ANNUAL REPORT OF THE OFFICE OF THE CORRECTIONAL INVESTIGATOR

2009–2010

The Correctional Investigator Canada
L'Enquêteur correctionnel Canada

Canada

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June 30, 2010

The Honourable Vic Toews
Minister of Public Safety
House of Commons
Ottawa, Ontario

Dear Minister,

In acoordance with section 192 of the *Corrections and Conditional Release Act*, it is my privilege and duty to submit to you the 37th Annual Report of the Correctional Investigator.

Yours respectfully,

Howard Sapers
Correctional Investigator

Canada

“EFFECTIVE AND SAFE CORRECTIONS CANNOT BE SEPARATED FROM TRANSPARENCY, OPENNESS AND ACCOUNTABILITY.”

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CORRECTIONAL INVESTIGATOR'S MESSAGE

I believe that the mandate of my Office reflects fundamental and expressive elements of our democratic values and traditions within Canada's criminal justice system. The Office of the Correctional Investigator operates as part of a network of oversight agencies that exist to provide independent assurance to Canadians and parliamentarians that federal services are delivered in an open, transparent and accountable manner. As an ombudsman for federally sentenced offenders, independence, impartiality and respect for human rights are the foundations of my Office's mandate. As I have stressed in a number of recent reports and investigations involving deaths in custody, correctional authorities need to maintain public trust and confidence in what they do behind the closed prison gate. Effective and safe corrections cannot be separated from transparency, openness and accountability. Public safety depends on adherence to these principles.

In my capacity as Correctional Investigator, I have appeared before various parliamentary committees deliberating a wide range of criminal justice issues, including sentencing and legislative reform, delivery of mental health services in corrections, substance abuse and addictions, and specific concerns regarding Aboriginal offenders in federal custody. In the past year, parliamentarians have also touched on a number of other issues of concern and priority to my Office, including deaths in custody, federally sentenced women, costs of incarceration, access to correctional and vocational programming (including the decision to close the prison farms) and infectious diseases and harm reduction measures in corrections.

Indeed, there has been an unusually high degree of legislative activity in the area of criminal law and sentencing reform. When considered together, the cumulative impact of recent legislation and pending initiatives will be significant on the rate, cost, duration and distribution of incarceration in this country. As the legislative and policy agendas take full and combined effect, there will almost certainly be disproportionate impacts on Canada's more distressed and vulnerable populations, including Aboriginal peoples, those with addictions and the mentally ill.

On the operational side, there is an equally large number and variety of proposals to move federal corrections in a new direction to meet the challenges associated with a changing and increasingly complex population profile. The Service's "transformation agenda" outlines five broad reform categories and objectives:

- **Enhance offender accountability**
- **Eliminate drugs in prisons**

- **Enhance correctional programs and interventions**
- **Modernize physical infrastructure**
- **Strengthen community corrections**

My Office is neither for nor against the overall objectives of transformation. It is hard to argue against initiatives aimed at improving the safety and security of correctional institutions, of restricting the flow of drugs into federal penitentiaries, of improving the quality and responsiveness of correctional and vocational programming or of strengthening the linkages between institutions and communities so that offenders will be better prepared and supported when released. These are commendable policy goals. My concern is not with the intended (desired) outcomes but with the process and the direction we are taking to get there, and the unintended consequences of simple solutions applied to complex problems.

I am particularly concerned that the underlying principles that have guided correctional practice and operations since the enactment of the *Corrections and Conditional Release Act* in 1992 do not seem to hold the same currency as they once did—the notion of the "least restrictive" measure, the recognition that prisoners actually have retained rights, the idea that the correctional authority has a duty to act fairly or that supervised and gradual community release is far safer than release at warrant expiry.

To be clear, my Office is not against holding offenders to account for their criminal behaviour nor with providing incentives to those who are motivated to change or who have gained insight into those aspects of their personality or lifestyle that brought them into conflict with the law in the first place. But we need to get change and reform right, as the health and welfare of our federal inmates is an important public policy issue. Today's policy decisions will impact the lives of individuals, our communities and the public purse for decades to come.

As offender population pressures mount, it is important to be mindful of the fact that Canada's incarceration rate is already high when compared internationally. This is particularly an issue when it comes to Aboriginal peoples. In recent years, the most significant offender population growth has taken place among Aboriginal peoples. We incarcerate Aboriginal people at a rate that is nine times more than the national average. One-in-five males admitted to federal custody today is a person of Aboriginal descent. Among women offenders, the over-representation is even more dramatic—an astounding 33% of the federal women inmate population is Aboriginal.

It is a sobering and cautionary experience to walk through any of Canada's federal

penitentiaries or provincial jails today. I reported last year that federal penitentiaries are fast becoming our nation's largest psychiatric facilities and repositories for the mentally ill. As a society, we are criminalizing, incarcerating and warehousing the mentally disordered in large and alarming numbers. The needs of mentally ill people are unfortunately not always being met in the community health and social welfare systems. As a result, the mentally ill are increasingly becoming deeply entangled in the criminal justice system. Substance abuse compounds the problem. Some offenders, like young Ashley Smith[1], are dying or self-harming behind bars because they cannot access the kind of care, treatment, resources and interventions they so desperately need. These incidents occur in spite of often near-heroic interventions on the part of CSC program and security staff.

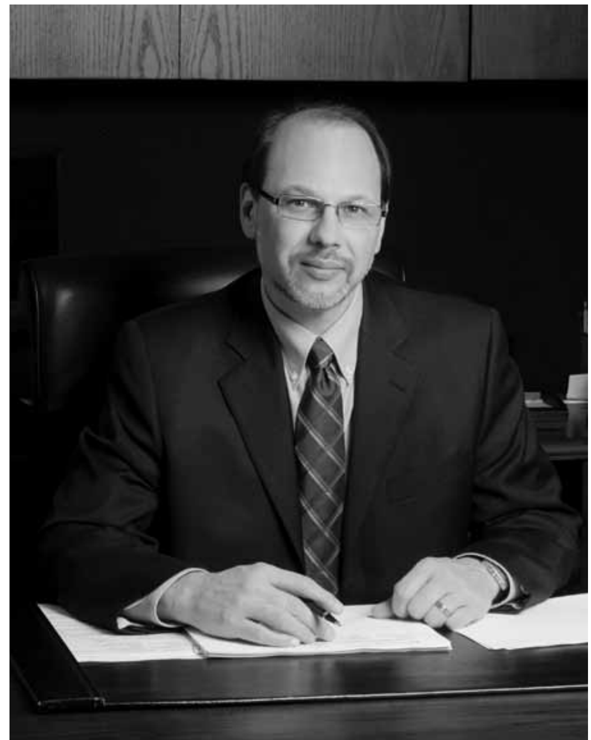
It is also important to understand that the serious, if unintended, effects of prison crowding reach far beyond the provision of a comfortable living environment for inmates. Aside from the immediate issue of physical capacity, prison crowding has negative impacts on the system's ability to provide safe and secure custody. It is well understood that prison crowding can lead to increased levels of tension, frustration and institutional violence, which can jeopardize the safety of staff, inmates and visitors. According to CSC data, the number of major institutional incidents increased during the reporting year—including preventable deaths in custody, violent assaults, serious bodily injury and use of force. As correctional populations increase, timely access to offender programs, treatment and meaningful employment opportunities measurably diminish, resulting in delays for safe reintegration into the community and further exacerbating both population management and cost pressures.

As correctional populations increase as forecasted, we are also reminded that corrections is complicated and expensive. Federal expenditures on corrections are growing annually, and CSC's budget can be expected to significantly increase as the full slate of criminal justice and sentencing reforms comes into effect. We may also have to build expensive new prisons to manage the expected population surge. The annual average cost of keeping a federal inmate now exceeds $100,000 per year (or just over $275.00 per day), up from $83,000 per year in 2003–04. It is even more costly to incarcerate women offenders, averaging over $180,000 per offender annually. By contrast, offenders supervised in the community cost considerably less—about one-eighth that of keeping them in prison. We need to think clearly about how best to safeguard the community and how to ensure the best return on this public investment.

1. Ashley Smith died in federal custody on October 19, 2007. See *A Preventable Death*, Office of the Correctional Investigator, June 20, 2008.

The vast majority of offenders are eventually released back into society, so we benefit from having them receive adequate services and rehabilitative programming before they return to their communities. We all have a vested interest in ensuring our correctional system treats offenders fairly, with decency and respect. It is in our collective interest to create and maintain a system that responds to offenders needs and doesn't just isolate them. Such a system gives them an increased opportunity to lead productive, responsible and law-abiding lives upon release.

It is within this context of unprecedented legislative and policy activity, rising offender populations and surging correctional costs that I introduce my Office's 2009–10 Annual Report. I believe we are fast approaching an important juncture in Canadian correctional history. The paths open to us may be narrowing, but there are still important choices to be made. How we deal with issues like offender population growth; the need to expand capacity to better deliver educational, correctional and vocational programming; management of increasing numbers of the mentally ill under federal sentence; and the growing proportion of Aboriginal people in corrections will undoubtedly test our shared sense of justice, fairness, tolerance and decency.



Howard Sapers
Correctional Investigator of Canada

EXECUTIVE DIRECTOR'S MESSAGE

In the reporting period, the Office of the Correctional Investigator (OCI) completed an extensive corporate priority and strategic planning exercise. As a result, the Office intends to sharpen its investigative, analytical and policy focus on five key corporate priorities: offender access to health services, conditions of confinement, deaths in custody, Aboriginal issues and access to programs in federal custody. These are not necessarily new preoccupations for the OCI; they in fact reflect long-standing areas of individual and systemic concern. Issues involving federally sentenced women are understood to be cross-cutting and horizontal in nature, although some additional commentary on the specific state of federally sentenced women is offered in recognition of the unique place that the regional women's facilities and the women residing within them occupy in federal corrections.

The Office's agenda-setting exercise has attempted to strike a balance between the ongoing need for accessible and timely Ombudsman services set against very practical operational realities and constraints—maintaining a regular schedule of institutional visits, conducting more complex field investigations, interviewing offenders and processing calls, not to mention the considerable and ongoing challenge of attracting and retaining a professional, dynamic and collegial workforce.

With the arrival of the current Correctional Investigator, the Office formally adopted a human rights framework consistent with the legislative provisions of the *Corrections and Conditional Release Act* and constitutional requirements of the *Canadian Charter of Rights and Freedoms*. Over the past year, the Office further refined its human rights approach when investigating allegations of non-compliance with law and policy or unfair decision-making. With limited resources, it is

essential that we continue to prioritize our work as we expand our ability to conduct systemic and in-depth investigations. A human rights lens is a helpful compass to guide our efforts to fulfil our mandate with excellence and build the OCI as an employer of choice.

During the reporting period, we have also taken measures to streamline many of the Office's management and review practices, particularly in the areas of use of force, third level grievances and processing of complaints. We are applying more rigour to our institutional visits, including more comprehensive and detailed follow-up reporting. In line with our corporate priorities, our team of investigators will be spending more of their time examining overall conditions of confinement and we will be monitoring more closely the use of segregation and so-called "special needs" units, as well as the situation of Aboriginal offenders and the mentally ill.

All of this activity takes place in a rather small Office with a modest operating budget. Every year, without fail, our team of investigators, analysts and intake officers responds to thousands of individual offender complaints and inquiries. While I cannot say with certainty that the Office has all of its priorities right, let me say what an honour and privilege it is to serve in my capacity as Executive Director. Through tabling of this Annual Report in Parliament and in communicating our concerns to Canadians directly, I trust that the Office makes an appreciable difference in resolving the individual and system-wide concerns of federally sentenced offenders.

Ivan Zinger, LL.B., Ph.D.
Executive Director and General Counsel

1 ACCESS TO PHYSICAL AND MENTAL HEALTH CARE

Federal offenders are excluded from the *Canada Health Act* and are not covered by Health Canada or provincial health care systems. With an annual expenditure now exceeding $190M, the Correctional Service provides essential physical and mental health services directly to offenders inside federal penitentiaries. Under the *Corrections and Conditional Release Act*, the Service must ensure reasonable access to health care in conformity with professionally accepted standards of practice. The Service is further obligated to consider an offender's state of health and health care needs in all decisions, including placements, transfer, segregation, discipline and community release and supervision.

On a consistent basis, delivery and access to health care remains the number one area of offender complaint to the Office. In the past year, my staff responded to over 700 offender complaints and inquiries related to both physical and mental health care issues. The following sections summarize concerns in this area of corrections.

A. MENTAL HEALTH CARE SERVICE DELIVERY AND SUPPORTS

Increasing Prevalence of Mental Health Issues

In last year's Annual Report, I referred to mental health as one of the most significant concerns facing federal corrections today. The number of offenders presenting serious mental health problems continues to grow. The prevalence rate of mental illness in the offender population far exceeds that of general society. We estimate at least one-in-four new admissions to federal corrections present some form of mental health illness. Many are typically struggling with a concurrent disorder such as substance abuse.

According to internal CSC documents, 35% of the male offender population in the Atlantic Region receives some mental health service. In the Pacific Region, a recent CSC file review indicates a prevalence rate of 37% for male offenders presenting some form of mental health problem (anxiety, mood, psychotic or conduct disorder) or cognitive deficit. Female offenders are more likely to present with a mental health condition than their male counterparts. In the Pacific region, the mental health prevalence rate for women offenders is estimated to exceed 50%. There can be little doubt that these numbers represent a daunting challenge to the Correctional Service.[2]

2. Estimates cited from CSC Regional Snapshot Data.

Some promising initiatives—such as the roll-out of a mental health awareness training package for front-line staff, new funding totalling over $60 million since 2005, mental health screening at intake and implementation of a community mental health component—have demonstrated the Service's commitment to this high priority area of concern. Additional progress is required in response to

- **Lagging recruitment and retention of mental health professionals.**
- **Lack of bed utilization at the regional treatment facilities (designated psychiatric hospitals).**
- **Inappropriate infrastructure to meet rising need.**
- **Lack of funding to create "intermediate" health care units.**
- **Under-utilization of clinical management plans to manage high-needs mentally disordered offenders.**
- **Over-reliance on segregation to manage offenders with mental health concerns.**
- **Barriers to admission to regional treatment centres.**

The challenges that CSC faces in the area of recruitment and retention of mental health professionals cannot be under-estimated. Although the largest employer of psychologists in the country, the fact remains that many institutions are currently not staffed, funded or equipped to adequately deal with increasing demand for mental health supports and interventions. The Service is currently facing in excess of a 20% vacancy rate in psychology positions alone. The problem of attracting new hires in this area of corrections—including providing an attractive and competitive salary and working conditions that compare with community standards of practice—is likely to get tougher.

At the same time, the Service needs to also move to a hiring strategy for front-line staff that places more emphasis on the skills, competencies, knowledge and qualities required to manage an increasingly complex array of mental health issues and disorders. With respect to personal suitability, patience, compassion and empathy are assets that are required to work effectively with a mentally disordered population. Strong communication skills and the ability to work in an interdisciplinary environment are also important personal characteristics for working with mentally ill people. Specific, advanced and continuing mental health education and training are other key elements of a comprehensive approach to front-line staffing in a correctional environment.[3]

As I have stated before, the issue is one of focus and priority as much as it is one of staff numbers.

3. See, for example, *The Role of the Correctional Officer in a Treatment Centre*, Correctional Service of Canada, February 2010.

For example, prison psychologists report that they spend a majority of their time conducting risk assessments, as opposed to delivering clinical treatment and rehabilitation services. On a practical basis, a shortage of prison-based psychological resources can mean that offenders have to remain in custody longer than they otherwise would have. Day or Full Parole hearings may be postponed and applications withdrawn because required risk assessments are missing or not completed in time for Parole Board hearings. Access to the community, including Private Family Visits or Escorted Temporary Absence applications, may be denied, delayed or suspended entirely because necessary documentation is lacking.

1. I RECOMMEND THAT THE SERVICE ENHANCE ITS RECRUITMENT EFFORTS FOR MENTAL HEALTH PROFESSIONALS, INCLUDING EXPLORING THE POSSIBILITY OF SECURING EXEMPTIONS ON RATES OF PAY AND TO WORK WITH PROFESSIONAL LICENSING BODIES ON SCOPE OF PRACTICE, TRAINING, PORTABILITY AND PROFESSIONAL DEVELOPMENT.

2. I RECOMMEND THAT THE SERVICE RENEW ITS CORRECTIONAL OFFICER RECRUITMENT STANDARDS TO ENSURE NEW HIRES HAVE THE REQUISITE KNOWLEDGE, PERSONAL COMPETENCIES AND EDUCATIONAL BACKGROUND TO MANAGE AN INCREASINGLY DEMANDING OFFENDER MENTAL HEALTH PROFILE.

