



Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act

Highlights



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Background and Context

- Over-representation of Aboriginal people in federal corrections is pervasive and growing:
 - Today, 23% of the federal incarcerated population is Aboriginal.
 - Since 2005-06, there has been a 43% increase in the Aboriginal inmate population.
 - One in three federally sentenced women offenders are Aboriginal.
 - Highest concentration in the Prairie Region.
 - Recent growth in correctional populations is primarily attributable to rising number of Aboriginal admissions and readmissions.
- High incarceration rates for Aboriginal people linked to social, economic and historical factors (*Gladue*).



Background and Context: Widening Gap

- Aboriginal offenders lag significantly behind non-Aboriginal offenders on nearly every indicator of correctional performance:
 - Classified as higher risk and higher need in categories such as employment, community reintegration, substance abuse and family supports.
 - Released later in their sentence (lower parole grant rates), most at Statutory Release (2/3) or Warrant Expiry dates.
 - Over-represented in segregation and maximum security populations.
 - Disproportionately involved in use of force interventions, prison self-injury and segregation placements.
 - More likely to return to prison on revocation of parole.
 - More likely to be gang-affiliated.



Aboriginal Specific Legislative Provisions

- More than 20 years have passed since the *Corrections and Conditional Release Act (CCRA)* came into force in 1992.
- The *CCRA* contains Aboriginal-specific provisions to enhance Aboriginal community involvement in corrections and address chronic over-representation of Aboriginal people in federal corrections.
- This report primarily examines the implementation of Section 81 and 84 provisions of the *CCRA*:
 - Section 81 allows for the Minister to enter into agreements with Aboriginal communities to transfer care and custody of Aboriginal offenders who would otherwise be held in a CSC facility.
 - Section 84 provides for Aboriginal community involvement in release planning of an Aboriginal offender returning to their community.



Key Findings: Section 81

CSC has failed to meet its legislative obligations:

- Only four Section 81 agreements have been concluded with Aboriginal communities since 1992.
- Only 68 Section 81 bed spaces across Canada (Equals capacity for just 2% of some 3,500 Aboriginal inmates.)
- No Section 81 agreements in BC, ON, Atlantic or in the North.
- No new Section 81 facility has been added since 2001, despite a 40% increase in Aboriginal incarceration.
- Three of four Section 81 facilities are on reserve land, yet most Aboriginal offenders are released to an urban setting.



CSC vs. Section 81 Facilities

Disparities between CSC Healing Lodges and Section 81 facilities:

- No permanent funding arrangements for Section 81 facilities
- Section 81 facilities operate on substantially lower budgets
- Salary and benefits disparities
- Heavy reporting, financial, insurance and operational burdens
- No compensation for training employees to CSC standards

These issues raise fundamental questions of fairness and equity.



Section 84 Findings

Implementation of Section 84 provisions are found to be:

- Under-utilized in federal corrections (of some 19,000 CSC employees, just 12 Aboriginal Community Development Officers)
- Overly complex and bureaucratic exercises
- Not well understood within or outside CSC
- Unevenly applied



Other Key Findings

1. Restricted eligibility criteria effectively excludes most Aboriginal offenders from Section 81 consideration.
2. Limited understanding of Aboriginal peoples, cultures and approaches to healing within federal corrections.
3. Inadequate and uneven application of *Gladue* social history considerations in correctional decision-making.
4. Funding and contractual limitations impede the work of Elders inside federal institutions.
5. Inadequate response to the urban realities and demographics of Aboriginal people.
6. Penitentiary-based interventions far out-number community reintegration alternatives for Aboriginal offenders.



Key Recommendations

1. Appoint a Deputy Commissioner for Aboriginal Corrections.
2. Develop a long-term strategy for additional Section 81 agreements and significantly increase the number of bed spaces where the need exists.
3. Negotiate permanent, realistic and at-parity funding levels for existing and future Section 81 Healing Lodges.
4. Review the process for Section 84 releases with the goal of significantly reducing red tape and accelerating the process.
5. Expand staff training curricula to include in-depth training about Aboriginal people, history, culture and spirituality including training in the application of *Gladue* principles.
6. Resolve issues faced by Elders in both institutions and Healing Lodges and set realistic standards of service, caseloads and payment for Elder services.



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