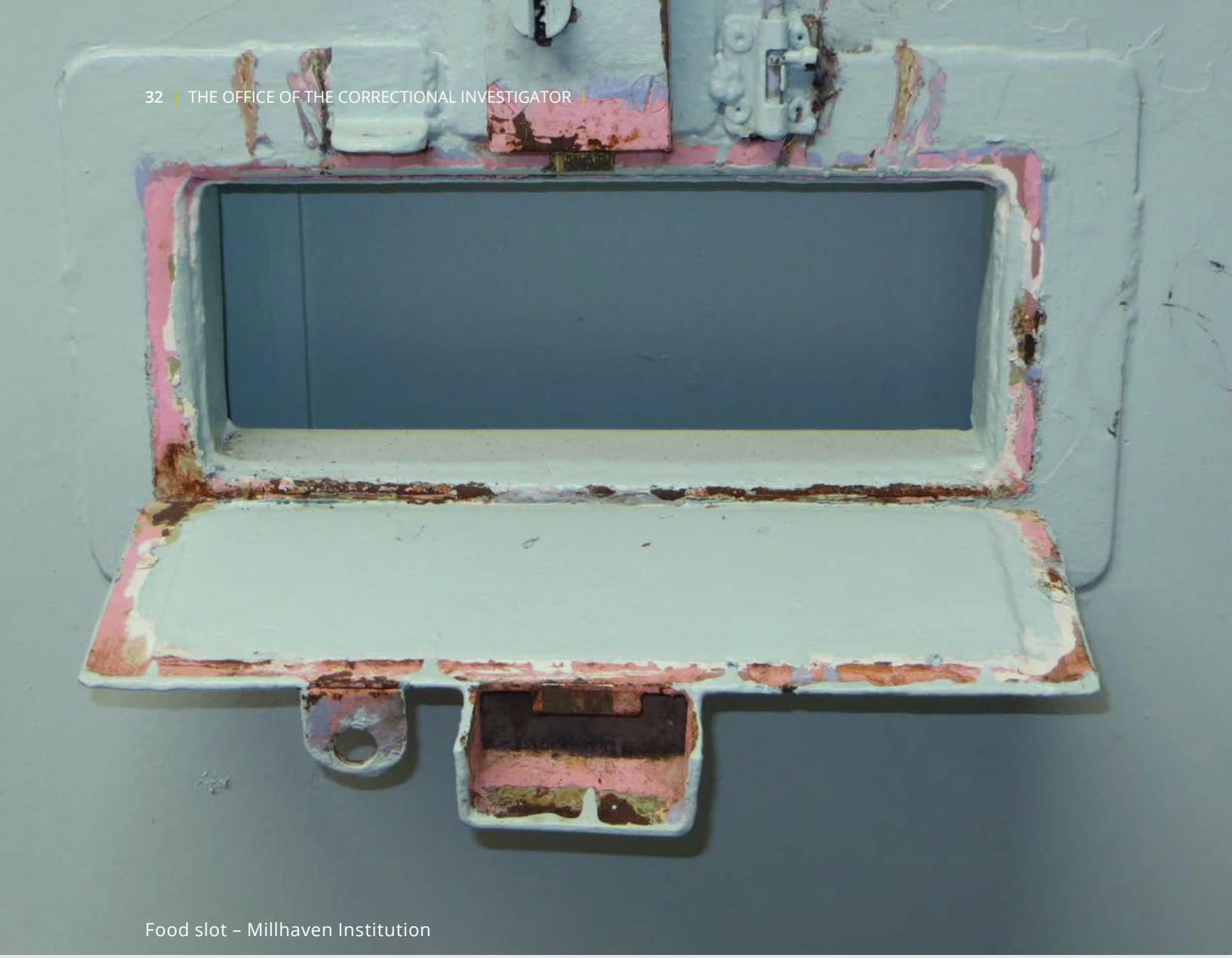
CSC RESPONSE:

Correctional Service of Canada (CSC) is continuing to collaborate with the Parole Board Canada (PBC) in reviewing the application of Parole by Exception under Section 121 of the *Corrections and Conditional Release Act*.

Most recently, on June 3, 2019, CSC, in partnership with PBC, released its poster and fact sheets for offenders and staff in order to increase awareness about Parole by Exception. These communication materials have been disseminated to all institutions for sharing with staff and offenders.

In July 2018, CSC issued direction to staff to promptly notify the Institutional Parole Officer (IPO) so that all release options — including Parole by Exception under Section 121 — may be considered when an inmate is determined to be terminally ill and/or eligible for *Medical Assistance in Dying (MAiD).* As a result, staff are able to track the progress of each case from the moment health services staff notifies the parole officer up to the time the decision has been made by the PBC to grant or deny Parole by Exception.

CSC in collaboration with the PBC, will continue its efforts in improving results in terms of proactive and collaborative case management for terminally ill offenders.



Food slot – Millhaven Institution

3 CONDITIONS OF CONFINEMENT

The Service shall take all reasonable steps to ensure that penitentiaries, the penitentiary environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person's sense of personal dignity.

(Section 70, Corrections and Conditional Release Act)

"Staff embody, in prisoners' eyes, the regime of a prison, and its fairness."[26]

This chapter features three case studies – Dysfunction at Edmonton Institution, Use of Force at Atlantic Institution and Prison Food. The issues raised, while derived from individual investigations, have systemic roots. Each case study brings forward findings and lessons that reach beyond the particular institution or issue under review. Collectively, they speak to organizational "culture" – the patterns of beliefs, assumptions, norms, codes of conduct, and ways of thinking and doing that define how an organization acts and behaves. Fixing problematic elements of CSC's organizational culture is not within my mandate. However, when unprofessional conduct, toxicity, resistance or other dysfunction in the workplace create adverse effects for the inmate population, as I found in the Edmonton and Atlantic Institution examples, I have a duty and responsibility to report and act upon it. The third case study on prison food speaks to another part of CSC's corporate culture, one that is fixated on compliance to the exclusion and detriment of other objectives, such as the safety, health and well-being of inmates.

Case Study 1: Dysfunction at Edmonton Institution

It is no secret that Edmonton Institution, a maximum-security facility, has been plagued by a toxic and troubled workplace culture where dysfunction, abuse of power, and harassment have festered for years. In my last Annual Report, I warned that a toxic workplace environment can lead to an abuse of power and mistreatment:

The lesson to emerge from maximum security Edmonton Institution this past year is that staff practices that undermine or degrade human dignity — sexual harassment, bullying, discrimination — can lead to a toxic work culture. A workplace that runs on fear, reprisal and intimidation is highly dysfunctional; it is the antithesis of modeling appropriate offender behaviour. … (I)f staff disrespect, humiliate or disabuse each other one can only imagine how they might treat prisoners. … I have no power or authority to investigate labour relations issues, but when staff actions or misbehaviour negatively impacts offenders it is perfectly within my remit to take appropriate action.[27]

[26] Liebling, A. (2011). Moral performance, inhuman and degrading treatment and prison pain. *Punishment and Society, 13:5*.

[27] Office of the Correctional Investigator (2018). *Annual Report 2017-18*.

My Office was first seized with the situation at Edmonton Institution in December 2016. At that time, my predecessor referred to Edmonton Institution as "dysfunctional," a facility where a "toxic workplace culture leads to policy violations, unfair treatment of offenders and potential human rights abuses." The independent human resource consultants brought in to report on these matters, and to respond to a recommendation made by my Office, described an institution that was lawless, toxic and callous, a workplace environment in which "a culture of fear, mistrust, intimidation, disorganization and inconsistency" prevails.[28] It was especially disturbing to find that the external report contains allegations that employees used lockdowns, searches and safety complaints to "rile up inmates, to shirk their responsibilities, or to get back at management."[29] The staff behaviours described in the consultant report do not happen outside of an organizational culture that allows it to happen.

Edmonton Institution Needs Assessment and Analysis

An internal employee survey, released in January 2019, identifies the extent of challenges in creating a safe and respectful workplace at Edmonton Institution:

- 96% of employees reported they had experienced conflict in the workplace. The majority said conflict ruined their working relationship and destroyed trust with staff.
- 17 current employees say they have been sexually assaulted by a co-worker. 65 respondents (23%) reported being sexually harassed by a co-worker.
- 60% have encountered abuse of power within the workplace.
- Over half of respondents said they worked in a "culture of fear." Most said that fear did not come from interactions with inmates but rather co-workers.
- 51% believe that a "culture of fear" contributes to divisions between work groups (e.g., security vs. programs staff). The majority believe workplace fear allows certain work groups to control the workplace.
- Over 60% of employees had experienced violence in the workplace. Most common forms of workplace violence: threatening behaviour (23%); verbal abuse (22%); verbal intimidation (22%). 11% had witnessed co-worker violence on inmates.
- More than two-thirds of respondents have witnessed harassing behaviour in the workplace.

Source: Families First: Supports for Occupational Stress Inc. (January 2019). *Edmonton Institution Needs Assessment*

[28] TLS Enterprises (March 2017). *Organizational Assessment: Edmonton Institution.*

[29] Ibid.

Despite personal interventions by the Minister, the previous and current Commissioners of Corrections to get to the underlying causes of staff misconduct at this troubled institution, the workplace culture remains highly problematic. A recent (January 2019) follow-up workplace needs assessment provides a comparative analysis of historic and current levels of internal workplace strife, conflict and dysfunction at Edmonton Institution.[30]

In a prison setting, staff set expectations of how order, safety and authority is perceived and exercised. It is instructive that the needs assessment of current employees indicated that they feared one another more than they did inmates. Over 60% of employees had experienced violence in the workplace. More than one-quarter reported observing managers or supervisors threatening other staff with physical violence. Just as disturbing, it seems that professional misconduct is rarely reported up to management out of fear of being labelled a "rat," fear of retaliation or other violations of the "code."

It is encouraging that the needs assessment notes some areas of progress and positive momentum for change compared to the situation a few years ago. Nevertheless, as I document more fully below, a culture of impunity still seems firmly rooted at Edmonton Institution; it is more than just a case of a few bad apples or isolated incidents. The Service continues to face several lawsuits and ongoing allegations of harassment, abuse of power, neglect and intimidation from current and former Edmonton Institution employees as well as inmates. A series of administrative reviews and criminal investigations of staff wrongdoing have culminated in the dismissal or suspension of several staff members. New leadership at the regional and institutional levels has not yet fully rooted out the remaining vestiges of unprofessional behaviour. One recent media report describes Edmonton Institution as "rotten."[31] Several advocates have called for a public inquiry to address the underlying malfeasance.

As has been made clear previously, a dysfunctional and abusive workplace culture has spill-over or contagion effects that can put the safety of inmates in jeopardy. As shared with the Commissioner, my findings from an incident documented on video suggest staff knowledge, possibly even complicity, in a repeated series of inmate-on-inmate assaults that occurred on Unit 5 at Edmonton Institution from August to October 2018. I am publicly releasing the findings and implications of my investigation because I believe Canadians have a right to know how the Service intends to fix elements of a workplace and inmate culture that perpetrates, condones or otherwise gives license to violence, abusive behaviour and mistreatment.

In late August 2018, the OCI Senior Investigator assigned to Edmonton Institution met with a number of protected status inmates who alleged that inmates on other ranges on the main living unit were throwing food items, liquids and other objects at them during movement. These incidents were under video surveillance and observation by staff located in the Unit's sub-control area. Officers assigned to the Unit refused to staff the direct observation

[30] This external report was completed by Families First: Supports for Occupational Stress Inc. It was initiated following the independent *Organizational Assessment Report* completed earlier by TLS Enterprises. In response to the TLS Report, the Edmonton Institution Recovery Committee (EIRC) engaged in an external contract with Families First to conduct a needs assessment and analysis at Edmonton Institution, which was completed in fall 2018. The resulting report, Edmonton Institution *Needs Assessment and Analysis: Report on Needs Assessment* (January 2019), had an 85% participation rate.

[31] Huncar, A. (October 31, 2018). CBC News, "Cesspool of cruelty, corruption and violence': Advocates call for inquiry at Edmonton prison". Retrieved from: https://www.cbc.ca/news/canada/edmonton/edmonton-institution-alberta-prison-solitary-confinement-segregation-self-harm-injury-sexual-assault-abuse-1.4885009

post/desk, which is open to the Unit's four ranges, because of safety concerns and out of fear of being hit by thrown items. During his debrief, the allegations made by the victimized inmates and safety concerns of the Senior Investigator were shared with senior management. My investigator was given clear indication from management that the physical assaults were known to them, that they had been reported before and that dynamic security was a challenge on that particular Unit. Moreover, at the debrief meeting, corrective measures were discussed, including possibly moving protected status inmates next to the Unit's exit, thus potentially avoiding taunts, insults and incitement to violence during movement.

Three CCTV captures showing inmates throwing food at protected status inmates – Edmonton Institution

During a return visit to Edmonton Institution, which occurred at the end of October, the Senior Investigator learned that the situation from August had not measurably improved. Protected status inmates were still subjected to assaultive and intimidating behaviour and officers were still not providing physical escort, direct observation or intervening to stop the assailants. In fact, by October, the violence seemed to have escalated, and had become a well-organized and recurrent affair. Video evidence of the October 25, 2018 incident clearly shows inmates from the instigating ranges taking their time to plan and prepare for the assault. They can be seen looking for and gathering food and other items, heating up food in the microwave, carefully watching and waiting until staff members had moved out of the way to begin their assault as protected status inmates walked by the range barriers without staff escort. After the incident, some of the assailants can be seen celebrating and congratulating one another, acts that are reprehensible in and of themselves.

In context of an incident that appears to have been repeated a number of times, and with knowledge that protected status inmates were about to be moved, officers could not have missed the preparations that were underway in the ranges that housed the assailants. The video recordings also demonstrate Correctional

Officers in the Unit's main entrance handling waste while inmates are assaulted, under direct surveillance, as they move towards the main entrance. The video evidence shows Edmonton Institution failed to appropriately monitor and safely control inmate movement, in a facility where all population movements are highly regulated.

That these incidents continued to occur even though Senior Management was made aware of them months before is extremely disturbing. The repeated and orchestrated nature of these incidents suggests those committing them did so with relative impunity. Had these assaults been directed at staff, the outcome would surely have been very different. As it turned out, the corrective measures discussed in August – ensuring correctional officers and management were present for all range movement on the Unit in question – were only put in place after the Senior Investigator had completed his return visit at the end of October, and only after video evidence of these incidents had been disclosed to the Commissioner via my correspondence of November 9, 2018. In other words, these incidents were not reported up or through CSC's regional or national chains, nor was corrective action taken, until the disclosure made to the Commissioner.

Twenty four inmates were institutionally charged for assaulting other inmates in the incident in question.[32] By refusing to provide proper escort and protection, by not intervening to stop the assaults before or after the fact, and through other acts of omission and commission, it appears that staff and management of Edmonton Institution colluded in behaviour that anywhere else would be considered offensive, possibly even criminal. CSC failed in its statutory obligation to intervene to protect a vulnerable sub-population that had knowingly and repeatedly been subjected to assaultive, degrading and humiliating behaviour. No human being, regardless of their status or crime, deserves to be treated in such a cruel and unusual manner.

CSC staff walking ahead of the inmates who were later assaulted – Edmonton Institution

In light of these incidents, and in context of an occupational culture that continues to create an adversarial environment for offenders, I issued the following recommendations:

[32] In the Factual Review exercise, CSC provided the following comment: "Although the incident investigation has not revealed evidence suggesting staff were complicit to the assaults, inmates and staff interviewed for the July 1, 2018 to October 25, 2018 Board of Investigation into incidents against Protected Status (PS) Inmates stated that verbal bullying and food projectile violence occurred *every* time there was movement of the PS inmates" [emphasis added]. It is not clear what the terms "verbal bullying" and "food projectile violence" are supposed to mean. Local police authorities were notified of the *assaults* only after the results of my investigation were shared with the Commissioner.

1. I recommend immediate steps be taken to ensure the safety, dignity and security of 'protected' status inmates at Edmonton Institution and that a full written debrief is provided to my Office by November 16, 2018 addressing the following measures:

    a. Increased staff presence, enhanced dynamic security and staffing of direct observation posts on Unit 5.

    b. Provision of close protective security escorts during movements involving protected status individuals and groups on Unit 5 until safer alternatives can be implemented.

    c. Direct management presence and oversight of Unit 5 personnel.

    d. Population management provisions and protocols that significantly reduce the risk of violence being perpetrated against vulnerable or protected status inmates.

2. I recommend that you immediately convene a Section 20 investigation into all assaults against protected status inmates that occurred between August 2018 and October 25, 2018.

    a. This investigation should be chaired by an independent and credible person with recognized legal expertise in prison human rights.

    b. The Board's report and CSC management action plan, signed by you, should be released publicly and no later than February 15, 2019.

3. Concurrently, as an accountability measure, I request that all disciplinary charges, reports or proceedings taken against inmates or staff for their involvement, either implied or direct, in these incidents be shared with my Office.

To its credit, the Commissioner took swift and decisive corrective actions in response to these incidents, which included several staff suspensions, police notification, and the launch of internal disciplinary investigations and other administrative reviews. Other workplace "renewal" measures to clean up the workplace culture are ongoing, inclusive of the appointment of a new Warden and a more stable management team. An internal steering committee has been formed, which is tasked with developing and overseeing measures to restore a healthy and respectful workplace environment. These are significant and necessary measures, which deserve to be encouraged and supported. The message being sent is that bullying, harassment, intimidation and other forms of workplace dysfunction are not occupational hazards endemic to working in a maximum-security prison setting.

At the same time, it needs to be said that violence is as much a part of the reality of the inmate experience at Edmonton Institution as occupational distress is for employees. Over the last number of years, compared to other maximum-security institutions Edmonton has recorded the highest number of inmate-on-inmate assaults, the highest number of uses of force (including firearms) and the highest number of incidents and individual inmates engaged in self-injurious behaviour.[33] This violence has different sources and causes to be sure, but like conflict in the workplace, it appears to be more rife in institutional settings where abuse of power and authority are prevalent features.

[33] CSC Data Warehouse.

Among male maximum-security institutions, Edmonton has the highest overall representation of Indigenous inmates – 54% of the current inmate population self-reports as Indigenous (139 out of 258). Nearly half of the Indigenous population is gang-affiliated. By contrast, 11% of the Correctional Officer complement (CXI and CXII) at Edmonton Institution identifies as Indigenous.

Population management at Edmonton Institution has long been a source of Office concern and contention. There are no less than eight different and distinct incompatible populations. The "sub pops" are prohibited from integrating, mixing or mingling with one another. Each group resides on ranges or units separated by barriers. To limit contact and to control and contain inmate movement within the prison, Edmonton Institution runs a set of highly regulated institutional routines. At the range or unit level, out of cell time to attend yard, gym, showers, exercise, visits, school or programs is restrictive, governed by the need to keep "incompatibles" (gang-affiliated members, protective custody inmates and other groups) separate from one another at all times. On any given unit, the shower routine alone can take hours to get through; time in between is marked by lock up. It is fair to say that population control is an all-consuming affair at Edmonton Institution.

Other facets of inmate life at Edmonton, and indeed other maximum-security facilities, are equally depriving. Meals are brought to the ranges and inmates eat in their cells. School/group classes are offered once per week for each cell block; solitary cell studies occur between classes, ostensibly because there were no overhead catwalks to provide gun coverage in classrooms. There is no institutional library or librarian; books are brought on to the living units. Vocational programming is no longer offered following the closure of a metal fabrication shop in 2015. Participation in correctional programs is predictably low even by maximum-security standards. Long periods of cellular confinement are the norm even though isolation is known to fuel acts of desperation, observed in the high incidence of self-inflicted violence among Edmonton's inmate population.

The quality of staff interactions with prisoners has practical consequences. When staff respect prisoners, when they unlock them on time, respond to calls for assistance, attempt to solve or prevent problems in a dynamic way, when authority is exercised in a legitimate way, when procedures and routines are followed and respected, prisoners are more likely to respond in kind, or at least compliantly. At Edmonton Institution, the long-standing division between workgroups (e.g. security vs. program staff) creates friction and dysfunction. It is challenging to run routines and programs when different staffing groups do not support one another or when dynamic security is lacking or not practiced. On Unit 5 where the incidents occurred, the direct observation post was not staffed. Security staff monitored inmate activity and movement behind physical barriers or video screens. When the incidents came to light, staff had to be ordered to be present on the floor to provide escort and facilitate movement.

In failing to provide working and living conditions that are safe and free of practices that undermine human dignity, the Service is in breach of *Charter* protections and other statutory human rights obligations. Though I did not expect the culture at Edmonton Institution to turn around overnight, the fact that staff appeared to have looked the other way as these incidents occurred is very troubling. That these incidents took place at an institution where the workplace culture is known to be especially problematic should have added to the sense of urgency and duty to act, regardless of who was informed, how the disclosure was made or when. The recurrent nature of these attacks required immediate intervention.

The workplace culture that gave rise to the incident described above is not isolated to Edmonton Institution. This type of behaviour can be found, in varying degrees, at other maximum-security facilities. For example, historically my Office reported on elements of a "rogue" culture at Kent Institution,[34] a maximum-security facility in the Pacific Region. That investigation, which has parallels to the situation at Edmonton, concluded that, "the failure to adequately and consistently discipline a few front-line officers known to engage in reprehensible conduct led to a negative and disruptive living and working environment for staff and inmates." The greater lesson and challenge for CSC today, just like Kent previously, is in understanding that transforming a culture of impunity is more than just rooting out the rot of a few bad apples.

4. **I recommend that CSC commission an independent, third-party expert, specializing in matters related to organizational culture (with specific knowledge of correctional dynamics), to assess and diagnose the potential causes of a culture of impunity that appears to be present at some maximum-security facilities, and prescribe potential short, medium and long-term strategies that will lead to sustained transformational change.**

[34] Office of the Correctional Investigator (March 2011). *Unauthorized force: An investigation into the dangerous use of firearms at Kent Institution between January 8 – 18, 2010.* https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20110321-eng.aspx

CSC RESPONSE:

Correctional Service of Canada (CSC) will be conducting an audit on workplace culture in 2019-20. In light of recent events and in the interest of transparency, the organization is seeking to hire an external consultant with experience in the area of culture assessments to develop the audit plan. Inherent to internal audits, the Departmental Audit Committee, whose Chairperson is external to CSC and is composed of two other external members along with the Commissioner, is responsible for providing objective advice and recommendations relative to audit results, the processes for risk management, control and governance.

In addition, the Office of the Auditor General (OAG) has conducted an Audit on Respect in the Workplace and its report is expected in the winter of 2019. The OAG also conducted the Guarding Minds at Work Survey, and committed to sharing the results with CSC. This will allow the organization to further review results, to adapt and implement strategies in responding to areas of attention.

Moreover, it should be noted that the National Advisory Committee on Ethics (NACE) was established for the purpose of ensuring that ethical values are embedded throughout CSC. The Committee is chaired by the Commissioner and composed of three independent, impartial and external ethics advisors, as well as members of CSC's senior executive cadre. The role of the three external ethics advisors is to provide independent objective advice and considerations on ethical issues or concerns within the organization.

Case Study 2: Use of Force at Atlantic Institution

CONTEXT: FOLLOW UP FROM *FATAL RESPONSE*

In my 2017-18 Annual Report, I described in detail CSC's ongoing efforts to revise its use of force incident response framework in areas affected by the tragic and preventable death of Matthew Hines.[35] Significant operational and policy reforms include:

- Clarification of the officer in charge position (Sector Coordinator).
- New training modules for front-line staff.
- Enhanced dynamic security policy guidelines.
- New Engagement and Intervention Model (EIM) to manage security incidents.

Although initially encouraged by these efforts, there is little evidence that these reforms are any more ingrained or entrenched than they were since I last reported on these matters. Specifically, it is not clear that the new incident response model (EIM) has resulted in meaningful changes in relation to:

- De-escalation of incidents.
- Reduction in the number of use of force incidents.
- Continued over-reliance on the use of inflammatory and chemical agents.
- Involvement and role of other "partners" (e.g., Health Care) in managing or responding to incidents and behaviours that could lead to a use of force.
- Compliance and disciplinary measures when use of force is deemed inappropriate and/or excessive.

Despite introduction of the EIM, the general rate of use of force incidents increased in 2018-19. Based on Office reviews, there is an over-reliance on force to manage incidents. Some indicators give particular cause for concern. For example,

- The deployment of the Emergency Response Team was identified in 7.8% (121) of all recorded use of force incidents in 2018-19, compared to 5.9% (77) in 2017-18.
- 181 (11.7%) use of force incidents involved an allegation of excessive, unnecessary, and/or inappropriate use of force, compared to 114 (8.7%) in 2017-18.
- CSC identified "Healthcare issues" in 666 (43%) of recorded use of force incidents compared to 435 (33.4%) in 2017-18.
- 14.1% (219) of incidents occurred in Segregation, compared to 8.4% (110) in 2017-18.

While I recognize that not all use of force incidents can be avoided, the following case study at Atlantic Institution indicates the degree to which organizational and cultural resistance may be slowing the pace of expected reform.