Mental Health and Segregation

> "We are primates, we are made to socialize, but in segregation you have no contacts, you can't speak to anyone. My friend died three months ago, he hung himself in the hole. Now I am in the hole. Sometimes you look at what you got and take it from there. If all you have is boredom, sometimes just getting excited and creating commotions is better than nothing. I am starting to crack… I am so bored and so cut off from interaction I can't take it anymore. I can't even see another man's eyes when I speak to him, can you imagine what that feels like?"
>
> (A segregated maximum security offender in his own words, November 2009.)

In the correctional environment, mentally disordered offenders do not always comprehend, conform or adjust properly to the rules of institutional life. They may suffer from illogical thinking, delusions, paranoia and severe mood swings. Irrational and compulsive behaviours associated with their individual affliction can result in verbal or physical confrontations with staff or other inmates, which often lead to institutional charges and long periods in segregation.

In the past year, I have been very clear on the point that mentally disordered offenders should not be held in segregation or in conditions approaching solitary confinement. Segregation is not therapeutic. In too many cases, segregation worsens underlying mental health issues. Solitary confinement places inmates alone in a cell for 23 hours a day with little sensory or mental stimulation, sometimes for months at a time. Deprived of meaningful social contact and interaction with others, the prisoner in solitary confinement may withdraw, "act out" or regress. Research suggests that between one-third and as many as 90% of prisoners experience some adverse symptoms in solitary confinement, including insomnia, confusion, feelings of hopelessness and despair, hallucinations, distorted perceptions and psychosis.[4]

International human rights standards recognize that solitary confinement should only be used in very exceptional cases, for as short a time as possible and only as a last resort. The United Nations Human Rights Committee has expressed the view that the practice may, in some instances, be a violation of international law, amounting

4. Sharon Shalev, *A Sourcebook on Solitary Confinement*, London, 2008.

to cruel, inhuman or degrading treatment or punishment. The use of prolonged segregation for managing prisoners can rarely be justified. There is growing international recognition and expert consensus that the use of solitary confinement should be prohibited for mentally ill prisoners and that it should never be used as a substitute for appropriate mental health care.

In light of the above, it is particularly troubling that the number and duration of instances of segregation is increasing in federal correctional institutions. In some maximum security institutions, as much as a third of the population can be on segregation status. In the past year, the daily segregation population count averaged just over 900 offenders. There were over 7,600 placements in administrative segregation in 2008–09. The average number of accumulated days in segregation is 95. The long-term segregation population (over 120 days) is growing, and snapshot data from April 12, 2009, shows that 177 inmates had spent more than 120 days in solitary. Close to 40% of inmates spent more than 60 days in segregation.

Given the gaps in appropriate mental health treatment and the reliance on segregation as a population management strategy, it only stands to reason that a sizable proportion of the segregated population will be found to be mentally disordered. In response to the findings and

recommendations made subsequent to the death of Ashley Smith, the Service agreed to conduct an operational examination of long-term segregation of mentally ill offenders. I am encouraged that the Service is moving forward on this initiative.

As we await the findings and recommendations of the external review, it needs to be understood that holding offenders at risk of suicide or serious self-injury in segregation or isolated confinement is not safe or humane.

3. I RECOMMEND THAT PROLONGED SEGREGATION OF OFFENDERS AT RISK OF SUICIDE OR SERIOUS SELF-INJURY AND OFFENDERS WITH ACUTE MENTAL HEALTH ISSUES BE PROHIBITED.

Self Harm in Prisons

I reported last year that the number of self-harm incidents in federal custody is rising. It is estimated that 25% of the women offender population has a history of engaging in some form of self-harming behaviour, with some extreme and rare forms of self-injury (e.g., head-banging) resulting in permanent physical injury.

In the most serious cases of self-injury, there is often a fine line between a security/use of force response (segregation, disciplinary sanctions or an accumulation of institutional charges) and clinical intervention. In too many instances, a punitive response serves to exacerbate the underlying symptoms of mental distress that can culminate in chronic self-injury. Offenders who engage in serial self-injury are often shuffled back and forth between the treatment centres and the parent institution, in some cases to provide a working reprieve for the front-line staff. Front-line correctional officers often do not have the expertise or specialist support to adequately respond to this growing problem in corrections; however, this is not sufficient justification to transfer inmates contrary to required law and policy considerations.

In comparative terms, women offenders self-harm more often than men. Over the past year, my staff has made a point of meeting with senior officials in the Health Services and Women Offender sectors to review chronic cases that come to our mutual attention through SITREP (daily situation reporting) and institutional visits by my staff. The purpose of national level meetings is to ensure individual treatment plans and appropriate case follow-up are in place. In addition, we also take the opportunity to review policy areas of concern with respect to the Service's overall approach to managing mental health and self-harm.

In this regard, we provided substantive commentary on the Service's draft *National Strategy* and *National Action Plan to Address the Needs of Offenders who Engage in Self-Injury*, which were shared with my Office in December 2009. We commend this effort, which responds to issues we have raised in previous Annual Reports and ongoing investigations. We remind the Service that it has not yet fully acted upon our detailed set of recommendations, a summary of which includes:

- **Self-harming in prison should be treated as a mental health care issue, not a security, behavioural, adjustment or discipline matter.**
- **A Clinical Management Plan (CMP)—which would include prevention, intervention and treatment measures—should be put in place to manage offenders who self-harm.**

- **Roles, responsibilities and accountabilities at the institutional, regional and national levels for managing self-harm cases should be clearly defined.**
- **Specialized and dedicated units should be immediately created in each Region to manage chronically self-harming offenders.**
- **The draft *National Strategy* and *Action Plan* should be converted into a Commissioner's Directive to raise the prominence and profile of this issue.**

As of April 1, 2010, the Mobile Interdisciplinary Treatment Assessment and Consultation Team (MTAC) pilot—which had been used to provide support to the field in managing self-harm—has been discontinued. In its place, Regional Suicide/Self-Injury Prevention Management Committees (RSPMC) have been established. According to an internal communiqué, these Committees "will support front-line staff in the management of self-injurious offenders while encouraging and assisting institutions to share best practices and innovative clinical approaches."

As membership in the new initiative is restricted to regional staff, it is not clear how such an initiative is complementary to or supportive of the Service's *National Strategy* and *Action Plan*, which still remain in draft form. As my Office sees it, the Service's approach to addressing the issue of self-injury requires internal consistency and integration of effort. There is still a clear need for enhanced direction and oversight of this issue at the national level because devolution of responsibility and accountability to regional authorities is not a National Strategy. Such a strategy would have a comprehensive continuity of care approach within a mental health framework and a source of dedicated and sustainable funding.

We understand that the Service is piloting a Complex Needs Unit (CNU) in the Pacific Region that will accommodate self-harming male offenders from across the country. Proposals to create dedicated intermediate care units on a regional basis to manage offenders with mental health disorders—including cognitive impairment/deficits, history of self-harming behaviour or suicide, or those discharged from a treatment centre—have not been adopted because this component of the Service's overall mental health strategy has not been funded. As I have noted before, the lack of this option, which falls between primary care and acute inpatient care offered at the regional treatment centres, is increasingly required. Many offenders struggle to make the transition between clinical services offered at the treatment centres and the return to regular institutional routines. A significant proportion of the inmate population who also suffer from mental illness simply do not meet the treatment centre

admission criteria. Consequently, the majority of offenders with complex mental health disorders are managed within the penitentiary environment, where there is limited mental health programming and resources.

Intermediate care units that offer a therapeutic environment and that are supported by an interdisciplinary mental health team could decrease the likelihood of an offender requiring the acute care of a treatment centre. Intermediate care units would provide continuity of care for clients discharged from the treatment centres, a reduction in the use of segregation to manage mentally disordered offenders and a decrease in the number and intensity of mental health crisis interventions.

4. I RECOMMEND THAT THE SERVICE ISSUE A REVISED *NATIONAL STRATEGY* AND *NATIONAL ACTION PLAN TO ADDRESS THE NEEDS OF OFFENDERS WHO ENGAGE IN SELF-INJURY* THAT SPECIFICALLY RESPONDS TO DOCUMENTED CONCERNS RAISED BY THIS OFFICE. THE REVISED STRATEGY AND PLAN SHOULD INCLUDE:

- A PERMANENT FUNDING STRATEGY.
- A PROVEN TREATMENT PROGRAM/PLAN SUPPORTED BY CLINICAL RESEARCH.
- A COMMITMENT TO PHYSICAL ENVIRONMENT(S), INCLUDING ACCESS TO COMPLEX NEEDS UNITS FOR MEN AND WOMEN OFFENDERS, CONDUCIVE TO A THERAPEUTIC, PATIENT-CENTRED AND CONTINUUM OF CARE APPROACH TO MANAGING SELF-HARM IN PRISONS.

5. I RECOMMEND THAT AT LEAST ONE INTERMEDIATE CARE UNIT BE DESIGNATED IN EACH REGION, AND THAT DEDICATED INTERMEDIATE CARE CAPACITY (BEYOND THE CURRENT STRUCTURED LIVING ENVIRONMENTS) BE DEVELOPED FOR WOMEN OFFENDERS.

Use of Restraints for Health Care Purposes

Case Summary: In the period just prior to conditional release, a female offender engages in a number of self-harming incidents that increase in both severity and duration. Despite documented mental health concerns and poor institutional adjustment, she spends the vast majority of her sentence in segregation. On almost every occasion of self-harm, her behaviour is met with overly restrictive, punitive and security-based interventions that often necessitate use of force, including the adoption of the standing control restraint technique to manage her. (This technique requires the offender to stand, in leg irons and high profile rear wrist locks, until self-injurious behaviour ceases, which can be hours.) In this case, pressure was applied to the rear wrist locks to induce discomfort when she was not compliant or had attempted to drop to the floor. Despite a number of consultations between Region and National Headquarters on the best method/technique to restrain this offender from self-injuring, it appears that a comprehensive clinical management plan to address this offender's chronic mental illness was never fully implemented. Significantly, the challenging "adjustment" behaviours that this offender presented while in custody have virtually ceased since her conditional release into the community.

Commissioner's Directives on the *Prevention, Management and Response to Suicide and Self-Injuries* and *Use of Restraint Equipment to Manage Self-Injurious or Suicidal Behaviour* have been "under review" for a protracted period of time. With specific respect to the use and application of four-to-six point physical restraints (e.g., Pinel restraint system) to manage self-injurious or suicidal behaviour, we repeat the Office's previously stated concerns, as our current use of force reviews suggest that there are significant and ongoing policy compliance issues across the country:

- **The use of physical restraints should be recognized as an extraordinary intervention to protect an offender from self-injurious behaviour.**
- **Physical restraints should be applied as a last resort and for the shortest period necessary, consistent with the preservation of life and as the least restrictive option.**
- **While an offender is subject to use of restraint equipment, human dignity should be maintained at all times.**
- **Under no circumstances, should a non-consenting and uncertified offender in a Pinel restraint be subject of forced medical injections.**
- **All instances where force is used and restraint equipment applied should be considered a use of force situation.**

On this latter point, the Service has taken the position that when an offender complies with or requests the use of restraint equipment in response to self-injury then this situation will not be deemed a reportable use of force. The OCI takes a different view. Policy must be consistent with the view that the use of restraints (or physical handling) in response to self-injury is an intervention to preserve life and is not a medical treatment, and therefore all such applications should be classified and treated as a reportable use of force.

For the Service, the issue of a reportable versus non-reportable use of force in the use of restraint equipment goes to the fact that a handful of repeat self-harmers in the acute phase of their illness can consume a preponderant amount of clinical, security and case management resources. My Office is aware that a few chronic self-harming offenders can be responsible for as much as one-half of an entire Region's uses of force. While my Office supports the Service's efforts to streamline current use of force reporting and review obligations, where serious bodily injury or life are at risk we believe it is necessary to be as vigilant and diligent as possible. The bottom line is that the use of restraint equipment needs to be seen as a use of force, and therefore subject to reporting and reviewing criteria.

6. I RECOMMEND THAT THE SERVICE ISSUE REVISED COMMISSIONER'S DIRECTIVES ON THE *PREVENTION, MANAGEMENT AND RESPONSE TO SUICIDE AND SELF-INJURIES* AND *USE OF RESTRAINT EQUIPMENT FOR HEALTH PURPOSES* AS A MATTER OF PRIORITY CONSISTENT WITH RECOGNIZED BEST PRACTICES, INCLUSIVE OF THE FEBRUARY 2010 AMERICAN BAR ASSOCIATION'S *CRIMINAL JUSTICE STANDARDS ON THE TREATMENT OF PRISONERS*–STANDARD 23-5.9 "USE OF RESTRAINT MECHANISMS AND TECHNIQUES."

Clinical Management Plans

Case Summary: *A maximum security male offender is transferred to a regional treatment centre (psychiatric hospital) for assessment purposes. Thirty-two days later the offender is discharged and sent back to his home institution. The offender returns with no clinical management or treatment plan in place. There is no sharing of information with front-line staff on how best to address his underlying behaviour and symptoms of mental illness. The offender is placed in segregation, where his condition again deteriorates. He is sent back to the treatment centre.*

In last year's Annual Report, my Office highlighted the need for development and implementation of comprehensive clinical management plan (CMP) guidelines. These CMPs should include a section that could be shared with front-line staff to help them understand and appropriately manage the behaviours and symptoms of the more acutely mentally disordered inmate. Although such *Guidelines* have been drafted and shared with the field, they do not appear to be widely used or officially recognized by CSC clinicians. Our Office continues to come across cases where an offender is discharged from the regional psychiatric hospital with little or no continuity of care instructions, follow-up orders or ongoing maintenance recommendations for the home institution.

In the case of an offender returning from a treatment centre to his/her home institution, this lack of case-specific information sharing is simply unacceptable. Patient confidentiality is not likely to be breached by providing front-line staff a modicum of insight into how best to manage an offender under their direct care, observation and custody. Front-line staff does not need to know the specific diagnosis or even clinical treatment path, but they should be provided with instruction on how to best approach and deal with underlying behaviours and symptoms consistent with a mental health diagnosis. Front-line staff also has a duty of care obligation that appears to be unnecessarily impeded by an overly cautious interpretation of patient-client confidentiality.

7. A CLINICAL MANAGEMENT PLAN (CMP) SHOULD BE DEVELOPED FOR ALL OFFENDERS WHO HAVE A SIGNIFICANT MENTAL HEALTH ISSUE OR WHO SELF-HARM OR ATTEMPT SUICIDE IN PRISON. THE CMP WOULD BE UPDATED REGULARLY AS A CONTINUUM OF CARE TOOL.

8. AN UPDATED CLINICAL MANAGEMENT PLAN (CMP) SHOULD ACCOMPANY EVERY OFFENDER DISCHARGED FROM THE REGIONAL TREATMENT CENTRES BACK TO THEIR HOME INSTITUTION. THIS PLAN SHOULD INCLUDE BASIC INFORMATION AND INSTRUCTION THAT COULD BE SHARED WITH FRONT-LINE STAFF THAT WOULD NOT BREACH PRIVACY OR CONFIDENTIALITY STANDARDS.

The Role of the Special Handling Unit

An increasing number of offenders suffering from mental illness are being held at "supermax" conditions within Canada's only Special Handling Unit (SHU), despite the fact that its highly controlled and secure environment is not conducive to clinical treatment of mental illness. According to the Service, there is an upsurge of the number of SHU offenders with serious mental health problems who do not meet the admission criteria of the regional psychiatric facilities, or who cannot be handled in the more open treatment and clinical environments at CSC's psychiatric centres. Some of these offenders cannot be medically certified or refuse to consent to treatment. A percentage of this group of offenders is extremely difficult to manage in regular institutions because of aggressive, predatory or self-injurious behaviour.

While the SHU has the security infrastructure to control risk, mentally disordered inmates do not receive the services, treatment or programming to treat their underlying psychiatric condition. The SHU is meant to be the facility of absolute last resort—it is not meant to warehouse acutely mentally ill offenders who seemingly cannot be managed elsewhere in the system. It certainly is not the least restrictive option.

9. THE SERVICE SHOULD CONDUCT AN INDEPENDENT AND EXPERT REVIEW OF THE MENTAL HEALTH PROFILE OF OFFENDERS RESIDING AT THE SPECIAL HANDLING UNIT, WHICH WOULD INCLUDE OPTIONS AND RECOMMENDATIONS FOR MANAGING THESE OFFENDERS IN THE LEAST RESTRICTIVE AND MOST CLINICALLY APPROPRIATE MANNER POSSIBLE.

B. PHYSICAL HEALTH CARE ISSUES

Infectious Diseases and Harm Reduction in Prison

Rates of human immunodeficiency virus (HIV) infection are seven to ten times higher in the inmate population than the general population. Estimated prevalence rates of Hepatitis C (HCV) are thirty to forty times higher in prison than in general society. In 2008, 219 incarcerated offenders were HIV positive and another 3,903 offenders, or approximately 30% of the total population, were HCV infected. In 2008, 87 HIV offenders were newly admitted to federal custody while there were 934 new HCV admissions.[5] Hepatitis C rates have increased approximately 50% between 2000 and 2008.

