



# Annual Report

of the Office of the Correctional Investigator

2011-2012



The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

Canada

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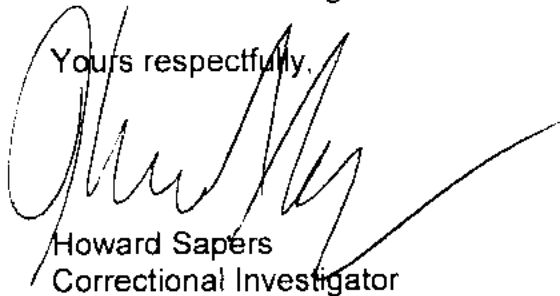
June 26, 2012

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

Dear Minister,

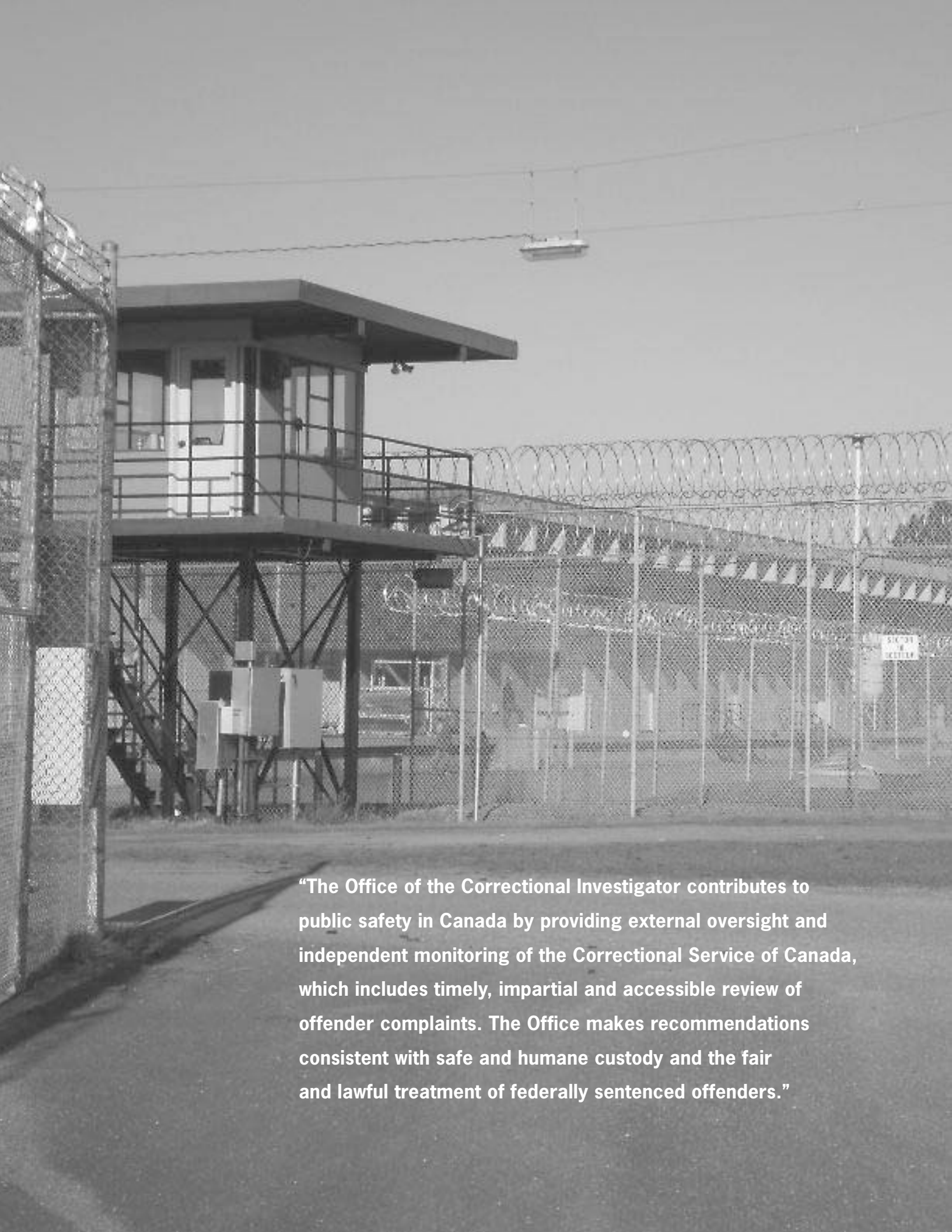
In accordance with section 192 of the *Corrections and Conditional Release Act*, it is my privilege and duty to submit to you the 39<sup>th</sup> Annual Report of the Correctional Investigator.