[35] Office of the Correctional Investigator (February 2017). *Fatal Response: An investigation into the preventable death of Matthew Ryan Hines (Special Report to Parliament).*

Use of Force (UoF) Incident Coding Project 2017-18 & 2018-19[36]

	2017-2018	2018-2019
TOTAL UOF INCIDENTS[37]	1,300	1,546
REGIONAL BREAKDOWN		
Pacific	13.2% (172)	15.7% (243)
Prairies	31.3% (407)	26.9% (416)
Ontario	22.1% (287)	27.3% (423)
Quebec	21.1% (274)	20.3% (315)
Atlantic	12.3% (160)	9.6% (149)
TOP 5 INSTITUTIONS		
	Millhaven: 13.5% (176)[38]	Millhaven: 20.0% (309)
	RPC (PRA): 8.4% (109)	Kent: 7.8% (120)
	Edmonton: 7.5% (98)	RPC (PRA): 7.7% (119)
	Donnacona: 6.8% (89)	Edmonton: 6.3% (97)
	Atlantic: 5.8% (76)	Donnacona: 6.1% (95)
TOP 5 LOCATIONS		
Maximum Security	71.8% (934)	73.7% (1140)
Cell	32% (417)	34.4% (532)
Range	19.9% (259)	24.5% (380)
Common Area	18.0% (234)	17.2% (267)
Segregation	8.4% (110)	14.1% (219)

[36] In 2017-18, the OCI initiated a project to code all use of force incidents using a variety of indicators (see *Annual Report 2017-18* for more detail on the coding project).

[37] Represents only use of force incidents received and coded by OCI.

[38] Total for Millhaven includes numbers from the Assessment Unit, Temporary Detention, and RTC.

	2017-2018	2018-2019
TOTAL UOF INCIDENTS[37]	1,300	1,546
DEMOGRAPHIC OF 1+ PERSON INVOLVED IN UOF INCIDENT		
Female	9.6% (126)	9.9% (154)
Transgender / Intersex	8 inmates	14 inmates
Age	>50% were 22-49	>50% were 22-49
Indigenous	46.9% (649)	45% (697)
Black	12.6% (164)	16.1% (249)
Person with mental disorder	39.6% (516)	45.2% (700)
Engaged in self-injurious behaviour	13.6% (177)	15.7% (244)
OC SPRAY / INFLAMMATORY AGENT USED		
	44.3% (577)	42.3% (654)
TACTICAL INTERVENTIONS		
Use of Force was Spontaneous[39]	90.7% (1180)	86.8% (1342)
Use of Force was Pre-Planned	10.3% (134)	14.4% (224)
Emergency Response Team (ERT)	5.9% (77)	7.8% (121)
ALLEGATION THAT UOF WAS EXCESSIVE, UNNECESSARY, AND/OR INAPPROPRIATE		
	114 (8.7%)	181 (11.7%)
DEFICIENCIES AND COMPLIANCE ISSUES		
Administrative	48.7% (634)	64.6% (1000)
Healthcare	33.4% (435)	43% (666)
Decontamination	15.1% (197)	20.9% (324)
Strip Search	11.3% (148)	15.3% (238)
Not conforming to the Model[40]	8.6% (113)	13.1% (203)

[39] Single incident may have involved both a spontaneous and planned UoF.

[40] Either the EIM or its predecessor, the Situation Management Model (SMM).

Use of Force at Atlantic Institution

My Office completed a comprehensive, targeted review of 310 use of force incidents that occurred at Atlantic Institution over a four-year period, with incident dates ranging from July 2014 to February 2019. Atlantic institution became the focus of this in-depth analysis following receipt and review of a number of use of force packages that the institution had mistakenly not sent to my Office. These incidents occurred over a nine-month period (July 2014-March 2015). Findings from the review of the backlog of incidents were troubling, prompting my use of force team to take a comparative look at historic and current use of force trends to ensure proper accountability, improvement and learning over time. The findings of my review are concerning.

The results of the four-year review of cases identified recurring policy compliance issues, deficient accountability and a seeming inability to learn from and improve use of force incident management. My findings suggest that there is an entrenched staff culture and attitude at Atlantic Institution, which gives license to a security-first response approach that trumps other ways of dealing with conflict and non-compliant behaviour. This culture remains largely impervious to change despite repeated interventions by my Office. My review found recurring patterns of non-compliance with use of force policy and procedure:

- Incident reports that did not capture all the events that occurred during a use of force incident.
- Handheld cameras not consistently deployed when force was likely to be used.

Emergency Response Team lined up at the door of a cell – Atlantic Institution

Focus on Atlantic Institution

Atlantic Institution is a maximum-security institution located in Renous, New Brunswick. The institution has a rated capacity for 331 inmates and a current population of 193 inmates.

POPULATION PROFILE

- 38% are serving an indeterminate (life) sentence. Another 35% are serving between 4 and 10 years.
- White individuals represent the largest group (45%), followed by Indigenous (25%) and visible minorities (22%).

For the four-year period between 2014-15 and 2018-19, the annual number of uses of force fluctuated from a low of 52 to a high of 81. The rate of use of force incidents at Atlantic Institution is comparable to other maximum-security institutions and, in fact, is on the lower end.

Source: CSC Corporate Reporting System and CSC Data Warehouse, April 2019

- Post-incident strip searches and decontamination showers that were not video-recorded.
- Significant delays in providing decontamination showers following deployment of inflammatory agents. In some cases, inmates were made to wait as long as 12 hours following the deployment of pepper spray.[41]
- Post-incident health care assessments not being offered or not compliant with policy or procedure.[42]
- Use of force reviews not being conducted within the established timeframes. Reviews were regularly occurring up to six months after the incident, thus negating opportunities to identify and address compliance problems in a timely manner, for learning or improvement.

[41] CSC policy does not specify the timeframe within which decontamination showers are to be completed, though there is direction that these procedures are to take place as "soon as operationally possible."

[42] Post-incident health care assessments are supposed to occur after a decontamination shower, as symptoms from the use of chemical or inflammatory agents are alleviated by washing the affected areas. At Atlantic Institution, health care assessments are frequently offered prior to decontamination. Moreover, insistence on handcuffs being applied during assessments in a treatment room often results in refusals.

| EXAMPLES OF USE OF FORCE INCIDENTS AT ATLANTIC INSTITUTION |

1. During open movement for recreation, inmates draped blankets blocking the view of the Control Post Officer and assaulted an inmate. Several direct orders were given over the PA system, but they were ignored. The Officer deployed four one-second bursts of pepper spray via an ISPRA without success. A muzzle blast of OC powder was deployed which contaminated the range. The incident was brought under control and the area was deemed a crime scene by the RCMP. Inmates were secured in their cells and not offered decontamination showers for 32 hours.

2. An inmate who was recently transferred to Atlantic Institution from out-of-province requested segregation. Upon admission to segregation, the inmate was passively resistant to officers' attempts to conduct a strip search. Officers attempted verbal interventions with statements such as "you have to strip", "if you don't, we have to strip you one way or another, it's a lot easier if you just comply", and "take off your shoes and stuff…either kick your shoes off and stuff or you're going on the [inaudible] floor!" and "get to the floor." At this point, officers bring him to the ground. Following the strip search, the inmate is made to walk down the range in a muscle shirt and underwear and secured in his cell still handcuffed from behind.

3. Over the past two years, there have been at least four recorded incidents of incompatible populations mixing. In one such incident, an inmate from unit 1 was allowed into the main hallway following institutional court. An inmate from unit 2 was in the hallway collecting garbage as part of his institutional job. These inmates were from incompatible populations and as soon as they saw each other, the inmate from unit 1 immediately ran toward the other inmate and began punching him. Officers quickly responded to deescalate the situation, however this situation would not have taken place if staff had been more vigilant.

4. Officers observed that an inmate had started a fire in his cell. Officers attempted to have the inmate extinguish the fire, but he refused. When the food slot was opened to extinguish the fire, the inmate reached out and tried to grab an officer; OC spray was deployed via a MK-IX. While guards brought tools (MK-IX, baton) from the control post, they neglected to also retrieve a video camera to record the use of force. Moreover, given that the fire and inmate were contained, officers could have reassessed the situation thus negating the need for OC spray. The inmate eventually extinguished the fire.

5. Officers often fail to plan an intervention potentially leading to a use of force that would have otherwise not been necessary. During a security patrol, staff noticed a "dummy" and reported this to the correctional manager. A decision was made to segregate the inmate. Three inmates remained on the range and the rest were locked up. Three officers and the Correctional Manager returned to the range and gave verbal orders which were not followed. After some physical confrontation, the three inmates retreated into one cell. Fourteen officers returned to extract the inmates, including those assaulted during the initial use of force. Prior planning likely could have resulted in a more appropriate outcome.

My review also noted some instances where force was still being used on individuals who had become compliant during the course of the situation. The law instructs that use of force responses are supposed to be "necessary and proportionate." Starting with more invasive techniques to defuse a situation leaves little room for resolving conflict with the least and proportionate force necessary. The Engagement and Intervention Model (EIM) instructs that officers must continually reassess the situation to ensure a proportionate response. In 2017-18, Atlantic Institution used 257 types of force in 73 incidents, translating into a ratio of 3.5 uses of force per incident. That was the highest ratio for any institution over the 4-year period 2014-15 to 2018-19.[43]

The use of pepper spray to gain inmate compliance is commonplace, consistent with the general over-reliance on this weapon across CSC. Not only was the use of pepper spray high at Atlantic Institution, it seems to be the tool of choice to deal with non-compliant behaviour. Moreover, responding officers often resorted to using the ISPRA[44] to deploy inflammatory agents, which is a much more powerful delivery mechanism than pepper spray canisters worn on an officer's duty belt. In 2017-18, Atlantic institution recorded 167 uses of pepper spray in 73 separate use of force incidents, which was

Model-5 ISPRA Protectojet: a high intensity canister that sprays liquid pepper spray up to 45 meters

the highest recorded use of pepper spray of all maximum-security institutions (Donnacona was the second highest at 125 uses of pepper spray in 90 separate use of force incidents). Atlantic institution also had the highest use of the ISPRA in 2017-18 at 113 uses compared to the next highest institution, Edmonton, with just 5 uses. The following year (2018-19), the number of use of force incidents dropped to 60 at Atlantic institution as well as the ratio of uses of force per incident (from 3.5 uses of force per incident in 2017-18 to 1.4 in 2018-19) and the use of OC spray (40 uses of OC spray in 60 separate use of force incidents).

Finally, my review identified a number of occasions where allegations of excessive force had been made, but the incidents were assigned as a level 1 use of force, which effectively means they will not be reviewed at the regional or national levels.[45]

[43] All data in this section is from CSC Data Warehouse (Retrieved: June 17, 2019).

[44] ISPRA is a delivery mechanism that allows officers to deploy inflammatory or chemical agents from a distance. However, our internal use-of-force reviews have found that officers are ineffectively using the ISPRA Model-5. Generally, more of the agent has to be used to have the desired effect. In this case, it is not clear if officers using the ISPRA were in fact trained as per CSC's *Security Equipment Manual*.

[45] As per Commissioner's Directive 567-1: *Use of Force*, a Level 1 use of force is a situation where there was no allegation of excessive use of force or injury. When allegations or complaints are made regarding a use of force, it is to be assigned as a level 2 and therefore reviewed by the region and national headquarters.

On at least three occasions over the course of the four-year review period, Investigators assigned to Atlantic Institution brought forward many of the concerns noted above providing supporting documentation, analysis and recommendations to senior management. Attempts to resolve recurring compliance issues at the institutional level have proven largely unsuccessful. As a result, in August 2018, my Office sent correspondence to the Regional Deputy Commissioner outlining ongoing issues and concerns with use of force at Atlantic Institution. We recommended that a strategic plan be developed. In response, the Regional Deputy Commissioner stated that "… Atlantic Region has reviewed and addressed the matters identified." A memorandum outlining the outcomes of the Institution's review of my Office's concerns was included in the response. Corrective actions identified in the correspondence included:

- Establishment of a tracking and accountability system to ensure timeframes are met for the review of use of force incidents.
- Meetings with staff and retraining to ensure the appropriate application of the Engagement and Intervention Model.
- Reminders to staff regarding the deployment of hand-held cameras and the requirement to provide decontamination showers as soon as possible.

While these measures essentially amount to reminders for staff, they are clearly not enough. They have not broken recurring patterns, nor addressed the staff culture that perpetuates non-compliance. To my Office's knowledge, only a few disciplinary actions have been taken over the course of four years of non-compliance. The primary course of corrective action has been to issue staff reminders, offer retraining or discussions with supervisors.

Given the lack of lasting and meaningful remedial and corrective action, I am now elevating this issue to the national level. It is simply unacceptable that four years of reviews, recommendations, reports, discussions and reminders have done very little to change the occupational culture at Atlantic Institution. Other institutions have been able to institute and sustain use of force reforms over time. For example, some sites use a 'code team' that assigns specific tasks to each officer on shift in the event of an incident resulting in less confusion and fewer policy compliance issues. Other sites have invited 'expert' Correctional Managers to come in and provide training and mentorship for staff. Clearly, other options exist beyond issuing reminders or reprimands. Atlantic Institution and regional management need to transform culture.

5. **I recommend that the Service establish a working group, with external representation, to complete a review of all use of force incidents over a two-year period at maximum-security facilities. This review should go beyond compliance issues to include:**

   i. **an analysis of the trends, issues and culture that contribute to repeated compliance issues and inappropriate uses of force;**

   ii. **an examination of best practices and lessons learned within CSC and from international correctional authorities; and,**

   iii. **a corrective measures action plan that goes beyond simply providing verbal and written reminders to include (re)training, disciplinary action, mentoring, development of a code team, and other relevant initiatives.**

CSC RESPONSE:

Correctional Service of Canada (CSC) currently has a comprehensive use of force review process that is designed to identify compliance issues and areas of concerns related to use of force incidents in our institutions. There are three levels of review: institutional, regional, and national. Minimally. each use of force is reviewed by two managers; depending on force options and areas of concern, there could be up to six reviews by various managers.

With the implementation of the Engagement and Intervention Model (EIM) and the creation of a use of force reviewer guide, there is a stronger framework to assist in guiding staff on the selection of appropriate interventions and to ensure consistency in the post-incident review process. CSC's Health Services and the Correctional Operations and Programs Sectors maintain ongoing consultation between the national and regional levels; and regions have various forums and meetings with institutional managers where the EIM and use of force are discussed.

CSC's Incident Investigations Branch is currently conducting an investigation into instances of use of force in CSC's treatment centres, maximum security institutions, and women offender institutions. The Board of Investigation is comprised of experts, including an external community board member. This will help inform required next steps with regard to reviewing use of force incidents.

Of note, CSC has implemented in May 2017 strengthened measures to review disciplinary responses to use of force incidents involving a non-natural death in custody and/or related to serious bodily injury. This was achieved by including a requirement in the Instrument of Delegation in the Area of Human Resources that requires consultation with the appropriate Regional Deputy Commissioner or Sector Head and the Director General, Labour Relations and Workplace Management before a final decision is made on the quantum. There is also a requirement for decision makers to provide written justification where the disciplinary measures taken diverge from the quantum advice provided by Labour Relations. Further, in January 2018, the Instrument of Delegation was further enhanced by including that the decision maker must provide a written rationale for any sanction that is levied in all cases where a use of force incident resulted in disciplinary measures.

In terms of best practices and lessons learned, CSC commited to conducting an evaluation of the EIM following its response to the Office of the Correctional Investigator's (OCI) 2017-2018 Annual Report. As part of its commitment to continuous improvement, CSC continues to monitor the implementation of policy changes, compliance and its results and, as part of these undertakings, this evaluation will allow us to ensure these measures are yielding the expected outcomes.

Case Study 3: Prison Food

In 2018-19, CSC completed an internal audit of food services, a draft copy of which was shared with my Office in February 2019.[46] Consistent with areas of concern repeatedly raised by my Office, the audit identified numerous gaps in policy compliance, including deficient quality assurance functions, lack of management oversight and substandard meal quality and portion size. Among other deficiencies, the audit identified:

1. Failure to meet Canada Food Guide requirements respecting nutritional content of meals 21% of the time (6 out of 28 days of the menu cycle).
2. Failure to demonstrate that the National Menu was validated by a registered dietician.
3. Disconnect between the per diem food ration metric and the actual cost of producing inmate meals.
4. Deficient management oversight of CSC food services and inadequate quality assurance functions.
5. Inadequate inventory and inspection controls that directly affect the quality and quantity of food service delivery.
6. Some sites did not ensure safe and hygienic preparation of food.
7. Inconsistent or substandard meal portion sizes.
8. Failure to consistently follow special diet requirements.

"Cook-chill" food being prepared – Mountain Institution

In sum, for my Office, the totality of the audit's findings are sufficient to bring into question the Service's capacity to meet its legal and policy obligations to ensure the inmate population is provided adequate and nutritional food. In my view, policy compliance alone will not address the underlying problem of an industrial food production model that puts economies of scale and other purported efficiencies ahead of the nutritional, health and safety needs of the inmate population.

[46] CSC (January 14, 2019). *Audit of Food Services*. Retrieved from: https://www.csc-scc.gc.ca/publications/005007-2547-en.shtml

Though the audit indicates that it considered the many reports issued by my Office in this area and notwithstanding that many of its core findings validate Office concerns, CSC is not fully responsive to the letter or intent of recommendations that have been repeatedly issued in several years of reporting:

1. The audit was conducted internally;[47] there appeared to be little attempt to seek out external advice or expert opinion to validate and assure CSC management and Canadians that the Service is meeting its legal and policy obligations in this area.
2. Though the audit team met with Inmate Committees and reviewed food-related grievances as part of the site selection process, the final report does not specifically document inmate concerns or contain their views or recommendations for improvements to a service in which they are the primary consumers.[48]
3. The audit did not specifically examine cost savings and efficiencies, both prior and post implementation, of the food services modernization initiative (FSMI).
4. The audit did not explore the linkages between quality, quantity and nutritional content of prison food and inmate health and well-being.
5. The audit did not examine the displacement effects of FSMI on inmate employment, including less opportunity to learn and practice culinary skills under the guidance of professional cooks.

Canteen – Mission Institution

[47] Like many other federal departments and agencies, CSC has an internal audit sector whose mission is to provide "independent, timely and objective assurance" to management. CSC's internal audit charter specifies that auditors will "remain free from interference by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing or report content." Further, auditors "will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined." In bringing forward concerns regarding the scope and omissions of this audit, it is important to note that I do not question the integrity, competency or functional independence of CSC's internal audit sector, nor did I find any evidence of undue influence in the application of its mandate.

[48] CSC provided the following clarification: "although the discussions with offenders are not laid out in the audit report, they are documented in CSC's audit files." These files are not public record.

Because food is so foundational to inmate health and well-being, and has other impacts on the order and security of the institution, I am publicly reporting on concerns shared with the Commissioner regarding the findings and, in my view, omissions of this particular audit. My objective here is to document and bring to public attention the ongoing risks of failing to provide adequate and sufficient quality and quantity of food to the inmate population. I am particularly concerned by some very disturbing developments and adaptations that have accompanied the implementation of CSC's food services modernization project:

1. The significant, predictable (and undocumented) amount of 'cook-chill' meals that are spoiled, wasted or considered inedible on the regular menu cycle.
2. An inadequately low (and unreliable) per diem food metric that may unnecessarily put inmate health and safety at risk in an institutional setting.
3. The rise of food as a commodity in the parallel (or underground) inmate economy.
4. Inmate canteens that supplement or substitute for meals or portion sizes that are unappetizing, inadequate, poor or inconsistent quality.
5. Loss of local autonomy to address deficiencies in meal quality and quantity (e.g., running out of certain food items or meals on the service line), which increases the risk of inmate frustration, tension, protest and/or violence.

Inmates often stock up on bread

Food Services Modernization Initiative

The Food Services Modernization Initiative (FSMI) was a major policy and operational project first implemented in 2014-15. FSMI replaced traditional scratch and on-demand cooking at each institution with an industrial food production and service delivery model known as 'cook-chill'.

- Today, most prison meals are prepared at five regional production sites.
- Food is cooked in large vats, packaged, cooled and stored ('cook-chill') before being shipped out to 'finishing' kitchens at local sites for reheating and serving.
- More than half of CSC facilities now operate under the 'cook-chill' system.
- This system relies on a set National Menu, standardized recipes and ingredient lists, centralized procurement and regional distribution and inventory systems.

Food wastage – Mission Institution

Prior to the introduction of the FSMI, in August 2014 my Office raised a series of issues and concerns related to proposed changes to Commissioner's Directive CD 880 – *Food Services*. That correspondence highlighted the requirement to consult with inmates directly on changes to the National Menu and identified the need for consistent and regular inspections of inmate kitchens and equipment. The Office also brought forward concerns related to the potential dislocation or reduction of inmate employment, vocational training and certification opportunities in the change-over to 'cook-chill.'

Though these concerns were acknowledged (more than five years ago), the FSMI project was inexplicably rolled out in the absence of an updated policy framework. CSC offers little explanation for such a serious oversight. One of the main takeaways of this audit is the inexplicable realization that the food services modernization project has been working under policy direction that is nearly 20 years out of date. Lacking clear, complete and updated policy instruction, there was mass confusion and widespread non-compliance at all stages of this project. In previous reporting, the effects of widespread maladministration were documented by my Office:

- Over or under-serving of certain meals on the weekly or monthly menu cycle.
- Inconsistent or inadequate portion sizes (confusion as to how to measure or serve liquid versus solid food items).
- Misinterpretation/misapplication of menus, meals and ingredient lists.
- Concerns about lack of hygienic standards in the food handling and preparation process.

Though now confirmed by audit findings, whenever prison food issues were negatively reported in the media or by my Office, CSC invariably defended the integrity of its food services program, assuring that inmate meals and serving sizes were in accordance with *Canada's Food Guide*. It has only latterly come to light that portion sizes and daily caloric intakes were based on standards for "low active" 19-to-50 year old males, median values that do not meet the needs of a younger, more active prison population.

Over time, both inmates and staff were forced to adapt to a major policy and operational "renewal" initiative that lacked defined roles, responsibilities and expectations for staff, including quality assurance and management oversight functions that were largely unexercised. Given the significant areas of non-compliance identified in the audit, it is unclear how the Service intends to address them, particularly when poor staff morale and a "culture of resistance to change," as the audit puts it, has taken root in the years since FSMI implementation. The Management Action Plan (MAP) that accompanies the audit provides little detail or assurance of a viable path forward; it merely indicates that the Food Services policy suite will be "updated" and implemented to "reflect changes" and "address deficiencies." In any case, a policy fix of the kind contemplated in the MAP seems highly improbable given how staff and inmates have adapted to the observed lack of policy, oversight and quality assurance controls.

On top of concerns about safe handling and hygienic preparation of food raised in the initial August 2014 correspondence, the Office's 2014-15 Annual Report identified issues regarding the quality and quantity of prison food being served at "cook-chill" facilities. Five years ago, the Office made the following recommendation:

I recommend that in 2015-16 CSC undertake an external audit of its meal production services, with particular emphasis on safe food handling practices, equitable distribution of meals and concordance between the standards outlined in the National Menu and the nutritional value of meals provided to inmates.

Unfortunately, this recommendation was not acted upon in a fully responsive and timely manner.

In 2015-16, inmate contacts and complaints to this Office related to meal quality spiked. Upon review, it became clear to this Office that the food services modernization project was not an exercise motivated by improving inmate health and nutrition. Indeed, the downturn in prison food quality can be directly related to efforts to reduce CSC budgets and contain costs. It bears reminding that FSMI was put forward in context of the Service's overall contribution to the previous government's Deficit Reduction Action Plan (DRAP). Led by Corporate Services, the initiative included substitution or replacement of fresh meat, dairy and produce with less costly powdered, canned, boiled or frozen food alternatives or derivatives.[49] The introduction of FSM as a cost-savings measure inevitably contributed to a predictable and precipitous decline in meal quality.

If economy and efficiency were the main drivers of CSC food services "modernization," it seems surprising that the audit did not examine the actual and ongoing costs of this project (which originally included tens of millions of dollars of initial "sunk" investment to set up industrial kitchens at the five regional food production sites). The audit provided no evaluation of savings and efficiencies achieved, if any, prior or post-FSM implementation, as recommended by this Office. Minimally, if value for money (economy and efficiency) was the overriding rationale for the project, then one could have reasonably expected the audit to examine and validate CSC food service operations on those, albeit limited, grounds.

Even today, the full costs of CSC food services modernization have not been fully disclosed or subject of a financial audit. Though CSC's food services program nominally operates on a national average per diem ration rate of $6.12 per inmate per day, as the audit notes there is "still a disconnect between this metric and the actual costs of delivering food services annually."[50] The cost to purchase raw food inputs is but one of the variables in determining whether inmates are "adequately fed," as per the legislative requirement. At the end of this audit, Canadians still do not have an accurate estimate of what it actually costs federal corrections to feed inmates beyond the cost of raw food inputs. This revelation is revealing on many levels. By contrast, it purportedly costs about $10.00 per day to feed an inmate in Nova Scotia's correctional system.[51]

[49] CSC claims that "powdered milk has the same nutritional value as fluid cow's milk." For milk and milk products, CSC inexplicably uses the serving size standard for males aged 51 and older.