Infectious disease control within federal corrections needs to be seen, first and foremost, as a public health issue. Good prison health is good public health. Recognizing the risk and need, a limited range of harm reduction measures is made available to inmates in federal correctional facilities, including condoms, dental dams and bleach.

A recent CSC research report based on a 2007 self-administered survey of inmates indicates that some offenders engage in high-risk behaviours immediately before entering prison, as well as during their incarceration. The report notes that while inmates' awareness of the availability of

harm reduction items was high and measures are being used as intended, there was opportunity to optimize their use by reducing access issues, including noted problems with dispensing machines, privacy/confidentiality and the behaviour of other inmates.[6]

The *Corrections and Conditional Release Act* stipulates that federal offenders are entitled to medical treatment and care that conforms to professionally accepted standards. Denying prisoners access to the same harm reduction measures available in the community that do not present an unmanageable security risk raises human rights concerns. The scientific and medical literature on prison needle and syringe programs suggests that these initiatives reduce risk behaviour and the spread of infectious blood-borne diseases that arise through needle sharing, do not increase drug consumption or injecting and do not

5. CSC testimony to Standing Committee on Health, May 11, 2010.

6. CSC, *Summary of Emerging Findings from the 2007 National Inmate Infectious Diseases and Risk-Behaviours Survey*, March 2010.

endanger staff or institutional safety and security.[7] This issue has been studied by the Service as a harm-reduction measure, but it has not found favour despite the scientific evidence and a similar recommendation by the Service's own Health Care Advisory Committee. It is a fact that HIV and HCV are acquired, transmitted and spread in prisons. I believe the Service has an obligation to mitigate these health risks in prisons and therefore reduce the risk of transmission to the community.

In December 2006, the government announced the Service would cancel a safer tattooing initiative that had been operating as a pilot in six federal correctional facilities since August 2005. This decision was taken despite a largely positive evaluation that concluded that the initiative had demonstrated its potential to reduce harm and risk while enhancing the health and safety of staff, inmates and the general public. Another look at this initiative is justified.

10. I RECOMMEND THAT A FULL AND COMPREHENSIVE RANGE OF HARM REDUCTION MEASURES BE MADE AVAILABLE TO FEDERAL INMATES.

Older/Elderly Offenders

Reflecting a broader "greying" of the Canadian population, 18% of the federal incarcerated population is 50 years of age or more. The treatment of chronic diseases within corrections, including cancer, emphysema, diabetes and cardiovascular disease, is becoming more of an issue due to the aging offender population, a significant proportion of whom will die in prison. We know that the architecture and physical infrastructure of the typical prison is not built with the aging and elderly offender in mind. The offender population is not a healthy population—their lifestyle prior to incarceration typically included chronic drug and/or alcohol abuse, homelessness, smoking and poor diet which, when combined, are hard on physical health.

A population of offenders that are growing older raises a number of physical health care challenges for the Correctional Service, not the least of which includes:

- **Physical ambulation and accessibility**
- **Independent care and living ability**
- **Palliative care**
- **Employment and vocational programming**
- **Conditional release on compassionate grounds**

7. See, for example, *Under the Skin: A People's Case for Prison Needle and Syringe Programs*, Canadian HIV/AIDS Legal Network, Toronto: 2010.

The OCI is aware that elderly offender issues were once tracked by a separate division at National Headquarters, but the initiative appears to have been mothballed. We are also aware that there is a Health Status Admission Assessment for offenders aged 50 and older and/or those with self-care needs, but we have concerns with the extent to which this assessment is actually completed and follows an offender to his/her home penitentiary. In light of a number of policy initiatives that could mean an overall increase in average sentence length, it is timely to put a renewed focus on older offenders.

11. I RECOMMEND THAT THE SERVICE CONDUCTS A COMPREHENSIVE POPULATION HEALTH ANALYSIS OF THAT SEGMENT OF THE INCARCERATED POPULATION AGED 50 YEARS AND OLDER, AND DEVISE A STRATEGY TO MEET CURRENT AND ANTICIPATED PHYSICAL HEALTH CARE NEEDS IN THE AREAS OF ACCOMMODATION, PROGRAM DEVELOPMENT, INDEPENDENT CARE AND LIVING AND CONDITIONAL RELEASE PLANNING ON COMPASSIONATE GROUNDS.

2 DEATHS IN CUSTODY

Case Summary: Four Coroner's reports, pertaining to four separate deaths occurring between 2001 and 2005, recommended that Automatic External Defibrillators (AEDs) should be installed in all federal correctional institutions. CSC was originally reticent to implement the recommendations, citing a number of concerns with the rationale that an attempted strangulation by hanging may not be resuscitated by an AED. A pilot project began at a minimum security institution in 2006. Although a number of facilities began to consider installing AEDs at this time, it was suggested that institutions defer until the results of the pilot project become available. No evaluation was ever conducted on the pilot project.

*In response to the Office's public release of its **Deaths in Custody Study** in February 2007, the Public Safety Minister announced that the government would install AEDs in all federal correctional facilities by year end and that close to $1 million of the current budget would be dedicated to this activity. Following the intervention of the Minister, AEDs began to be distributed; however, there was some resistance to non-healthcare staff using the devices to assist offenders.*

In February 2009, a national 'update' memorandum was issued which stipulated that AEDs could be used by individuals without formal training, as the devices in correctional facilities are the same type used in various public places. The Union representing correctional officers raised concerns with this direction and requested that officers be trained in the use of AEDs and should not be expected to use the technology if they feel uncomfortable. They also raised concerns that AEDs could be used as a weapon by offenders, should they have access to them. In March 2009, the National Standards of First Aid Training were upgraded to include training specific to AEDs.

At the institutional level there continues to be confusion about whether or not individuals who received First Aid training prior to this date would have to recertify. Instructions included with the AED further clarify that the unit will not work on a regular heart beat, removing the possibility that an AED could be used as a weapon. By mid-2009, many institutions had received AED units; however, a number of issues have slowed their installation, including identifying optimal locations, staff training or the availability of the cabinet in which to store the unit.

Guidelines for AED use in CSC facilities were issued in December 2009. Significantly, the guidelines require each institution to create an AED 'program.' Nine years has passed since this issue was first raised.

In a ten year period from 1998 to 2008, 532 offenders died in federal custody from a range of known causes, including natural death, suicide, accident and homicide. During this period, fully 20% (or 107) of all deaths were suicides. Another 6.8% (or 36 deaths) were homicides. The suicide rate is approximately 84 per 100,000 for incarcerated federal offenders, which is significantly higher than Canada's 2004 rate of 11.3 suicides per 100,000 people. In 2007, the homicide rate for incarcerated federal offenders was approximately 28 per 100,000, compared to the national homicide rate of 1.8 per 100,000.

My Office continues to be focused on identifying and addressing factors related to preventable deaths in custody. In the course of the reporting period, this ongoing work entailed:

- **Releasing three quarterly progress reports/ assessments of the Service's response to findings and recommendations of our deaths in custody reports/investigations.**
- **Raising the profile of factors related to preventing deaths in custody, including the use of solitary confinement, suicide prevention and awareness, first response capacity and dynamic security.**
- **Holding the Service accountable and answerable for preventable deaths.**
- **Reviewing Section 19 deaths in custody cases, including those conducted under an "alternative" mortality review process.**
- **Participating in the National Roundtable on Deaths in Custody.**
- **Partnering with academia to produce updated and independent research on deaths in custody in Canada.**

I have stated publicly that until accountability is strengthened at the institutional, regional and national levels and external review of segregation placement is introduced, the likelihood of future preventable deaths remains unacceptably high. The Office is on record of stating that the use of extended segregation and isolation and physical restraints to manage mentally disordered offenders is not safe or humane. Although I do not expect my calls for outside intervention, independent oversight and external decision-making to be warmly embraced by the correctional authority, they are necessary for reform and progress.

Disturbingly, the same governance and accountability structures that failed young Ashley Smith are still largely in place. Wardens of women's institutions still do not report to a central, national authority. Mentally ill prisoners being held in long-term segregation (beyond 60 days) still are not independently and expertly monitored. National Boards of Investigation

involving incidents of suicide and serious self-injury continue not to be chaired by independent mental health professionals.

My Office has been insistent on the need for the Service to enhance transparency and accountability in this area of corrections. The Service has responded with a series of initiatives. During the reporting period, a number of proposals have been launched: an independent operational examination of long-term segregation of inmates with mental health concerns; external review of the offender complaints and grievances system; an Independent Review Committee to provide advice on preventing and reducing "non-natural" deaths in federal custody (suicide, murder, overdose and death by unknown cause); and a commitment to report on reducing the rate of offender deaths by other than natural cause over the next five years in its *Reports on Plans and Priorities*. My Office welcomes and commends these activities. We encourage the Service to translate lessons-learned into preventative activities and measures that would reduce preventable deaths in federal penitentiaries.

Preventing deaths in custody involves a "whole-of-corrections" effort. It cannot be done in isolation, in a piecemeal or silo fashion. It requires integration of effort and vision—a true continuum of care across all sectors of correctional activity. We welcome the Service's commitment to establishing an accountability framework, including performance indicators, to track its progress and capacity for preventing deaths in custody. We repeat our suggestions for such a performance framework here:

- **Segregated facilities and alternative custody arrangements for inmates with significant mental health issues.**
- **Comprehensive clinical treatment plans (integrating clinical, security and program needs) developed and implemented by institutional inter-disciplinary teams, and shared with front-line staff as appropriate.**
- **Reduced vacancy rates for mental health professionals and fewer under-filled positions.**
- **Increased direct (e.g., face-to-face) contacts between mental health professionals and segregated inmates.**
- **Reduced use of force interventions involving offenders with serious mental health problems.**
- **Policy compliance regarding notifying health care staff or other emergency responders to medical emergencies and to response, including initiation of CPR and use of Automatic External Defibrillators (AED).**

12. I RECOMMEND THAT THE SERVICE PUBLICLY RELEASE ITS PERFORMANCE ACCOUNTABILITY FRAMEWORK TO REDUCE PREVENTABLE DEATHS IN CUSTODY IN FISCAL YEAR 2010–11 AND THAT THIS DOCUMENT SERVE AS THE PUBLIC RECORD FOR TRACKING ANNUAL PROGRESS IN THIS AREA OF CORRECTIONS.

Mortality Review Process

Under Section 19 of the *CCRA*, my Office reviews all deaths in custody. In this reporting year, the Service consolidated its Mortality Review Process, which is essentially an "alternative" Section 19 exercise for reviewing deaths by so-called "natural causes." In 2009–10, my Office reviewed just over 100 deaths that had been moved into the alternative review stream.

In general, we are not satisfied that the mortality review process is fully responsive to or respectful of the Service's resolve to reduce preventable deaths in custody and its legal responsibility to preserve life. We wrote the Service to summarize our principal concern that these "natural" deaths are not being treated with the requisite degree of rigour, precision, integrity and accountability that may be required to detect errors, issue corrective follow-up actions and avert future preventable deaths. It is conceivable that the Service's prior categorization of death as "expected" and/or "natural" before the Mortality Review Process is even initiated predetermines the outcome.

Our review of cases subject to Mortality Review notes the following procedural and accountability gaps:

- **Lack of independence.**
- **No requirement to include an external member in the composition of the Mortality Review Committee. ("Committees" normally consist of just one member.)**
- **None of the Mortality Review investigations have been independently reviewed.**
- **No requirement to interview staff or independently corroborate the clinical treatment provided. Reviews are typically descriptive and devoid of any analytical content or clinical comment.**
- **Files often lack critical documentation, including Closure Memos, Coroner Reports and Official Cause of Death Certificates.**
- **Compliance issues are rarely identified; corrective measures are rarely noted; recommendations are not normally issued.**
- **EXCOM involvement and follow-up is largely cursory and perfunctory in nature.**

- **Subordinate staff is called upon to comment on the work of superiors or members of one professional group are called upon to comment on the work of members of another professional group.**
- **Terminally ill cases that would seem to warrant release on compassionate grounds are not often being prepared or supported.**

Working from the premise that an alternative Mortality Review Process must still comply with the requirement flowing from Section 19 of the *Corrections and Conditional Release Act*, my Office issued the following set of recommendations:

1. **All Boards of Investigation into deaths by natural causes should be chaired by a Physician.**

2. **All Boards should include a review of all clinical care provided preceding an offender's death by natural causes, including what was performed by outside community facilities.**

3. **A non-CSC medical practitioner should be a permanent member of the Mortality Review Committee.**

4. **EXCOM review of Boards convened under the terms of the Mortality Review Process should include the full and final report of the Mortality Review Committee.**

5. **Regional Mortality Reviews should be convened quarterly and require facility visits and interviews, as necessary, to verify the documentary record.**

13. I RECOMMEND THAT THE SERVICE IMMEDIATELY SUSPEND THE MORTALITY REVIEW EXERCISE UNTIL SUCH TIME AS THE *GUIDELINES* CAN BE INDEPENDENTLY AND EXPERTLY VALIDATED TO MEET SECTION 19 PROVISIONS OF THE *CORRECTIONS AND CONDITIONAL RELEASE ACT*. IN THE INTERESTS OF TRANSPARENCY AND ACCOUNTABILITY, THE RESULTS OF THIS REVIEW SHOULD BE MADE PUBLIC.

3 CONDITIONS OF CONFINEMENT

Case Summary: *On July 21st, 2009, tensions that had been accumulating between inmates and staff at a medium security institution in the Ontario Region culminates in a major 'disturbance' (riot) lasting approximately 12 hours. The immediate catalysts to the event appear to be the repeated late opening of evening recreation time, restricted access to yard and a poorly implemented Family Visit Day. Poor staff-inmate relations and labour-management tensions had been present for quite some time.*

On the day in question, the Inmate Committee advised that there would be a peaceful 'sit-in' during evening recreation to protest the systemic late start of evening recreation time. The Warden sent word to correctional staff that evening recreation was to start on time that night, without exception. Correctional officers refused to start the recreation time without being able to carry inflammatory spray on their persons. Evening recreation started approximately 90 minutes late as a result of negotiations between the Warden and staff regarding inflammatory spray.

As the end of evening recreation neared, inmates became increasingly aggressive and verbally abusive. They refused to leave the yard and began to breach the recreation/compound barrier doors, and a riot took place involving 211 of the 565 inmates housed in the institution. Quelling the riot required about 125 staff from five institutions and involved provincial/territorial police and local hospitals. Many officers were on site for in excess of 12 hours. During this event, the issuance of firearms was not properly monitored or recorded. In many cases, weapons were issued to individuals who were not fully trained. Inmates breached several areas using a variety of objects, including tools stolen from an on-site CORCAN Trailer, and the riot caused damage to the recreation yard, Health Care Centre, segregation area, living units, unit compound and food services areas. A large supply of narcotics and controlled substances that was stored in the Health Care Centre was removed, and 10 inmates were sent to an outside hospital for drug overdose symptoms, with one inmate dying.

Following the riot, the institution was placed on various forms of 'modified' routine (i.e., lockdown), including long periods of reduced visits, limited outside exercise, restricted access to institutional services and supervision by case management teams. The extended period of lockdown directly following the riot created conditions of confinement similar to that of segregation for all offenders. This had a particularly detrimental impact on offenders with mental health concerns. Segregation policy safeguards—such as daily visits by a nurse and bi-monthly visits by a mental health

professional—were not adhered to, despite the segregation-like routine.

Even today, inmate assembly and movement continue to be much more restricted than previously. In the nine months following the riot, there have been two suicides, 17 self inflicted injuries, 14 hunger strikes and seven interrupted drug overdoses.

Some of the key issues that were catalysts to the riot have not yet been addressed:

- *Various daily activities continue to commence late (including meals, recreation and work).*
- *The recreation yard has not been reopened.*
- *Inmate/Staff relations continue to be poor.*
- *Staff and management tensions are ongoing.*

It is our observation that conditions of confinement, especially at the higher security levels, are becoming more and more restricted in terms of inmate association, movement and assembly. A changing and more complex inmate profile presents a range of population management challenges, including gang membership, substance abuse, drugs in prisons, cultural diversity and the prevalence of mental health problems. As we see it, a general decline in dynamic security practices has led to an over-reliance on more static methods of exercising custodial control and compliance. A more restricted and austere prison regime does not necessarily lead to safer working conditions for staff or a more positive living environment for offenders. We are generally concerned that the regional facilities for federally sentenced women offenders are experiencing a similar tightening of the physical conditions of confinement.