Yours respectfully,



Howard Sapers  
Correctional Investigator

Canada



**“The Office of the Correctional Investigator contributes to public safety in Canada by providing external oversight and independent monitoring of the Correctional Service of Canada, which includes timely, impartial and accessible review of offender complaints. The Office makes recommendations consistent with safe and humane custody and the fair and lawful treatment of federally sentenced offenders.”**

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## Correctional Investigator's Message

The Office of the Correctional Investigator (OCI) was established in 1973 to function as an independent ombudsman for federally sentenced offenders. As Correctional Investigator, I am authorized under Part III of the *Corrections and Conditional Release Act (CCRA)* to conduct investigations into problems of offenders related to decisions, recommendations, acts and omissions of the Correctional Service of Canada (CSC). Decisions to commence or terminate, as well as the methods used to conduct an investigation, are at my discretion.

My staff has complete access to all facilities, records and staff of the CSC. We spend our workdays assisting in the development and maintenance of a federal correctional system that is fair, humane and effective. I consider offender access to my Office, including ensuring staff presence and visibility in federal institutions, to be a compelling requirement of fulfilling our mandate. In the course of the reporting year, staff spent a cumulative total of 369 days in CSC facilities and interviewed more than 1,600 offenders.

As Ombudsman, I am independent of the Correctional Service and the Minister of Public Safety. In my duties, I report to Parliament through the Minister, on the individual and systemic concerns that offenders bring to my Office, and on the ability of the CSC to implement solutions. My staff does not take sides when investigating complaints against the Correctional Service. The Office looks for compliance, fairness and legality. The Office responded to 5,789 complaints in 2011-12, conducted 814 use of force reviews and reviewed 27 cases of inmate deaths and 113 incidents involving serious bodily injury, including self-harm.

We are empowered with broad authorities and the body of work conducted represents a significant achievement for an organization that averaged about 30 full-time employees in 2011-12. I am proud of the accomplishments, professionalism and level of commitment to public service that my staff consistently brings to a demanding work environment.

As I document in this year's report, beyond rising inmate counts and costs, Canadians should be interested in *who* is ending up behind bars. Questions about whom we incarcerate, for how long and why are important public policy issues. Existing within an increasingly diverse and pluralistic society, federal prisons reflect the nation's changing demographics. Visible minorities, Aboriginal people and women are entering federal penitentiaries in greater numbers than ever before. Twenty-one percent of the inmate population is of Aboriginal descent and 9% of inmates are Black Canadians. Incarceration rates for these two groups far exceed their representation rates in Canadian society at large. In the last five years, the number of federally incarcerated women has increased by almost 40% while the number of Aboriginal women has increased by over 80% in the last decade. In fact, if not for these sub-groups, the offender population growth rate would have flat-lined some time ago.

Offenders are also growing older and more infirm behind bars. One in five federal inmates are aged 50 or older. More offenders are admitted to federal penitentiaries more addicted and mentally ill than ever before. 36% have been identified at admission as requiring some form of psychiatric or psychological follow-up. 63% of offenders report using either alcohol or drugs on the day of their current

offence. With a changing and more complex offender profile come accumulating pressure points and needs – provide for safe and secure custody, meet growing mental health and physical health care demands, and respond to the special needs of aging, minority and Aboriginal offenders. This is a compromised population which presents some very complex mental health, physical health and criminogenic issues. As I report here, these needs often run ahead of the system's capacity to meet them.