[50] CSC claims that, in 2016-17, actual food service costs, including rations, totalled $12.00 per day per inmate for male institutions and $14 per day per woman inmate. These costs are rolled into what CSC refers to as the "Cost of Maintaining an Offender (COMO)" exercise, which is reported annually in the *Corrections and Conditional Release Act Statistical Overview* (CCRSO) in the section entitled *The Cost of Keeping an Inmate Incarcerated*. The individual data points that go into the COMO exercise (food, accommodation, services) are not public record.

[51] "It costs about $10 a day to feed an inmate in Nova Scotia's correctional system," Cape Breton Post, (April 16, 2019). Retrieved from: https://www.capebretonpost.com/news/local/it-costs-about-10-a-day-to-feed-an-inmate-in-nova-scotias-correctional-system-302004/

The long-term health consequences of serving more highly processed meals to a population that is known to have higher incidence of diet-related illness and disease, such as obesity, hypertension and diabetes, was not acknowledged or probed in this audit.[52] As a number of studies and research has concluded, over the long run, serving wholesome and appetizing food in institutionalized settings is cheaper, healthier and safer.[53] The average federal sentence may be more than enough time for an inadequate or poor diet to have adverse long-term health effects. Even on cost-containment terms, the FSMI seems short-sighted, especially given that CSC food ration costs are a small fraction of its overall healthcare costs.[54] Scrimping on food may not be providing value for money or be worth the problems or exposure to risk that a single large-scale food safety event would entail.

In my view, this audit simply does not provide enough points of assurance or validation to say CSC's food service delivery model, with some degree of certitude, appropriately meets the health, nutritional and safety requirements of an institutionalized population. These concerns seem outside the audit's scope. While these oversights are unfortunate, the links between food and institutional security are not unknown or outside the realm of CSC experience. For example, my Saskatchewan Penitentiary riot investigation, included in the Office's 2017-18 Annual Report, linked food shortages, poor meal quality and inadequate portion sizes to an organized prison protest and inmate strike that ultimately culminated in violence. Although belatedly, CSC acknowledged that "food-related factors" played a role in the lead up to this riot (or, to use CSC words, "may have created an environment where a riot was more likely to occur.")[55] In context of this incident, my 2017-18 Annual Report made this recommendation:

I recommend that an external audit and evaluation of CSC food services be conducted on a priority basis and that the concerns of the inmate population related to portion size, quality, selection and substitution of food items be solicited, heard and addressed immediately by CSC management. The audit should include comparison of ration and per diem meal costs, prior to and after introduction of the food services modernization initiative.

On its face, this audit does not satisfy or meet the concerns that gave rise to the need to make this recommendation. Though the meals at Sask. Pen. are not produced by 'cook-chill' methods, staff admitted to how difficult it had become to adhere to standardized recipes and ingredient lists established at National Headquarters. Sask. Pen. food services staff related other challenges in buying, stocking or serving local fresh produce and meats on the meager funds allocated to such a vital service. As I wrote in my report, the events that took place at Sask. Pen. "should

[52] In the Factual Review exercise, CSC made the following claims:

1. Cook chill is a "method of cooking," widely used in the food services industry. The use of cook-chill systems in no way impedes the ability to meet requirements and recommendations in *Canada's Food Guide*.
2. "There are still lots of fresh fruits, salads, raw vegetables and cooked vegetable side dishes that are served at the finishing kitchens."
3. "With the implementation of cook chill and the national menu, CSC is serving a lower amount of highly processed foods than what used to be on the menu e.g. foods high in sodium, pogos, French fries, chicken fingers, deli meats, sweet desserts."

None of these claims have been independently verified.

[53] There is a fairly extensive research literature linking food, health and nutritional issues in correctional settings. For a broad overview, see, for example, *Food for thought: Prison food is a public health problem*, Prison Policy Initiative https://www.prisonpolicy.org/blog/2017/03/03/prison-food/. In the Canadian context see, *Medical Nutrition Therapy in Canadian Federal Correctional Facilities* (2019). Retrieved from: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6359784/.

[54] In 2018-19, CSC allocated approximately $28M for food rations. The health care allocation was $241M.

[55] CSC (March 2018). *Board of Investigation Report into the Riot at Saskatchewan Penitentiary: Case Summary.* Retrieved from: https://www.csc-scc.gc.ca/publications/005007-0002-en.shtml

Inmates separate protein from stew to demonstrate the lack of protein – Mission Institution

serve as a warning that inadequate or poor food quality can have unintended consequences on the safety and security of CSC institutions." For some reason, it did not appear to be in the audit's scope or risk management framework to identify or assess such linkages.

I am not the only independent body to identify food as a systemic problem in CSC facilities. Most recently, in their interim report on *The Human Rights of Federally-Sentenced Persons*, the Standing Senate Committee on Human Rights described similar issues. The Committee summed up prison food quality and quantity at prisons across the country as "substandard." They made other observations regarding prison food service delivery:

In every penitentiary the committee visited where individuals did not cook their own food on site, senators were informed that the food is of poor quality and is often served cold or overcooked. Senators also heard that portion sizes are inadequate and do not meet the needs of fully grown adults. The timing of food delivery is also questionable. Dinner is served at 4:00 p.m. before the guards' shift rotation. To supplement their diet, federally-sentenced persons told the committee that they relied on overpriced canteen food with their already meager salaries.[56]

[56] Senate Committee on Human Rights (February 2019). *Study on the human rights of federally-sentenced persons: The most basic human right is to be treated as a human being*. Interim Report. Retrieved from: https://sencanada.ca/content/sen/committee/421/RIDR/Reports/RIDR_Report_Prisioners_e.pdf

In the Committee and Office's understanding, food is a condition of confinement issue precisely because a prisoner exercises little or no choice over quality, content, variety or quantity of food they are forced to consume. Wardens and their staff working in institutions where meals are cooked off-site have consistently related to my Office that inmates are not getting enough nutritious food. Many meals are spoiled or wasted because inmates consider them inedible. A significant number of inmates supplement or replace regular meals with inmate canteen provisions that have become, over the years, stocked with a variety of (expensive) items including sausages, tuna, fresh milk, fruit and produce. This practice has deleterious impacts on inmate pay and savings, not to mention institutional safety and security. Food has gradually become another highly valued and dangerous commodity in the parallel or underground inmate economies. Muscling, bullying and extortion for food is a common and pervasive problem, especially at higher security institutions. As documented in the *Aging and Dying in Prison report*, some older offenders reported that they are forced to give up their canteen to younger, more aggressive inmates. Food as a safety issue is not considered or probed in this audit.

Most Wardens have learned that they have to supplement the National Menu (out of their own budgets) as a means to keep peace. Nearly every Warden that I have met or spoken with since my appointment as Correctional Investigator admits that they have implemented measures outside the FSMI to address the deficiencies of the 'cook-chill' system of food production and the National Menu. They recognize the implications of not providing food substitutes or menu supplements (breads, salads, starches) to the standardized ingredient and meal cycle for which they have little input or control over, both in terms of quality and output. On-demand cooking and local food inventories could quickly adapt to meal line shortages. There is less room for error in a centralized supply network reliant on an off-site food production service.

Put simply, centralized food services using 'cook-chill' methods has meant less autonomy at the local level to respond to legitimate concerns about food quality or quantity. Wardens have had to find creative ways to respond to the lack of control over meal planning and preparation. Their ability to take account, within reason, of inmate food likes and dislikes has been compromised. They have been forced to take extraordinary measures, some of which have had a negative effect on population management in order to satisfy the daily food requirements of their population. Any reasonable person would know that the allocated per diem rate simply does not accurately represent the true cost of producing and delivering quality meals.

The audit itself found that more than 20% of the meals on the National Menu did not comply with the previous *Canada Food Guide*. With the new *Canada's Food Guide's* (April 2019) emphasis on plant-based protein, as well as fresh fruits and vegetables, it is not clear how meals produced through 'cook-chill' methods can meet the revised national nutritional standards. For CSC, compliance with the revised *Food Guide* opens a new set of issues fixed on affordability and availability of fresh food, particularly problematic in more remote regions of the country.

Machinery used to prepare 'cook-chill' meals – Mission Institution

Based on my review of the audit, and in light of ongoing issues with the substandard quality and content of meals produced through cook-chill means, I make the following recommendations:

6. **I recommend that an external and independent review of CSC food services be conducted and used to inform the development of a revised National Menu, inclusive of ingredients, cooking methods, portion sizes, nutritional content and food costs fully compliant with the new *Canada Food Guide*. This review should include direct and meaningful consultation with the inmate population.**

CSC RESPONSE:

Correctional Service of Canada (CSC) is currently addressing the findings of the recently completed Audit of Food Services and the concerns and recommendations put forward by the Correctional Investigator. Amongst measures being implemented, the National Menu has been updated in line with the new Canada Food Guide. As CSC implements the necessary changes and continues to monitor progress in the year ahead, we will consider how a future external review could further contribute to our work, compliance and objectives with respect to the Food Services program.

7. **In recognition of the demonstrated links between good nutrition and a healthy population, I recommend that the delivery of CSC's Food Services program should be overseen by the Health Services sector. This change would include conducting periodic audits of the nutritional content of meals, regular inspection of food production and preparation sites and liaising with registered nutritionists, dieticians and food safety experts from outside CSC. A hybrid model incorporating internal and external oversight of CSC food services would more fully recognize that inmate populations are at increased risk of chronic disease and that using food services to help control and prevent health problems, including dental health, is an efficient use of public resources.**

CSC RESPONSE:

The Correctional Service of Canada (CSC) Food Services program is led by a team of qualified professionals, which includes staff and managers with nutrition or professional culinary arts backgrounds, and registered dietitians who work nationally and regionally. The team has expertise in food safety, recipe management, food production, food equipment and nutrition management and is best suited to oversee the Food Services program. CSC's registered dietitians are in good standing with their provincial regulatory bodies and follow a code of ethics that ensures competency and accountability for their actions. Regional dietitians work in collaboration with Health Services in order to address the nutritional requirements of the offenders in our care and their complex needs through individually tailored therapeutic diets. The team works collaboratively with other stakeholders within CSC such as Chaplaincy, Security Branch, Women Offender Sector and the Aboriginal Initiatives Directorate in meeting offenders' nutritional needs.

Tipi – Edmonton Institution

4 INDIGENOUS CORRECTIONS

"For the correctional system, like the criminal justice system as a whole, to operate fairly and effectively, those administering it must abandon the assumption that all offenders can be treated fairly by being treated the same way."

***Ewert v. Canada* decision (2018)**

Federally Sentenced Indigenous Peoples

In my 2017-18 Annual Report, I reported on issues related to Healing Lodges, the *Gladue* reporting system, Indigenous gangs in prison, and the calls-to-action of the Truth and Reconciliation Commission. I am pleased to see the attention that Indigenous corrections has received over the course of this year, in particular the two parliamentary committee studies and recommendations on *Indigenous People in the Federal Correctional System* and *A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems*. Despite changes that have been made to policy and practice over the last 30 years, Indigenous peoples continue to be *increasingly* over-represented in our federal correctional system. Over the last decade, while admissions to federal jurisdiction have decreased, the number of Indigenous offenders has increased. In 2016-17, while only accounting for approximately 5% of Canada's overall population, Indigenous offenders represented 23.1% of the total offender population (26.8% of the in-custody population and 17.2% of the community population). Over-representation is even worse for Indigenous women, who as of March 31, 2019, accounted for 41.4% of all federally incarcerated women. In terms of release, Indigenous offenders serve a higher proportion of their sentences before being released on parole.

The over-representation of Indigenous peoples in Canadian prisons continues to be one of the most pressing issues for federal corrections today. It is my hope that federal corrections will take seriously the recommendations made by the two parliamentary committees in their reports, which echo many of the concerns raised by my Office.

Parliamentary Reports on Indigenous Issues in Federal Corrections

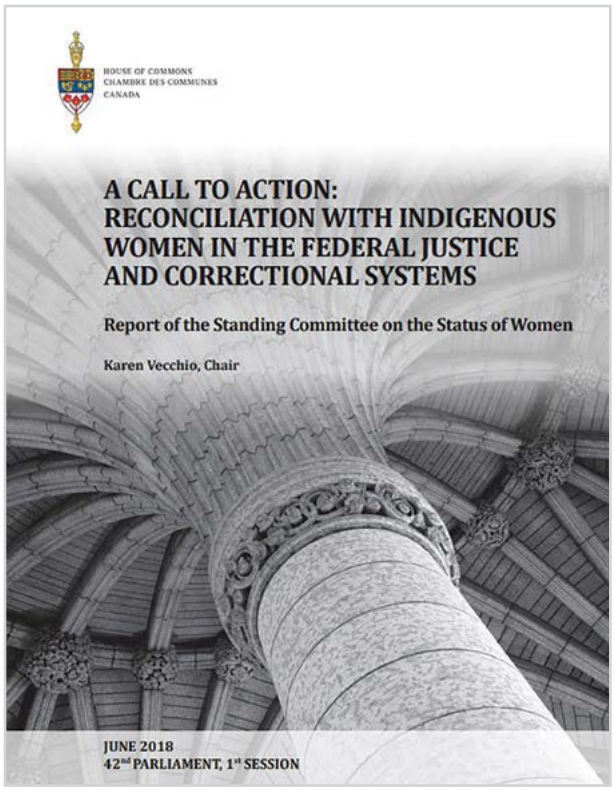
In June 2018, two parliamentary committees (the House of Commons Standing Committees on Public Safety and National Security [SECU] and Status of Women [FEWO]) concluded studies on Indigenous peoples in the federal correctional system, and Indigenous women's experience of federal corrections, respectively.[57] After hearing from numerous witnesses, including my Office, the Committees tabled their reports before parliament. The reports summarize many of the harms experienced by Indigenous peoples in the correctional system (e.g., violence, substance abuse, and mental illness) and highlight areas in corrections that are deficient as they pertain to Indigenous offenders generally, as well as Indigenous women specifically.

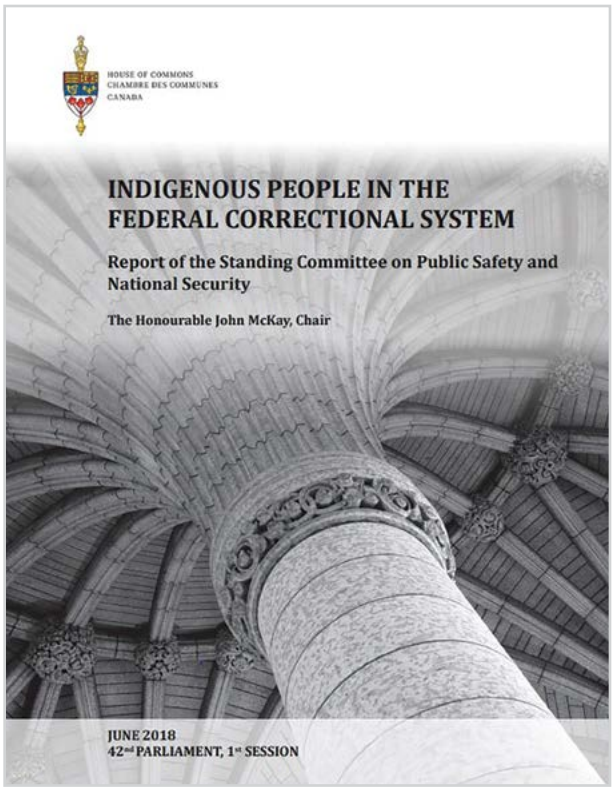
[57] Report of the Standing Committee on Public Safety and National Security (June 2018). *Indigenous People in the Federal Correctional System*. https://www.ourcommons.ca/DocumentViewer/en/42-1/SECU/report-22/; and, Report of the Standing Committee on the Status of Women (June 2018). *A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems* https://www.ourcommons.ca/DocumentViewer/en/42-1/FEWO/report-13/

Indigenous Offenders in Corrections: Population Trends and Outcomes

- Since 2010, while the population of White inmates has decreased by 23.5%, the Indigenous population has increased by 52.1%.
- The Indigenous population has increased by 1,423 offenders whereas the overall population increased by only 174 nationally.
- The proportion of Indigenous offenders in custody is higher than for non-Indigenous offenders. At the end of fiscal year 2016-17, the proportion of offenders in custody was about 12.9% greater for Indigenous offenders (71.4%) than for non-Indigenous offenders (58.5%).
- Indigenous offenders comprised 28.6% of those released in 2018-19 where statutory release was by far the most likely release type. 69.1% of releases for Indigenous offenders were at statutory release compared to 18% who were released on day parole.
- In 2016-17, compared to non-Indigenous offenders, Indigenous offenders served a higher proportion of their sentence in prison before being released on their first day parole (40.8% vs. 49.0%) and full parole (36.2% vs. 45.3%).
- The revocation rate for Indigenous offenders is significantly higher than for the overall population (39% vs. 32%).
- Indigenous offenders account for a disproportionate number of self-inflicted injuries. While Indigenous offenders comprise about 29% of the overall inmate population, they account for approximately 52% of all incidents of self-injury.
- Indigenous offenders are over-represented in the number of incidents of attempted suicide, accounting for 39% of all such incidents in the last 10 years. The ratio of incidents per Indigenous offender decreased from 5.4 to 3.9 between 2009-2010 and 2018-2019.
- Indigenous offenders have a higher rate of return within two years post-warrant expiry compared to national rates (8.9% vs. 6.6%).

Source: CSC Corporate Reporting System (April 2019).





Together, the Committees proposed a total of 115 recommendations to the government (19 recommendations from the SECU report and 96 from the FEWO study), with the aim of improving Indigenous people's access to and treatment in the federal justice system. The recommendations made by the Committees are consistent with those made previously by my Office. Specifically, they highlighted a need to increase the number of agreements with Indigenous communities, access to culturally-relevant correctional programs/services, the complement of Indigenous staff, and training on Gladue/Aboriginal Social History to be used in case management and decision-making, to name a few.

The following are ten key recommendations common between both the SECU and FEWO studies, as well as recommendations my Office has made, and continues to call on federal corrections to implement:

1. Increasing the number of Section 81 and 84 agreements and the ability of Indigenous inmates to access Healing Lodges.
2. Validating existing risk assessment and classification tools and/or developing new tools that are more relevant to the realities of Indigenous peoples in the correctional system.
3. Increasing access and availability of culturally-relevant correctional programming for Indigenous peoples.

4. Increasing the number of Indigenous staff and providing training on Gladue and Aboriginal Social History to all staff to increase cultural competence, as well as enhance the relevance and effectiveness of services for Indigenous inmates.
5. Improving and increasing engagement with Indigenous communities to provide reintegration services for Indigenous offenders being released back to the community.
6. Increasing the availability of appropriate and relevant employment and educational programming and training that is informed by labour market needs.
7. Improving screening, assessment and diagnosis of mental health issues, specifically Fetal Alcohol Spectrum Disorder.
8. Providing trauma-informed therapeutic approaches to programming and interventions, particularly for Indigenous women.
9. Facilitating access to appropriate identification and health cards to all Indigenous offenders prior to their release.
10. Appointing a deputy commissioner for Indigenous affairs within federal corrections.

In October 2018, the Government submitted its response to the parliamentary studies, expressing general support for the recommendations relevant to federal corrections.[58] Rather unfortunately, given the large number of recommendations, the Government relied mostly on a "thematic" response, as opposed to addressing each recommendation separately. CSC did identify a few potentially promising initiatives in its response (e.g., Aboriginal Intervention Centres and "forthcoming" contracts with Indigenous communities to provide reintegration services); however, as a consequence of the thematic approach, the majority of the responses were vague, non-committal, and, for the most part, expressed an intention to maintain the status-quo. It remains unclear how the funding stemming from Budget 2017-18 – which CSC repeatedly invoked as the solution to many of the issues raised in the reports – will be, or has been, allocated. Simply stating that new contracts, programs, and initiatives will be created based on new funds does not inspire confidence in the development of transformative solutions. However, I will reserve judgement until I see concrete plans to substantiate these promises.

Given the overall lack of details and commitments in its response, it leaves me questioning how the Government (particularly, CSC as it relates to federal corrections) intends to address the *specific* recommendations made by the Committees. Furthermore, if the government intends to make good on the FEWO Committee's recommendation of "eliminating the over-representation of Aboriginal people [and youth] in custody by 2025," there will need to be coordinated and intentional strategies put in place. The focus needs to shift towards creating and utilizing alternatives to incarceration, increasing access to effective and culturally relevant services for incarcerated Indigenous inmates, and a considerable reallocation of resources to effective community reintegration efforts.

[58] For Government Response to SECU report, see: https://www.ourcommons.ca/DocumentViewer/en/42-1/SECU/report-22/response-8512-421-431. For Government Response to FEWO report, see: https://www.ourcommons.ca/DocumentViewer/en/42-1/FEWO/report-13/response-8512-421-439

Risk Assessment with Indigenous Offenders: The Case of *Ewert v. Canada* (2018)

CSC uses a variety of assessment tools to make decisions at different stages of an individual's sentence (e.g., for security, case management, release planning). These tools are intended to assess each individual's level of risk and needs in order to estimate their likelihood to re-offend and identify targets for correctional treatment. Risk/needs assessments that are commonly used today have primarily been developed on White male offender samples; therefore, their use with offender subgroups (e.g., women offenders, ethnic minorities) has been criticized. These criticisms are premised on the assumption that these instruments may not be valid measures of risk, or provide appropriate intervention targets, for these sub-populations, as they were not included (sufficiently, if at all) in the development of these assessment tools.

Within the larger debate concerning risk assessment with minority offenders, many have specifically questioned the applicability of commonly used risk assessments with Indigenous offenders, given their over-representation in the criminal justice systems of Canada, Australia, New Zealand and the United States. In Canada, risk assessment instruments developed on non-Indigenous male offenders are, for the most part, also administered to Indigenous offenders. It has been suggested that the lack of cultural-relevance of these assessments introduces a cultural bias in the estimation of risk with offenders of Indigenous heritage. Some have argued that this cultural bias creates a disadvantage for Indigenous offenders due to the potential incongruences between the currently used risk factors and those that are indeed related to recidivism for Indigenous offenders.[59]

Ewert v. Canada (2018)

More recently, the issue of cultural bias in risk assessment was given prominence by the case of *Ewert v. Canada* (2018).[60] Mr. Ewert is a federal inmate serving two simultaneous life sentences and identifies as Métis. In this case, Ewert argued that the risk assessment tools used to make decisions about his case management were created based mostly on non-Indigenous offenders; and therefore, they are less applicable to him or any other Indigenous individual. He further contended that CSC was violating the law by using these tools on Indigenous offenders without sufficient evidence that they work for Indigenous offenders. The Federal Court agreed with Ewert; however, this decision was later overturned by the Federal Court of Appeal. Ewert in turn appealed to the Supreme Court of Canada (SCC).

On June 13th 2018, Ewert's arguments regarding violations of his Charter rights were rejected; however, the SCC's ruling granted an official declaration that CSC had violated its legal obligations to ensure that information provided via these tools was accurate and reliable. Specifically, CSC had not taken reasonable steps to ensure that the impugned tools gave accurate and complete estimations of risk for Indigenous offenders, despite CSC's knowledge that there were concerns regarding their reliability and validity. The SCC further commented that if CSC continues to use the psychological tests for decision-making, it must at a minimum conduct research related to cultural bias and Indigenous offenders. In the decision, the SCC specifically stated:

[59] Allan, A., & Dawson, D. (2004). Assessment of the risk of reoffending by Indigenous male violent and sexual offenders. *Trends and Issues in Crime and Criminal Justice, 280*, 1-6.

[60] *Ewert v.* Canada, SCC 30 (2018).

"...what is required, at a minimum, is that if the CSC wishes to continue to use the impugned tools, it must conduct research into whether and to what extent they are subject to cross-cultural variance when applied to Indigenous offenders. Any further action the standard requires will depend on the outcome of that research. Depending on the extent of any cross-cultural variance that is discovered, the CSC may have to cease using the impugned tools in respect of Indigenous inmates, as it has in fact done with other actuarial tools in the past. Alternatively, the CSC may need to qualify or modify the use of the tools in some way to ensure that Indigenous inmates are not prejudiced by their use ..."

***Ewert v. Canada*, 2018, para 67.**

Since the SCC ruled in the case of *Ewert v. Canada*, there has yet to be an official response from the Service on how it intends to address the concerns raised by the case and the ensuing SCC decision. My office, as well as many other stakeholders and offenders, are awaiting a response as to how CSC intends to rectify these issues. Specially, how does the Service intend to examine the validity of existing risk/classification tools with Indigenous offenders, examine discrepancies in validity, and address/modify these tools to correct for problems with validity? Other than a brief summary of the *Ewert* case on CSC's internal website, the Service has been disappointingly silent on this issue.