Dynamic Security

In the course of visiting maximum and medium security institutions over the past year, my investigators reported a number of common themes and concerns relating to a depreciable lack in meaningful and constructive interactions between offenders and front-line staff. The practical impact of an overall decline in dynamic security means that inmates are spending more prolonged periods of time locked up in their cells. An expanded use of command posts (or control bubbles); electronically controlled gates and barriers; pervasive camera surveillance; and electronic detection, searching and monitoring of inmates means there is comparatively less association between and amongst inmates and staff. At the higher security levels, population movements tend to be more strictly controlled and regulated than ever. There are increasingly more restrictions on inmate access to common resources, including yard, recreation and hobby crafts.

Lockdowns appear to be more frequent and are sometimes used to facilitate training exercises or staff assemblies. An increasing number of Section 53 "exceptional" searches and "modified" (i.e., restricted) routines have been recorded in the reporting period. These actions can bring an institution to a virtual standstill, sometimes for weeks on end. Protracted interruptions in education, program delivery and restricted access to Case Management officers are common, if unintended, consequences of these measures.

Labour/management issues related to scheduling, roster assignments and national deployment standards are increasingly impacting staff's availability to supervise common areas and can significantly impede inmate access to yard, recreation, personal telephone time, meals and family visits. Staff that would normally supervise inmate group activities is often the first complement to be reassigned to other duties when and as required. These disruptions in routine can significantly and negatively impact the overall "mood" of the institution.

Withdrawing correctional officers from active and regular engagement with offenders and assigning them to control booths, observation towers or behind electronic barriers removes a critical source of contact with the offender population. The modern correctional officer should be more than a turnkey.[8] Good dynamic security is critical to the health and safety of both inmates and staff alike. It goes to the dual mandate of the Service: to exercise reasonable and effective control while assisting offenders in their rehabilitation and reintegration. Mutual respect, along with positive and constructive interactions between staff and offenders, are the hallmarks of a healthy and safe institution.

The Service has made a number of very specific

8. The Howard League for Penal Reform, *Turnkeys or Professionals: A Vision for the 21st Century Prison Officer*.

commitments to strengthen dynamic security practices in response to our ongoing deaths in custody work, as well as to related issues raised in our 2008–09 Annual Report. Memos and Policy Bulletins have been issued to the field, reminding staff of what is expected of them with respect to dynamic security. A new stand-to inmate count was introduced in July 2009, as well as an increase in security patrols at maximum, medium and multi-level security institutions. In the reporting period, the Office provided comments on a revised draft of Commissioner's Directive 560 (Dynamic Security). In March 2009, the Service produced a working group report on medium security institutions which noted the need for more dynamic security training.

14. THE SERVICE SHOULD MEASURABLY STRENGTHEN ITS DYNAMIC SECURITY PRACTICES AND PRINCIPLES, AND SHOULD IMPLEMENT THE RECOMMENDATION OF THE WORKING GROUP REPORT ON MEDIUM SECURITY CALLING FOR ADDITIONAL AND MANDATORY REFRESHER TRAINING IN DYNAMIC SECURITY.

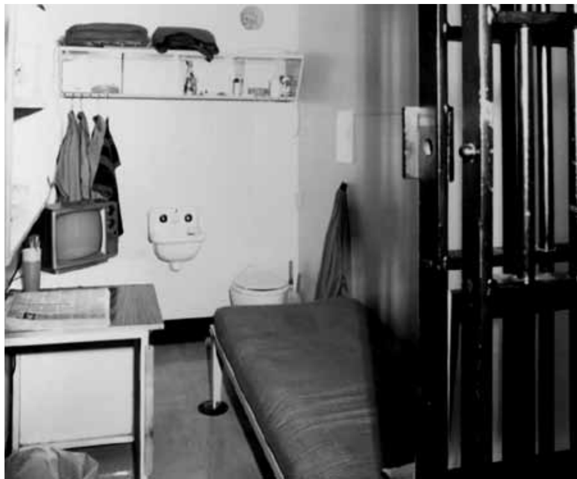
Managing Population Pressures

Case Summary: *A maximum security inmate is released from administrative segregation to a double-occupancy cell, despite a psychological assessment on file that noted it would be preferable if he was accommodated in a single cell because of previous psychiatric history. The inmate assaults his cellmate and is transferred to the Special Handling Unit.*

According to CSC policy and reflecting internationally recognized practice, the Commissioner's Directive on Inmate Accommodation states that "single occupancy accommodation is the most desirable and correctionally appropriate method of housing offenders." In the past five years, "double-bunking" (the practice of accommodating two inmates in a cell meant for single occupancy) has increased by 50%. In the reporting period, at least 1,300 prisoners, or 10% of the total male inmate population, has been exempted from the single cell occupancy standard. In sharing accommodations, some prisoners are now sleeping in bunk beds and others in cots or mattresses on cell floors.[9]

Prevailing physical conditions of confinement in some of the regional psychiatric facilities is far from ideal or therapeutic from a mental health standpoint—the living units are often noisy,

9. The Service has a narrow definition of double-bunking, which does not include dormitories, "double occupancy" or "shared accommodation."



crowded and devoid of natural light. Several medium and maximum security facilities have resorted to accommodating offenders in so-called “special needs” units because of the challenge in accessing beds at the Regional Treatment Centres, as an alternative to segregation or as a substitute for appropriate mental health care. By CSC’s own estimates, bed capacity in the five treatment centres only meets 50% of identified need. Exemptions are even being requested to “double up” in segregation cells where two inmates must share space designed for one for up to 23 hours a day.

Notably, three of the five women’s facilities in Atlantic, Quebec and Prairies regions have an exemption to double-bunk women offenders in their “secure” (maximum security) units. My Office intervened in cases where maximum security women had been involuntarily transferred to provincial facilities due to operational requirements and lack of bed space in the secure units. Some women are being “housed” in segregation due to accommodation shortages at maximum security. Other population management cases have come to our attention, including transferring women from one region to another for the duration of intake assessment.

As population pressures increase, we are likely to see increased incidents of institutional violence. When filled to capacity and beyond, federal penitentiaries tend to be very noisy and chaotic places. Prison life offers limited privacy. All aspects of an offender’s life are regulated by routines, surveillance, searches and counts. Given high rates of mental illness, drug addiction, violence and criminal gang membership, it is difficult to see how double-bunking can be viewed as a correctionally appropriate or sustainable solution to crowding pressures in either the short or medium terms.

Physical capacity is already most limited and compromised at the medium security level, where the largest component of the anticipated surge in population is expected to be placed and where the bulk of correctional programming is planned to occur. Despite the fact that minimum security institutions generally operate below capacity, in FY 2009–10 the National Parole Board (NPB) released over 650 inmates directly to the community from

medium security facilities. The vast majority of these conditional releases were supported by the Service. In light of the fact that the NPB has determined that these offenders do not represent an undue risk to society, it is not clear why so many are being held at higher than necessary security levels prior to release.

Upon close examination, high double-bunking rates in medium security institutions are the product of more intractable problems that have been consistently raised by this Office—lack of capacity to move offenders through their correctional programming in a timely manner and efficiently move offenders down security levels in preparation for conditional release. It is hard to escape the conclusion that too many offenders are being warehoused in medium security facilities when their risk profile, release eligibility and case management does not warrant that degree of security classification. This is clearly at odds with the *CCRA* requirement to use the least restrictive measure.

According to CSC policy, offenders are to be screened against the following criteria to determine personal suitability for double-bunked accommodations:

- **Compatibility**
- **Vulnerability**
- **Predatory/permissive behaviour**
- **Preventive security considerations**
- **Medical information**
- **Criminal profile**
- **Psychological assessment**

The onus is on the Service to conduct and record these assessments. In practical terms, not all inmates can be in shared accommodation. In some cases, we find that these double-bunking placement assessments are not ever conducted, much less in a timely or comprehensive manner.

15. I RECOMMEND THAT THE SERVICE CONDUCT A REVIEW OF ALL OFFENDERS THAT THE NATIONAL PAROLE BOARD RELEASED DIRECTLY TO THE COMMUNITY FROM MEDIUM SECURITY FACILITIES AND DETERMINE THE REASON WHY THESE OFFENDERS WERE NOT HOUSED IN MINIMUM SECURITY INSTITUTIONS PRIOR TO RELEASE.

16. I RECOMMEND THAT INMATE ACCOMMODATION PLACEMENT CRITERIA FOR DOUBLE-BUNKING ASSIGNMENTS BE COMPLETED ACCORDING TO POLICY IN A TIMELY AND COMPREHENSIVE MANNER AND BE REVIEWED BY REGIONAL AUTHORITIES ON A REGULAR (I.E., QUARTERLY) BASIS.

Physical Infrastructure

Case Summary: *During a visit to a medium security institution in the Pacific Region, an investigator notes several concerns with the conditions of confinement and physical infrastructure during a 'modified' (lockdown) routine. The visit was conducted to investigate a number of complaints received by the OCI concerning the conditions of confinement and the ongoing modified (lockdown) routine in place at that institution. The modified routine was initiated by the Warden amidst growing concerns for the safety of some inmates during a work stoppage which was organized by the inmate population to protest a variety of concerns (i.e., closure of yard during the workday, access to marketable work skills training, an effective grievance system and the introduction of a "structured work day").*

Constructed in the 1960s, the physical infrastructure of the ranges is such that there is no running water in 75% of the individual cells, meaning no toilets or sinks. Instead, inmates use a centralized washroom facility on the range. During a lockdown routine, in which inmates were confined to their cells for 24 hours a day, access to the facilities became very limited. Inmates were placed on a wait list and escorted one at a time to use the facilities on the range.

In the course of the OCI's investigation, we found that:

- *Wait times to use the washrooms could vary from a couple of minutes to 3 hours.*
- *Inmates were issued plastic bottles for urination, but these served little purpose for bowel movements.*
- *Offenders began urinating and defecating in plastic bags to relieve themselves. These bags were thrown out of their windows, often causing spillage on their windowsill, or on the sills on floors below. Plastic bags landing on the ground exploded or were torn open by rodents or birds.*
- *There was a pervasive foul odour in the cells of affected living units. (These events took place during the summer months.)*

- *The lack of running water in individual cells precluded hand-washing and other basic hygiene.*
- *During lockdown, meals were served in cells without access to running water.*

The report indicated serious dignity, hygiene and health-related concerns. In response to the investigative report, the Warden insured that sanitary wipes were provided with meal trays where food was served in cells over the duration of the modified routine. More importantly, the Warden acknowledged the problems associated with access to and use of toilet facilities. The Service has committed to increasing the number of 'wet' cells (running water and toilets) available in the living units and a project to transform all remaining dry cells into wet cells was approved in July 2009. Construction is expected to begin in June 2010. Inmates whose cells are affected have been moved to other units or other institutions until construction is completed.

A considerable portion of CSC's physical infrastructure is in need of replacement. The average age of a federal correctional facility is 46 years. Several are designated heritage buildings of national or local significance. Five penitentiaries were built between 1835 and 1900. Several have served well beyond their expected service, while many more are operating beyond their physical capacities. The federal prison estate is an aging infrastructure that is increasingly costly to operate, repair and maintain. Forecasted facilities expenditures for 2009–10 are $146.3M, with maintenance and engineering costs in excess of $100M. In comparative terms, more dollars are spent on physical infrastructure upkeep than on all correctional, educational and vocational programming combined.

Significant increases in the offender population and longer sentences associated with pending legislation point to the conclusion that there will be a considerable shortfall in capacity, as the existing physical infrastructure simply will not be able to meet expected demands.

17. I RECOMMEND THAT, ONCE APPROVED BY TREASURY BOARD, THE SERVICE'S LONG-TERM CAPITAL, ACCOMMODATION AND OPERATIONS PLAN BE MADE PUBLIC, INCLUDING OFFENDER POPULATION FORECASTS, PLANNED CAPITAL EXPENDITURES FOR NEW CONSTRUCTION AND ONGOING MAINTENANCE COSTS.

Segregation-like, but not quite Segregation

In the course of the reporting year, my Office continued to investigate concerns respecting conditions of confinement in units that look and feel a lot like segregation but have been assigned other names and functions, including Enhanced Structured Units, Special Needs Units, Transition Units and Orientation Units. These are definitely not ranges/units that the *Corrections and Conditional Release Act* would recognize as "general population." Typically, there is not much difference in terms of conditions of confinement in these units and that which prevails in a regular segregation range. It is our contention that these units continue to operate and proliferate largely because there are few alternatives in the way of a national effort to reduce segregation numbers and allow offenders to make their way back to general population.

Operating outside the protections and procedural safeguards afforded by law and policy, these specialized "sub-population" units raise a number of due process concerns, not least of which involves the rationale and criteria for placement and/or return to general population. In some cases, the units operate as a "time out" or a transition point from a segregation placement back to general population. In the absence of any kind of special programming or treatment interventions, inmates may perceive their placement in these units as punishment. The units typically restrict out-of-cell time, and access to regular routines, programs or visits can be severely curtailed. Associational privileges typically enjoyed in general population, such as canteen and social events, may be denied.

This Office has raised concerns regarding "segregation by any other name" in a number of previous Annual Reports. The situation is not getting any better. The Service now operates several separate sub-population units that effectively remove a large segment of the population from procedural and legal entitlements. The law recognizes only two inmate populations: the general population, where inmates may associate with others, and administrative segregation, where association is necessarily but temporarily restricted, subject to prescribed reviews and safeguards, for safety or security reasons.

18. I RECOMMEND THAT THE MINISTER DIRECT THE SERVICE TO CONDUCT AN IMMEDIATE REVIEW OF ALL INMATES IN SEGREGATION-LIKE UNITS TO ENSURE THEY ARE PROVIDED THE SAME LEGISLATED PROTECTIONS AND ACCESS TO PROGRAMS AFFORDED TO THE GENERAL INMATE POPULATION.

Use of Force

Case Summary: *A CCRA, Section 53, exceptional search conducted at a maximum security penitentiary over a 10-day period generates 379 separate uses of force incidents. During the search, members of the Emergency Response Team and a Tactical team wearing ballistic protection are deployed to conduct inmate counts, security patrols, cell extractions and strip searches. Compliant inmates were frequently searched at gunpoint.*

The regional review exercise revealed several issues of non-compliance including:

- *The manner in which firearms were deployed appeared outside the Warden's authorization, was not the least restrictive option available and, in some instances, constituted an excessive and dangerous deployment of firearms.*
- *The quality of video-taping was sub-standard and inconsistent with several significant gaps in operations and missing video footage. A number of activities were not recognized as a reportable use of force.*
- *The privacy and dignity of inmates was not consistently respected throughout the strip search process.*
- *Post-reports were poorly done, lacked quality control and many were lost or misplaced.*
- *100 of the 379 total uses of force involved the direct pointing of firearms at inmates, in some cases after handcuffs had been applied and cell doors opened.*
- *Health care standards were not met in 195 cases.*

According to the regional review, by the end of the 10 day search inmates were "visibly agitated" due to a reported lack of hygiene—some had not showered in days nor been provided with soap or even toilet paper in their cells.

The case summary presented above deeply concerns this Office and is the subject of an ongoing investigation.

Using force is the most serious intervention that the Correctional Service may take toward an offender. It is a high-risk activity. By necessity, the procedures and practices that govern the use of force must be rigorous, responsive and consistent with legislation and policy. As such, the Service's use of force review framework must allow for

reasonable and legal force, be able to inhibit inappropriate uses of force, set minimum standards for compliance and allow for timely and effective corrective measures when violations occur.

It is in this context that the Office expresses concern that the number of use of force incidents increased by over 25% in 2008–09 from the previous fiscal year. Non-compliance issues related to health care nearly doubled. For the same period, inmate injuries increased from 138 to 222 cases, while staff injuries increased from 86 to 139 cases. The use of inflammatory and chemical agents also significantly increased over the previous year. The greater majority of use of force incidents occurred at maximum security facilities.

During the course of the reporting year, the Office continued to identify practices and procedures where the force used was not consistent with the least restrictive measure. We documented several instances of non-compliance captured in the following areas:

- **Situation Management Model guidelines**
- **Least restrictive use of force**
- **Videotape policy**
- **Use of privacy barriers**
- **Decontamination procedures following application of an inflammatory or chemical agent**
- **Follow-up health care monitoring**

In our experience, issues of non-compliance with the Service's use of force framework often repeat themselves over time. There is too often little indication that effective, timely and consistent corrective measures have been put in place, even after the institutional, regional and national levels of review have been completed.

With that said, my Office understands the considerable workload demands that three levels of use of force review can generate. As the case we cited to lead this section indicates, a protracted lockdown and exceptional search of an institution can generate a large number of separate uses of force incidents. These incidents involve an extraordinary amount of documentation and video footage. As discussed earlier, the Office is also aware that a few prolific self-harmers can amass a significant number of uses of force incidents.

The Office supports CSC's efforts to bring the existing use of force policy and review process in line with contemporary operational realities. We also support attempts to reduce unnecessary or redundant use of force reporting, where justified. However, we continue to press on the need for a rigorous review process in order to prevent, detect and bring timely corrective actions to inappropriate uses of force when identified.