In recent years, corrections has seen significant growth (albeit not as robust as some predicted). In the two-year period between March 2010 and March 2012, the federal in-custody population increased by almost 1,000 inmates or 6.8%, which is the equivalent of two large male medium security institutions. Expenditures on federal corrections totalled approximately \$2.375 billion in 2010-11, which represents a 43.9% increase since 2005-06. CSC's budgetary expenditures for 2011-12 are estimated to be \$3 billion. The annual average cost of keeping a federal inmate behind bars has increased from \$88,000 in 2005-06 to over \$113,000 in 2009-10. It costs \$578 per day to incarcerate a federally sentenced woman inmate and just over \$300 per day to maintain a male inmate. In contrast, the annual average cost to keep an offender in the community is about \$29,500. At a time of wide-spread budgetary restraint, it seems prudent to use prison sparingly, and as the last resort it was intended to be.

As recent legislative and policy reforms contribute to population growth, adding and renewing cell stock capacity has become necessary. To accommodate this, the government plans to add approximately 2,700 new or renovated cells to over 30 existing facilities at a cost of more than \$630M in the next two or three years. These costs cover only construction, not operation, staffing or

ongoing maintenance. At the same time that it is building or renovating cells in existing penitentiaries, the Government of Canada has recently announced the closure of three federal facilities as part of its deficit reduction action plan. The Service will need to re-locate over 1,000 affected inmates, including approximately 140 residing at the Ontario Regional Treatment Centre, a stand-alone forensic facility behind the walls of Kingston Penitentiary.

Double-bunking (placing two inmates in a cell designed for one) has increased dramatically in the past two years. As of April 1, 2012, more than 17% of the incarcerated population was double-bunked. Experience here in Canada and elsewhere shows that as prisons get more crowded, they often become more tense, volatile and violent places. Simply put, as this year's report documents, inmate, staff and ultimately, public safety is compromised by prison crowding. During this period of unprecedented renewal and expansion in the history of Canadian corrections, I have asked my staff to be especially vigilant to any number of disruptions that accompany large-scale change and dislocation.

The increasing costs of corrections in Canada and rising inmate numbers are inseparable from a number of significant legislative measures. Since 2006, these reforms have resulted in:

- Expansion of a range of mandatory minimum penalties for certain offences, particularly for serious drug offences, gun crimes and child exploitation offences
- Abolition or tightening of parole review criteria
- Reduction of credit for time served in pre-trial custody
- Restricted use of conditional sentences.





These measures have generated considerable public interest, provoking sometimes strong reaction over their perceived direction, cost, necessity and impact, not least of which because they have coincided with year-on-year declines in the national crime rate.

In the course of this report, I comment on the major trends and developments in correctional practice, assess progress and report on my findings and recommendations in six well-established areas of systemic inquiry and priority for my Office:

1. Access to mental and physical health care.
2. Prevention of deaths in custody.
3. Conditions of confinement.
4. Aboriginal corrections.
5. Access to programmes.
6. Issues affecting federally sentenced women.

The primary purpose of this report is to identify matters of concern and bring them to the attention of the Correctional Service, the Minister of Public Safety, Parliamentarians, the public and other interested stakeholders. Producing this report fulfills an important public awareness purpose as much as it meets the legal requirement to be tabled in Parliament. These pages are informed by the investigations, reviews, reports and observations of my staff in the course of the 2011-12 reporting period. In the interest of transparency and accountability, CSC's response is embedded in the report.

On a personal note, I am pleased to have been reappointed for a three-year term in February 2012. In my continuing capacity to serve Canadians as Correctional Investigator, I will make every effort to report my findings in a fair, balanced and transparent manner.



**Howard Sapers**  
Correctional Investigator of Canada  
June 30, 2012





# Executive Director's Message

In my capacity as Executive Director of the Office, a selection of highlights from 2011-12 would include:

- Implementation of an Awards and Recognition program for OCI employees.
- Consultations leading to the development of the Office's Code of Conduct.
- Desktop applications supporting the Office's investigative policy and procedures and corporate services manual (e.g. travel, human resource management).
- Implementation of an Information Management strategic plan.
- Positive outcome to the Office of the Comptroller General's horizontal audit of the Office's integrated business and human resource planning.

In the coming year, I look forward to further consolidation of the Office's information management functions, particularly to our case management and correspondence tracking functions. A revamped website will also be launched in the coming year, which should ease access to information and raise the public profile of the Office.

Human resource management in the public service is not easy at the best of times. It is certain to become even more challenging as the government's deficit reduction initiatives work their way through the public service. As a micro-agency, attracting and retaining a stable, professional group of employees in the current fiscal environment brings both opportunity and risk. Challenge and change will be constant operational realities.