The case of *Ewert v. Canada* (2018) is arguably one of the most significant cases in Canadian history to debate the science and role of risk assessment in corrections. The potential impacts of this case for advancing knowledge on risk factors and assessments for Indigenous peoples in the justice system cannot be overstated. However, it is reasonable to expect that external pressures will continue to be applied to the justice system, at all levels, to acknowledge the need to better understand how culturally-relevant factors affect decision-making tools.

8. I recommend that in 2019-2020, CSC should:

i) publicly respond to how it intends to address the gaps identified in the *Ewert v. Canada* decision and ensure that more culturally-responsive indicators (i.e., Indigenous social history factors) of risk/need are incorporated into assessments of risk and need; and,

ii) acquire external, independent expertise to conduct empirical research to assess the validity and reliability of all existing risk assessment tools used by CSC to inform decision-making with Indigenous offenders.

CSC RESPONSE:

Correctional Service of Canada (CSC) is committed to ensuring that psychological risk assessment tools are used in an ethical manner, are effective, and culturally sensitive. Further to the Supreme Court decision, CSC collaborated with the Canada Agency for Drugs and Technologies in Health (CADTH) to assess the validity of the recidivism risk assessment tools for inmate populations. CADTH is an independent, not-for-profit organization responsible for providing Canada's health care decision-makers with objective evidence to help make informed decisions about the optimal use of drugs and medical devices in our health care system.

The five actuarial tools that were subject to litigation are not owned by CSC (PCL-R, VRSSO, VRAG, Static-99, and SORAG), but rather, are copyrighted and commercially available to licensed psychiatrists and psychologists for use in conducting their assessments. The CADTH report notes that all tools subject to the litigation demonstrate moderate to high predictive accuracy. However, CSC is mindful of a gap in recent research on the SORAG, and will consider any new research that seeks to further assess this specific tool.

In addition to the CADTH report, CSC also developed and promulgated a practice reminder for health professionals. Building on the standards of practice for all health professional licensing boards across the country, the practice reminder stresses the importance of conducting risk assessments in an ethical and culturally appropriate manner.

As noted in the Practice reminder, actuarial measures are essential to the process of risk assessment, but the process remains a multi-faceted approach that extends beyond the administration of actuarial measures — cultural variables, such as those that have impacted Aboriginal Social History (ASH) must be integrated into the assessment. For Indigenous offenders, CSC has developed an ASH tool that provides guidance on how to consider ASH in case management practices, recommendations and decisions for Indigenous offenders.

As part of CSC's Research Plan for 2019-2020, we will also be further considering the design of a case management assessment tool specifically for use with Indigenous offenders.

National Aboriginal Advisory Committee

By law, CSC is required to seek advice from a National Aboriginal Advisory Committee (NAAC) on the provision of correctional services to Indigenous offenders. Since the creation of the committee in 2000, the infrequency of meetings between the NAAC and CSC, as well as the lack of follow-through by the Service on their recommendations, are issues for which I have previously raised concerns. While it is a positive step that CSC has recently started making the NAAC meeting notes public, these records serve to highlight the recurring issues that the NAAC has been raising, for which little progress has been made by the Service.

For example, at their meeting in August of 2018, the NAAC identified the need for increased funding and engagement with Indigenous communities. Specifically, members raised concerns regarding the lack of funding for community reintegration efforts, need for CSC to build trust with communities in order to increase Section 81 and 84 agreements, language barriers that make communication difficult between CSC and communities, and the need for more attention in the North (e.g., exploring the option of a healing center in the North). My office has been similarly raising these concerns for years. For example, in my last Annual Report, I called for the reallocation of significant resources to negotiate new funding with Indigenous communities for Section 81 agreements and 84 placements. While some progress has been made in this area (e.g., innovative community partnerships to address some of the Section 81 needs within urban settings), small tweaks around the edges of this issue will simply not result in the systemic change that is needed. The NAAC has raised many other pressing issues, such as the need for more Indigenous staff and that CSC undertake a review of the role of Elders, particularly as it relates to their involvement in case management recommendations and decisions. My Office shares these concerns.

In terms of how the committee works with CSC, members have called for the identification of an NAAC spokesperson who would attend parliamentary committee hearings with the Commissioner; and, they expressed a desire to see improvements made to communication between the Commissioner and the committee. While I was pleased to see that increasing consultation with the NAAC and the National Elders Working Group was included in CSC's 2018-19 Corporate Business Plan, the plan lacks details on the concrete steps CSC intends to take to address the specific concerns that the NAAC and my office have raised regarding Indigenous issues in corrections. It concerns me that even straightforward recommendations made by the NAAC, such as circulating and posting the committee's updated Terms of Reference, or a commitment by the Service to publicly post minutes of NAAC meetings, have either not been implemented, or are not actioned in a timely and responsive manner.

| ELDER VULNERABILITY WITHIN CSC |

- Elders are an essential component of the healing, rehabilitation, and reintegration of federally sentenced Indigenous offenders. Elders provide culturally-informed counselling, guidance, teachings, and ceremony to offenders who are seeking a traditional healing path.
- Elders and the NAAC have been raising concerns regarding the treatment of Elders for many years (e.g., isolation, underfunding, unclear role). Similarly, in my 2015-16 Annual Report, I recommended that CSC's NAAC review gaps and barriers to the participation of Elders in federal corrections and to publicly release their recommendations by the end of the fiscal year.
- Further to these concerns, NAAC members led a national sub-committee and study examining Elder Vulnerability within CSC. In 2017, CSC released a report summarizing the main concerns raised by Elders, which included the following:

  1. **Treatment, Respect and Trust** – there is a fundamental lack of understanding within CSC of traditional protocol and ceremony. Additionally, poor mentorship, lack of definition of the role of Elders, and systemic barriers all contributed to feelings of isolation and exclusion.
  2. **Traditional Role and the Contracting Process** – the traditional role of Elders is not understood by those in CSC. Elders also noted that the bureaucratic nature of the contracting process has led to a sense of confusion and insecurity.
  3. **Spiritual and Cultural Identity** – there is a lack of cultural awareness by CSC staff, particularly regarding ceremonies and offerings. Elders expressed feeling isolated and unsure of their rights and freedoms to practice.

- Their recommendations and action plan call for: 1) a revitalization of a national vision and understanding of the role of Elders; 2) reinforcement of a nationally consistent approach to engaging Elders; 3) increasing respect for Elders within institutions; 4) better preparing Elders for working in a correctional context; and 5) promoting spiritual and cultural integrity.

This state of affairs calls into question how much CSC values the voice and advice offered by advisory bodies.

It is also worth noting here that at their August 2018 meeting, the NAAC suggested, "CSC should maintain a working relationship with the Office of the Correctional Investigator to increase collaboration." I agree with the spirit of this suggestion and would welcome being invited to attend NAAC meetings going forward. As I have raised previously, it is clear that the gaps identified by the NAAC and my office year after year demonstrate the need for a Deputy Commissioner of Indigenous Corrections dedicated to overseeing and ensuring progress on these pervasive and recurring issues in Indigenous corrections.

Indigenous Programs Room – La Macaza Institution

Given the important restorative role Elders play in Indigenous corrections, it is essential that CSC take seriously the recommendations offered by the NAAC subcommittee report. By law, Indigenous spiritual advisors/Elder have the same status as other religious leaders. CSC policy broadly stipulates that Elders/Spiritual Advisors are to provide "counselling, teachings and ceremonial services" as well as participate "as a member of the Case Management Team" for Indigenous inmates with whom they work. This breadth of responsibilities requires an Elder to play many roles – that of teacher, advisor, spiritual/religious leader, and/or decision-maker – which at times can compromise or even contradict each other. This breadth has led to a lack of clarity and confusion among Elders on the function of their role within the correctional setting. It goes without saying that Indigenous inmates should have access to the support and guidance provided by Elders; therefore, it is logical that decisions regarding case management and release planning could benefit from being informed by the richness of the relationships fostered by Elders. However, requiring or even asking, Elders to be part of correctional decisions may also be inappropriate, and could at times jeopardize the trust necessary between Indigenous offenders and their spiritual leaders. In an effort to ensure that the best interests of inmates are prioritized, CSC therefore needs to reconcile and provide greater clarity on the roles of Elders and how their perspective enriches that of others engaged in the case management and decision-making process (e.g., Aboriginal Liaison Officers, Aboriginal Community Development Officers, Parole Officers).

9. **I recommend that CSC, in consultation with the National Aboriginal Advisory Committee and the National Elders Working Group, implement an action plan with deliverables for clarifying the role of Elders and reducing Elder vulnerability within CSC and report publicly on these plans by the end of 2019-2020.**

CSC RESPONSE:

Correctional Service of Canada (CSC) remains committed to effective consultation with the National Aboriginal Advisory Committee (NAAC), which provides advice on culturally responsive strategies, policies, and community engagement initiatives directly to the Commissioner of CSC. The NAAC meets up to three times per year with CSC to advise and provide guidance and recommendations regarding policy, procedures and interventions that impact Indigenous offenders. The NAAC was pleased to have its initial meeting with the current Correctional Investigator at the July 2019 meeting. NAAC Records of Meetings are publicly available through CSC's external website.

Likewise, the National Elders Working Group (NEWG) meetings occur two to three times per fiscal year. CSC has been addressing the topic of Elder vulnerability on an ongoing basis and in 2017 published *Elder Vulnerability within CSC: A Summary of Discussions with Elders, Recommendations and Action Plans*. https://www.csc-scc.gc.ca/aboriginal/002003-1012-en.shtml.

The topic of the role of CSC Elders is regularly discussed at the NEWG and NAAC meetings. CSC will continue to facilitate ongoing extensive collective discussions and consultations with the NEWG on improvements for CSC Elders and Elder vulnerability at the upcoming NAAC and NEWG meetings.

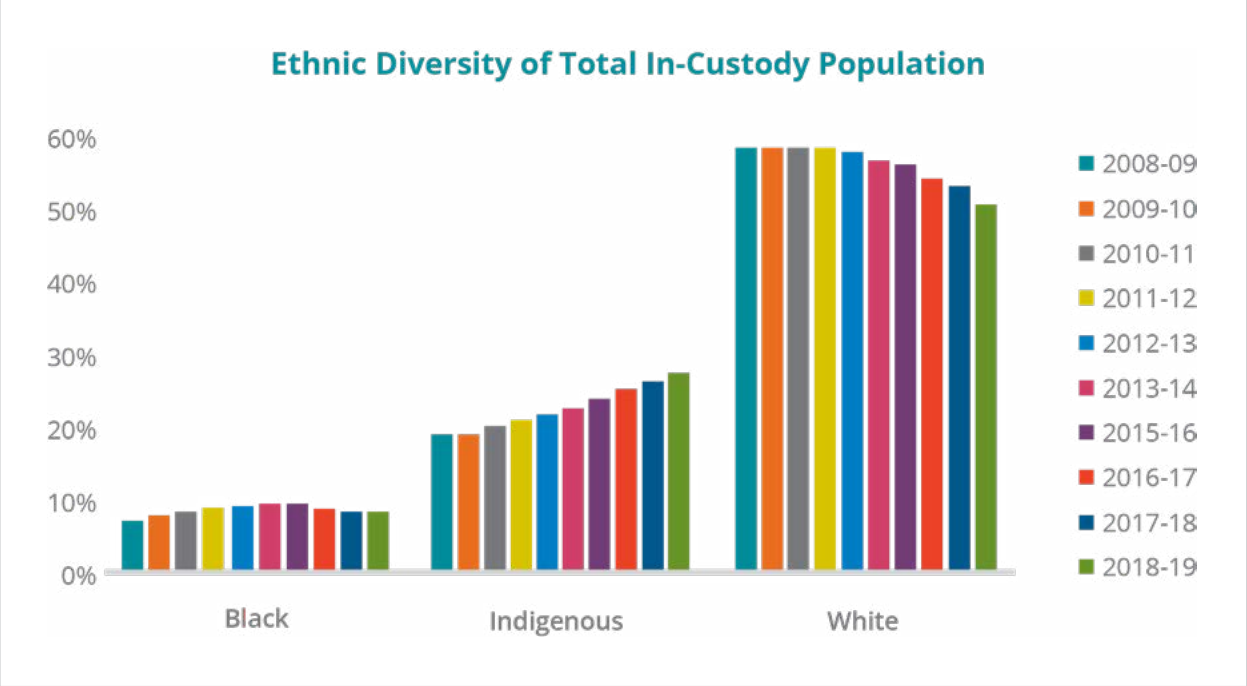
Additionally, as part of CSC's ongoing commitment to improving results for Indigenous offenders, Elder Orientation was developed in consultation with the NAAC and the NEWG, and was implemented across the regions as Elders commence their contract with CSC. The Elder Orientation is now integrated into the onboarding process for newly contracted Elders. The Orientation provides information on working within CSC, key expectations and avenues for support. The Elder Orientation was rolled out early in fiscal year 2018-19. All Elders currently under contract with CSC have received Elder Orientation. The frequency of facilitation varies by region depending on need, and Elder feedback received to date has been positive.

Community Correctional Centre – Chilliwack, BC

5 SAFE AND TIMELY REINTEGRATION

"Throughout its study, the committee has become aware of a wide range of challenges faced by federally-sentenced persons. The committee was troubled by the frequency and consistency with which these issues were raised … One overarching theme was that CSC policies often discriminate against Indigeneity, race, gender, disability, mental health, ethnicity, religion, age, language, sexual orientation and gender identity. An important consequence of discriminatory policies is that federally-sentenced persons, especially those who are women, Indigenous, Black and racialized, have difficulty accessing culturally relevant rehabilitative programming. Without access to these programs, federally-sentenced persons are ill-prepared to reintegrate in their communities, which places them at a higher risk of reoffending. Tackling this issue is particularly urgent for federally-sentenced Indigenous and Black persons who are significantly overrepresented in the correctional system."

Senate Committee on Human Rights, *Study on the human rights of federally-sentenced persons: The most basic human right is to be treated as a human being*. Interim Report, (February 2019)



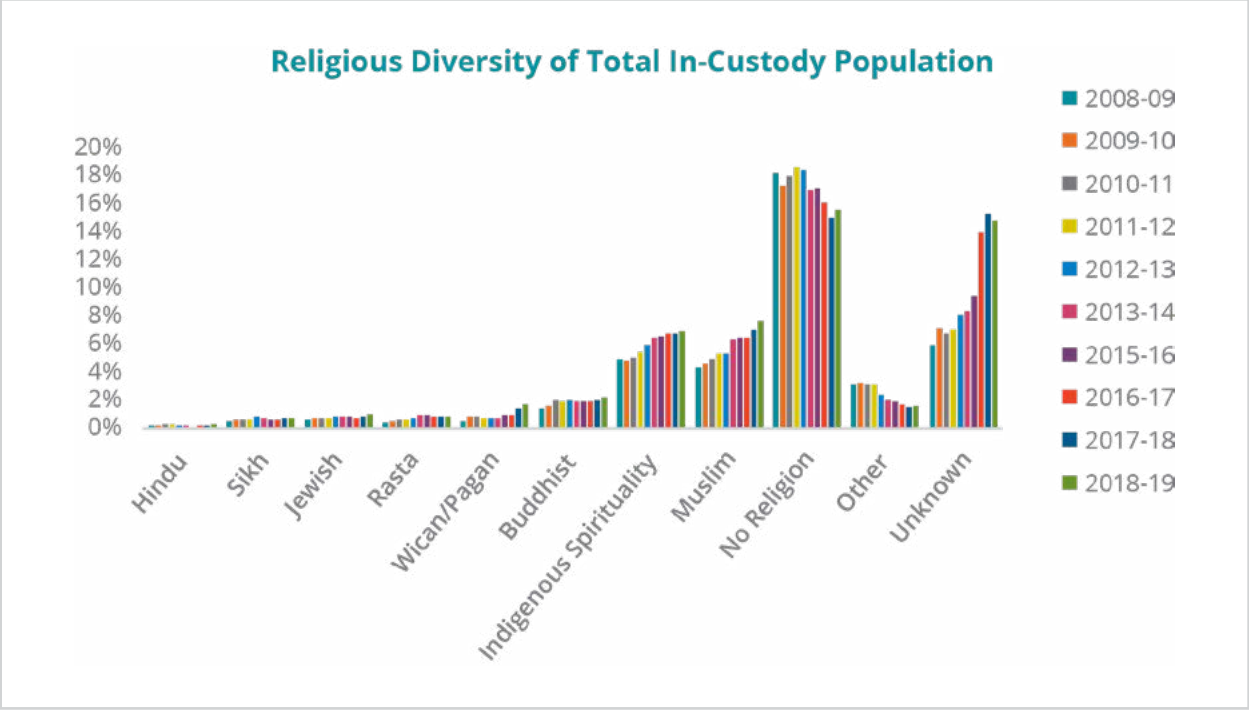
Note: Data was not available for 2014-15 fiscal year from CSC's Data Warehouse. Other ethnic groups were excluded as their numbers were too small in comparison.

Population Diversity in Corrections

Although beyond the scope of this report to comment on the discriminatory effects of CSC policies, a review of population diversity indicators in corrections indicates some important trends. The Indigenous inmate population has steadily increased from 19% of the total inmate population in 2008-09 to 28% in 2018-19 – a narrative that is, unfortunately, well-known. The Black[61] inmate population increased from 7% in 2008-09 to 10% in 2015-16, but has been slowly reversing. Black inmates currently now represent 8% of the total in-custody population.

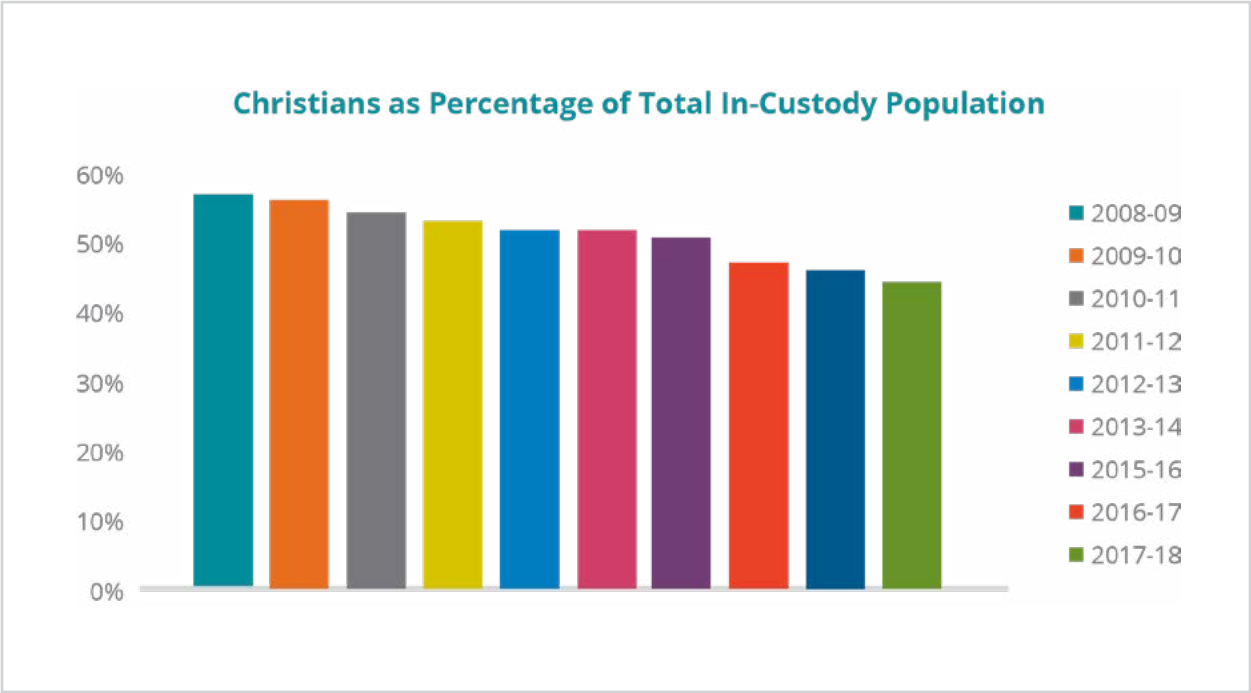
One of the most potentially impactful, but less reported demographic changes, is the relative and proportional decline in the number of White inmates, a subgroup which has steadily decreased from 66% of the total inmate population in 2008-09 to 52% in 2018-19.

Trend lines for religious minorities behind bars are also less familiar. There has been a disproportionate increase in the number of inmates who self-report their identity to correctional authorities as Muslim. The Muslim inmate population has increased by 74% since 2008-2009 (from 627 to 1089) and now 7.73% of the total inmate population. Whether internal or external factors are driving the increase in the number of Muslim inmates is unclear.

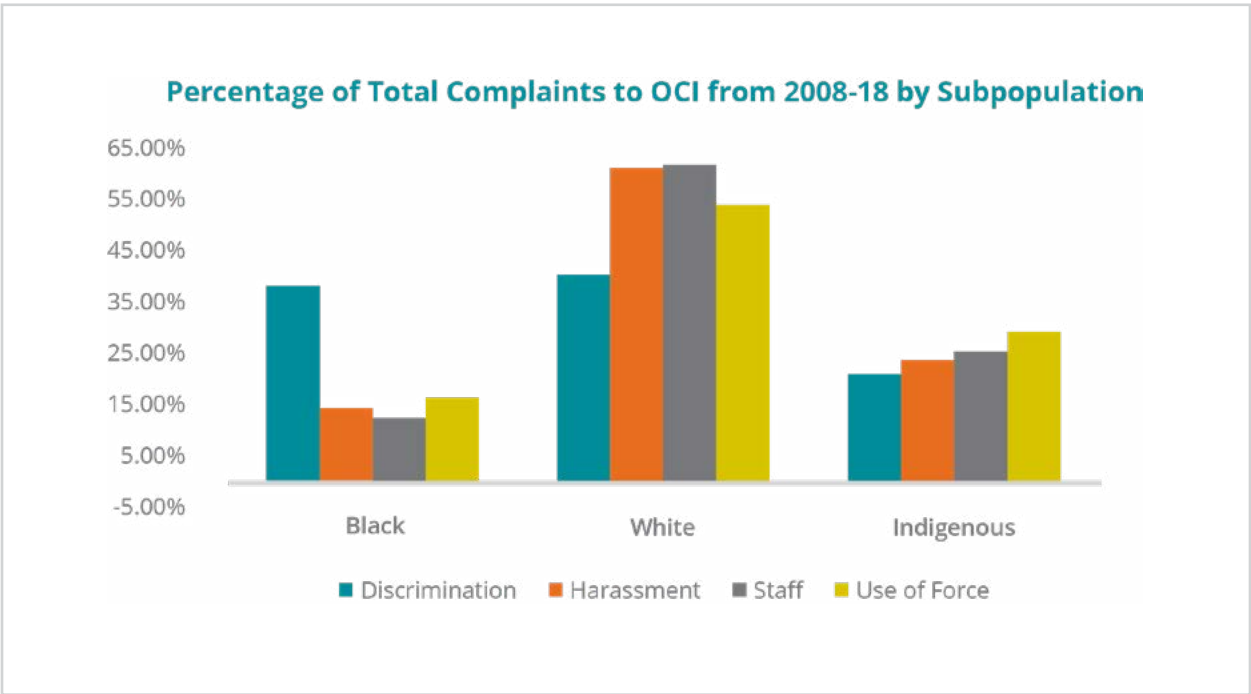


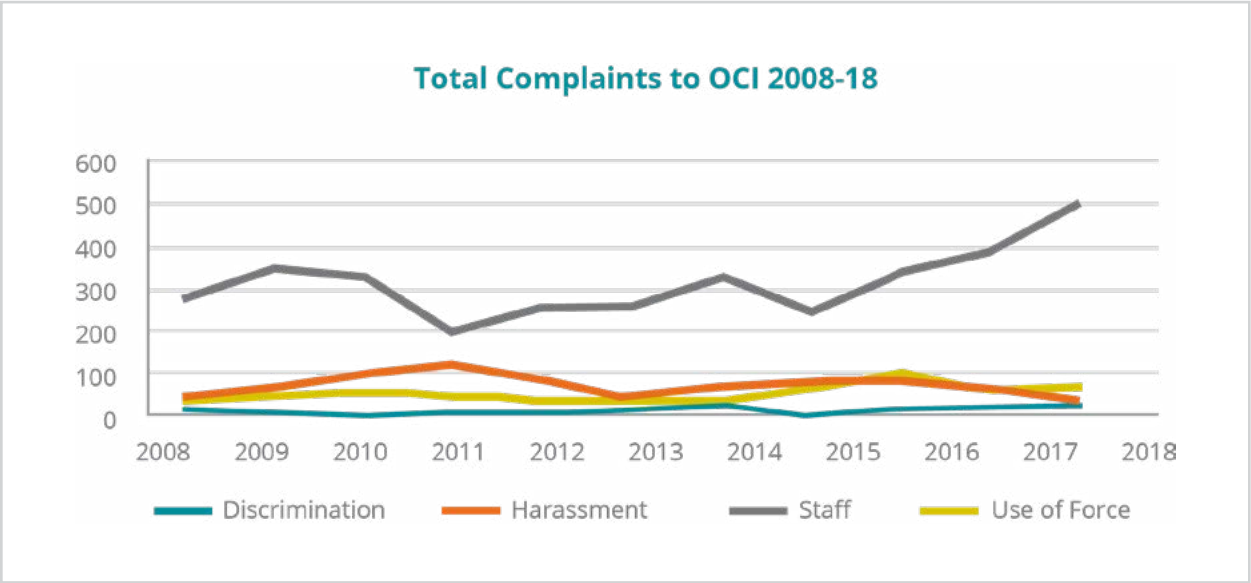
Note: Data was not available for 2014-15 fiscal year from CSC's Data Warehouse.