It is in this sense that we strongly disagree with the Service's recent decision to no longer identify a display or charging of a firearm as

a reportable use of force. According to the Service, “the intent of this change was to bring our policies in line with other law enforcement departments, and as such ‘displaying’ and ‘charging’ a firearm no longer meets the definition of ‘use’ of a firearm.”[10] With respect, a federal maximum security penitentiary is a unique environment, not like any other law enforcement department. These are simply no fair comparables. The display of a weapon is an act or show of force for which the Service must be held accountable.

19. I RECOMMEND THAT ALL INCIDENTS THAT INVOLVE THE USE OF CHEMICAL OR INFLAMMATORY AGENTS, OR THE DISPLAYING, DRAWING OR POINTING OF A FIREARM, UP TO AND INCLUDING ITS THREATENED OR IMPLIED USE, SHOULD BE CONSIDERED A REPORTABLE USE OF FORCE.

10. CSC’s response to Office of the Correctional Investigator’s correspondence, dated May 7, 2009.

4 ABORIGINAL ISSUES

The disturbing reality of Aboriginal over-representation in Canadian correctional populations is well-known. Aboriginal people—First Nations, Métis and Inuit—comprise less than 4% of the Canadian population but account for 20% of the total federal prison population. On any given day, approximately 2,600 Aboriginal offenders are incarcerated in federal prisons. In the case of Aboriginal women offenders, the situation is even worse. Aboriginal women offenders comprise 33% of the total inmate population under federal jurisdiction. The Aboriginal women offender population has grown by almost 90% in the last ten years, and it is the fastest growing segment of the offender population. The Office's work in this area of corrections continues to document the inequitable and differential outcomes for Aboriginal offenders resulting from federal correctional policies and practices.

Mann Report on Aboriginal Corrections

In November 2009, my Office released an independent report authored by Michelle Mann entitled *Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections*. The Mann Report documents the fact that outcomes for Aboriginal offenders continue to lag significantly behind those of non-Aboriginal offenders on nearly every indicator of correctional performance. In comparison to the non-Aboriginal inmate population, Aboriginal offenders tend to be:

- **Released later in their sentence (lower parole grant rates).**
- **Over-represented in segregation populations.**
- **More likely to be released at statutory release or at warrant expiry.**
- **More likely to be classified as higher risk and in higher need in categories such as employment, community reintegration and family supports.**

My Office acknowledges that the Correctional Service does not control admissions to federal penitentiaries. Being on the receiving end of the criminal justice system, the socio-economic and historical factors associated with Aboriginal over-representation in correctional populations—poverty, substance abuse, discrimination and disadvantage—are multi-faceted, complex and inter-generational in nature. But as the Mann Report indicates, the Service has not done enough to ensure Aboriginal offenders are given sufficient access to culturally sensitive programming and services. There are delays in the national implementation of Aboriginal core programming, shortages in trained staff to deliver culturally

appropriate programs and insufficient links to Aboriginal communities upon release.

It is clear that the areas of concern associated with Aboriginal corrections go far beyond the issue of over-representation and require focusing on what happens to this group of offenders while in the care and custody of the Correctional Service. Special provisions of the *CCRA* allow for Aboriginal community involvement in the development and delivery of correctional policies, programs and services, including community release planning. For example, *Section 81* provides for the Minister to enter into an agreement with an Aboriginal community to transfer the care and custody of Aboriginal offenders to the community. In the more than eighteen years since the enactment of the *CCRA*, the Service has only concluded agreements for 108 *Section 81* beds—less than 5% of the Aboriginal offender population. While it is true that CSC operates 156 beds in Healing Lodges, this is not the same as what is provided for in *Section 81*. For Aboriginal women, there is no stand-alone *Section 81* facility and *Section 84* releases to the community are limited.

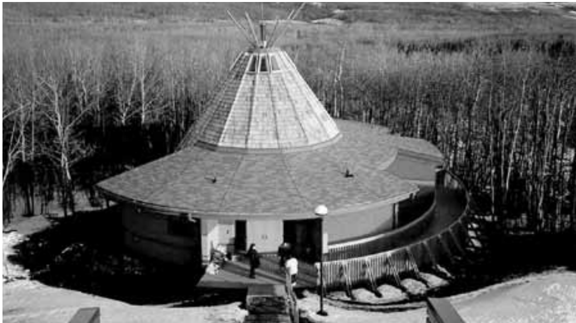
Integrating *Gladue* Principles in Federal Aboriginal Corrections

In *Gladue*, the Supreme Court recognized that there are mitigating social factors and historical circumstances that should be considered when sentencing Aboriginal offenders. This "social history" includes dislocation, disadvantage, assimilation and discrimination. Recently revised CSC policy offers a fairly expansive interpretation of *Gladue*, allowing for the following factors to be taken into account at all levels of decision making affecting the retained rights and liberties of Aboriginal offenders:

- **Effects of the residential school system.**
- **The effects of dislocation and dispossession of the Inuit people.**
- **Family or community history of suicide, substance abuse and/or victimization.**
- **Community fragmentation.**
- **Experience in the child welfare or adoption systems.**
- **Poverty.**
- **Loss of cultural/spiritual identity.**
- **Exposure to Aboriginal street gangs.**

In terms of profile, Aboriginal offenders under federal sentence tend to be:

- **Younger (median age is 27 years).**
- **Incarcerated for more violent offences.**
- **Considered higher needs (employment, education and family history).**
- **From backgrounds of domestic, physical and/or substance abuse.**



If a *Gladue* lens was fully and consistently applied to decision making affecting security classification, penitentiary placement, segregation, transfers and conditional release for Aboriginal offenders, then one could reasonably expect some amelioration of their situation in federal corrections. The fact that they are almost universally classified "high needs" on custody rating scales, the fact that nearly 50% of the maximum security women offender population is Aboriginal, the fact that statutory release now represents the most common form of release for Aboriginal offenders and the fact that there is no Aboriginal-specific classification instrument in use by CSC all suggests that *Gladue* has not yet made the kind of impact one would hope for in the management of Aboriginal sentences.

On a final note, I was disappointed that the Service dismissed my recommendation to appoint a Deputy Commissioner for Aboriginal corrections that accompanied the release of the Mann Report. I was especially puzzled by the reasoning behind the rejection—that it would add "unnecessary bureaucracy and cost." The Service has launched a new accountability framework for Aboriginal corrections. It is not clear how quickly this initiative will translate into the kind of progress that is necessary, or that *Gladue* demands. My Office will closely monitor this file and consider a systemic investigation of Aboriginal issues in the coming year, as a follow-up to the Mann Report.

20. AS PER COMMISSIONER'S DIRECTIVE 702, I RECOMMEND THAT THE SERVICE PROVIDE CLEAR AND DOCUMENTED DEMONSTRATION THAT *GLADUE* PRINCIPLES ARE CONSIDERED IN DECISION MAKING INVOLVING THE RETAINED OF THE RIGHTS AND LIBERTIES OF ABORIGINAL OFFENDERS IN THE FOLLOWING AREAS: SEGREGATION PLACEMENTS, ACCESS TO PROGRAMMING, CUSTODY RATING SCALES, PENITENTIARY PLACEMENTS, ACCESS TO THE COMMUNITY, CONDITIONAL RELEASE PLANNING AND INVOLUNTARY TRANSFERS.

21. THE SERVICE SHOULD INCREASE ITS USE OF *SECTIONS 81* AND *84* OF THE *CORRECTIONS AND CONDITIONAL RELEASE ACT* TO THEIR FULLEST AND INTENDED EFFECT.

5 ACCESS TO PROGRAMS

A nation-wide programs snapshot taken on May 10, 2009, for a total incarcerated offender count of 13,353 yielded 3,190 assignments to CSC core correctional programs, including substance abuse, family violence, violence prevention, sex offender, Aboriginal initiatives, women's programs and community maintenance. On that particular day, approximately 8,500 incarcerated offenders were past their Day Parole Eligibility, with 6,700 of those past Full Parole Eligibility.

In other words, on any given day less than 25% of the population inside CSC correctional institutions is enrolled and engaged in what is considered a "core" correctional program. Core programs are those that specifically address criminogenic needs, the set of underlying factors that must be addressed in order to reduce the likelihood of further offending. These same programs are required for an offender to be prepared and supported for various forms of conditional release, including Day and Full Parole Eligibility.

Research and experience demonstrate that correctional programming interventions based on risk, need and responsivity[11] are more likely to be successful when the offender is matched to the right program at the right time. CSC has some of the most innovative and effective correctional programs in the world, with a proven ability to reduce recidivism. When the programs are accredited and delivered by appropriate staff at the appropriate time in an offender's sentence, they work and they work well. A recent national evaluation of the effectiveness of CSC programs notes that correctional program participation is associated with a greater likelihood of conditional release, reduction in readmissions and decreased violent, general and sexual re-offending.[12]

It is concerning, therefore, that on any given day half of the incarcerated population will be past their Full Parole eligibility date and a sizable proportion will be "waitlisted" for program enrolment. Some offenders never benefit from correctional programming before being released to community supervision at their statutory release date. Although correctional programs at the federal level are leading edge, the problem is that there are too many bottlenecks and barriers to timely access. And while the Service prefers to speak of offenders waiting to enrol in their programs in terms of

11. *The Psychology of Criminal Conduct* (Third Edition), Don Andrews and James Bonta, Cincinnati, 2003.

12. *Evaluation Report: Correctional Service of Canada's Correctional Programs*, Evaluation Branch, January 2009.

schedules and scheduling, the fact of the matter is that too many offenders are not getting the programming they need when they need it, and are missing their parole eligibility dates as a result.

A Word on the Prison Farms

As part of its program review exercise, the Service made a decision to close the prison farms operated by CORCAN. Prison farms have been one of the longest-running features of Canadian corrections. Over the years, inmates have gained first-hand experience in operating farm machinery and performing farming duties (e.g., animal husbandry, mechanical repair and maintenance, growing and harvesting crops). As a result, farm hands have developed a range of skills, assets, knowledge and training that are directly transferable to labour markets in the community. The prison farm program is being terminated on the basis that employment in the agricultural sector does not hold the same "job-ready" prospect for offenders released to the community as other applied trades such as construction, plumbing, welding, machinery and carpentry.

FARM HAND JOB SKILLS

Skills to be Learned

- *Ability to respond well to direction and present self in a professional manner*
- *Organizational skills*
- *Dependability*
- *Effective time-management skills*
- *Attention to detail*
- *Ability to work as a team*
- *Concern for quality and high-level of cleanliness and hygiene*
- *Communication skills*

Indicators

- *Ability to work with others*
- *Work satisfaction of the supervisor (punctual, follow instructions)*
- *Satisfactory reports from internal Health & Safety inspections*
- *Timeliness*
- *Communication*
- *Attention to detail*
- *Attitude*

Source: *CORCAN Assignment Sheet for Farm Hand*

The Office supports vocational programming in prison, as the industries, trades, experience and skills offered by CORCAN have immense benefit. And that benefit goes well beyond the narrow definition of meeting labour market availability and employability demands. A significant portion of the offender population has a history of unstable work and lack of job skills. Prison-based employment and vocational training programs, like the prison farm, offer transferable lessons and life-skills, such as the value and pride of completing an "honest" day's work, punctuality, self-discipline, dependability, self-respect and responsibility that go well beyond the vagaries of the marketplace. The Service would be well-advised to suspend the decision to close the prison farms until Parliamentarians have concluded their review of this issue.

22. I RECOMMEND THAT, PRIOR TO THE CLOSURE OF ANY CORCAN AGRI-BUSINESS OPERATION, CSC PROVIDES A PUBLIC REPORT ON HOW LOST FARM JOBS WOULD BE REPLACED. THE REPORT SHOULD ALSO DETAIL THE KIND OF EMPLOYABILITY SKILLS AND VOCATIONAL TRAINING THAT IS ENVISIONED IN FEDERAL CORRECTIONS, INCLUDING HOW THE SERVICE INTENDS TO CREATE VIABLE, REALISTIC AND MEANINGFUL JOB OPPORTUNITIES IN THE PENITENTIARY ENVIRONMENT TO MEET PRESENT AND FUTURE MARKET DEMANDS.

6 FEDERALLY SENTENCED WOMEN

My Office is increasingly concerned that we are moving farther and farther away from the progressive principles of women's corrections articulated 20 years ago in *Creating Choices*. The correctional model we aspired to create for federally sentenced women based on empowering women offenders through providing responsible and meaningful choices appears to be giving way to a different reality. Indeed, conditions in the regional women's facilities, especially the maximum security units, are looking and feeling a lot like those that prevail within the male penitentiaries.

A Profile of Federally Sentenced Women

There are approximately 500 federally sentenced women offenders incarcerated in the five multi-level regional facilities and one Aboriginal Healing Lodge. Approximately 550 women offenders are under some form of community release supervision. In the last ten years, the number of women admitted to federal jurisdiction has increased by almost 40%. Women offenders now account for close to 5% of the total offender population. It is a growing and increasingly complex and diverse population.

Fully one-third of the incarcerated women offender population is Aboriginal—First Nations, Métis or Inuit. In the last ten years, the Aboriginal women offender population has increased by almost 90%, compared to 17.4% over the same period for Aboriginal men. In fact, Aboriginal women represent the fastest growing offender category under federal jurisdiction.

In general, we know that women offenders often come from backgrounds of family dysfunction and trauma, including histories of family, domestic, physical and/or sexual abuse. Two-thirds suffer from some substance-related abuse or disorder. Women offenders are almost twice as likely to be serving a sentence for a drug offence compared to men. Typically, women offenders have histories of unstable employment and low educational attainment. Sentences for women offenders are shorter than for men. In 2007/08, almost half of women offenders in federal custody were serving less than three years.

In rounding out this profile, a significant proportion of the women offender population present serious mental health concerns. In 2007-08, 30% of female offenders, compared to 14.5% of male offenders, had previously been hospitalized for psychiatric reasons. Female offenders are twice as likely as male offenders to have a significant mental health diagnosis at time of admission. Almost one-in-four women offenders have a mental health diagnosis; one-third has been psychiatrically hospitalized in the past; and one-third has been prescribed psychiatric medication.[13]

13. *Corrections and Conditional Release Statistical Overview: Annual Report 2009*, Public Safety Canada.

Finally, women offenders are far more likely than males to self-harm in prison.

Programs for Federally Sentenced Women

On the issue of women-centred correctional and vocational programming, although there have been marked improvements in the number of programs available at the regional institutions, access to these programs, including wait lists, continues to be a major point of concern for my Office. Given the comparatively short sentence that close to half of all women offenders serve today, the Service has a very limited window in which to properly, quickly and accurately assess needs and provide programs, services and interventions which are targeted, efficient and responsive to individual needs. As soon as a woman offender enters the regional facility, release planning needs to be initiated.

The Service's reintegration planning for federally sentenced women is hindered by the fact that, unlike those they have for men, there are no stand-alone minimum security institutions in which to place women offenders as they prepare to make their way back to society. This is fundamentally an issue of equality. It is my Office's position that a multi-level institution with perimeter fencing and a system of internal security, association and movement controls that tends to exaggerate individual risk poses severe and unnecessary barriers to community reintegration.

We know that women offenders typically have higher levels of motivation and a higher reintegration potential than men. On a comparative basis, women offenders tend to have better conditional release outcomes—day parole, full parole, statutory release—than men and serve a lower proportion of their sentences before being released on parole. In 2008–09, nearly three-in-four women offenders successfully completed statutory release compared to just three-in-five for men.

The average offence profile and identified needs of women offenders includes education, employment, substance abuse counselling and family dysfunction assistance. That being the case, it is not clear why such a large proportion of vocational programming at the regional facilities involves food preparation, cooking, cleaning and laundry services. (In other words, "domestic" work.) In moving our correctional system into the 21st century, there needs to be more variation in the types of vocational, educational and therapeutic programs available to federally sentenced women.

The Mother-Child Program

We also know that the majority of women offenders are mothers, and many are single-parent providers. The regional facilities are typically far

removed from an offender's home community and familial contacts and supports. Research and experience tell us that maintaining these contacts and supports is critical to positive reintegration outcomes.

The Mother-Child program was designed in response to these concerns with the intent of fostering and promoting stable mother-child relationships. Mothers who met the eligibility criteria were allowed to keep their newborns and pre-adolescent aged children with them in the facility on a full- or part-time basis.

In June 2008, the Minister of Public Safety announced a number of changes to the mother-child program eligibility criteria. Three policy changes in particular have severely restricted access to the program:

- **Exclusion of all women offenders who had been convicted of serious crimes involving violence, children or those of a sexual nature.**
- **Restrictions in the maximum age of child participants in the part-time program—a decrease from 12 to six years of age.**
- **Required support by local Child and Family services before an offender's participation could be approved.**

Although these changes have yet to be formalized in policy, interim instructions were sent to all regional facilities in July 2008 indicating that they would be effective immediately. Further, all women and babysitters living in mother-child designated houses would be re-assessed according to these criteria on an immediate basis. As just over half of women offenders are serving time for a violent offence, this means that this same portion is also ineligible to participate.