In FY 2012-13, the Office will report on a series of systemic investigations to include reviews and reports on Aboriginal corrections, women offenders, conditions of confinement, diversity in corrections and deaths in custody. More systemic lines of inquiry will continue to define and shape how the Office conducts its business and reports to Canadians.

**Ivan Zinger, J.D., PhD**

Executive Director and General Counsel  
Office of the Correctional Investigator



# IA Access to Physical and Mental Health Care

## A. Mental Health

In 2010-11, CSC reported a total of 9,200 offenders received Institutional Mental Health Care services.<sup>1</sup> According to CSC data, 20,233 male offenders moved through the federal correctional system in 2010-11 (total number of admissions and releases), meaning that the number of mental health care interventions exceeded 45% of the total population. In the case of women offenders, this percentage increases to 69%. There are, in fact, various estimates with respect to overall prevalence rates of mental disorder amongst federally sentenced offenders:

- CSC data indicates that the proportion of offenders with mental health needs identified at intake has doubled in the

period between 1997 and 2008. 13% of male inmates and 29% of women were identified at admission as presenting mental health problems.<sup>2</sup> 30.1% of women offenders compared to 14.5% of male offenders had previously been hospitalized for psychiatric reasons.<sup>3</sup>

- CSC's use of computerized mental health screening at admission indicates that 62% of offenders entering a federal penitentiary are "flagged" as requiring a follow-up mental health assessment or service.<sup>4</sup>
- Offenders diagnosed with a mental illness are typically afflicted by more than one disorder, often a substance abuse problem, which affects 4 out of 5 offenders in federal custody.



<sup>1</sup> CSC, *Health Services Sector 2010-2011 Performance Measurement Report* (October 2011).

<sup>2</sup> CSC, *The Changing Federal Offender Population: Highlights 2009*.

<sup>3</sup> Public Safety Canada, *Corrections and Conditional Release Statistical Overview: Annual Report 2008*.

<sup>4</sup> CSC, *Review of Mental Health Screening at Intake – Internal Audit* (February 2012).

- 50% of federally sentenced women self-report histories of self-harm, over half identify a current or previous addiction to drugs, 85% report a history of physical abuse and 68% experienced sexual abuse at some point in their lives.<sup>5</sup>

In terms of mental health functioning, this is a complex and compromised population with several deficits. The data suggest the resource and capacity challenges facing Canada's correctional authority are significant and growing.

As I have reported before, many mentally disordered inmates do not manage well in a prison environment. Some manifest symptoms of their illness through disruptive behaviour, aggression, violence, self-mutilation, suicidal ideation, withdrawal, refusal or inability to follow prison orders or rules. Within corrections, these symptoms of mental illness are often misunderstood as manipulative or malingering behaviour, and are regularly met by a range of inappropriate responses including disciplinary sanctions, transfer to higher security institutions and separation from general population. This state of affairs is especially prevalent in the maximum security and multi-level institutions where it is not uncommon for more than half of the offender population to be receiving institutional mental health services and/or presenting some degree of mental health dysfunction.

## Review of Progress

In a series of reports and investigations over the last three years, the Office has identified gaps in CSC's mental health framework and has further recommended a series of measures where progress is necessary. The following are among the most urgent needs in the federal

system that speak to capacity and resource issues and raise questions of purpose, priority and direction:

1. Create intermediate mental health care units.
2. Recruit and retain more mental health professionals.
3. Treat self-injurious behaviour as a mental health, not security, issue.
4. Increase capacity at the Regional Treatment Centres.<sup>6</sup>
5. Prohibit the use of long-term segregation of offenders at risk of suicide or serious self-injury as well as offenders with acute mental health issues.
6. Expand the range of alternative mental health service delivery partnerships with the provinces and territories.
7. Provide for 24/7 health care coverage at all maximum, medium and multi-level institutions.

To be sure, there have been positive changes. Since 2005, there have been significant new multi-million dollar investments to resource the main pillars of the Service's mental health strategy. For example, there is now a well-defined institutional mental health initiative, as well as an advanced community mental health component. As mentioned, offenders are now being screened for mental health problems at admission and a continuum of care model has been implemented to assist offenders from intake through to release. Training in mental health awareness has been rolled out across the Service and more multi-disciplinary intervention teams are in place to better manage complex cases. In the reporting period, the Service also defined the criteria for "essential" mental health services as part of its national health care framework.