[61] For the purposes of this report, Black includes inmates who identified as Black, Caribbean, and African.



As depicted, offender complaints received by my Office concerning staff have steadily increased since 2015. Though still low, discrimination complaints also appear to be trending upward. Although Black inmates represent just 8% of the total inmate population, this heterogenous group accounted for 37% of all discrimination complaints to my Office between 2008 and 2018.





As the Senate Committee's report reminds us, the points of potential discrimination are many and varied; they extend well beyond the colour of one's skin or religious affiliation. Offender complaints regarding staff behaviour/ performance are not limited to one source; alleged discrimination seems to be experienced on a wide spectrum of factors reflecting the increasing degree of diversity among the inmate population. These trends seem to be more pervasive, visible or systemic in nature as the relative and absolute proportion of self-identified White inmates declines vis-a-vis other subpopulations.

It is also important to understand that the effect of various CSC policies may be perceived or experienced as discriminatory, even if there was no specific intent (overt vs. systemic discrimination). The key takeaway here is that, like the rest of Canada, the face of corrections is changing. These demographic trend lines have important implications for CSC in terms of programming, staffing (recruitment and retention) and accommodation. At the same time, it should be made clear that religious or ethnic identity are not just differences that must be accomodated. Increasing diversity does not have to lead to discrimination. Just as diversity is a celebrated source of pride in CSC's workplace, so it must also become a more valued part of the offender experience in Canada.

10. I recommend that, in 2019-2020, CSC complete, in consultation with the Canadian Human Rights Commission, a comprehensive review of its staff complement, from the point of view of better reflecting and representing the diversity of the offender population. As part of this review, CSC should examine complaints against staff on prohibited grounds of discrimination. An Action Plan should be developed to address gaps.

CSC RESPONSE:

Correctional Service of Canada (CSC) is committed to being representative of the population(s) that it serves. CSC collects and tracks data on the four employment equity (EE) groups (women, Indigenous peoples, visible minorities and persons with disabilities) through the voluntary employee self-identification questionnaire. CSC exceeds the workforce availability for all groups, with the exception of women.

In support of CSC's obligations set out in the *Employment Equity Act*, and its commitment to being representative of its offender population, CSC has developed, and regularly updates, hiring objectives for all four EE groups that consider, among other factors, the diversity of the offender population.

Moreover, in January 2018, CSC updated its hiring objectives for Indigenous peoples, visible minorities and persons with disabilities, and created hiring objectives for women in response to the recommendation from the Canadian Human Rights Commission (CHRC) in the 2014 Employment Equity Status Report for CSC. For women and persons with disabilities, the objectives take into account both workforce availability, as well as the higher rate of separation for these groups. Hiring objectives for visible minorities and Indigenous peoples consider the make-up of the offender population as well as workforce availability. These objectives will continue to assist CSC in meeting the obligations set out in the *Employment Equity Act*, and support CSC's objective of being representative of its offender population. CSC will continue to collaborate with the CHRC to bring a human rights lens to our work and take actions to address any complaints and recommendations.

Finally, CSC's Strategic Plan for Human Resource Management 2019/20-2021/22, integrates the organization's EE action plan identifying concrete actions, and hiring objectives in order to ensure that we continuously improve in our effort to foster an inclusive and diverse workplace. As an example, in the Prairie Region, CSC has recently signed a Memorandum of Understanding with the Gabriel Dumont Institution — Training & Employment Center in an effort to increase representation of Indigenous employees within the area of Health Services.

| OFFENDER REINTEGRATION TRENDS |

- The overall number of releases from federal custody fell in 2018-19 to its lowest level in ten years. There were 7,171 releases in 2018-19 (includes day and full parole, statutory release, warrant expiry and long-term supervision order), down from 7,388 in 2017-18.
- Despite the overall decrease in the number of releases, day parole releases continue to trend upwards. In 2018-19, there were 2,686 releases on day parole accounting for 37.5% of all releases compared to 2,621 the previous year (accounting for 35.5% of all releases).
- The number of statutory releases (release at two-thirds sentence) continues to decrease and now accounts for 58.3% of all releases (down slightly from 59.8% in 2017-18).
- In 2017-18, the successful completion rates increased on federal day (92%) and full (91%) parole but remained unchanged for statutory releases (at 67%) compared to the previous year.
- Federally sentenced women are most likely to be released on day parole (57%). Approximately 40% were released on statutory release in 2018-19.
- According to the Parole Board of Canada, 2 out of 3 Indigenous offenders and 3 out of 5 Black offenders released on statutory release were not seen by the Board for a parole review. The ratios were 1:2 for White offenders and 1:3 for Asian offenders.
- The number of temporary absences has increased over the past 4 years and is now at its highest point in the last 10 years. In 2018-19, there were 55,712 temporary absences. Indigenous offenders comprised 35.5% of all temporary absences.

Sources: Parole Board of Canada (2018). *2017-2018 Performance Monitoring Report*; CSC Data Warehouse.

Office of the Auditor General Report on Federal Community Supervision

As part of its Fall 2018 reports to Parliament, in November the Auditor General (OAG) released an audit of CSC's community supervision program.[62] Specifically, the audit focused on three areas:

1. Accommodation for offenders on community supervision with a residency condition.
2. Supervision of federal offenders in the community; and,
3. Measurement of post-sentence results.

1. Accommodation in the Community

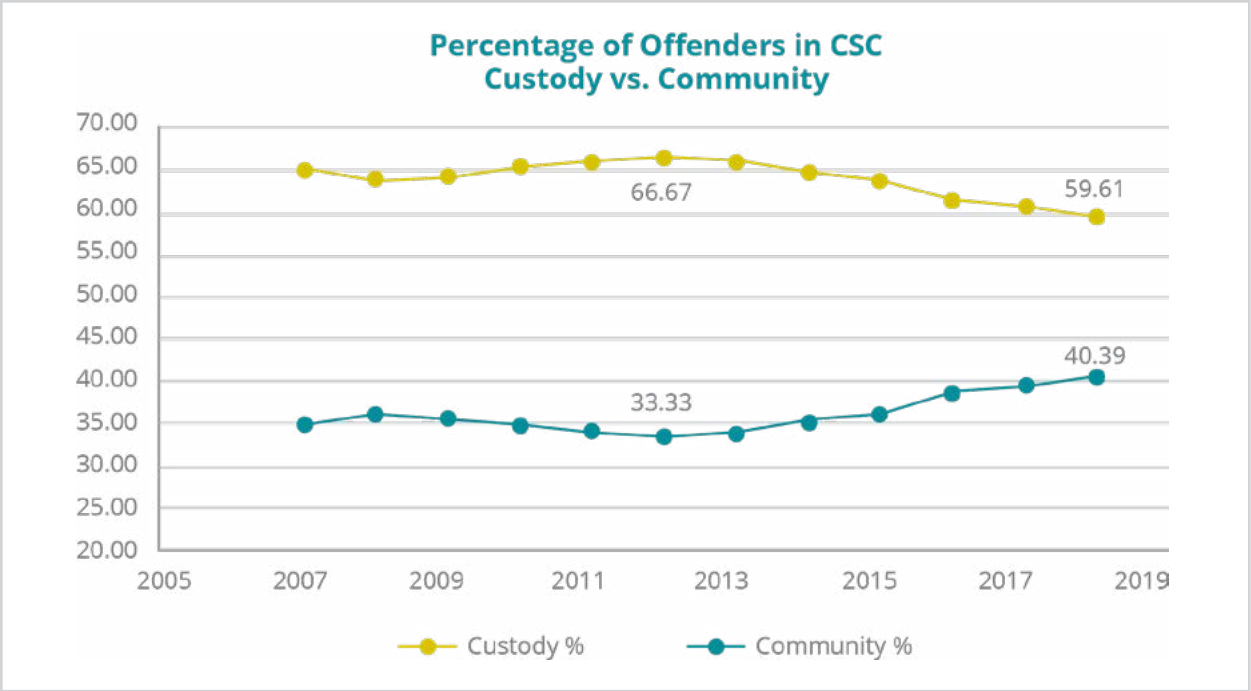
During the time the audit was being conducted, nearly one-third of federal offenders on release required supervised housing as a condition of their community release. Despite a growing backlog of offenders with a residency requirement waiting to be released from prison, the audit found that CSC did not have a long-term plan to respond to accommodation pressures. CSC indicated that it can take more than two years from the time a site was selected with a community partner to the time the first offender was placed at a new facility. Given that CSC was already at capacity, this meant that the housing shortages were likely to get worse.

Further to its findings, the OAG recommended that CSC take a proactive, long-term approach to accommodation in community-based residential facilities (CRFs), and ensure that its allocation of bed space is of the right type, location, and

Federal Community Supervision Program

- Since 2012, while the number of admissions to federal custody has been decreasing, the number of releases to the community have been increasing.
- Today, the proportion of offenders in prison versus community supervision has reached an overall 60/40 population split (50/50 for women).
- According to 2016-17 numbers, the total number of offenders on community supervision (8,886) is at its highest point in over a decade.
- CSC allocates just 6% of its budget on the community supervision program.
- The cost of supervising an offender in the community is approximately one-quarter that of incarceration.

[62] Auditor General of Canada (2018). *2018 Fall Reports of the Auditor General of Canada: Report 6: Community Supervision – Correctional Service of Canada*. Retrieved from: http://www.oagbvg.gc.ca/internet/English/parl_oag_201811_06_e_43204.html



available to offenders when they need it. In their response to the audit, CSC agreed with the recommendation and expressed its intention to build on an existing community capacity analysis, comprehensive bed-inventory, and program to match offenders to community facilities.

Offenders supervised in the community represent 40% of the total federal offender population.[63] Given the increase in the community supervision population that has been observed over the last five years, the anticipated increase in the coming years, and the capacity issues identified for existing community correctional centers and CRFs (e.g., operating at 85-88% capacity), resources should be reallocated to support timely release. Insufficient bed space in the community should not be a reason individuals are deprived of their right to liberty.

[63] Public Safety Canada (2018). *2017 Corrections and Conditional Release Statistical Overview*. Retrieved from: https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ccrso-2017/index-en.aspx

In addition to the capacity issues, the audit found that CSC does not currently track key information that would enable them to assess the needs of those being released, or the reasons for problems related to their placement delays (e.g., complex needs, incompatibility between offence history and admission restrictions at community facilities). In some cases, offenders are choosing to be released to communities that were not their first choice (and therefore, potentially far from social supports) in order to ensure a more timely release. CSC does not currently track this information and cannot speak to the number of individuals who are "displaced" upon release. Displacement and isolation from positive social supports can have a negative impact on the reintegration of offenders, given what we know about the importance of social support for re-integration and desistence.

11. I recommend that significant resources be reallocated to the community supervision program and that CSC develop and report out on a long-term strategy to address the shortage in community-based accommodation, and implement a system to assess and track the needs of offenders being released in order to avoid unacceptable delays and displacement.

CSC RESPONSE:

Correctional Service of Canada (CSC) is implementing a multi-year national community accommodation plan, to be updated quarterly by National Headquarters, which identifies current population profiles, projected upcoming releases, and available accommodation capacity. Accommodation gaps to be identified by regions will be based on national mapping of needs vs. bed capacity. CSC has also initiated the development of a comprehensive solution for both bed-inventory management and the matching of offenders to community facilities (including waitlists), focusing on vulnerable and unique populations such as aging offenders and women offenders. This solution is anticipated to be developed by the end of 2019.

Funding mechanisms are available to provide support, such as the National Infrastructure Contribution Program (for physical infrastructure projects to facilities), and the yearly Quasi-Statutory Requirements Treasury Board Submission to seek Community-based residential facilities funding for changes in price and volume.

Granted Day Parole with No Place to Go

Over the past year, a number of inmates have contacted my Office expressing concerns regarding the length of time they are waiting in prison after being granted day parole. In one such case, an inmate contacted my Office on December 18, 2018 indicating that he had been granted day parole as of October 3, 2018, and had still not been released to the community as a result of a lack of bed space. In an attempt to resolve the situation, the inmate's Parole Officer was examining options for release in an alternative community where the inmate did not have support or employment. The inmate was finally released on March 18, 2019, to his preferred community, more than five months after he was granted day parole. In fact, during his extra 5-month stay in prison he had also passed his full parole eligibility date and was a mere four months from reaching his statutory release date. This is unacceptable.

Parole Board of Canada statistics highlight the importance of a period of gradual supervised release in terms of correctional outcomes. In 2017-18:

- The successful completion rates on federal day parole and full parole are high (i.e., 92% and 91%, respectively) compared to statutory release (at 67%).
- Offenders released on statutory release are far more likely to have their releases revoked because of a breach of condition when compared to offenders on day or full parole during each of the last five years.
- Over the last five years, the total revocation with offence rates were on average eight times higher for those on statutory release than the rates for those on federal day parole and three times higher than the rates for those on federal full parole.
- Though the rates of revocation with a violent offence on statutory release have been declining in the last five years, the revocation with violent offence rates were, on average, ten times higher for offenders on statutory release than for offenders on federal day parole and three times higher than for offenders on federal full parole over the last five years.

Source: Parole Board of Canada (2018). *2017-2018 Performance Monitoring Report*.

2. Supervision of Offenders in the Community

Upon review of a sample of community supervision cases, the audit found that CSC did not properly manage offenders under community supervision. For example, it did not give parole officers the information they needed to assist offenders with their health needs (e.g., gaining access to health cards upon release), and parole officers did not always meet with offenders as often as they were required (e.g., frequency of reporting was found in many cases to be less than the minimum required).

The OAG recommended that CSC ensure that parole officers are monitoring offenders in accordance with the conditions imposed by the Parole Board of Canada and at the required frequency of contact. Furthermore, CSC should ensure that all relevant health information is shared, in a timely manner, with parole officers responsible for release planning. Specifically, CSC must assist offenders in obtaining health cards *prior* to their release to the community. While CSC agreed with the recommendation, they provided no indication of any concrete plans for a national strategy to address the ongoing issue of health card access upon release.

Innovative Practice

ID COORDINATOR PROGRAM FOR PACIFIC REGION

- Pacific Region became aware of the difficulties offenders were facing in attempting to obtain their official identification (e.g., Canadian birth certificate) on release. For the province of British Columbia, this translates to no medical or prescription coverage for offenders still under CSC supervision, resulting in insurmountable expenses for some offenders.
- After the regional office consulted with institutional and community parole officers, staff at Community Residential Facilities, and outreach workers, it was determined that a single point of contact, an ID Coordinator for the Region, would be the most efficient way to address the barriers to obtaining identification.
- The duties and responsibilities for the Regional Offender ID Coordinator position were developed and advertised throughout the Region in February 2016. The ID Coordinator commenced her duties in April 2016.
- All sites with the exception of Kwìkwèxwelhp Healing Village, Fraser Valley Institution, and William Head Institution participate in the ID program by funding the coordinator's position and providing the budget for purchasing Canadian birth certificates.
- As of March 31, 2019, the Pacific Region's ID Coordinator has assisted nearly 1,200 offenders (whether staying in Pacific Region or returning to their home province on release) in obtaining necessary ID and/or resources (e.g., birth certificates, social assistance applications, medical and pharmacare coverage, and filing tax returns).

My Office first reported on this issue five years ago and recommended that CSC develop a system whereby offenders consistently obtain identification prior to their release. I am troubled that this remains a systemic issue today. Further to my previous recommendations and those of the OAG:

12. I recommend that each Regional Headquarters dedicate a resource/ contact person to work with respective Provincial government counterparts to coordinate the retention and acquisition of official documentation (e.g., Health Cards, identification, birth certificates) for federal offenders prior to their release to the community.

CSC RESPONSE:

CSC continues to work collaboratively with various stakeholders to help prepare offenders for their release with the proper identification. CSC has engaged with provincial and territorial partners for their support in establishing a process at all remand centres that would ensure that the available identification is transferred with the offender when they are admitted to CSC custody.

In spring 2019, CSC signed a Memorandum of Understanding (MOU) with Indigenous Services Canada (ISC) to collaborate on successful discharge planning for incarcerated Indigenous individuals. This MOU highlights a commitment to work together to support mutual clients in preparation for, and following their release, including: facilitating the intake of Secure Certificate of Indian Status applications; assisting with access to ISC funded health services; sharing information to facilitate coverage of health benefits, and enhance staff and offender knowledge; and developing a collaborative approach to the discharge planning process to improve continuity of care.

CSC also continues to work with offenders in obtaining their personal identification prior to release from custody. Revised policies were promulgated in April 2019 to provide further clarification to CSC staff on the responsibilities regarding offender identification prior to, and upon, an offender's release. In particular, parole officers (POs) are required to collaborate with inmates to review current identification and document the inmate's plan to obtain the necessary identification. In order to facilitate this, a specific Casework Record has been created in the Offender Management System for POs to document the actions taken.

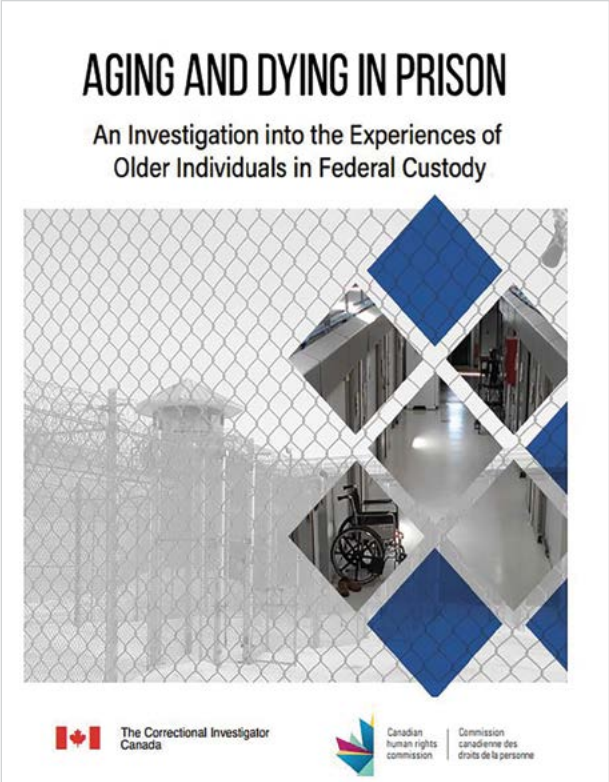
3. Measurement of Results

The final component of the OAG audit was an assessment of how CSC measures the results of its community supervision program. The audit revealed that in the calculation of post-sentence outcomes, CSC only included convictions that resulted in a return to federal custody. As a result, their measure of re-offending excluded convictions recorded by the provinces and territories. As stated in the audit, CSC was reporting an "incomplete picture of the rate at which federal offenders were successfully reintegrating into society as law-abiding citizens."

Further to this finding, the OAG recommended CSC examine recidivism using both federal, as well as provincial and territorial reconviction information. I made the same recommendation in my last annual report, and further recommended that the Department of Public Safety develop a nationally maintained recidivism database in order to track recidivism rates accurately, reliably, and with greater frequency. CSC agreed with the OAG's recommendation and indicated that they are working with Public Safety in the area of estimating national recidivism. It is my understanding that CSC has undertaken a large-scale study of the recidivism rate of federal offenders and I await more information on the methodology and criteria used and results found.

Older Individuals in Federal Custody

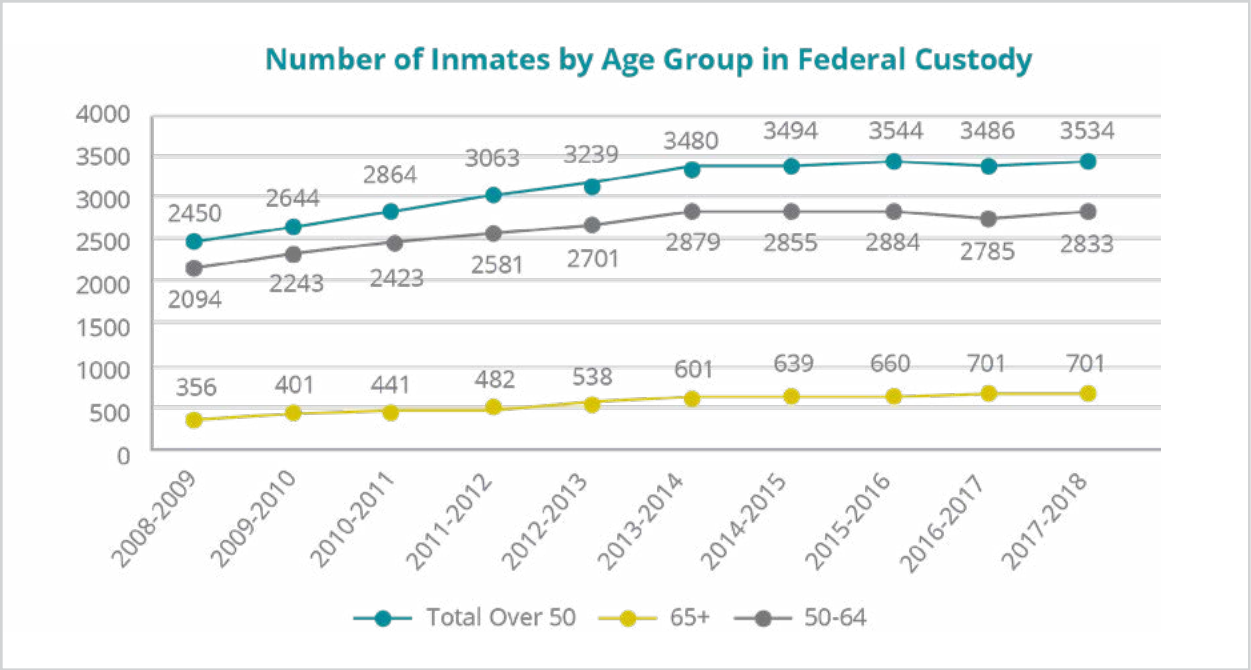
On February 28, 2019, the Office, in partnership with the Canadian Human Rights Commission (CHRC), released a joint report entitled *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody* (herein referred to the joint OCI/CHRC report). The report highlights the challenges associated with older offenders in prison, including management of chronic health conditions,



accessibility and accommodation of disability, institutionalization, reintegration barriers, end-of-life care and dying with dignity in prison.

In 2017-18, 25.2% of the federally incarcerated population was 50 years of age and over (5% of total inmate population is 65 years of age and older). By comparison, nearly 4 in 10 Canadians are 50 years of age and older and 16.1% of the Canadian population is 65 and over. Growth among older individuals in federal custody has been constant, increasing by 50% over the last decade.

The growing number of older people under federal sentence is not a new issue. In 2017-18, following repeated recommendations by the Office for a National Older Offender Strategy, CSC finally began development of a national policy framework entitled, "*Promoting Wellness and Independence – Older Persons in CSC Custody*," that is intended to address the care and custody needs of older offenders. This initiative, which the Service committed to implement by



Source: CSC Data Warehouse. (June 2018).

March 31, 2018, was approved May 2018 and while there has been some progress on the initiatives identified in the framework, there remains considerable work to address the findings in the joint OCI/CHRC report.