Since the introduction of these changes, the number of part and full-time participants in the program has been reduced by a factor of more than 60%. On any given day, there may not be even one participant in the mother-child program. If we want to enhance the chances of releasing a more responsible person capable of sustaining herself and her dependents in a crime and substance-free lifestyle, then surely it is time to have another look at the eligibility criteria that unnecessarily restrict participation in the mother-child program.

Governance and Accountability

The OCI continues to believe that all women offender matters should be brought into a separate and distinct stream from the current regional reporting structure. Women's correction is a unique and entirely different category of corrections.
It is puzzling that we would continue with a governance and accountability model that appears to make very little separation between male and

female corrections. Under the current framework, there is simply not enough oversight and direction being exercised at the national level to adequately and appropriately monitor compliance or challenge operational decisions at the regional facilities.

To conclude this final section of my report, I make the following recommendations specific to women's corrections:

23. I RECOMMEND THAT THE SERVICE REVIEW ELIGIBILITY RESTRICTIONS ON THE MOTHER-CHILD PROGRAM WITH A VIEW TO MAXIMIZING SAFE PARTICIPATION.

24. I RECOMMEND THAT THE SERVICE MODIFY PERIMETER CONTROLS IN THE REGIONAL WOMEN'S FACILITIES TO ALLOW MINIMUM SECURITY OFFENDERS TO RESIDE OUTSIDE THE HIGH SECURITY FENCE. IN FACILITIES WHERE THIS IS NOT ACHIEVABLE, I RECOMMEND THAT THE SERVICE PROVIDE STAND-ALONE ACCOMMODATIONS FOR MINIMUM SECURITY WOMEN RESIDING IN THE COMMUNITY.

CORRECTIONAL INVESTIGATOR'S OUTLOOK FOR 2010–11

In the coming year, my Office will closely monitor areas of individual and systemic concern regarding our five corporate priorities. I anticipate that health care issues, especially delivery of mental health services, will be an increasingly important element of our work. It is in that context that I look forward to the release of the Standing Committee on National Security and Public Safety's study on addictions and substance abuse in federal corrections. I would hope to see clear progress toward a National Strategy on Mental Health and Corrections, a key recommendation of my Office's investigation into the death of Ashley Smith.

I look forward to receiving the reports of a number of independent and expert reviews that have been launched in response to my Office's ongoing work in the area of preventing deaths in custody. Although the Office will complete its quarterly assessments of CSC's progress in responding to our reports and investigations on deaths in custody, including Ashley Smith, I will continue to look for improvements in how the Service responds to medical emergencies, suicide prevention and the treatment of mentally ill offenders. Additionally, the Service requires a more rigorous process that would meet the legislative standard for investigating "natural" cause deaths. I will continue to review and comment on best practices for investigating and reporting on deaths in custody.

My Office is increasingly concerned with what appears to be a disproportionate number of institutional security charges/violations incurred by mentally disordered offenders. In some cases, prison charges result in a new sentence or additional time to be served. While not negating the seriousness of these violations, it could be that we are punishing mentally ill offenders on the basis of underlying behaviours and unmet needs associated with their illness.

Case management and case preparation issues that continue to hinder timely access to conditional release and community reintegration will be closely monitored. From a public safety standpoint, it is concerning that statutory release has become the most used form of access to the community for the majority of offenders under federal sentence. Many offenders are being released from medium security institutions directly to the community—some without ever having completed their correctional programming. As offender populations increase, it may be time to renew a high-level review of these issues, involving my Office, the Correctional Service and the National Parole Board.

On both a practical and numerical basis, the number of "quick hits" on the transformation agenda may soon be exhausted. Further movement will require very careful reflection as the next

series of reforms could fundamentally alter the nature of the federal correctional system as we know it. In the coming year, my Office will continue to respond to the impact of enacted and proposed legislation on federal corrections. The trend toward more time in custody and harsher conditions of confinement will place a new series of demands on the Correctional Service. In light of the already large number of mentally disordered offenders and the growing proportion of Aboriginal people under federal sentence, the capacity to provide safe and humane custody is facing some serious challenges.

As the *CCRA* states, the "purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society" by assisting offenders in their reintegration into the community as law-abiding citizens. Corrections is a noble vocation and it serves a vital function in our democracy. To be certain, deterrence and incapacitation have a role to play in criminal justice, as do other equally important principles, such as rehabilitation, proportionality and fairness.

I expect the coming year to be challenging, and, quite possibly, a defining period in Canadian corrections. Looking forward, I take this opportunity to commend my staff that served, and continue to serve, this Office and all Canadians with utmost integrity, compassion and professionalism. It is a great privilege to work alongside such a dedicated and committed group of individuals.

Ed McIsaac Human Rights in Corrections Award

*In January 2010, Professor Michael Jackson was presented the inaugural **Ed McIsaac Human Rights in Corrections Award**. The award was established in honour of Mr. Ed McIsaac, who retired in 2009 from his position as Executive Director of the Office of the Correctional Investigator, a post he held for 18 years. It commemorates outstanding achievement and commitment to improving corrections in Canada and protecting the human rights of the incarcerated. Professor Jackson and Ed McIsaac's careers remind all of us that no one among us, including those deprived of their liberty, forfeits the right to be treated fairly and with dignity.*

Left to Right: Mr. Ed McIsaac, Professor Michael Jackson (centre) and Mr. Howard Sapers.

ANNEX A: ANNUAL STATISTICS

Enhancing our level of public performance reporting capacity is still very much a "work in progress." Improvements to address information management, storage and retrieval vulnerabilities, including closing the gap on the quality and consistency of internal data entry practices, have been implemented. Over the course of 2010-11, the Office will further refine its electronic database capability and improve its internal processes to more accurately and comprehensively report on performance-related information.

As our information recording and retrieval practices improve, there will be variation in reporting. This is evident with the current year statistics. Readers are advised that year-to-year comparisons will not accurately reflect performance or productivity during this period of transition.

It is expected that introduction of a more rigorous procedure for intake screening and assessing offender complaints at the initial stages, increased attention to systemic issues and in-depth investigations and a more sharpened focus on key priorities will influence the overall number of offender contacts with the Office. These changes in business practices and public reporting, which are consistent with the Office's mandate to provide timely and accessible ombudsman services, are captured in the tables which are presented for the first time in ANNEX B – OTHER STATISTICS.

TABLE A: COMPLAINTS (1) BY CATEGORY

Complaints – see Glossary (1), Internal Response – see Glossary (2), Investigation – See Glossary (3)

CATEGORY	I/R(2)	Inv(3)	Total
Administrative Segregation			
Conditions	31	81	***112***
Placement/Review	76	202	***278***
Total	*107*	*283*	*390*
Case Preparation			
Conditional Release	30	40	***70***
Post Suspension	12	12	***24***
Temporary *Absence*	5	18	***23***
Transfer	16	24	***40***
Total	*63*	*94*	*157*
Cell Effects	*212*	*176*	*388*
Cell Placement	*17*	*21*	*38*
Claim			
Decisions	12	4	***16***
Processing	13	21	***34***
Total	*25*	*25*	*50*
Community Programs/Supervision	*8*	*10*	*18*
Conditions of confinement	*1*	*0*	*1*
Conviction/Sentence-Current Offence	*3*	*3*	*6*
Correspondence	*59*	*46*	*105*
Death or Serious Injury	*6*	*62*	*68*
Decisions (general) - Implementation	*45*	*37*	*82*
Diets			
Medical	3	14	***17***
Religious	10	20	***30***
Total	*13*	*34*	*47*

TABLE A: COMPLAINTS (1) BY CATEGORY (CONT.)

Complaints – see Glossary (1), Internal Response – see Glossary (2), Investigation – See Glossary (3)

CATEGORY		I/R(2)	Inv(3)	Total
Discipline				
	ICP Decisions	3	2	5
	Minor Court Decisions	5	3	8
	Procedures	19	12	31
	Total	27	17	44
Discrimination		1	9	10
Double Bunking		8	7	15
Employment		43	31	74
Financial Matters				
	Access	25	25	50
	Pay	19	20	39
	Total	44	45	89
Food Services		25	28	53
Grievance				
	3RD LEVEL REVIEW	26	21	47
	DECISION	15	17	32
	PROCEDURE	75	82	157
	Total	116	120	236
HARASSMENT		36	50	86
Health and Safety - Inmate Worksites/Programs		1	9	10
Health Care				
	Access	168	294	462
	Decisions	116	180	296
	Total	284	474	758
Health Care - Dental		23	40	63

TABLE A: COMPLAINTS (1) BY CATEGORY (CONT.)

Complaints – see Glossary (1), Internal Response – see Glossary (2), Investigation – See Glossary (3)

CATEGORY	I/R(2)	Inv(3)	Total
Hunger Strike	0	3	3
Information			
ACCES/DISCLOSURE	26	51	77
Correction	47	28	75
Total	73	79	152
IONSCAN	3	5	8
Legal Counsel - Quality	7	6	13
MENTAL HEALTH			
Access/PROGRAMMES	14	49	63
QUALITY	3	11	14
Total	17	60	77
METHADONE	14	11	25
Official Languages	7	2	9
Operation/Decisions of the OCI	9	7	16
Outside Court	3	1	4
Parole Decisions			
Conditions	25	18	43
Day Parole	10	5	15
Detention	5	3	8
Full Parole	8	5	13
Revocation	39	17	56
Total	87	48	135
Police Decisions or Misconduct	3	4	7
Private Family Visits	18	45	63

TABLE A: COMPLAINTS (1) BY CATEGORY (CONT.)

Complaints – see Glossary (1), Internal Response – see Glossary (2), Investigation – See Glossary (3)

CATEGORY	I/R(2)	Inv(3)	Total
Programme/Services			
Women	5	7	**12**
Aboriginals	13	12	**25**
Access	51	75	**126**
Total	*69*	*94*	*163*
Provincial Matter	*9*	*0*	*9*
Release Procedures	*35*	*36*	*71*
Safety/Security of Offender(s)	*47*	*90*	*137*
Search and Seizure	*5*	*13*	*18*
Security Classification	*44*	*58*	*102*
Sentence Administration	*12*	*16*	*28*
Staff	*197*	*173*	*370*
Telephone	*69*	*96*	*165*
Temporary Absence Decision	*20*	*49*	*69*
Transfer			
Implementation	29	52	**81**
Involuntary	48	104	**152**
Pen Placement	17	34	**51**
VOLUNTARY	39	70	**109**
Total	*133*	*260*	*393*
Urinalysis	*4*	*4*	*8*
Use of Force	*7*	*28*	*35*
Visits	*76*	*138*	*214*
Uncategorized			*401*
GRAND TOTAL	*2324*	*2947*	*5483*

GLOSSARY

Complaint: Complaints may be made by an offender or a third party on behalf of an offender by telephone, facsimile, letter or during interviews held by the OCI's investigative staff at federal correctional facilities.

The legislation also allows the OCI to commence an investigation at the request of the Minister or on the OCI's own initiative.

Internal Response: A response provided to a complainant that does not require consultation with any sources of information outside the OCI.

Investigation: A complaint where an inquiry is made with the Correctional Service and/or documentation is reviewed/analyzed by the OCI's investigative staff before the information or assistance sought by the offender is provided.

Investigations vary considerably in terms of their scope, complexity, duration and resources required. While some issues may be addressed relatively quickly, others require a comprehensive review of documentation, numerous interviews and extensive correspondence with the various levels of management at the Correctional Service of Canada prior to being finalized.

Systemic investigations examine areas of common concern of offenders and can be aimed at the institutional, regional or national level.

TABLE B: COMPLAINTS BY INSTITUTION/REGION (*)

REGION/INSTITUTION	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
FSW			
Edmonton Women Facility	55	13	3
FRASER VALLEY	44	11	2
FSW-RPC	1	0	0
Grand Valley	99	29	7
Joliette	69	29	3
Nova	56	21	3
Okimaw	6	0	0
Total	***330***	***103***	***18***
Atlantic			
Atlantic	200	52	9
Dorchester	173	50	10
Shepody Healing Centre	23	3	1
Springhill	76	9	2
Westmorland	9	6	1
Total	***481***	***120***	***23***
Ontario			
Bath	98	12	5
Beaver Creek	55	19	2
Collins Bay	172	90	10
Fenbrook	133	20	2
Frontenac	32	20	2
Joyceville	159	56	8
Kingston Penitentiary	357	101	12
Millhaven	113	67	4.5
Millhaven-Assessement Unit	58	19	4.5
Pittsburgh	34	21	2
RTC Ontario	74	6	3
Warkworth	260	67	12
Total	***1545***	***498***	***67***

TABLE B: COMPLAINTS BY INSTITUTION/REGION (CONT.) (*)

REGION/INSTITUTION	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
Pacific			
Ferndale	12	7	2
Kent	221	49	8
KWIKWEXWELHP	3	0	0
Matsqui	61	12	13
Mission	69	20	11
Mountain	253	60	9.5
Pacific / RTC	50	19	16.5
RHQ – Pacific	2	0	0
William Head	7	0	0
Total	***678***	***167***	***60***
Prairies			
Bowden	174	30	2
Bowden Minimum	0	8	1
Drumheller	75	40	7
Drumheller Minimum	5	5	1
Edmonton	174	44	29
Grande Cache	90	18	24
Grierson Centre	19	12	1
Ochichakkosipi	0	0	0
PE SAKASTEW	13	1	1
RHQ – Prairies	2	0	0
Riverbend	36	20	2
Rockwood	11	1	0
RPC-Prairies	122	62	13
Saskatchewan Maximum	89	26	3
Saskatchewan Penitentiary	133	6	2.5
Stan Daniels Centre	12	10	1
Stony Mountain	103	39	8
Willow Cree	10	5	1.5
Total	***1068***	***327***	***97***

TABLE B: COMPLAINTS BY INSTITUTION/REGION (*)

REGION/INSTITUTION	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
Québec			
Archambault	110	45	8
Archambault-CRSM	22	8	3
Cowansville	71	30	3.5
Donnacona	175	39	7.5
Drummond	99	55	9
FTC	28	0	0
La Macaza	128	32	3
Leclerc	164	53	6
Montée St-François	23	0	0
Port Cartier	200	89	9
RHQ – Québec	1	0	0
RRC Québec	71	26	10.5
SHU-USD	56	16	7.5
Ste-Anne-Des-Plaines	16	0	1
Waseskun	5	0	0
Total	*1169*	*393*	*68*
CCC/CRC/Parolees in Community	146	0	0
Federal Inmates in Provincial Institutions	5	0	0
Uncategorized	61	0	0
Grand Total	*5483*	*1608*	*333*

TABLE C: COMPLAINTS AND INMATE POPULATION – BY REGION

Region	Total Number of Complaints	Inmate Population(*)
Atlantic	494	1286
Quebec	1208	3150
Ontario	1588	3836
Prairie	1103	3463
Pacific	755	1847
Women's Facilities	330	509
Provincial Facilities	5	N/A
Total	***5483***	***14091***

(*) Inmate Population broken down by Region: As of June 2010, according to the Correctional Service of Canada's Reporting System.

TABLE D: DISPOSITION OF COMPLAINTS BY ACTION

ACTION	DISPOSITION	NUMBER OF COMPLAINTS
Internal Response		
	Uncategorized	294
	Advise/Information Given	1130
	Assisted by Institution	146
	Pending	11
	Recommendation	1
	Refer to Grievance Process	197
	Refer to Institutional Staff	257
	Refer to Warden	30
	Not Supported	111
	Systemic/Multiple	10
	Withdrawn	161
SUBTOTAL:		***2348***

ACTION	DISPOSITION	NUMBER OF COMPLAINTS
Inquiry		
	Uncategorized	5
	Advise/Information Given	749
	Assisted by Institution	833
	Pending	79
	Recommendation	52
	Refer to Grievance Process	105
	Refer to Institutional Staff	419
	Refer to Warden	199
	Not Supported	188
	Systemic/Multiple	34
	Withdrawn	72
SUBTOTAL:		***2735***

ACTION	DISPOSITION	NUMBER OF COMPLAINTS
Investigation		
	Uncategorized	1
	Advise/Information Given	52
	Assisted by Institution	74
	Pending	31
	Recommendation	46
	Refer to Grievance Process	16
	Refer to Institutional Staff	67
	Refer to Warden	37
	Not Supported	32
	Systemic/Multiple	35
	Withdrawn	9
SUBTOTAL:		***400***
GRAND TOTAL:		***5483***

TABLE E: AREAS OF CONCERN MOST FREQUENTLY IDENTIFIED BY OFFENDERS

Total Offender Population

CATEGORY	#	%
Health Care	766	14.68%
Cell Effects	397	7.61%
Administrative Segregation	394	7.55%
Transfer	393	7.53%
Staff	379	7.26%
Grievance	244	4.68%
Visits	220	4.22%
Telephone	168	3.22%
Case Preparation	157	3.01%
Information	154	2.95%

Aboriginal Offenders

CATEGORY	#	%
Transfer	13	12.75%
Health Care	10	9.80%
Administrative Segregation	9	8.82%
Cell Effects	6	5.88%
Death or Serious Injury	6	5.88%
Discipline	5	4.90%
Staff	5	4.90%
Case Preparation	4	3.92%
Parole Decisions	4	3.92%
Private Family Visits	4	3.92%

Women Offenders

CATEGORY	#	%
Health Care	48	14.29%
Administrative Segregation	23	6.85%
Cell Effects	23	6.85%
Mental Health	20	5.95%
Staff	19	5.65%
Safety/Security of Offender(s)	15	4.46%
Temporary Absence Decision	15	4.46%
Security Classification	13	3.87%
Transfer	13	3.87%
Visits	13	3.87%

ANNEX B: OTHER STATISTICS

A. SECTION 19 REVIEWS CONDUCTED IN 2009-10

As per section 19 of the *Corrections and Conditional Release Act (CCRA)*, the Correctional Service of Canada is required to conduct investigations into incidents involving inmate serious bodily injury or death. By law, these investigations are shared with and reviewed by our Office.