<sup>5</sup> CSC, *Twenty years later: Revisiting the Task Force on Federally Sentenced Women* (July 2010).

<sup>6</sup> CSC operates five Regional Treatment Centres, which are accredited psychiatric hospitals, for a total capacity of 675 beds and an annual budget of approximately \$75M.



These are positive measures and suggest that the Service is moving in the right direction. At the national policy level, there are some other promising developments. I am encouraged by the efforts of the Mental Health Commission of Canada and hopeful that a criminal justice component features prominently in its Mental Health Strategy for Canada. A comprehensive and resourced national mental health and corrections strategy would fill a huge need that I first identified in context of my Office's investigation into the preventable death of Ashley Smith. As part of that national effort, there has been some good work completed under the direction of the Heads of Corrections working group on mental health. The component pieces of a mental health strategy for corrections in Canada have been articulated and publicly released, but like other "strategies" we will have to see whether it leads to federal-provincial-territorial political support and to system-wide improvements for offenders with mental health disorders.

### Self-Injury in Prisons

The number and prevalence of serious self-injury incidents in federal prisons is increasing. According to CSC data, there were 822 incidents of self-injury recorded in FY 2010-11 involving 304 offenders, including 54 attempted suicides.<sup>7</sup> In the last five years, the number of self-injury incidents in CSC facilities has more than doubled.<sup>8</sup> Women offenders accounted for one-third of self-injury incidents in 2010-11, including 15 attempted suicides. Three-quarters of all incidents occurred in multi-level institutions (regional treatment centres or the regional women's facilities) and maximum security facilities. 104 Aboriginal offenders accounted for 45% of all self-injury incidents.<sup>9</sup> Of particular concern to the Office,

close to one-third of reported self-injury incidents occurred in segregation units.

The Office has repeatedly raised concerns about the capacity of the Correctional Service to manage serious and chronic self-injurious offenders. CSC policy defines self-injury as the "intentional, direct injuring of body tissue without suicidal intent." The Service maintains that use of force interventions to manage self-injurious behaviour, up to and including physical handling, application of physical restraints and the use of pepper spray, along with placements in segregation or observation cells, are sometimes necessary to preserve life or prevent more serious bodily injury. The Office appreciates that CSC has a duty of care to preserve life and that these interventions are not intended to be punitive. That said, the Office has reviewed a number of chronic self-injury cases that call into question strategies that exclusively rely on control measures. In these cases, as the security response ratchets up, the cycle of self-destructive behaviour often repeats itself, becoming more frequent, sometimes more desperate, and, occasionally, even lethal. In other words, in some cases, the measures used to stop or prevent self-injurious behaviour can actually serve to reinforce it.

Research is pointing to some important findings and differences between women and male offenders who self-injure in prison. Women offenders, for example, report that they engage in self-injury as a coping mechanism to deal with negative emotions, or to communicate with others about their problems and their need for care. The most common emotions reported by women prior to engaging in self-injury are: anger, depression and anxiety. Following a self-harming incident, women report feelings of emotional release and relief, often followed by regret.<sup>10</sup>

<sup>7</sup> CSC, *Offender Deaths in Custody Performance Measurement Strategy April 2010 to March 2015* (Report covering Period from April to March 2010-2011), September 2011.

<sup>8</sup> CSC, *Self-Injury Incidents in CSC Institutions Over a Thirty-Month Period* (December 2010).

<sup>9</sup> One Aboriginal woman accounted for 12% of all reported self-injury incidents.

<sup>10</sup> CSC, *Preliminary Results from the Women's Self-Injurious Behaviour Study*, July 2010.