Among the major findings, this investigation found that half of the older inmate population is serving an indeterminate or life sentence. Many of these individuals are years and even decades past their parole eligibility dates. Some have served the greater part of their adult lives locked up and are now institutionalized. Many of these individuals have grown old behind bars and some now require walkers or wheelchairs to get around in the prison or a caregiver to assist with the tasks of daily living. A few have dementia or Alzheimer's disease and some were beginning to show symptoms of the disease. Prisons were never meant to serve as nursing homes, hospices or long-term care facilities. It is my view that some long-serving inmates are being "warehoused," a practice that has no place in a responsive and humane correctional system.[64]

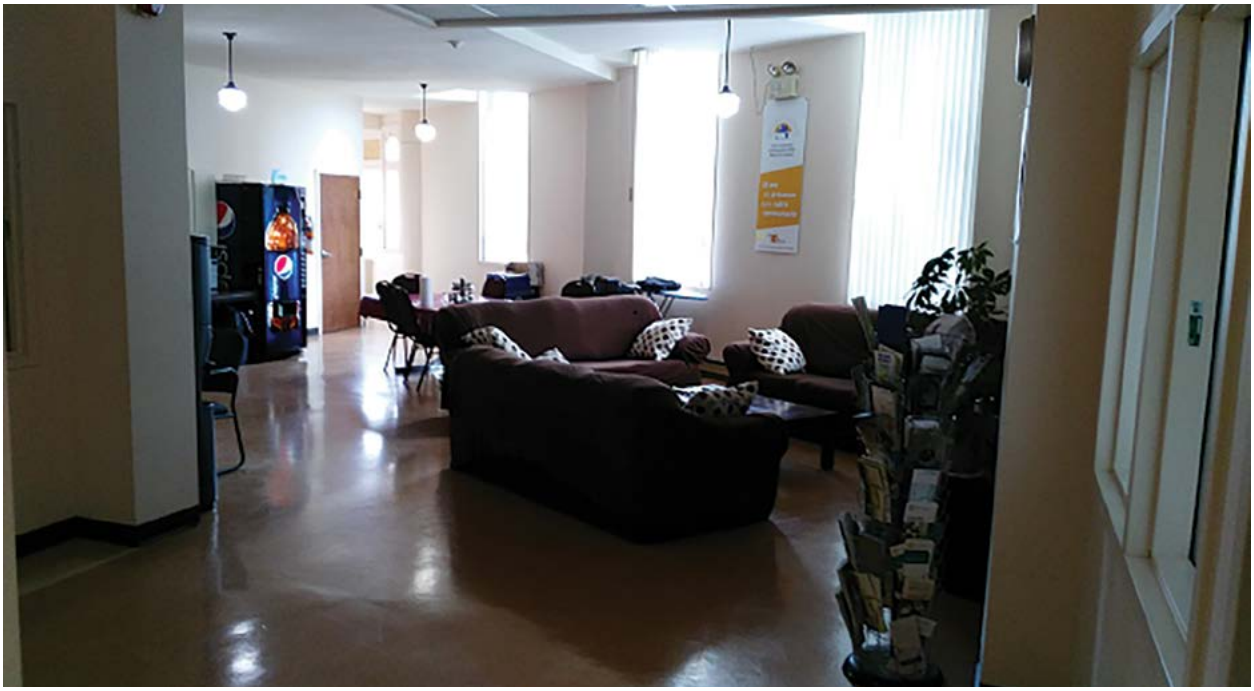
My investigation called for better, safer and less expensive options in managing the older and vulnerable prison population that poses no undue risk to public safety. The correctional system needs to consider other release mechanisms, such as medical parole or geriatric release, that would allow an inmate in declining health, who has already completed the majority of their sentence and whose risk could managed in the community to serve the rest of their sentence in the community. Parole on medical or geriatric grounds would cost a fraction of what we now spend on unnecessary incarceration. Re-profiling resources from institutional to community

[64] As part of the factual review, CSC indicated that there are a number of reasons older offenders are kept in custody long past their parole eligibility dates (e.g., more likely to be sexual and/or dangerous offenders). The Office's investigation of older individuals in federal custody found that approximately 10% of individuals 50 years of age an older have a dangerous offender designation and just over a quarter have been convicted of a sexual offence (some older offenders are serving time for historic sexual offences). While these proportions may be higher than that for those under the age of 50, there is still a significant number of long-serving individuals aging behind bars whose crimes are not sexual in nature, or designated dangerous offenders.

corrections could fund alternative placements in a retirement home, long-term care facility, hospice, specialized or adapted halfway house.

There are already good examples of halfway houses for men (Haley House, Peterborough, ON and Maison Cross Roads, Montreal, Que) that have been specially renovated to meet some of the needs of aging and mobility challenged offenders released to the community. The issue, however, is the shortage of funding to create accessible beds in community based residential facilities across the country for those requiring specialized care. While some cases are no doubt challenging, keeping older, long-serving individuals behind bars does not seem necessary, appropriate or cost-effective. As the OAG shows in its audit, the cost of accommodating an offender in the community is one-quarter the annual cost of incarceration, however, the community spaces need to be the right type and available when offenders need them.

The Service's response to the joint OCI/CHRC report was disappointing. The response contained very little that was new beyond the initiatives already identified in its national policy framework (*Promoting Wellness and Independence – Older Persons in CSC Custody*) approved nearly a year before the report was released. Ongoing commitments comprised the majority of CSC's response; many of which required more study, more review or more development. CSC's response did not appear to elicit a 'rethinking' of the issues or concerns documented. It remains unclear how CSC intends to manage older or geriatric offenders who can no longer live safely or independently in a regular penitentiary. Issues of personal safety and vulnerability are not addressed in any depth and simple modifications such as separate canteen/gym times for older individuals continued to be denied on the basis of administrative burden or infrastructure issues.



Maison Cross Roads, Montreal, Quebec

Accessible shower – Federal Training Centre

Ongoing and future data collection of older offenders in terms of cognitive, functional and social needs assessments, which have the potential to provide much needed information, lack an overall sense of urgency and purpose beyond creating a better understanding of the health care needs of older offenders. Finally, there is no firm and timely commitment to significantly reallocate resources from institutional to community corrections in order to fund alternative placements in community nursing homes, hospices or adapted halfway houses.

Dissatisfied with the Service's original response, I made two follow-up recommendations:

1. I recommend that CSC update and revise its national policy framework for aging offenders, *Promoting Wellness and Independence – Older Persons in CSC Custody* (May 2018), to clearly identify commitments and timelines that fully address the findings and recommendations of the joint OCI/CHRC report.

2. In the interest of transparency and accountability, I recommend that CSC publicly release and implement a national strategy for older persons in custody by the end of May 2019.

While the Service agreed to update and publicly release its national policy framework for older persons in custody, it is unclear how the findings from the joint OCI/CHRC report will be incorporated, particularly given the Service's inadequate response to many of the recommendations found in the report. I was most discouraged by this statement "...while I understand your sense of urgency, a comprehensive strategic approach grounded in evidence takes time." It has been well over a decade that my Office first highlighted the challenges and vulnerabilities of older individuals in custody. My sense of urgency stems from years of little to no progress or priority placed on this population. It is time to move on this issue. My two follow-up recommendations continue to stand, as do many of the recommendations made in the report.

13. I recommend that CSC reconsider the findings and recommendations identified in the joint OCI/CHRC report *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody* (February 2019) with an aim to comprehensively updating and revising its national policy framework for aging offenders, *Promoting Wellness and Independence – Older Persons in CSC Custody* (May 2018). This should include clearly identified new and ongoing commitments and initiatives, as well as specific timelines for implementation.

CSC RESPONSE:

CSC is undertaking a review of its Promoting Wellness and Independence - Older Persons in Custody framework. This work will be completed in spring 2020.

In 2017-2018, Health Services began a comprehensive needs assessment of its older population. The results of the comprehensive needs assessment, including analysis by the University of Waterloo of the results of a functional screening assessment of those aged 65+, will provide CSC with a population profile of its aging population.

This project will be completed by winter 2019 and will be reviewed at that time to determine what, if any additional undertakings, CSC should implement to address the needs of older people in custody.

In addition to this more comprehensive approach to address the population health and accommodation needs of older persons in custody, CSC will continue to work to accommodate offenders' health needs on an individual basis.

Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody

WHAT WE DID

- We conducted interviews with more than 250 individuals 50 years of age and older incarcerated in a federal penitentiary in all five regions and at all levels of security.
- We reviewed relevant law and policy as well as best practices from a number of countries.

WHAT WE FOUND

- The prevalence of chronic diseases among federal offenders 65+ is generally higher in most categories than in the overall Canadian population 65+, driving up the costs of correctional health care.
- Some older, long-serving offenders are being warehoused behind bars well past their parole eligibility dates. Most have long completed any required correctional programming or have upgraded their education leaving little if anything of substance on their correctional plan.
- Physical accessibility issues were observed in every institution visited for this investigation.
- Many older offenders reported being the victim of muscling, bullying and/or intimidation. There is a lack of safe accommodations for this age cohort.
- More responsive, safe and humane models of elder care exist (e.g., medical and geriatric parole are used in some U.S. states) or could be created in the community at significantly less cost than incarceration, but release options, funding arrangements and partnerships that would facilitate outsourcing of care to community service providers are lacking.

WHAT WE RECOMMEND

The report makes 16 recommendations. Among others, recommendations include the following:

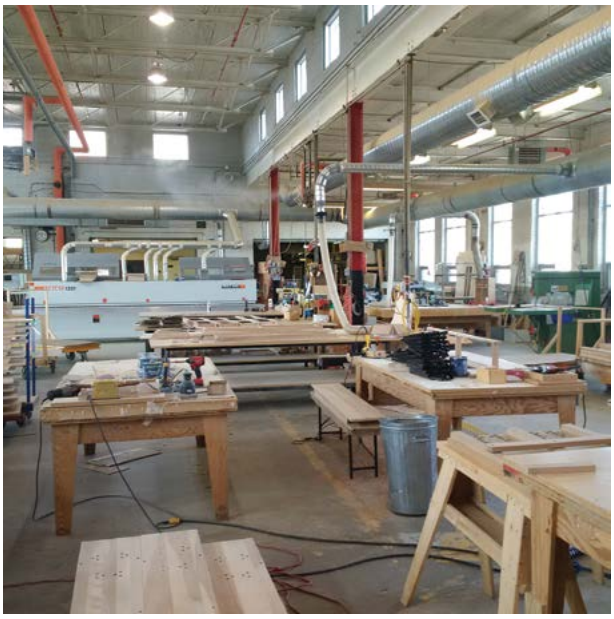
1. An independent review of all older individuals in federal custody be conducted with the objective of determining whether a placement in the community, long-term care facility or hospice would be more appropriate.
2. Where the death of an offender is reasonably foreseen, CSC and the Parole Board be required to use proactive and coordinated case management to facilitate the offender's safe and compassionate release to the community as early as possible.
3. The Minister of Public Safety review and assess release options (e.g. medical and/or geriatric parole) for older and long-serving offenders who do not pose undue risk to public safety, and propose amendments to the *Corrections and Conditional Release Act* as appropriate.
4. CSC enhance partnerships with outside service providers and reallocate funds to create additional bed space in the community and secure designated spots in long-term care facilities and hospices for older individuals who pose no undue risk to public safety.

CSC's Employment and Employability Strategy for Offenders

Vocational skills training and employment opportunities in prison are essential to increasing an inmate's chances of success upon return to the community. Inmates often face overwhelming challenges returning to the community including the prospect of finding and keeping a job. Employment opportunities are often hindered by lower levels of education, an absence of a consistent job history and a lack of skills training. CSC research indicates that offenders who obtain and maintain community employment are almost three times less likely to be revoked with a new offence than those who are not employed. Participation in CORCAN (vocational skills training) was found to increase the likelihood of obtaining a job in the community.[65] Vocational and skills training in prison provides offenders with better opportunities to secure employment in the community and decreases the chances an offender will be revoked with a new offence following release.

On July 30, 2018, the Office received *CSC's Employment and Employability Strategy for Offenders*.[66] This document was provided in response to a recommendation made in the Office's 2015-16 Annual Report to develop a three-year action plan to meet demand for meaningful work, increase vocational training skills and participation in apprentice programs. The report contains some concerning statistics:

CORCAN operations – Joyceville Institution



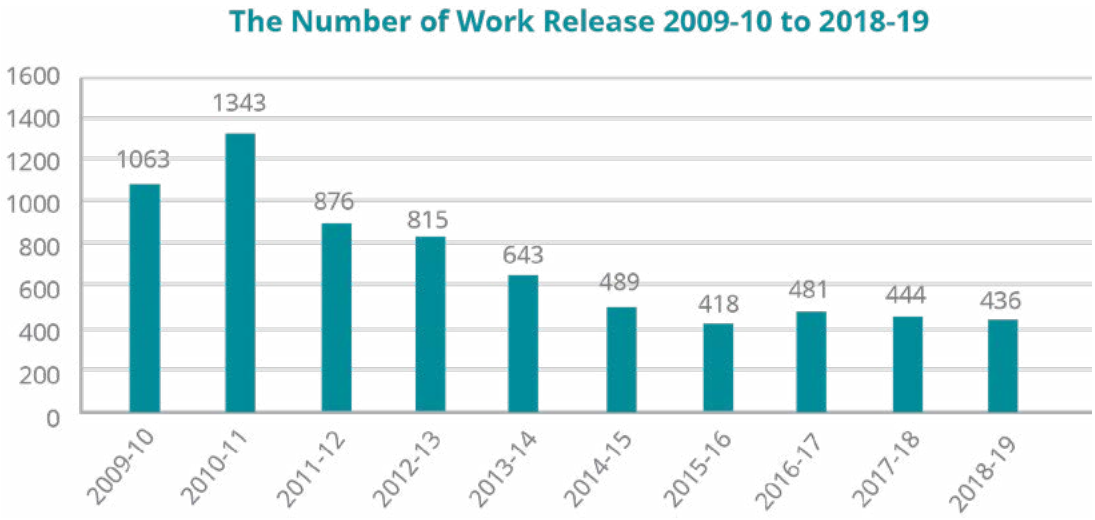
CORCAN operations – Saskatchewan Penitentiary

[65] CSC (Nolan, A., Wilton, G., Cousineau, C., Stewart, L., 2014). *Outcomes for offender employment programs: Assessment of CORCAN participation. (Research Report R-283).*

[66] CSC (July 2018). *Employment and Employability Strategy for Offenders: 2018-19 and Beyond.*

- Nearly three-quarters (72%) of incarcerated individulas have some need for education/ employment (46.1% of the incarcerated population have between a grad 10 and grade 12 education).
- Just over half (56.2%) of the incarcerated population is employed by CSC either through CORCAN (e.g., manufacturing, textiles, services and construction) or within the institution (e.g., food services, cleaning).
- CORCAN represents 16.1% of the employment opportunities within the institutional environment. At any one time, just 8% of offenders are engage in a CORCAN industry.
- Most CORCAN employment for women continues to be within the Textiles Business Line (83.5%), continuing a trend that places women in gendered roles. Textiles is far from one of the leading sectors of the Canadian economy.

CORCAN operations – Matsqui Institution



Population Employment/Education Statistics

WOMEN

- In 2017-18, of the women with an identified employment need whose release was revoked, 88.8% were unemployed.
- 70.4% of women who had an identified employment need at intake, and who were available for employment, obtained employment prior to their Warrant Expiry Date.

INDIGENOUS OFFENDERS

- Indigenous male offenders are under represented in CORCAN placements (Indigenous offenders represent 20.8% of the CORCAN workforce, but 27.2% of male offender population).
- Indigenous women fare a little better representing 39.9% of women offenders in custody and 35.6% of the CORCAN workforce.

YOUNG ADULTS

- 80% of offenders aged 18-21 years of age and 73% of those 22 to 25 had a moderate or high employment and education need.
- 81% of offenders 18 to 21 and 75% of those 22-25 years of age were unemployed at the time of arrest.
- 95% of offenders 18-21 as well as 92% of those 22 to 25 years of age had limited job skills obtained through training.

Source: CSC (July 2018). *Employment and employability strategy for offenders: 2018-19 and beyond.*

CSC's *Employment and Employability Strategy for Offenders* identifies a number of on-the-job training opportunities for offenders including apprenticeships, vocational certification, soft skills training, computer-based training, and work releases. While these appear to be important avenues for skills training, the number of "Red Seal" apprenticeships diminished significantly with the introduction of cook-chill, some vocational certificates require only a few days of training, computer-based training is minimal (consisting primarily of Microsoft Office training) and the number of work releases decreased to 436 in 2018-19, down from 1,063 ten years prior. Moreover, the Strategy is filled with vague commitments and references to "examine" or "explore" opportunities, continue to "work with provinces, specialized community organizations," "developing relationships" and "seeking partnerships." There are few targets or timelines and very little in terms of concrete plans despite referencing the literature several times that clearly shows the importance of vocational training in successful community reintegration.

Labour market trends are identified as guiding the type of employment programs and services that CSC will offer, however the Strategy does not identify how its four main lines of business (manufacturing, textiles, service and construction) will be updated, modernized or changed to reflect current labour market realities. For example, manufacturing represents the largest portion of CORCAN in terms of job skills training (35.1%). While manufacturing remains one of Canada's most important economic sectors, it has changed significantly over the years as a result of technological innovation. The manufacturing sector predicts significant skills shortages as a result of the aging workforce, making it an important area of CORCAN skills training. However, the manufacturing sector will require a highly skilled and knowledgeable workforce that includes designers, researchers, programmers, engineers, technicians and tradespeople.

In order to ensure offenders are benefiting from the experience of in-prison vocational training, CSC must modernize its manufacturing sector to reflect labour market needs. This would include integrating digital/computer skills in vocational program delivery to ensure offenders are prepared for the current and future workplace. The focus in CORCAN on preparing individuals to work in the construction industry is reasonable given the skills shortage in this industry; however, there is a need for more apprenticeship opportunities and work releases to ensure offenders get important on-the-job-training with skilled professionals.

Positively, the report identifies a number of vulnerable offender populations (e.g., women, Indigenous, mental health, aging, and younger individuals) who may require an individualized approach. However, again, there are very few commitments or concrete plans and no timelines. Simply identifying these groups is only the beginning – significant work remains to ensure that some of the most vulnerable groups are provided the skills and training necessary to assist them in successfully reintegrating into the community. Vulnerable groups often face exclusion from the labour market, which is made worse with the addition of a criminal record. They have different characteristics and needs that suggests a one-size-fits-all approach is not effective or appropriate. Interventions that are adapted and tailored to the specific needs, culture, ethnicity and situation of individuals are more likely to assist in successful reintegration. For example, labour market trend analyses, specific to each of these groups would no doubt assist in identifying training, education and employment opportunities that would be most appropriate. It is time to move beyond 'exploring opportunities' to developing concrete plans with concrete timelines. Given the importance of vocational skills training to success upon release, it would seem clear where resources and efforts should be focused.

14. I recommend that CSC:

i) Enhance digital/computer skills training in vocational program delivery to ensure offenders are better prepared for the current and future workforce;

CSC RESPONSE:

Correctional Service of Canada (CSC) is exploring various digital/computer skills projects to capitalize on the benefits of computer-assisted learning, particularly in pursuing employment. The introduction of technology provides an opportunity to bridge the gap between current learning management systems and technological advancements. The Offender Computer and Technology (OCaT) pilot project aims to expand seven technology services in support of offender rehabilitation and reintegration, with education identified as a key component. In addition, the Digital Education pilot project is being introduced focusing on digitalizing education services for offenders.

In addition, CORCAN and CSC education programs currently offer computer skills courses, as well as on the job training opportunities where computer skills can be acquired. CORCAN will continue to enhance capacity in this area through vocational certifications and on the job training for offenders.

CSC has also implemented Video Visitation technology in federal institutions, which provides further opportunities for offenders to maintain contact with their community supports in preparation for their reintegration. The use of Video Visitation has increased across CSC over the past year, from 125 calls per month in July 2018 to over 1000 calls in June 2019.

ii) **Increase availability of apprenticeship opportunities and work releases to ensure offenders get important on-the-job training with skilled professionals;**

CSC RESPONSE:

Correctional Service of Canada (CSC) currently offers opportunities for offenders to earn certified apprenticeship hours in locations where authorized by the applicable provincial apprenticeship board. CSC will continue to seek opportunities in various industries through on the job training programs.

With regards to work releases, CSC's objective is to ensure offenders are productively occupied and have access to a variety of opportunities to develop work skills and abilities which will serve them on release. Pursuant to Commissioners Directive 7 10-7, work releases can be granted to specific offenders in order to provide them with these meaningful work opportunities in the community. CSC will continue to explore opportunities for work release, which may include certified apprenticeship hours.

iii) **Report out on how they specifically plan on addressing the unique employability needs of vulnerable populations (e.g., women, Indigenous, mental health, aging and younger individuals); and,**

CSC RESPONSE:

All offenders undergo assessments to determine their correctional and criminogenic needs. The resulting Correctional Plan identifies the interventions which include objectives related to education and employment.

CORCAN is ensuring that the voice of all offenders provides a foundation in determining the services and interventions it provides to respond to their employment needs and interests.

Since 2017, as part of the Indigenous Offender Employment Initiative (IOEI) funded under the 2017 Federal Budget allocations, CSC launched CORCAN Community Industries in Saskatoon and Edmonton to provide vocational training and transitional employment for offenders under community supervision and those on work release. Community Industries in Vancouver and Ottawa are planned for 2020. In addition, new opportunities for vocational and on the job training were implemented at women offender institutions and CSC operated healing lodges, as well as increased capacity at several other sites.

In 2019, in collaboration with Indigenous organizations, CORCAN adapted its National Employability Skills Program (NESP) to be culturally responsive to the needs of Indigenous men and Indigenous women offenders. For populations with physical or mental health needs, CSC will continue to identify opportunities for these offenders to participate in employment assignments that are responsive to their needs and abilities.

iv) **Modernize its manufacturing sector to ensure it aligns with labour market trends.**

CSC RESPONSE:

CORCAN will continue to review opportunities for modernizing its manufacturing sector with consideration to training relevance, industry standards, operational requirements, return on investment, and customer requirements. In the past two years, CORCAN has added, as well as updated equipment to broaden industry relevant training, including forklifts, numerical control machines, and edge banders. This diversity in equipment allows CORCAN to provide training opportunities to offenders with varying vocational needs and skills. Furthermore, having a broad spectrum of equipment — from rudimental to highly sophisticated — offers offenders vocational training consistent with the private sector.

Grand Valley Institution for Women

6 FEDERALLY SENTENCED WOMEN

The number of federally sentenced women in federal custody increased in 2018-19 to 705 (from 676 in 2017-18). The female inmate population, despite a few small dips, has increased by 32.5% over the past ten years (up from 532 women in 2009-10). Other trends in the women inmate population and profile include the following:

- Visible minority women represent 12% of the federally sentenced women population. 34 women self-identify as Black.
- 14% of federally sentenced women are 50 years of age and older. This represents a slight decrease from 5 years ago when 15% of women were 50+ years of age.
- More than three-quarters of federally sentenced women have a lifetime or current mental disorder and at least two-thirds report symptoms consistent with a co-occurring mental disorder with alcohol/substance use or borderline or antisocial personality disorder.[67]
- There were 489 reported incidents of self-harm in 2017-18, a significant increase from 5 years ago (241 incidents in 2014-15). 62 inmates accounted for all self-harm incidents or an average of almost eight incidents per offender.

A Profile of Indigenous Women in Federal Corrections

Indigenous women now represent 41.4% of federally incarcerated women and 26% of women supervised in the community, but represent just 4% of the female Canadian population.[68] Approximately 60% of incarcerated Indigenous women are in the Prairie region. The population of federally sentenced Indigenous women has increased by 73.8% over the last 10 years (since 2009-10). In terms of profile, CSC's Corporate Reporting System indicates that:

- Nearly 80% are First Nations women, just under 20% identify as Metis, and less than one percent identify as Inuit.
- 80% of Indigenous women in custody are between 18 and 40 years of age.
- Approximately 1/3 of federally sentenced Indigenous women are serving a sentence of 4 to 10 years, half are serving sentences of less than 4 years and 17% are serving indeterminate sentences.
- Nearly all federally sentenced Indigenous women (92%) were assessed as having moderate or high substance abuse needs.[69]
- 72% report experiencing abuse during childhood, compared to 48% of non-Indigenous women and 54% of incarcerated Indigenous men.[70]
- When examining lifetime rates, nearly *all* Indigenous women in the sample (97.3%) had a diagnosis of a mental disorder, compared to 84% of non-Indigenous women.[71]

[67] CSC (October 2018). *Prevalence of mental disorder among federal women offenders: Intake and in-custody.*

[68] Statistics Canada (Arriagada, P., February, 2016). *First Nations, Metis and Inuit Women*. Retrieved from: https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14313-eng.htm

[69] CSC (Stewart, L. A., Wardrop, K., Wilton, G., Thompson, J., Derkzen, D., & Motiuk, L., 2017). *Reliability and validity of the Dynamic Factors Identification and Analysis – Revised (Research Report R-395).* Ibid.

[70] Ibid.

[71] CSC (Brown, G.P., Barker, J., McMillan, K., Norman, R., Derkzen, D., Stewart, L.A., & Wardrop, K., 2018). *Prevalence of mental disorder among federally sentenced women offenders: In-Custody and intake samples (Research Report R-420).*

Programming Space for Indigenous Women

Correctional programming is a key component of the reintegration efforts of an institution. In order to maximize the effectiveness of programming, the environment in which learning is expected to take place should be conducive to these aims. At a minimum, the space should meet reasonable expectations of comfort, safety, and the ability to maintain one's focus. Given that the prison environment itself already provides limits on such goals, it is important to maximize the basic needs for individuals trying to better themselves through involvement in correctional programming. At Joliette Institution and Edmonton Institution for Women, the programming space for Indigenous women takes place in isolated portables that are small, often cluttered, and without running water (e.g., no washrooms). Indigenous women who attend programming in these spaces are required to ask staff members for a pass to return to their living quarters where they can use the washroom facilities. This is hardly conducive to a supportive learning environment.