- **Number of Section 19 investigations reviewed by the Office: 152**
- **Number of Section 19 investigations of natural deaths in custody convened under the Mortality Review Process reviewed: 103**

Notes:

1. **The Correctional Service of Canada has adopted different policy processes to investigate "natural" and non-natural deaths in custody. For so-called natural deaths, CSC uses a Mortality Review exercise – a file review conducted by a Nurse at National Headquarters.**

2. **For deaths involving non-natural causes (e.g., homicides, suicide and overdose), the CSC convenes a National Board of Investigation (NBOI). The Board is required to investigate and issue a formal report to the Executive Committee (EXCOM) of the CSC. EXCOM reviews the report and recommendations of the NBOI and approve corrective measures to be taken.**

B. USE OF FORCE REVIEWS CONDUCTED IN 2009-10

Total number of use of force files reviewed by OCI: 1,423

- **Initial review: 142 (10%)**
- **Full review: 1281 (90%)**
- **Files requiring follow-up with CSC: 283 (20%)**

Notes:

1. **The Correctional Service is required by policy to provide all pertinent and relevant use of force documentation to the Office.**

2. **A "full review" involves reviewing all use of force documentation specified in Commissioner's Directive 567 –** *Use of Force*. **The use of force package includes, but may not be limited to: the Use of Force Report, a copy of incident-related video, Checklist for Health Services Review of Use of Force, Post-Incident Checklist, Officer's Statement/Observation Report, and action plan to address deficiencies.**

3. **An "initial review" involves a review of select documentation in the Use of Force package. This review includes: the use of Force Report, the Post Incident Checklist, Inmate Statements (if applicable), Institutional, Regional and (if applicable) National assessments, as well as the Offender Management System (OMS) incident report.**

4. **A specific follow-up may be initiated by the Office at the institutional, regional and/or national level.**

C. TOLL-FREE CONTACTS

Offenders and members of the public can contact the Office by calling our toll-free number (1-877-885-8848) anywhere in Canada. All communications between offenders and the Office are confidential. Number of toll-free contacts received in the reporting period: 30,222

D. SYSTEMIC INVESTIGATIONS CONDUCTED IN 2009-10

35 systemic (in-depth) investigations were conducted in 2009-10.

Categories

TYPE OF COMPLAINT	#	%
Conditions of confinement	8	22.86%
Grievance – Procedure	5	14.29%
Staff	3	8.57%
Telephone	3	8.57%
Death or Serious Injury	2	5.71%
Health Care – Decisions	2	5.71%
Administrative Segregation –Conditions	1	2.86%
Administrative Segregation -Placement/Review	1	2.86%
Cell Effects	1	2.86%
Cell Placement	1	2.86%
Financial Matters - Access	1	2.86%
Grievance - Decisions	1	2.86%
Health Care - Access	1	2.86%
Mental Health - Access	1	2.86%
Private Family Visits	1	2.86%
Search and Seizure	1	2.86%
Temporary Absence	1	2.86%
Visits	1	2.86%
Total Count of Disposition	35	

RESPONSE OF THE CORRECTIONAL SERVICE OF CANADA TO THE 37TH ANNUAL REPORT OF THE CORRECTIONAL INVESTIGATOR

2009 - 2010

INTRODUCTION

The Correctional Service of Canada (CSC) is responsible for offenders serving sentences of two years or more, including supervising those under conditional release in the community. On an average day in 2009-2010, there were approximately 13,500 federally incarcerated offenders and 8,700 federal offenders in the community. CSC manages 57 institutions, 16 community correctional centres and 84 parole offices.

The report of the independent CSC Review Panel in 2007 provided an overview of the realities and challenges currently facing CSC. Since its formation in 2008 a dedicated Transformation Team led responses to the recommendations of the Panel. Phase 1 of CSC's Transformation Agenda (from February 2008 to February 2009) focused on engagement and "Quick Wins" — immediate achievements aimed at lasting public safety results. Phase 2 (from March 2009 to March 2010) focused on the development and implementation of more detailed project plans. As of the end of March 2010, the ongoing transformation initiatives have been integrated into CSC's regular operations and plans.

Through these initiatives CSC will have created safe and secure environments for offenders to actively engage in their correctional plans. It will have in place enhanced security measures to stop the entry of contraband and drugs into its institutions. It will have a more efficient intake assessment process that will lead to a fully integrated offender correctional plan and earlier access to correctional programs. As well, it will strengthen the case management linkages between institutions and the community, resulting in a "seamless" transition of the offender into the community and improved supervision and intervention.

Government legislation recently proposed or passed is anticipated to have a varying impact on CSC. Of significance was the re-introduction of legislation on June 15, 2010 (Bill C-39) which proposes amendments to the *Corrections and Conditional Release Act*. Proposed reforms to the federal correctional system include: enhanced sharing of information with victims; increased offender responsibility and accountability; strengthened management and reintegration of offenders; and the abolition of Accelerated Parole Review.

Further, the *Truth in Sentencing Act*, which came into force in February 2010, is expected to result in increased numbers of federal offenders with a wider range of needs, underscoring the

requirement for both short and long-term capital planning and for adjustments to correctional programming and population management strategies. It is predicted that the federal offender population could increase by approximately 3,400 inmates by 2013 as a direct result of the *Act*. CSC has therefore developed a multi-faceted approach that will include extending and increasing temporary accommodation measures, such as shared accommodations; as well as constructing new housing units within CSC's existing institutions. CSC is also working on a long-term plan that takes into account the need to replace some penitentiaries that have stood the test of time for many decades but no longer meet the requirements of a modern correctional system.

CSC is in a stage of transition as it integrates fundamental changes that will enhance our ability to achieve our key priorities. Everything we do is in the context of our Mission and contribution to public safety through reduced re-offending. As we move forward in our transformation, collaboration with our partners, such as the Office of the Correctional Investigator, remains critical.

ACCESS TO PHYSICAL AND MENTAL HEALTH CARE

RECOMMENDATION #1

THE SERVICE ENHANCE ITS RECRUITMENT EFFORTS FOR MENTAL HEALTH PROFESSIONALS, INCLUDING EXPLORING THE POSSIBILITY OF SECURING EXEMPTIONS ON RATES OF PAY AND TO WORK WITH PROFESSIONAL LICENSING BODIES ON SCOPE OF PRACTICE, TRAINING, PORTABILITY AND PROFESSIONAL DEVELOPMENT.

The recruitment of health professionals, including mental health professionals, is a priority for CSC. The Service will continue to target the recruitment of health care professionals, particularly in areas where such services are not readily available in the community. CSC will also continue collaboration with organizations such as the Federal Health Care Partnership, universities, and its Health Care Advisory Committee to reinforce and guide its efforts. Over the course of the coming year, CSC will also approach Treasury Board Secretariat to explore possible options to enhance our ability to recruit and retain health professionals.

CSC continues to dedicate resources for the training of health services professionals. As well, a working Group, co-chaired by CSC and PIPSC,

has been established to address issues related to training and professional development for psychologists. CSC will also continue to work with FHP, PIPSC and licensing bodies to address issues around portability of professional credentials and scope of practice.

RECOMMENDATION #2

THE SERVICE RENEW ITS CORRECTIONAL OFFICER RECRUITMENT STANDARDS TO ENSURE NEW HIRES HAVE THE REQUISITE KNOWLEDGE, PERSONAL COMPETENCIES AND EDUCATIONAL BACKGROUND TO MANAGE AN INCREASINGLY DEMANDING OFFENDER MENTAL HEALTH PROFILE.

The Service continuously reviews all facets of recruitment for the Correctional Officer workforce to ensure that the successful candidates are able to respond to the wide-ranging challenges that exist with our offender population. In addition, one of the modules for training new recruits deals specifically with Suicide Prevention and Self Injury, and participants must pass the test for this module.

CSC will also be convening in the coming year, a panel of correctional practitioners from other jurisdictions and mental health professionals, to assess the feasibility of developing standards for the recruitment and training of correctional officers who work with offenders with mental health profiles.

RECOMMENDATION #3

THAT PROLONGED SEGREGATION OF OFFENDERS AT RISK OF SUICIDE OR SERIOUS SELF-INJURY AND OFFENDERS WITH ACUTE MENTAL HEALTH ISSUES BE PROHIBITED.

CSC continues to be concerned with the number of offenders with acute mental health problems and equally concerned with the limited accommodation strategies for dealing with these offenders when their behaviour jeopardizes the safety or security of others or themselves.

Reports submitted to CSC by the External Review Board (ERB) on the Examination of Long-Term Segregation and Segregation Placements of Inmates with Mental Health Concerns will be reviewed with the intent of developing a strategy for dealing with this issue over the course of this year.

RECOMMENDATION #4

THE SERVICE ISSUE A REVISED *NATIONAL STRATEGY* AND *NATIONAL ACTION PLAN TO ADDRESS THE NEEDS OF OFFENDERS WHO ENGAGE IN SELF-INJURY* THAT SPECIFICALLY RESPONDS TO DOCUMENTED CONCERNS RAISED BY THIS OFFICE. THE REVISED STRATEGY AND PLAN SHOULD INCLUDE:

- A PERMANENT FUNDING STRATEGY
- A PROVEN TREATMENT PROGRAM/PLAN SUPPORTED BY CLINICAL RESEARCH
- A COMMITMENT TO PHYSICAL ENVIRONMENT(S), INCLUDING ACCESS TO COMPLEX NEEDS UNITS FOR MEN AND WOMEN OFFENDERS, CONDUCIVE TO A THERAPEUTIC, PATIENT-CENTRED AND CONTINUUM OF CARE APPROACH TO MANAGING SELF-HARM IN PRISONS.

CSC recognizes the importance of addressing the growing number of offenders who engage in self-injurious behaviours, and as such has undertaken to improve results in this area through the implementation of a National Strategy to Address the Needs of Offenders Who Engage in Self-Injury and an accompanying Action Plan.

The Strategy and Action Plan documents will be updated by October 2010, and will take into consideration the feedback received from a broad range of stakeholders.

Funding received for the Institutional Mental Health Initiative (IMHI) is available to support CSC's initiatives with respect to addressing the needs of offenders who engage in self-injury. CSC will continue to assess its capacity, gaps, including infrastructure, and develop proposed strategies to narrow these gaps provided sources of funding can be identified.

As well, during the current fiscal year (2010-11) the Research Branch will be completing four research reports assessing the state of knowledge in self-injurious behaviour, assessing best practices for interventions, reviewing serious self-injury cases and a detailed study of factors related to self injurious behaviour in women offenders. Data collection is underway on self-injurious behaviour of men offenders and this report will be completed in the next fiscal year (2011-12). This research will be used to further inform the Service's ongoing strategy and response to this complex issue.

RECOMMENDATION #5

THAT AT LEAST ONE INTERMEDIATE CARE UNIT BE DESIGNATED IN EACH REGION, AND THAT DEDICATED INTERMEDIATE CARE CAPACITY (BEYOND THE CURRENT STRUCTURED LIVING ENVIRONMENTS) BE DEVELOPED FOR WOMEN OFFENDERS.

Improving CSC's capacity to address the mental health needs of offenders is a key priority. In recent years, CSC has been able to strengthen the continuum of care provided to offenders with mental disorders in institutions through the implementation of its institutional Mental Health Strategy, including comprehensive mental health screening at intake; primary mental health care; increased consistency in treatment centres; and

the implementation of mental health awareness training for staff.

Intermediate care is an important component of CSC's Mental Health Strategy that is currently unfunded. CSC is committed to address the needs of this population by continuing to seek funding to support the implementation of Intermediate Mental Health Care Units (IMHCUs) in each of the five (5) regions. These units within institutions would provide an intermediate level of mental health care for male offenders whose mental health problems are not so severe as to require in-patient care in a psychiatric facility, but who nevertheless need structured support and care beyond what can be offered through CSC's Primary Mental Health Care services.

In addition, funding will also be sought for two (2) Complex Needs Units (CNU) to function as national resources for the most serious of repeat self-injurious male offenders to provide specialized program and services for male offenders who engage in persistent self-injurious behaviour.

With respect to women offenders, CSC provides intermediate level care in the five (5) women's facilities. Women offenders with mental health needs are accommodated in Structured Living Environment (SLE) units. Staff with specialized mental health intervention training provide 24-hour assistance and supervision in these houses. Additional funding is also being sought to further improve CSC's capacity to provide additional support to female offenders, for example, those with repeat self-injurious behaviour.

RECOMMENDATION #6

THE SERVICE ISSUE REVISED COMMISSIONER'S DIRECTIVES ON THE *PREVENTION, MANAGEMENT AND RESPONSE TO SUICIDE AND SELF-INJURIES* AND *USE OF RESTRAINT EQUIPMENT FOR HEALTH PURPOSES* AS A MATTER OF PRIORITY CONSISTENT WITH RECOGNIZED BEST PRACTICES, INCLUSIVE OF THE FEBRUARY 2010 AMERICAN BAR ASSOCIATION'S *CRIMINAL JUSTICE STANDARDS ON THE TREATMENT OF PRISONERS* – STANDARD 23-5.9 "USE OF RESTRAINT MECHANISMS AND TECHNIQUES."

Self-injurious and suicidal behaviours are complex clinical and operational issues that require a comprehensive inter-disciplinary approach. Accordingly, CSC is further updating its policies that address offender suicide, self-injury, and use of restraint equipment for health purposes.

In August 2009, CSC piloted tools and processes to support the interdisciplinary management and treatment of this population. The results of this pilot, a literature review of best practices promulgated, including the referenced

standard, and a broad consultation process, are currently being reviewed, and it is anticipated that the revised Commissioner's Directive will be published in fall 2010.

RECOMMENDATION #7

A CLINICAL MANAGEMENT PLAN (CMP) SHOULD BE DEVELOPED FOR ALL OFFENDERS WHO HAVE A SIGNIFICANT MENTAL HEALTH ISSUE OR WHO SELF-HARM OR ATTEMPT SUICIDE IN PRISON. THE CMP WOULD BE UPDATED REGULARLY AS A CONTINUUM OF CARE TOOL.

CSC has made significant gains in strengthening the continuum of mental health care for offenders through the implementation of the Institutional and Community Mental Health Initiatives. These Initiatives have included introducing a more comprehensive mental health screening process at intake, building capacity in institutions to respond to mental health needs, providing mental health awareness training to front-line staff working in both institutions and the community, and assisting offenders with significant mental health needs as they transition from the institution to the community. Treatment plans are established for those offenders with mental disorders who have consented to treatment. In addition, for the relatively low number of offenders who repeatedly self-injure, an interdisciplinary management plan will also be developed. Although originally referred to as Clinical Management Plans, CSC has changed this term to Interdisciplinary Management Plans (IMPs) to highlight the importance of the role of the interdisciplinary team.

Commissioner's Directive 843 is currently under revision and, when promulgated, will provide staff with clear direction regarding how and when IMPs are to be used. It is anticipated that the CD will be finalized in the fall 2010.

As well, the newly formed Regional Suicide and Self-Injury Prevention Management Committees (RSPMC) are responsible for assisting and supporting institutions in providing an effective continuum of care to offenders encountering severe mental health and/or behaviour difficulties during their period of incarceration.

Specifically, the RSPMC will:

- Monitor incidents of self-injurious behaviour, with a focus on repeat self-injurious behaviour;
- Will flag items of concern; and
- Will consult/engage institutions to offer support and advice in the management and treatment of self-injurious offenders with emphasis on repeat self-injury, as necessary.

In addition, the Institutional Mental Health Service (Primary Care) Guidelines require that all referred offenders have a clinical assessment completed with a treatment plan developed (Mental Health Intervention Plan). This would include self-injurious offenders undergoing treatment.