Although self-injury was once predominantly associated with female offenders, there are increasing numbers of young male offenders resorting to self-harming behaviours behind bars. In contrast to women offenders, male offenders tend to self-injure for instrumental reasons – to make a statement, to make demands of staff, to protest a disciplinary measure, among others. Significantly, preliminary research results among males who had a history of self-injurious behaviour

indicate that fully 40% reported that their first incident of deliberate bodily harm occurred in a CSC institution. Male offenders with a history of self-harm were more likely to have experienced childhood sexual, emotional and physical abuse. Perhaps not surprisingly, the majority of self-harming incidents among male inmates occur in maximum security institutions. These men were also more likely to meet the criteria for depression, substance abuse, posttraumatic stress disorder, antisocial



## Issues in Focus

### Self-Injury in Prison

On February 22, 2012, there were 22 separate ‘security’ incidents recorded in the CSC’s daily Situation Report (or SITREP). Ten of the incidents that were reported on that day involved inmates who had self-injured or attempted suicide. The following incidents were recorded:

- Self-mutilation: slashing of the forearm by a razor blade; slashing of the mouth and body cavities by a pop can lid; insertion of objects into a re-opened abdominal wound; ligature tied around a male offender’s genitals; head-banging.
- Two suicide attempts – one using a ligature tied to cell bars, and another involved choking by a ligature.
- One offender, in the course of self-injuring, covered her cell window with bodily fluids and waste.
- Half of the incidents occurred in the regional treatment centres. Two incidents involved women.
- Majority of offenders were escorted by security staff to be assessed by health care. Half would be later placed in observation or segregation cells for closer monitoring. Three would be returned to their regular cells. A few would be institutionally charged.
- Most of the incidents involved removal of the offender from his or her cell by means of ‘physical handling.’
- The use of inflammatory OC (pepper) spray in order to stop or prevent self-injury and/or to gain compliance of the offender was commonly reported. A number of the incidents required ‘post-decontamination’ procedures.

Significantly, none of the incidents recorded on that day would meet CSC’s threshold for reporting or recording of a ‘serious bodily injury,’ meaning none of them would be formally reviewed beyond the institutional level.

**Notes:** CSC policy defines ‘serious bodily injury’ as “any injury as determined by Health Services personnel as having the potential to endanger life, or which results in permanent physical impairment, significant disfigurement or protracted loss of normal functioning.”



personality disorder, and borderline personality disorder.<sup>11</sup>

As noted, a series of CSC research reports is shedding more light on the complex mental health issues that drive some offenders to use self-injurious behaviour as a prison coping strategy. Better understanding of this behaviour should help inform treatment, prevention and management of self-injury in CSC. Whatever the reason for the increase in the prevalence of prison self-injury, it seems prudent to also explore:

1. The relationship between security levels, conditions of confinement (e.g. segregation) and propensity for serial self-injury.
2. The relationship between the response/intervention(s) of the correctional authority to manage and prevent self-harm and the behaviour of self-injurious offenders.
3. The motivation and opportunity for self-injurious behaviour in federal penitentiaries.

In July 2011, an extensively revised Commissioner's Directive 843 – *Management of Inmate Self-Injurious and Suicidal Behaviour* – was finally promulgated. The revised CD includes a number of important policy changes, several of which have been identified by this Office in recent years:

- Manage self-injury through a mental health not security, behavioural or disciplinary lens.
- Develop a national strategy for managing self-injurious behaviour and convert policy direction into a Commissioner's Directive.
- Enhance monitoring and oversight of the use of physical restraints to manage self-injury and provide clear health care accountabilities and defined periods of assessment, observation and evaluation of a restrained offender.

- Use restraints as an exceptional measure and for the shortest period of time possible to preserve life and prevent injury.
- Provide instruction for continuing care when an offender is discharged from the regional treatment centre back to their home institutions.
- Develop clinical management tools to manage self-injurious offenders.

These are important measures in their own right; however, it is the Office's experience that CSC policy directives alone do not necessarily translate into better compliance. For example, the revised policy direction includes a two-step process (an immediate and long-term response) for intervening with inmates who self-injure. When managing serial or chronic self-harm, CD-843 outlines a set of procedural and decision points that involve preparation of a series of clinical reports, reviews, opinions, meetings and assessments before an Interdisciplinary Management Plan (involving clinical, case management and security interventions) is developed. During the reporting period, the Office intervened in cases where there was no treatment plan on file despite repetitive and ongoing self-injurious behaviour posing significant challenges to the institution. Staff appeared uncertain about initiating, developing, and ensuring that an integrated clinical treatment plan was in place.