Staff have reported security concerns with respect to conducting programming within the trailers. The trailer is locked during programming from the outside creating a security risk for both staff and inmates. At one institution, the Elder and Aboriginal Liaison Officer only work in the trailer as a team as a means of better ensuring their safety. The trailer is not well ventilated for smudging ceremonies and at Joliette Institution, the trailer is used for all Indigenous programming leaving less available time for ceremonies and activities for Indigenous women.

It is the Office's understanding that these trailers, at least at one institution, were originally brought in to be used as a temporary measure in the housing of preventative security during retrofit activities in the women's secure unit. However, they were subsequently turned into both cultural and programming space for Indigenous women. What appeared to CSC as a reasonable measure to house a smaller Indigenous programming group several years ago has become a long-term ill-equipped solution particularly given the growing Indigenous women's population. While it is indeed possible that creating a separate programming space that is located near sacred grounds and more conducive to ceremony, honours the needs of Indigenous women, this should not come at the expense of the provision of basic necessities. At the very least, appropriate facilities that include running water and adequate space should be provided to ensure an environment that encourages and inspires learning and sharing.

In terms of correctional outcomes, Indigenous women do not fare well:

- 43% are assessed as high risk, 7% as medium risk, and 49% as low risk.
- Indigenous women are over-represented at maximum-security (56%), but under-represented at minimum-security (31%).
- Approximately 78% of federally sentenced Indigenous women had moderate to high employment/education needs at intake.
- 45.9% of self-harm incidents involved Indigenous women.[72]

[72] CSC (Stewart, L. A., Wardrop, K., Wilton, G., Thompson, J., Derkzen, D., & Motiuk, L., 2017). *Reliability and validity of the Dynamic Factors Identification and Analysis – Revised (Research Report R-395).*

Programming space for Indigenous women - Joliette Institution

The Secure Units (Maximum Security) in Women's Institutions

My 2016-17 Annual Report included an investigation of federally sentenced women classified as maximum security. *Entitled Maxed Out: A Review of the Secure Units at the Regional Women's Facilities*,[73] the investigation involved interviews with 41 women inmates, which at the time represented two-thirds of all maximum-security women in federal custody. A major finding of this investigation was that

[73] Office of the Correctional Investigator (2017). *Annual Report 2016-17* https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20162017-eng.aspx#s7

Secure Unit – Grand Valley Institution for Women

maximum-security women are subject to an additional three level classification system that governs their movement off the Secure Unit in order to access shared services and activities housed in the main complex – e.g., gym, chapel, yard, programs, visiting rooms, library, school, health care. Depending on the assigned movement level, access to these services can be restricted or even denied. For example, a Level 1 designation (most restrictive) normally requires the use of one or more restraints (e.g., handcuffs, body belt and/or leg irons) and two security escorts. Some women reported refusing visits with their children or other family members because they feel humiliated or ashamed receiving visits in shackles or cuffs.

My investigation of the Secure Unit off level movement system concluded that it is a "gender-based discriminatory restriction unique to the women's sites." Programs and services are legal entitlements, not privileges or incentives that can be arbitrarily withheld or withdrawn. Male maximum-security inmates are not subject to the same arbitrary rules or restrictions. On these grounds, and the fact that these restrictions exist outside the law, I recommended that the movement level system for women's corrections be immediately rescinded.

Movement Levels off the Secure Unit

Commissioner's Directive 578 – Intensive Intervention Strategy in Women's Institutions

MOVEMENT LEVEL DESCRIPTION	STAFF SUPERVISION REQUIREMENTS[1]	RESTRAINTS AND SUPERVISION REQUIREMENTS
Level 1 may be assigned to an inmate exhibiting high risk behaviours, including frequent non-compliance with rules and direction related to the unit routine, instrumental or overt acts of violence and/or other issues that may create a concern while she is present in another area of the institution.	Two Primary Workers	One or two types of restraints are normally used for these inmates. Specific type and number of restraints will be determined by the Interdisciplinary Team based on the individual case specifics. Supervision will normally[2] be direct at all times.
Level 2 may be assigned to an inmate recently admitted to the unit, or demonstrating behaviours such as resistance to rules/direction and/or exhibiting difficulties with staff or other inmates	Two staff (where one staff is normally a Primary Worker)	No restraints are required. Supervision will normally[3] be direct at all times and the staff compliment for the supervision at destination will take in consideration the type of activity (e.g. Aboriginal Liasion Officer and Elder for participation during a sweat) and inmate case specifics.
Level 3 is assigned to an inmate who is generally not exhibiting behavioural issues and demonstrates positive interactions with staff and inmates.	One staff (or contractor or volunteer)	No restrains are required. The inmate will normally be accompanied and supervised by the staff /contractor/ volunteer designated for this activity in the main population. Supervision will normally be direct at all times.

[1] Please refer to Movements off the Secure Unit section for movements to and from Health Services.

[2] "Normally" indicates there may be situations or areas where the level of supervision/restraint designated is not appropriate for the activity the inmate is participating in.

[3] The assigned movement levels cannot be utilized to prevent an inmate from accessing interventions and services that are required by law and policy but that are not available in the Secure Unit. Variations to the requirements related to restraint equipment and direct supervision at all times will be decided and documented by the Interdisciplinary Team, including other operational/technical or supervision standards that are necessary to manage the situation if direct supervision at all times is not feasible.

In response to my recommendation, rather than rescinding the movement level system for maximum-security women, the Service indicated it would conduct its own review despite having the benefit of my findings. In June 2018, the Office received a report of CSC's national consultation on this issue, which included a survey of women offenders, staff and partners. The consultation notes that "responses from the women who participated in the consultation found that many reported positive outcomes from being able to leave the Secure Unit to access programs and services, such as keeping them engaged in their reintegration and providing an incentive to reach or maintain a level with greater freedom of movement."[74] Without the movement level system, the document seems to conclude that:

1. CSC would not be able to safely manage women classified as maximum-security.
2. The women themselves would not be able to access off-unit services, programs and activities.
3. There would be little incentive for these offenders to transition to medium security.

In other words, on the basis of a set of rules, restrictions, risks and behavioural expectations determined by and for the CSC, the Service has decided to maintain the movement levels for maximum-security women and modify some procedures to strengthen, standardize and clarify the structure at all sites. There was little consideration of alternatives in this "consultation." I find some of the conclusions self-serving and the overall tone somewhat patronizing. There is an underlying assumption that federally sentenced women somehow need, want or like the movement system because it encourages them to be motivated and comply with rules and expectations that offer opportunity to "reintegrate" to a medium security environment. I do not see the principles of *Creating Choices* informing the content or conclusions of this National Summary:

- Empowerment
- Meaningful and responsible choices
- Respect and dignity
- Supportive environments
- Shared responsibility

[74] CSC (May 2018). *The Intensive Intervention Strategy Movement Off the Secure Unit National Consultation Summary.*

Following the receipt of CSC's review, I provided report and notice to the Minister of Public Safety as per my obligation under Section 180 of the *Corrections and Conditional Release Act*. It is my view that the decision to maintain the current movement level system for the Secure Units is a failure of both leadership and vision in women's corrections. As I pointed out to the Minister, the movement level system disproportionately affects Indigenous women. As of June 20, 2018, there were 61 maximum-security women in federal custody, 41 of whom (67.2%) were Indigenous. Younger Indigenous women were found to be overrepresented in the Secure Units where there was a strong correlation between young age and Indigeneity, specifically in the 18-25 age cohort. Moreover, Indigenous women were over-represented at the more restrictive levels; 80% of those assigned to levels 1 and 2 were identified as Indigenous. Overall, level 3 – the least restrictive – was found to be the most commonly assigned movement level.[75]

I am concerned that those who need services, programs and interventions to address past trauma and/or mental health needs are those most likely to be subjected to restricted or reduced access. It is important to note that almost all Indigenous women in federal custody report past traumatic experiences (physical or sexual abuse), mental health disorders and substance use histories. It should be noted that CSC's national consultation on the Secure Units (which has not been released publicly) did not report on Indigeneity, nor assess the differential impact and outcomes of maximum-security classification for Indigenous women. These omissions raise questions about the integrity, transparency and credibility of CSC's review and the conclusions reached. The consultation appears particularly out of step with reconciliation efforts and inconsistent with recommendations made in the June 2018 Report of the Standing Committee on the Status of Women *(A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems)*.

In early April 2019, my Office received CSC's revised policy flowing from its review of the Secure Units. The proposed changes to the policy (*Commissioner's Directive 578: Intensive Intervention Strategy in Women Offender Institutions/Units*) are largely superficial. They consist of renaming the level movement system to "*Reintegration Movement Plan*" (RMP) and other minor tweaks to the policy (e.g., when restraints can be removed, a change to the review period of the RMP from once a month to every two weeks and the addition of the RMP into the Offender Management System to enable better tracking). The review, captured below, is largely an exercise in semantics.

[75] In the Factual Review exercise, CSC indicated that, based on data collected by the Women Offender Sector in September 2018, there appeared to be some discrepancies between OCI and CSC data concerning Indigenous women and Secure Units (maximum security). Notably, according to CSC figures, in September 2018 the majority of maximum-security women assigned to the least restrictive level were Indigenous. The apparent discrepancies reflect different periods in time when the data was collected, reported and shared. The OCI stands by its conclusions that, as of June 20, 2018, Indigenous women were over-represented at maximum security, and, at that point in time, were disproportionately assigned to the most restrictive movement levels (One and Two). In any case, CSC has still not adequately addressed (much less conceded) the point that Indigeneity and over-classification in the most severe conditions of confinement *defacto* results in unequal and/or restricted access to services, programs and interventions required for rehabilitation and reintegration.

I remain convinced that CSC must immediately rescind an arbitrary system that results in discriminatory outcomes, exists outside the law and that disproportionately limits federally sentenced Indigenous women classified as maximum-security from accessing services, supports and programs required to facilitate their safe and timely reintegration.

15. I again recommend that the arbitrary and discriminatory movement levels system for women classified as maximum security be immediately rescinded. Supervision and security requirements should be individually assessed on a case-by-case basis, as already provided for in the *Corrections and Conditional Release Act*.

CSC RESPONSE:

In keeping with law and policy, Correctional Service of Canada (CSC) makes every effort to ensure women in the secure unit have access to the programs, services, and interventions required to address their individual risk and needs.

The Reintegration Movement Plan is a gender-informed strategy that provides a unique opportunity for all maximum-security women to participate in activities and interventions that are available in medium security. This supports the building of supportive relationships with the medium-security population, thereby facilitating reintegration. If the Reintegration Movement Plan were to be rescinded, the result for women classified as maximum security would be to curtail their participation in activities and interventions that are available *outside* the secure unit. As such, it could potentially impacting their successful transition to medium security and overall reintegration efforts.

In response to similar recommendations in the 2016-2017 and the 2017-2018 Office of the Correctional Investigator Annual Reports, CSC conducted a review of the movement levels system, which included national consultation with inmates, staff, and external stakeholders. Following the review, modifications were made to ensure greater consistency and procedural fairness across all women's sites. For example, the review of Reintegration Movement Plans (which now replace the movement levels system) will be more frequent and involve the interdisciplinary team; decisions will he entered in the Offender Management System; and criteria for movements off the secure unit will be modified to provide more flexibility in staff supervision and use of restraints.

OMS Bulletin Release (April 18, 2019)
Addition of a new Reintegration Movement Plan for Women's Secure Units Screen

The Intensive Intervention Strategy (IIS), as outlined in CD 578, *Intensive Intervention Strategy in Women's Institutions*, provides a framework to support the effective integration of mental health services, interventions and appropriate security measures for women inmates classified as maximum -security and/or women with mental health needs.

CD 578 - Annex B outlines supervision and escort requirements when moving women off the Secure Unit; these requirements are currently movement levels. A revised version of the CD and Annex B are forthcoming. Movement levels have been revised and renamed Reintegration Movement Plan (RMP). In addition to the interventions, services and activities offered within the Secure Unit, inmates in this unit have access to shared spaces (e.g., gym, recreation facilities, health services, spiritual and vocational areas) as well as activities and interventions provided outside the Secure Unit as deemed appropriate by law, policy and their specific case. Each woman on the Secure Unit is assigned a RMP level to manage her movement off the Secure Unit. She is assessed individually based on the risk she presents when off the Secure Unit as well as on her particular needs, behavior, history, etc. The RMP level is reviewed on a regular basis to ensure it remains appropriate.

The new 'Reintegration Movement Plan for Women's Secure Units' screen in Offender Management System (OMS) will provide the Interdisciplinary team (IDT) with information on each inmate's RMP level, as well as assist in accurate reporting.

Gender Identity and Gender Expression: Impact on Women's Corrections[76]

On June 19, 2017, the *Canadian Human Rights Act* (CHRA) was changed to add "gender identity or expression" to the list of prohibited grounds of discrimination. CSC subsequently (December 2017) brought its operations and policy in line with the revised Act, allowing federally sentenced offenders to serve their prison sentence based on their gender identity. This change has significant implications for federal corrections, particularly women's corrections.

As of March 31, 2018, there were 52 individuals in federal custody who required accommodation based on consideration of gender identity or expression.[77] Most of these individuals are classified as medium-security (67%), high needs (75%), high risk (65%), and low reintegration potential (63%). Nearly two-thirds (63%) requiring accommodation are currently residing within male institutions.[78]

It is well-established that transgender people are often very vulnerable in prison, and can be the subject of violence, bullying, harassment and sexual assault, particularly if their institutional placement does not accord with their gender identity or gender expression.[79] They may also be placed in segregation-like conditions for their own safety, which can severely restrict their movement and participation in programming and employment.

The realities of integrating transgender individuals in women offender institutions create operational challenges. Some women offenders have expressed concern to my Office for their safety when a transgender female is transferred to a women's institution. The concern raised is understandable, particularly given that most federally sentenced women have experienced significant trauma, sexual and physical abuse in their lives. Nor can manipulation be ruled entirely out as a motivation for a male inmate expressing a desire to live as a transgender individual. Though malingering does not appear to be a sizeable problem, it is an important consideration in deciding whether to place a transgender person in a women's institution. Ultimately, in more vexing individual cases, the courts may have to intervene to provide guidance.

[76] The Office acknowledges that gender identity and expression in corrections also has impacts on male corrections, and there are transgender persons living in male facilities. In placing this analysis in the chapter on federally sentenced women, the Office is responding to the fact that the impacts are likely to be greater on women's corrections, given both the higher proportion of transgender persons in female institutions and the unique and smaller population of female offenders. The Office is also responding to concerns raised by the Women Offender Sector that accommodating gender identity and expression in women's institutions can be complex and challenging.

[77] In June 2018, CSC released a Case Management Bulletin: *Modifications within the Offender Management System for Gender Considerations* that added a new field to the Offender Management System to indicate when an offender requires accommodation based on gender identity or expression. Caution should be exercised when using this indicator as it only counts individuals who require an accommodation based on gender identity or expression. It may not reflect the actual number of transgender persons in CSC custody, as some individuals may not require an accommodation or may not feel comfortable reporting the need for an accommodation.

[78] CSC Data warehouse (Retrieved on: April 7, 2019).

[79] Routh, D., Abess, G., Makin, D., Stohr, M. K., Hemmens, C., & Yoo, J. (2017). Transgender Inmates in Prisons: A Review of Applicable Statutes and Policies. *International Journal of Offender Therapy and Comparative Criminology, 61(6),* 645–666. https://doi.org/10.1177/0306624X15603745

Other concerns have been expressed by CSC, including that the integration of transgender individuals will lead to enhanced security practices, which could alter the more open living environment and dynamic features of women's institutions.[80] In determining whether a specific transgender individual should be transferred to a women's institution, CSC uses a series of risk assessment tools based on numerous variables, from sexual victimization to escape risk. These assessment tools can raise questions regarding how assumptions about safety and dangerousness, based on physical capabilities and comparisons of men and women, play a role in evaluating security classification. Evaluating the risks presented by a transgender person who identifies as a woman based on assumptions associated with male anatomy at birth could be considered, on the face of it, discriminatory. And yet, federal penitentiaries are organized and premised upon a clear separation between the biological sexes. As one federal court judge has already determined, the question of gender consideration is not the escape risk of a person with male anatomy, or an assessment of the physical capabilities and muscular strength of men versus women, but rather, whether the management of risk imposes "undue hardship" on CSC. In other words, chromosomes alone do not take precedence when accommodating gender identity or expression in a prison context.[81]

Inmate searches (including frisk and strip searches) can be particularly distressing for transgender individuals. CSC policy permits individualized protocols for frisk and strip searches of transgender persons; however, it is equally important to allow them to have input into the search process. Some may be using personal items (e.g., breast or penile prosthetics) to support their gender identity and expression and may have legitimate concerns with how personal items will be handled during searches.

Transgender inmates can choose the sex of staff who they would prefer to search them, and which part of their body is to be searched by a male officer and which part by a female officer. When searches are necessary, they can be performed in two steps (first above and then below the waist to provide for more dignity and privacy). There are other alternatives to body searches, such as metal detectors.[82] In balancing safety and human rights concerns in these cases, it is essential that staff are properly trained and sensitized, including comprehensive use of scenario-based learning demonstrations. Input and preferences of transgender individuals must also be considered, in consultation with the wider LGBTQ2 community.

Other jurisdictions face similar challenges. The United Kingdom's Prison and Probation Ombudsman recently released a *Learning Lessons Bulletin* on transgender prisoners which offers some guidance suggesting that "...the location of a transgender prisoner should be proactively evaluated based on an individual assessment of their needs, and the possibility of residing in the estate of their acquired gender should be given appropriate consideration. The location agreed must allow them to live safely in their gender."[83] A recommendation from a recent CSC internal National Board of Investigation offers further guidance to "... adapt into policy a proactive review to identify risk considerations/risk management issues when assessing requests for transfer or placement to institutions according to gender identity or expression. As appropriate, reviews should be completed in consultation with Health Services (psychology/psychiatry), and a

[80] For example, infrastructure standards are different and firearms are prohibited in women's institutions.

[81] See, 2019 FC 456 (CanLII), which is under appeal.

[82] See, for example, National PREA Resource Centre (February 2015). *Guidance in Cross-Gender and Transgender Pat Searches* https://www.prearesourcecenter.org/sites/default/files/content/guidance_on_cross-gender_and_transgender_pat_searches_facilitator_guide.pdf

[83] Prisons & Probation Ombudsman (January 2017). Learning Lessons Bulletin: *Transgender prisoners*. United Kingdom.

risk management plan should be developed."[84] The Association for the Prevention of Torture recommends that comprehensive anti-bullying strategies be in place to reduce the incidence of violence and intimidation, which should include the systematic recording and investigation of all incidents.[85]

Social isolation and exclusion are other important considerations in ensuring the safe integration of transgender individuals within an institution of their gender identity or gender expression. A plan to safely integrate a transgender individual should be developed and continually reassessed throughout their incarceration to help diminish alienation and isolation from their peers. Finding the appropriate environment is an essential consideration in the review/risk management process identified above. However, it is also important to ensure that a transgender person does not isolate themselves, thereby reducing their engagement in developing and maintaining healthy relationships, not only with staff members, but also with other women within the institution.[86]

Routine Strip Searches in Women's Institutions

In September 2018, direction from CSC's Women Offender Sector was provided to all Wardens of women institutions regarding the implementation of a "random calculator" to conduct strip searches. The random strip search calculator was set at default of a 1:3 ratio.[87] It was implemented as a means to standardize the random assignment of routine strip-searches. In more direct terms, the use of a random calculator for strip-searching at women offender institutions acknowledges that there was little consistency across sites in terms of the frequency, purpose or requirements of strip-searching. Though concerning in itself, in practice the new strip search protocol could mean more routine strip searches at women offender institutions.[88] By definition, a *random* strip search is beyond the reach of any legal or constitutional standard of suspicion, reasonableness or necessity.

Women have reported to my Office that the 1:3 ratio calculation is arbitrary. Some refer to it as 'the lottery' – you are a winner if your name is not chosen. Some women – including those with no history of entrenchment in the institutional drug subculture or introduction of contraband – have expressed a hesitation or apprehension to participate in visits with their families, knowing the odds of being subjected to a strip search afterwards. As we have seen, although routine strip-searching is not contrary to existing law or policy (applies to *any* offender who "has been in a place where there was a likelihood of access to contraband"), this particular practice cannot be considered a trauma-informed, gender-responsive best practise.

[84] CSC (2018). *Board of Investigation into the Alleged Sexual Assault of an Inmate at Grand Valley Institution for Women* on *January 20, 2018*.

[85] Association for the Prevention of Torture (December 2018). *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*.

[86] Bloom, B., Owen, B., & Covington, S. (2003). *Research, practice, and guiding principles for women offenders: Gender responsive strategies*. Washington, DC: US Department of Justice, National Institute of Corrections.

[87] The 1:3 ratio is considered by CSC to be a maximum value, meaning that the calculator should not be set at a more restrictive ratio and can be adjusted to a less restrictive ratio according to operational contexts.

[88] CSC claims that, because the calculator does not allow for random searches to be conducted more frequently than the 1:3 ratio, it is more *likely* that less routine strip searches will be performed. No evidence is provided to back this assertion, just as there was no data on how often strip searches were being performed prior to the introduction of the "standardized" strip-searching protocol. The claims that random strip-searching is effective in reducing contraband or that there will *likely* be a reduction in strip searches are not credible because they are not evidence-based.

| STANDARDIZED STRIP SEARCH ROUTINE FOR WOMEN OFFENDER INSTITUTIONS |

Entering and leaving segregation
Decision: Every time upon initial admission only. Movement while in segregation/all other times reasonable grounds.

Entering or leaving a Penitentiary (from UTA, work release, etc.)
Decision: Admission, Re-admission, Court – Every time. UTA, Work Release, outside perimeter – Random (random counter - computer program. Sites have different methods to determine random, with some not very random – how do you demonstrate random).

Entering or Leaving a Penitentiary (ETA)
Decision: Random. Frequency of what is random to be determined at DW meeting (e.g. one in two or one in twenty).

All Emergency Response Team Escorts where offender is entering or leaving institution, regardless of security classification.
Decision: Remove this item from search plans.

Secure Area (Secure Unit)
Decision: Every time upon initial admission to the secure unit. Every other time is reasonable grounds.

Observation cells
Decision: Upon initial placement to observation. Every other time is reasonable grounds.

Leaving the open visiting area
Decision: Random.

Entering or leaving the Private Family visiting area of a penitentiary
Decision: Random.

Leaving the area of a resident social/cultural event on a random basis
Decision: Reasonable grounds.

Leaving a work area if inmate has had access to an item that may constitute contraband and that may be concealed on the inmate's body
Decision: Reasonable grounds.

During a demand for urine sample, where the offender states she is unable to provide due to shy bladder. Staff may offer informal resolution consisting of strip search
Decision: Remove this item from search plans.

The task force involved in *Creating Choices* stressed that facilities for women should not be security-driven. Instead, a focus on supportive and dynamic interventions was thought to be more appropriate. Static security measures should be used to the least extent possible and every effort should be made to avoid creating barriers to human support systems.[89]

Most federally sentenced women are trauma and abuse survivors. Rather than reducing the effects of traumatic exposure, prisons often reproduce traumatic events and exacerbate symptoms of previous trauma.[90] Routine security practices, such as frisk and strip searches, can be distressing and may trigger previous trauma and increase trauma-related symptoms and behaviours. Though strip-searching of women is conducted, witnessed, and video-recorded by female staff only and searches must also be conducted in a private area, out of sight of others, by one female staff member and in the presence of one female staff witness, these measures do not adequately mitigate against the potential harms of expanding this practice.[91] A gender and trauma-informed perspective is required.

Strip-searching policy for women should be grounded in an understanding of, and responsiveness to, the impact of trauma. To the extent possible, searching should avoid practices that are likely to re-traumatize unnecessarily, such as arbitrariness. A more trauma-informed, gender-responsive search policy would ensure an approach based only on identified risk (i.e., reasonable grounds) and necessity. Strip-searching on a random or arbitrary basis would be explicitly prohibited, and other means of dynamic security would be enhanced. Gender-responsive policies and practices acknowledge the specific situation of an individual's life circumstances, and their unique risk and need factors. This work stresses gender differences in psychological development, socialization, and exposure to trauma.[92] In their seminal work on trauma-informed services, Fallot & Harris (2006) articulate five core values:[93]

1. Safety (both physical and emotional)
2. Trustworthiness
3. Choice
4. Collaboration
5. Empowerment

[89] *Creating Choices: The Report of the Task Force on Federally Sentenced Women*, published in April 1990, was created as a blueprint for the future of women's federal corrections in Canada. The report enshrined five principles integral to a women-centered approach to corrections: empowerment, meaningful and responsible choices; respect and dignity; supportive environment; and, shared responsibility.

[90] Kubiak, S., Covington, S. & Hillier, C. (2017). Trauma-informed corrections. In Springer, D. & Roberts, A. (editors). *Social Work in Juvenile and Criminal Justice System, 4th edition*. Springfield, IL; Charles C. Thomas.