RECOMMENDATION #8

AN UPDATED CLINICAL MANAGEMENT PLAN (CMP) SHOULD ACCOMPANY EVERY OFFENDER DISCHARGED FROM THE REGIONAL TREATMENT CENTRES BACK TO THEIR HOME INSTITUTION. THIS PLAN SHOULD INCLUDE BASIC INFORMATION AND INSTRUCTION THAT COULD BE SHARED WITH FRONT-LINE STAFF THAT WOULD NOT BREACH PRIVACY OR CONFIDENTIALITY STANDARDS.

Interdisciplinary Management Plans (IMPs), formerly known as Clinical Management Plans (CMPs), are intended for offenders who chronically self injure. IMPs are portable documents. In other words, for those offenders that have an IMP in place, it would travel with the offender as they are admitted and discharged to and from treatment centres. Commissioner's Directive 843 is currently under revision and, when promulgated, it will provide staff with clear direction regarding how and when IMPs are to be used.

As well continuity of care for offenders is a critical component of a mental health service delivery model, and is an important element in enhancing correctional outcomes and public safety.

In order to ensure the necessary and appropriate information is being shared, CSC will review the use of discharge summaries from regional treatment centres to identify possible improvements. It is anticipated this review will be completed in December 2010.

RECOMMENDATION #9

THE SERVICE SHOULD CONDUCT AN INDEPENDENT AND EXPERT REVIEW OF THE MENTAL HEALTH PROFILE OF OFFENDERS RESIDING AT THE SPECIAL HANDLING UNIT, WHICH WOULD INCLUDE OPTIONS AND RECOMMENDATIONS FOR MANAGING THESE OFFENDERS IN THE LEAST RESTRICTIVE AND MOST CLINICALLY APPROPRIATE MANNER POSSIBLE.

CSC's National Advisory Committee (NAC) ensures that significant consideration is given to the mental health needs of offenders at the Special Handling Unit (SHU) in all decisions regarding management, interventions and transfers. The NAC conducted a population management review of the high risk and high need offenders with mental health problems at the SHU and treatment

centres in order to assess current capacity. CSC will discuss the results of this review in fall 2010 in order to determine next steps.

Mental health resources have recently been added in the Special Handling Unit, mainly assigned to coordinating offenders' consultations with the institutional Psychiatrist, discussing medication-related issues and managing crisis situations. As well, there is a mental health Psychologist, who conducts mental health screenings/assessments when applicable and offer psychological follow-up for offenders monitored under the Institutional Mental Health Initiative (IMHI).

RECOMMENDATION #10

THAT A FULL AND COMPREHENSIVE RANGE OF HARM REDUCTION MEASURES BE MADE AVAILABLE TO FEDERAL INMATES.

CSC is committed to controlling and managing infectious diseases in correctional institutions to protect the health of inmates, staff and ultimately the community. It currently has in place a number of harm reduction measures and health promotion approaches.

Under Commissioner's Directive 821, *Management of Infectious Diseases*, CSC provides a range of harm reduction measures that are available to federal inmates.

CSC is not considering any new plans to implement a syringe and needle exchange program or a safer tattooing program.

RECOMMENDATION #11

THE SERVICE CONDUCTS A COMPREHENSIVE POPULATION HEALTH ANALYSIS OF THAT SEGMENT OF THE INCARCERATED POPULATION AGED 50 YEARS AND OLDER, AND DEVISE A STRATEGY TO MEET CURRENT AND ANTICIPATED PHYSICAL HEALTH CARE NEEDS IN THE AREAS OF ACCOMMODATION, PROGRAM DEVELOPMENT, INDEPENDENT CARE AND LIVING AND CONDITIONAL RELEASE PLANNING ON COMPASSIONATE GROUNDS.

In early 2010, CSC completed a manual review of offender health files and an analysis is underway, with a view of providing an initial analysis in December 2010.

The Research Branch will complete this fiscal year (2010-11) a descriptive analysis of older male and female offenders which will assist with compiling a summary of needs and challenges associated with this segment of the offender population. Once these two (2) reports have been finalized, CSC will look at developing an overall health care strategy for this portion of the incarcerated population.

DEATHS IN CUSTODY

RECOMMENDATION #12

THE SERVICE PUBLICLY RELEASE ITS PERFORMANCE ACCOUNTABILITY FRAMEWORK TO REDUCE PREVENTABLE DEATHS IN CUSTODY IN FISCAL YEAR 2010-11 AND THAT THIS DOCUMENT SERVE AS THE PUBLIC RECORD FOR TRACKING ANNUAL PROGRESS IN THIS AREA OF CORRECTIONS.

CSC's Performance Measurement Framework which covers five (5) themes (Self-injury, Deaths from Suicide, Deaths by Homicide, Accidental Deaths, Aging / Natural Causes [Death with Dignity]) has been developed and will be shared with the Office of the Correctional Investigator once it has been finalised and approved by fall 2010.

RECOMMENDATION #13

THE SERVICE IMMEDIATELY SUSPEND THE MORTALITY REVIEW EXERCISE UNTIL SUCH TIME AS THE GUIDELINES CAN BE INDEPENDENTLY AND EXPERTLY VALIDATED TO MEET SECTION 19 PROVISIONS OF THE CORRECTIONS AND CONDITIONAL RELEASE ACT. IN THE INTERESTS OF TRANSPARENCY AND ACCOUNTABILITY, THE RESULTS OF THIS REVIEW SHOULD BE MADE PUBLIC.

The Service is committed to review all deaths in custody through its Incident Investigations function, its agreements with coroners across the country and its mortality review process. As such, the Mortality Review process follows a rigorous and formal process to review deaths by natural causes.

The Incident Investigations Branch continues to review all Incident and Situation Reports to determine which incidents involving the death of an inmate, will be reviewed through the Mortality Review process.

The Mortality Review follows a standardized process. It examines the quality of the care provided to offenders by CSC health care providers while in CSC custody and compares it to existing CSC legislation, policies and professional standards. The offender's health care file and information provided on the Offender Management System are reviewed. The provincial coroners' offices are contacted and any reports or official documents that they have are requested to verify that the deaths were indeed by natural causes. Any non compliance issues are noted and appropriate corrective measures are identified. The focus of the review includes, but is not limited to, an examination of the cause of death and the care provided, and alternatives to incarceration that were considered.

During the Mortality Review process, if the cause of death is determined to be anything other than natural causes or the circumstances surrounding the death are suspect, or if issues are identified that require further investigation, the review is sent back to the Incident Investigations Branch for consideration. Should it be determined that there are concerns, the Incident Investigations Branch will then determine the need to convene a National Board of Investigation.

CONDITIONS OF CONFINEMENT

RECOMMENDATION #14

THE SERVICE SHOULD MEASURABLY STRENGTHEN ITS DYNAMIC SECURITY PRACTICES AND PRINCIPLES, AND SHOULD IMPLEMENT THE RECOMMENDATION OF THE WORKING GROUP REPORT ON MEDIUM SECURITY CALLING FOR ADDITIONAL AND MANDATORY REFRESHER TRAINING IN DYNAMIC SECURITY.

CSC has enhanced the learning module on Dynamic security as part of the revised Correctional Training Program (CTP 2008) which is now currently being delivered across the country to new recruits. As well, the service is in the final stages of the Development of a Dynamic Security refresher training which will be delivered to all required staff in the fall of 2010. Any subsequent needs with respect to Dynamic Security training will be analysed after the initial round of refresher training is delivered to staff in 2010.

RECOMMENDATION #15

THE SERVICE CONDUCT A REVIEW OF ALL OFFENDERS THAT WERE RELEASED BY THE NATIONAL PAROLE BOARD RELEASED DIRECTLY TO THE COMMUNITY DIRECTLY FROM MEDIUM SECURITY FACILITIES AND DETERMINE THE REASON WHY THESE OFFENDERS WERE NOT HOUSED IN MINIMUM SECURITY INSTITUTIONS PRIOR TO RELEASE.

CSC will undertake to review, this fiscal year, a sampling of day parole, full parole and statutory releases from medium security institutions to determine if alternative population strategies can be considered for the future.

RECOMMENDATION #16

THAT INMATE ACCOMMODATION PLACEMENT CRITERIA FOR DOUBLE-BUNKING ASSIGNMENTS BE COMPLETED ACCORDING TO POLICY IN A TIMELY AND COMPREHENSIVE MANNER AND

BE REVIEWED BY REGIONAL AUTHORITIES ON A REGULAR (I.E. QUARTERLY) BASIS.

CSC will be reviewing and updating its policy and placement criteria for double bunking assignments this fiscal year. The revised policy will clearly define the monitoring role of regional authorities, and the procedures to be followed by institutional authorities.

RECOMMENDATION #17

THAT ONCE APPROVED BY TREASURY BOARD, THE SERVICE'S LONG-TERM CAPITAL, ACCOMMODATION AND OPERATIONS PLAN BE MADE PUBLIC, INCLUDING OFFENDER POPULATION FORECASTS, PLANNED CAPITAL EXPENDITURES FOR NEW CONSTRUCTION AND ONGOING MAINTENANCE COSTS.

The Service's Long-Term Accommodation Plan will be subject to the normal rules that apply to Treasury Board submissions. At the point in time there is approval; CSC will make available all relevant publicly accessible information.

RECOMMENDATION #18:

THE MINISTER DIRECT THE SERVICE TO CONDUCT AN IMMEDIATE REVIEW OF ALL INMATES IN SEGREGATION-LIKE UNITS TO ENSURE THEY ARE PROVIDED THE SAME LEGISLATED PROTECTIONS AND ACCESS TO PROGRAMS AFFORDED TO THE GENERAL INMATE POPULATION.

The External Review Board (ERB) for the Examination of Long-Term Segregation and Segregation Placements of Inmates with Mental Health Concerns recommended that CSC consider the continued use of units for offenders who do not meet the legal criteria for segregation, but that cannot be safely held in the general population. CSC is reviewing this matter as part of the overall review of a segregation strategy.

RECOMMENDATION #19

THAT ALL INCIDENTS THAT INVOLVE THE USE OF CHEMICAL OR INFLAMMATORY AGENTS, OR THE DISPLAYING, DRAWING OR POINTING OF A FIREARM UP TO AND INCLUDING ITS THREATENED OR IMPLIED USE SHOULD BE CONSIDERED A REPORTABLE USE OF FORCE.

The Service conducted a comprehensive review of the *Use of Force* policy, CD 567-1, including consultation with all partners, which led to the promulgation of the updated policy in April 2009. CSC will clarify which uses of force are reportable and non-reportable by October 2010.

ABORIGINAL ISSUES

RECOMMENDATION #20

AS PER COMMISSIONER'S DIRECTIVE 702, I RECOMMEND THAT THE SERVICE PROVIDE CLEAR AND DOCUMENTED DEMONSTRATION THAT *GLADUE* PRINCIPLES ARE CONSIDERED IN DECISION-MAKING INVOLVING THE RETAINED RIGHTS AND LIBERTIES OF ABORIGINAL OFFENDERS IN THE FOLLOWING AREAS: SEGREGATION PLACEMENTS, ACCESS TO PROGRAMMING, CUSTODY RATING SCALES, PENITENTIARY PLACEMENTS, ACCESS TO THE COMMUNITY, CONDITIONAL RELEASE PLANNING AND INVOLUNTARY TRANSFERS.

Within CD 702 – *Aboriginal Offenders* - Gladue principles are stated in the definitions section, *Annex B*. This section explains that other circumstances and mitigating factors that must be taken into account, especially when dealing with the sentencing of Aboriginal offenders. As a result, CSC will ensure that Aboriginal circumstances (see "Aboriginal Social History") will be considered at all levels of decision making respecting Aboriginal offenders.

In practice, and with regard to "documented demonstration that Gladue principles are considered in decision-making," Elders and Aboriginal Liaison Officers (ALOs) now have input into all decision-making bodies respecting Aboriginal offenders. Elder Reviews document areas of focus and progress in targeted areas resulting from a combination of the Aboriginal Social History documentation and interviews. Healing Plans have been integrated into correctional planning and are included in the documentation that affects all decisions.

CSC is currently working to further integrate all aspects of an Aboriginal Offenders' reality into all revised Commissioner's Directives. CSC is also working on training to illustrate the integration of the Aboriginal Social History and Healing Components in the applicable revised Commissioner's Directives and report outlines.

The draft Commissioner's Directives incorporate roles and responsibilities to ensure that the Healing Components critical to the Aboriginal Continuum of Care Model and Aboriginal Social History are fully integrated in order to provide an objective assessment for decision-makers and to provide interventions that respond to need and risk for successful reintegration.

RECOMMENDATION #21

THE SERVICE SHOULD INCREASE ITS USE *SECTIONS 81* AND *84* OF THE *CORRECTIONS AND CONDITIONAL RELEASE ACT* TO THEIR FULLEST AND INTENDED EFFECT.

CSC has increased its capacity to use *Section 81* Healing Lodge beds through a number of initiatives that have warranted heightened capacity and the potential expansion for Aboriginal women offenders. The utilization rates of *Section 81* healing lodges have been positive, with an 84% average utilization rate over the last three fiscal years (2007-2010). CSC conducted a *Section 81* Healing Lodge Audit which resulted in a shift to maximize bed utilization at Healing Lodges as compared to other minimum security institutions. An accountability framework and template has been designed to capture relevant data stemming from the *Strategic Plan on Aboriginal Corrections* and the template will target *Section 81* and *84* usage, as one of its priorities, and will be able to ascertain whether *Section 81* participation results in better outcomes for Aboriginal offenders. Lastly, proposals for *Section 81* Healing Lodges for Aboriginal women are currently being negotiated for both Eastern and Western Canada. With respect to *Section 84* capacity, an evaluation of the Aboriginal Community Development Officers was recently conducted as they have exclusive responsibility for *Section 84* release planning with the Aboriginal community. The evaluation made several recommendations and following the report and currently is the development of a Management plan and Action plan that will focus on better release opportunities for Aboriginal offenders.

CSC has created a formal Guideline for Negotiation, Implementation and Management of CCRA *Section 81* agreements, which is currently in the consultation phase prior to approval. The Guideline provides a more efficient review and approval process for CSC and Aboriginal organizations of submitted statements of interest and formal proposals.

ACCESS TO PROGRAMS

RECOMMENDATION #22

THAT PRIOR TO THE CLOSURE OF CORCAN AGRI-BUSINESS OPERATIONS, CSC PROVIDES A PUBLIC REPORT ON HOW LOST FARM JOBS WOULD BE REPLACED. THE REPORT SHOULD ALSO DETAIL THE KIND OF EMPLOYABILITY SKILLS AND VOCATIONAL TRAINING THAT IS ENVISIONED IN FEDERAL CORRECTIONS, INCLUDING HOW THE SERVICE INTENDS TO CREATE VIABLE, REALISTIC AND MEANINGFUL JOB OPPORTUNITIES IN THE PENITENTIARY ENVIRONMENT TO MEET PRESENT AND FUTURE MARKET DEMANDS.

There are 285 replacement positions identified at the minimum security sites that were affected by the closure of Agribusiness. The replacement positions include Welding, Construction, general labourer, fleet maintenance, DND Tent/Tarp Manufacturing and Repair, work release and community service ETA's. Third party certification is built in to some of the replacement positions providing offenders with the education and practical skills experience to obtain employment in the community upon release. The Vocational Strategy is reviewed and updated annually to ensure the training delivered is in line labour market demands. There currently are stable, realistic and meaningful jobs in correctional facilities. A report on Future Direction related to employment and employability will be available in the fall of 2010.

FEDERALLY SENTENCED WOMEN

RECOMMENDATION #23

THE SERVICE REVIEW ELIGIBILITY RESTRICTIONS ON THE MOTHER-CHILD PROGRAM WITH A VIEW TO MAXIMIZING SAFE PARTICIPATION.

The eligibility restrictions announced in June 2008 were implemented in order to maximize the safe participation of children in the institutions. These restrictions help to ensure that the well-being of the child is the pre-eminent consideration in all decisions relating to participation in the Mother-Child Program.

RECOMMENDATION #24

THE SERVICE MODIFY PERIMETER CONTROLS IN THE REGIONAL WOMEN'S FACILITIES TO ALLOW MINIMUM SECURITY OFFENDERS TO RESIDE OUTSIDE THE HIGH SECURITY FENCE. IN FACILITIES WHERE THIS IS NOT ACHIEVABLE, I RECOMMEND THAT THE SERVICE PROVIDE STAND-ALONE ACCOMMODATIONS FOR MINIMUM SECURITY WOMEN RESIDING IN THE COMMUNITY.

CSC has developed an accommodation strategy to address the needs of its various populations, including women classified as minimum security. The accommodation strategy will form part of CSC's long-term accommodation strategy which will be submitted to Treasury Board no later than March 2011.