- 1. I recommend that an external clinical expert be contracted to conduct a compliance review against clinical measures identified in CD 843 and that the results of this review and the Service's response be made public.**

<sup>11</sup> CSC, *Preliminary Results from the Men's Self-Injurious Behaviour Study*, July 2011.



## Areas of Ongoing Concern

The Office's review of complex mental health cases continues to reveal shortcomings in CSC's approach to mental illness in prison:

1. There is inadequate support and training provided to staff managing serial self-injury.
2. Case management information sharing between front-line and health care staff is often not well communicated, resulting in conflicts between security and health care teams.
3. An over-reliance on control measures and an escalation of the security response, including disciplinary charges, physical restraints, use of inflammatory spray and segregation placements, to manage self-injurious behaviours.
4. Placements and transfers of self-injurious offenders to maximum security facilities to manage risks that they pose mostly to themselves not others.
5. Transfers in and out of CSC treatment centres and outside hospitals to address administrative issues (e.g. staff fatigue, lack of bed space, staffing ratios) rather than mental health needs.
6. Lack of comprehensive mental health needs assessments and treatment plans.

These areas point to continuing clinical and operational dilemmas in the Service's management of mentally disordered offenders – security vs. treatment; inmate vs. patient; assistance vs. control; prison vs. hospital. These professional role conflicts, which often surface in complex care cases, reside in the fact that penitentiaries are not intended to be hospitals but some inmates are in fact patients. CSC needs to find more creative ways to resolve inherent conflicts between a health and a security-centred perspective on inmate welfare. Severe and chronic mental illness is a disability; self-injury is often a symptom.

Clarity about the kind of mental health information that can be shared with whom and for what purpose, as well as additional front-line staff training in mental health are both part of the answer. In managing mentally disordered offenders, front-line security staff need to adopt an orientation that facilitates or enables a safe, therapeutic response. While security requirements are always a consideration in a prison setting, an escalation in the security response to meet a mental health need can be counter-productive.

## Alternative Service Delivery

The Minister may, with the approval of the Governor in Council, enter into an agreement with the government of any province to provide for the custody, in a mental hospital or other appropriate institution operated by the province, of persons who, having been sentenced or committed to penitentiary, are found to be mentally ill or mentally defective during confinement in penitentiary.<sup>12</sup>

The above is an instructive reminder from the now repealed *Penitentiary Act*. Even today while CSC is legally required to ensure the essential health needs of federal offenders are met, it is not legally required to be the provider of those services. It is common practice for inmates with acute physical health care needs – for example, chemotherapy, dialysis, medical emergency – to be treated in outside community hospitals. However, for some reason, there is much more internal resistance in analogous cases of offenders requiring acute, specialized or complex mental health care services or treatment. As I noted in my last Annual Report, compliance with legislated and professional standards of care, which sometimes involves committal orders, involuntary treatment and use of physical restraints to manage or prevent serial

<sup>12</sup> *Penitentiary Act*, RSC, 1985.



self-injury, is exceedingly difficult work. In the reporting period, the Office continued to intervene in individual cases where we determined that the offender would be better served if he/she were placed in an external secure psychiatric or forensic facility.

There are a range of options for employing alternative service delivery mechanisms. CSC has adopted a narrow understanding of the concept to include community partnerships, sharing of best practices with other jurisdictions, as well as some modest organizational changes, including having its psychologists report through health care rather than operations. I would prefer a more fulsome exploration of options and alternatives to safely and humanely manage a handful of seriously mentally disordered offenders in federal penitentiaries. These are offenders who, by the nature of their symptoms or severity of their illness, have needs beyond the services that can be offered at CSC's treatment centres. In these cases, the limits and inappropriateness of a penitentiary setting to treat acute mental illness or chronic self-injury needs to be more frankly recognized and alternative measures more seriously and urgently engaged.

It should be clear that the transfer of a few mentally disordered offenders to outside community psychiatric facilities does not mean contractual or full transfer of CSC health services to other health authorities. The Office concurs that this would be impractical, expensive and unnecessary. Indeed, we are recommending only the highest risk/highest need mentally disordered offender(s) for transfer. The Office further notes that a number of exchange of service agreements are in place to accommodate federally sentenced offenders in provincial facilities and vice-versa, and these

arrangements appear to operate to the benefit of both parties.