[91] Some women (transgender persons) may request to be strip-searched, video-recorded, etc. by male staff.

[92] King, E. & Foley, J. (2014). *Gender-Responsive Policy Development in Corrections: What We Know and Roadmaps for Change*. Washington, DC: U.S. Department of Justice, National Institute of Corrections.

[93] Fallot, R. & Harris, M. (2006). *Trauma-Informed Services: A Self-Assessment and Planning Protocol.* Washington, DC: Community Corrections.

Research also suggests that prisons that have implemented trauma-informed practises have experienced substantial decreases in institutional violence, as well as a decrease in mental health related incidents such as suicide attempts and the requirement for mental health watch.[94] Incorporating these principles and values into practise and becoming more trauma-informed manifests as:

- Understanding how women may be affected by and cope with trauma and victimization.
- Recognizing and minimizing power dynamics between the women and correctional staff.
- Explaining why the event is happening, to increase a sense of safety and control.
- Providing an atmosphere of safety.
- Working in a manner designed to prevent relapse, re-victimization, and re-triggering of trauma.[95]

While routine strip-searching of inmates, without individualized suspicion, is not unlawful, the practice may be considered dated and an over-reach by today's standards. Constitutional or not, it is a demeaning, degrading and demoralizing practice, for women who must endure it, and staff who must perform it. It potentially compromises healthy and trustful interactions between staff and inmates. Further, there appears to have been no analysis demonstrating that increasing or decreasing this practice has any demonstrable effect on the safety and security of the institution. CSC seems intent on implementing a net-negative practice. It makes little sense.

[94] Kubiak, S., Covington, S. & Hillier, C. (2017). Trauma-informed corrections. In Springer, D. & Roberts, A. (editors). *Social Work in Juvenile and Criminal Justice System, 4th edition*. Springfield, IL; Charles C. Thomas.

[95] Kubiak, S., Covington, S. & Hillier, C. (2017). Trauma-informed corrections. In Springer, D. & Roberts, A. (editors). *Social Work in Juvenile and Criminal Justice System, 4th edition*. Springfield, IL; Charles C. Thomas.

Beyond serving a bureaucratic interest in ensuring consistency and despite the built-in random "fairness" feature, CSC's standardized strip search routine and protocol for women offender institutions is not likely to make much of a difference in terms of security, yet it needlessly increases the risk of psychological harm. This measure turns *Creating Choices* completely on its head. It is disempowering, does not promote responsible choices, disrespects dignity and creates environments of mistrust and suspicion. It is definitely not "shared responsibility." It is an outrage.

16. I recommend that the random strip search routine and protocol in the women's institutions be rescinded immediately, and a more trauma-informed, gender-responsive search policy become the standard practice in women corrections.

CSC RESPONSE:

Correctional Service of Canada's (CSC) approach to women's corrections is research-based, trauma-informed, as well as gender-informed. Strip searches are limited to only what is necessary and proportionate to attain the purposes of the *Corrections and Conditional Release Act* (CCRA), and are conducted in the most discrete, humane, and sensitive manner possible, as required by policy. In addition, all staff working with women offenders must complete Women-Centred Training. This training is specifically designed to instil a stronger understanding of women's issues and help staff intervene in a gender responsive manner.

Bill C-83 – An Act to amend the *Corrections and Conditional Release Act* and another Act received Royal Assent on June 21, 2019, and will make important changes to the federal correctional system. As such, CSC will gain the ability to explore more modern searching technologies like body scanners. These tools have the potential to enhance the overall safety of staff, offenders, and the public by further reducing the introduction of contraband into our facilities.

Correctional Investigator's Outlook for 2019-2020

I fully anticipate 2019-20 will be a period of change and challenge in federal corrections. Future plans and priorities are always a little more difficult to establish or predict in an election year. There is still so much more to accomplish in the current government's blueprint for federal corrections, as expressed in the Minister's mandate letter given to the incoming Commissioner in September 2018. Indeed, on the basis of current pace and trajectory of progress, the scope of reforms, commitments and vision laid out in that letter could take a decade or more to fully realize. Corrections is one area of national life that is highly influenced by the political direction of the government of the day.

That said, thanks to additional resources received in the 2018-19 budget, my Office intends to consolidate and expand our systemic investigation capacity by conducting more targeted and time-sensitive thematic reviews. Priority issues arising from Office reporting that will require enhanced monitoring in the coming year include:

- Elimination of administrative segregation.
- Implementation of Structured Intervention Units.
- National roll out of the Prison Needle Exchange Program.
- Introduction of a Patient Advocate program.
- Implementation of 24/7 on-site health care coverage at designated institutions.

In the year ahead, my Office intends to take a closer look at education behind bars, access to mental health treatment and progress in Indigenous corrections. For the first time, my Office will also conduct an in-depth review of sexual violence in federal prisons. This is an area of corrections where there is no reliable or credible national data. Though we know that some prisoners are at a higher risk of sexual victimization than others, particularly those who are the most marginalized and vulnerable (e.g., those with mental health issues, a history of victimization, LGBTQ2, younger inmates), CSC lacks an overall strategy that specifically aims to prevent sexual violence in prison. A deep-dive into this issue is long overdue and my Office will be looking to the experience of other jurisdictions to make recommendations that are prevention-focused and relevant to the Canadian context.

On a personal, but still professional level, I have been nothing but pleased with the reception to my initiative to create and chair an *Expert Network on External Prison Oversight and Human Rights*, which at last count now boasts close to 100 members and non-members from 24 countries. Through the auspices of the International Corrections and Prisons Association, this now global network seeks to facilitate a constructive and professional dialogue between organizations responsible for external prison oversight and prison authorities subject to their oversight. The network's *raison d'être* is to share information, best practices and lessons learned on effective external prison oversight to enhance openness, transparency and accountability of prison authorities around the world. I look forward to growing and consolidating this network ensuring that its influence and expertise in fair and humane treatment of prisoners is both heard and felt, in Canada and elsewhere.

Ed McIsaac Human Rights in Corrections Award

The Ed McIsaac Human Rights in Corrections Award was established in December 2008, in honour of Mr. Ed MsIsaac, long-time Executive Director of the Office of the Correctional Investigator and strong promoter and defender of human rights in federal corrections. It commemorates outstanding achievement and commitments to improving corrections in Canada and protecting the human rights of the incarcerated.

The 2018 recipient of the Ed McIsaac Human Rights in Corrections award was Renu Mandhane, Chief Commissioner of the Ontario Human Rights Commission (OHRC).

Left to Right: Dr. Ivan Zinger, Renu Mandhane, and Marie-France Kingsley

Annex A: Summary of Recommendations

1. I recommend that, in 2019-2020, CSC conduct a review of security practices and protocols that would ensure a more positive and supportive environment within which clinical care can be safely provided at the Regional Treatment Centres. This "best practices" review would identify a security model and response structure that would better serve the needs of patients, support treatment aims of clinicians and meet least restrictive principles of the law.

2. I recommend that CSC revisit its Prison Needle Exchange Program purpose and participation criteria in consultation with inmates and staff with the aim of building confidence and trust, and look to international examples in how to modify the program to enhance participation and effectiveness.

3. I recommend that the Correctional Service of Canada, in consultation with the Parole Board of Canada, conduct a joint review of the application of Section 121 "compassionate release" provisions of the *Corrections and Conditional Release Act* to ensure policy and procedure is consistent with the spirit and intent of *Medical Assistance in Dying legislation*.

4. I recommend that CSC commission an independent, third-party expert, specializing in matters related to organizational culture (with specific knowledge of correctional dynamics), to assess and diagnose the potential causes of a culture of impunity that appears to be present at some maximum security facilities, and prescribe potential short, medium and long-term strategies that will lead to sustained transformational change.

5. I recommend that the Service establish a working group, with external representation, to complete a review of all use of force incidents over a two-year period at maximum-security facilities. This review should go beyond compliance issues to include:

    i. an analysis of the trends, issues and culture that contribute to repeated compliance issues and inappropriate uses of force;

    ii. an examination of best practices and lessons learned within CSC and from international correctional authorities; and,

    iii. a corrective measures action plan that goes beyond simply providing verbal and written reminders to include (re)training, disciplinary action, mentoring, development of a code team, and other relevant initiatives.

6. I recommend that an external and independent review of CSC food services be conducted and used to inform the development of a revised National Menu, inclusive of ingredients, cooking methods, portion sizes, nutritional content and food costs fully compliant with the new *Canada Food Guide*. This review should include direct and meaningful consultation with the inmate population.

7. In recognition of the demonstrated links between good nutrition and a healthy population, I recommend that the delivery of CSC's Food Services program should be overseen by the Health Services sector. This change would include conducting periodic audits of the nutritional content of meals, regular inspection of food production and preparation sites and liaising with registered nutritionists, dieticians and food safety experts from outside CSC. A hybrid model incorporating internal and external oversight of CSC food services would more fully recognize that inmate populations are at increased risk of chronic disease and that using food services to help control and prevent health problems, including dental health, is an efficient use of public resources.

8. I recommend that in 2019-2020, CSC should:

   i. publicly respond to how it intends to address the gaps identified in the *Ewert v. Canada* decision and ensure that more culturally-responsive indicators (i.e., Indigenous social history factors) of risk/need are incorporated into assessments of risk and need; and,

   ii. acquire external, independent expertise to conduct empirical research to assess the validity and reliability of all existing risk assessment tools used by CSC to inform decision-making with Indigenous offenders.

9. I recommend that CSC, in consultation with the National Aboriginal Advisory Committee and the National Elders Working Group, implement an action plan with deliverables for clarifying the role of Elders and reducing Elder vulnerability within CSC and report publicly on these plans by the end of 2019-2020.

10. I recommend that, in 2019-2020, CSC complete, in consultation with the Canadian Human Rights Commission, a comprehensive review of its staff complement, from the point of view of better reflecting and representing the diversity of the offender population. As part of this review, CSC should examine complaints against staff on prohibited grounds of discrimination. An Action Plan should be developed to address gaps.

11. I recommend that significant resources be reallocated to the community supervision program and that CSC develop and report out on a long-term strategy to address the shortage in community-based accommodation, and implement a system to assess and track the needs of offenders being released in order to avoid unacceptable delays and displacement.

12. I recommend that each Regional Headquarters dedicate a resource/contact person to work with respective Provincial government counterparts to coordinate the retention and acquisition of official documentation (e.g., Health Cards, identification, birth certificates) for federal offenders prior to their release to the community.

13. I recommend that CSC reconsider the findings and recommendations identified in the joint OCI/CHRC report *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody* (February 2019) with an aim to comprehensively updating and revising its national policy framework for aging offenders, *Promoting Wellness and Independence – Older Persons in CSC Custody* (May 2018). This should include clearly identified new and ongoing commitments and initiatives, as well as specific timelines for implementation.

14. I recommend that CSC:

    a. Enhance digital/computer skills training in vocational program delivery to ensure offenders are better prepared for the current and future workforce;

    b. Increase availability of apprenticeship opportunities and work releases to ensure offenders get important on-the-job training with skilled professionals;

    c. Report out on how they specifically plan on addressing the unique employability needs of vulnerable populations (e.g., women, Indigenous, mental health, aging and younger individuals); and,

    d. Modernize its manufacturing sector to ensure it aligns with labour market trends.

15. I again recommend that the arbitrary and discriminatory movement levels system for women classified as maximum security be immediately rescinded. Supervision and security requirements should be individually assessed on a case-by-case basis, as already provided for in the *Corrections and Conditional Release Act*.

16. I recommend that the random strip search routine and protocol in the women's institutions be rescinded immediately, and a more trauma-informed, gender-responsive search policy become the standard practice in women corrections.

Annex B: Annual Statistics

Update on Annual Statistics

In 2018-19, the Office implemented a new case management software application *(SCRIPTA)* for investigating and tracking offender complaints from initial contact through to resolution. The Office also introduced an Early Resolution response capacity at the intake and screening stage. These efficiencies streamline and modernize OCI operations. As this is the first year in using these systems, not all the data, tables and categories will match previous years of reporting on our annual statistics. As we further align our administrative and operational practices, every effort is being made to ensure consistency, detail and accuracy in our statistical reporting.

Table A: OCI Complaints[96] by Category and Resolution Status

ROW LABELS	RESOLVED	PENDING	TOTAL
Administrative Segregation	181	16	197
Behavioural Contract	0	1	1
Case Preparation	40	2	42
Cell Effects	380	12	392
Cell Placement	30	3	33
Claims against the crown	46	0	46
Community Supervision	52	1	53
Conditional Release	149	13	162
Conditions of confinement	533	36	569
Death of Inmate	1	0	1
Diets	39	6	45
Discipline	11	0	11
Discrimination	21	5	26
Employment	50	4	54
File Information	125	13	138
Financial Matters	105	4	109

[96] The OCI may commence an investigation on receipt of a complaint by or on behalf of an offender, or on its own initiative. Complaints are received by telephone, letters, and during interviews with the OCI's investigative staff at federal correctional facilities.

ROW LABELS	RESOLVED	PENDING	TOTAL
Food Services	50	4	54
Grievance	124	3	127
Harassment by Inmate	35	1	36
Harm Reduction	30	1	31
Health and Safety	1	0	1
Health Care	625	52	677
Information	14	2	16
Inmate Request Process	11	2	13
Legal Access	16	0	16
Mail	77	6	83
Mental Health	54	2	56
OCI Decisions	29	5	34
Official Languages	6	0	6
Outside Court	2	0	2
Parole Board of Canada Decisions	2	0	2
Practice of spiritual or religious observance	20	2	22
Programs	126	13	139
Provincial/Territorial Matters	1	0	1
Release Procedures	51	3	54
Safety/Security	152	20	172
Search	20	3	23
Security Classification	93	10	103
Sentence Administration	29	0	29
Special Handling Unit – National Review Committee reviews	1	0	1
Staff Member (CSC)	486	22	508
Telephone	168	7	175
Temporary Absence	62	7	69
Transfer	317	22	339
Urinalysis	15	0	15
Use of Force	55	13	68
Visits	180	14	194
Unspecified[97]	289	17	306
GRAND TOTAL	4,904	347	5,251

[97] Complaint category has not yet been specified.

Table B: Complaints, Interviews[98], and Days in Institutions by Region & Institution

REGION / INSTITUTION	COMPLAINTS	INTERVIEWS	DAYS IN INSTITUTIONS
ATLANTIC	**611**	**138**	**48.5**
Atlantic	193	52	14
Dorchester	227	34	18[99]
Nova Institution for Women	93	41	6.5
Shepody Healing Centre	26	0	–
Springhill	72	11	10
ONTARIO	**1019**	**297**	**82.5**
Bath	108	20	9
Beaver Creek	128	34	13
Collins Bay	71	19	10
Grand Valley Institution for Women	135	36	15
Joyceville	55	41	11[100]
Joyceville Assessment Unit	109	23	–
Joyceville Temporary Detention Unit	67	4	–
Millhaven	148	50	13[101]
Millhaven Assessment Unit	14	4	–
Millhaven Temporary Detention Unit	12	0	–
Regional Treatment Centre - Bath	6	0	–
Regional Treatment Centre - Millhaven	9	5	–
Warkworth	157	61	11.5

[98] A direct or indirect conversation with the offender, which is typically conducted during a visit to the institution.

[99] Includes Shepody Healing Centre.

[100] Includes Joyceville's Assessment Unit and Temporary Detention Unit.

[101] Includes Millhaven's Assessment Unit, Temporary Detention Unit, and the Regional Treatment Centre.

REGION / INSTITUTION	COMPLAINTS	INTERVIEWS	DAYS IN INSTITUTIONS
PACIFIC	**870**	**288**	**60**
Fraser Valley Institution for Women	77	21	3
Kent	167	65	12
Kwìkwèxwelhp Healing Village	7	0	4
Matsqui	78	23	8
Mission	225	46	9.5
Mountain	157	62	12
Pacific	32	20	10.5[102]
Regional Reception Centre - Pacific	21	8	–
Regional Treatment Centre - Pacific	81	39	–
William Head	25	4	1
PRAIRIES	**1269**	**263**	**89**
Bowden	186	38	8
Buffalo Sage Wellness House	2	0	1
Drumheller	141	11	8
Edmonton	171	40	12
Edmonton Institution for Women	104	20	11
Grande Cache	89	24	9
Grierson	15	2	1
O-Chi-Chak-Ko-Sipi Healing Lodge	2	1	3
Okimaw Ohci Healing Lodge	10	1	3
Pê Sâkâstêw Centre	16	0	4
Regional Psychiatric Centre	134	40	7.5
Saskatchewan	233	52	9.5
Stan Daniels Healing Centre	2	2	2
Stony Mountain	162	32	8
Willow Cree Healing Lodge	2	0	2

[102] Includes Pacific's Regional Treatment Centre and Regional Reception Centre.

REGION / INSTITUTION	COMPLAINTS	INTERVIEWS	DAYS IN INSTITUTIONS
QUEBEC	**1170**	**359**	**101**
Archambault	112	20	9
Centre régional de santé mentale	8	0	3
Cowansville	85	24	5.5
Centre Regional De Reception (CRR)	140	21	12.5[103]
Donnacona	231	81	17
Drummond	50	21	7
Federal Training Centre	163	51	13.5
Joliette	171	42	9.5
La Macaza	69	20	11
Port-Cartier	99	68	12
Special Handling Unit (SHU)	42	11	–
Waseskun Healing Lodge	0	0	1
CCC-CRC[104] / PAROLEES IN THE COMMUNITY	**237**	**0**	**95**
GRAND TOTAL	5,176[105]	1,345	476

[103] Includes Special Handling Unit (SHU).

[104] CCC – CRC: Community Correctional Centres and Community Residential Centres.

[105] Does not include complaints stemming from interviews. 75 complaints were made during interviews in 2018-19.

Table C: Complaints and Interviews by Federally Sentenced Women's Institutions

REGION / INSTITUTION	COMPLAINTS	INTERVIEWS	DAYS IN INSTITUTIONS
ATLANTIC			
Nova Institution for Women	93	41	6.5
ONTARIO			
Grand Valley Institution for Women	135	36	15
PACIFIC			
Fraser Valley Institution for Women	77	21	3
PRAIRIES			
Buffalo Sage Wellness House	2	0	1
Edmonton Institution for Women	104	20	11
Okimaw Ohci Healing Lodge	10	1	3
QUEBEC			
Joliette	171	42	9.5
GRAND TOTAL	592[106]	161	49

[106] Does not include complaints stemming from interviews.

Table D: Disposition of Complaints

ACTION	NUMBERS
Immediate Response[107]	1,769
Inquiry[108]	1,604
Investigation	586
Resolution Unspecified[109]	945
Pending	347
GRAND TOTAL	5,251

Table E: Complaints, Individual Complainants, and Inmate Population by Region

ROW LABELS	COMPLAINTS	INDIVIDUALS[110]	INMATE POPULATION[111]
Atlantic	611	272	1,306
Quebec	1170	522	2,914
Ontario	1019	536	3,780
Prairies	1269	617	4,010
Pacific	870	375	2,139
GRAND TOTAL[112]	4,939[113]	2,322	14,149

[107] **Immediate Response:** May include providing information or advice to offenders about applicable law and policy; advising the offender that contact to this Office is premature; and/or referring the offender to CSC's internal grievance process, to CSC staff members or to outside agencies, as appropriate.

[108] **Inquiries & Investigations:** Inquiries are the gathering of information in response to a complaint in order to respond to the question presented or to determine whether an investigation will be required in response to a complaint. Inquiries are distinguished from investigations in that they do not normally involve significant analysis, complex issues, and multiple sources of information or ongoing exchanges, dialogues or exchanges of information.

[109] The investigator has not yet specified the resolution approach (i.e., internal, inquiry, or investigation).

[110] The number of individual offenders who contacted our office to make a complaint (i.e., complainants).

[111] Inmate Population broken down by Region: As of April 7, 2019, according to the Correctional Service of Canada's Corporate Reporting System.

[112] Does not include CCC-CRCs or Parolees in the community. There were 156 unique contacts from the community.

[113] Does not include complaints stemming from interviews.

Table F: Areas of Concern Most Frequently Identified by Offenders

CATEGORY	NUMBER	PERCENTAGE
TOTAL OFFENDER POPULATION		
Health Care	677	12.89%
Conditions of confinement	569	10.84%
Staff	508	9.67%
Cell Effects	392	7.47%
Transfer	339	6.46%
Unknown	306	5.83%
Administrative Segregation	197	3.75%
Visits	194	3.69%
Telephone	175	3.33%
Safety/Security	172	3.28%
INDIGENOUS OFFENDERS		
Health Care	177	13.30%
Conditions of confinement	150	11.27%
Staff	149	11.19%
Transfer	95	7.14%
Unknown	76	5.71%
Cell Effects	74	5.56%
Safety/Security	53	3.98%
Administrative Segregation	53	3.98%
Visits	41	3.08%
Programs	39	2.93%
FEDERALLY SENTENCED WOMEN		
Conditions of confinement	106	16.80%
Health Care	99	15.69%
Staff	51	8.08%
Cell Effects	48	7.61%
Unknown	34	5.39%
Safety/Security	26	4.12%
Administrative Segregation	25	3.96%
Visits	23	3.65%
Conditional Release	20	3.17%
Telephone	19	3.01%

Annex C: Other Statistics

A. Mandated Reviews Conducted in 2018-19

As per the *Corrections and Conditional Release Act* (CCRA), the Office of the Correctional Investigator reviews all CSC investigations involving incidents of inmate serious bodily injury or death.

Mandated Reviews by Type of Incident

INCIDENT TYPE	REVIEWS
Assault	38
Murder	1
Suicide	2
Attempted Suicide	8
Self-Harm	2
Injuries (Accident)	7
Overdose Interrupted	8
Death (Natural Cause)[114]	44
Death (Unnatural Cause)	4
Disturbance	2
TOTAL	116

[114] Deaths due to 'natural causes' are investigated under a separate Mortality Review process involving a file review conducted at National Headquarters.

B. Use of Force Reviews Conducted by the OCI in 2018-19

The Correctional Service is required to provide all pertinent and relevant use of force documentation to the Office. Use of force documentation typically includes:

- Use of Force Report
- Copy of incident-related video recording
- Checklist for Health Services Review of Use of Force
- Post-incident Checklist
- Officer's Statement/Observation Report
- Action plan to address deficiencies

***Note**: The data in the following tables represent only incidents reviewed by the OCI in 2018-19, which is a subset of all use of force cases received by the Office during the same period.*

Table 1: Frequency of Most Commonly Used Use of Force Measures (Nationally and by Region)

	ATL	QUE	ONT	PRA	PAC	NATIONAL
REPORTED INCIDENTS REVIEWED BY THE OCI	**162**	**323**	**435**	**446**	**250**	**1,616**
MOST COMMON MEASURES USED[115]						
Physical Handling	126	156	260	309	184	1,035
Restraint Equipment (handcuffs/leg irons)	48	133	266	241	161	849
Inflammatory Agent (OC Spray)	66	221	173	198	112	770
MK-4	18	85	67	113	72	355
MK-9	28	72	43	44	38	225
T-21 Muzzle Blast	2	23	27	22	1	75
MK-46	5	37	32	16	1	91
T-16	4	2	2	2	0	10
ISPRA	9	2	2	1	0	14
Pointing Inflammatory Agent with Verbal Orders	8	29	42	43	48	170
Emergency Response Team (ERT)	9	10	67	30	4	120
Shield	9	7	18	35	7	76
Soft (Pinel) Restraints	5	28	6	6	3	48
C8 Carbine (firearm)	2	0	3	2	11	18
Baton	0	4	7	4	2	17
Display and Charge of Firearm	1	2	2	12	0	17
Without Consent Injection	1	0	9	4	1	15
Distraction Device DT-25 (“flash grenade”)	3	0	2	5	1	11
GRAND TOTAL	278	590	855	898	525	3,146

[115] A use of force incident can involve more than one measure.

Table 2: Frequency of Most Commonly Used Use of Force Measures (Women's Institutions)

REPORTED INCIDENTS REVIEWED BY THE OCI	159
MOST COMMON MEASURES USED	**FREQUENCY OF MEASURES**
Physical Handling	128
Restraint Equipment (handcuffs/leg irons)	54
Inflammatory Agent (OC Spray)	48
MK-4	39
MK-9	9
Pointing Inflammatory Agent with Verbal Orders	20
Soft (Pinel) Restraints	9
Shield	4
ERT	3
GRAND TOTAL	266

C. Toll-Free Contacts in 2018-19

Offenders and members of the public can contact the OCI by calling our toll-free number (1-877-885-8848) anywhere in Canada. All communications between offenders and the OCI are confidential.

Number of toll-free contacts received in the reporting period: 24,798

Number of minutes recorded on toll-free line: 76,846

D. National Level Investigations in 2018-19

1. Correctional Investigator of Canada and the Chief Commissioner of the Canadian Human Rights Commission Call on Federal Government to Respect the Dignity of Older Persons in Federal Custody, *February 28, 2019*.

2. Dysfunction at Edmonton Institution (date of 2018-19 Annual Report tabling).