Cost has often been presented as the major barrier. However, it bears noting that the cumulative total cost of managing an acutely mentally ill offender in a federal correctional facility, mindful of segregation, security, treatment, use of force, transfers and other operational requirements, would compare well with, or even exceed, the per diem costs incurred in an outside community psychiatric hospital.<sup>13</sup>

2. ***I recommend that the Service prepare an expert report on the barriers to alternative mental health service delivery in federal corrections and publicly release a management action plan to mitigate these barriers, including clear timelines for implementation of new service arrangements with external healthcare providers.***

## Mental Health and Segregation

The extremely restricted conditions of confinement that prevail in segregation units can exacerbate symptoms of mental dysfunction. Though I recommended a complete prohibition of prolonged segregation of offenders with acute mental health concerns in my 2009-10 Annual Report, this recommendation has yet to be acted on by the CSC.

I am not alone in registering my concerns about this unsafe practice. Indeed, even some of the most notorious 'supermax' facilities in the United States are rethinking their approach to solitary confinement, saving money, lives and sanity in the process.<sup>14</sup> This is in keeping

<sup>13</sup> In the three year period between 2006-07 and 2009-10, the average cost of maintaining a federally sentenced woman offender (without special needs) increased 26% from \$457 to \$578 per day. Source: Public Safety Canada, *Corrections and Conditional Release Statistical Overview: Annual Report 2011*. Depending on the level of care required, the per diem in a typical provincial psychiatric hospital is estimated to cost \$500 – \$1,200 per day. Source: Royal Ottawa Health Care Group, *Economic Analysis of Secure Treatment Unit for Mentally Ill Female Offenders: Final Report* (August 30, 2011).

<sup>14</sup> Erica Goode, "Prisons Rethink Isolation, Saving Money, Lives and Sanity," New York Times, March 10, 2012.



with the evolution of broader international human rights doctrine, norms and standards. In August 2011, the UN Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment reported on the effects of prolonged or indefinite solitary confinement. Among other findings and recommendations, Special Rapporteur Juan E. Méndez noted:<sup>15</sup>

1. Solitary confinement is a harsh measure, which may cause irreversible psychological and physiological harm, including anxiety, depression, anger, cognitive and perceptual distortions, paranoia and psychosis, self-mutilation and suicide attempts.
2. Solitary confinement is found contrary to the essential aims of the penitentiary system, which is to rehabilitate and reintegrate offenders into society.
3. Prolonged solitary confinement in excess of 15 days should be subject to an absolute prohibition, and indefinite solitary confinement should be abolished.
4. Solitary confinement of persons with known mental disabilities of any duration is found to be cruel, inhuman or degrading treatment, and, as such, violates international law.
5. States are urged to prohibit the imposition of solitary confinement as punishment or a disciplinary measure. It should be used only in very exceptional circumstances, as a last resort, for as short a time as possible.

6. A documented system of regular review of the justification for the imposition of solitary confinement should be in place. The review should be conducted in good faith and carried out by an independent body. Additionally, medical personnel monitoring an inmate's mental or physical condition should be independent and accountable to an authority outside of the prison administration.

To be certain, there are fundamental differences between solitary confinement and disciplinary and administrative segregation as practiced in Canada.<sup>16</sup> However, since the Correctional Service has a positive duty to protect vulnerable persons in its care and custody, it would be well-advised to take note of the Special Rapporteur's findings and recommendations. The emerging expert consensus is that there are harmful impacts of depriving environments, such as segregation, on mental health functioning. This recognition is consistent with Canada's domestic and international human rights obligations prohibiting cruel, unusual or discriminatory treatment or punishment.

3. ***I once more recommend, in keeping with Canada's domestic and international human rights commitments, laws and norms, an absolute prohibition on the practice of placing mentally ill offenders and those at risk of suicide or serious self-injury in prolonged segregation.***

<sup>15</sup> *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* (August 2011).

<sup>16</sup> The fundamental difference is that "solitary confinement" implies or involves intense sensory deprivation, which is not part of the Canadian legal framework. Academic and United Nations discourse, including the Special Rapporteur's report, tends to adopt the term solitary confinement (for which the Canadian legal equivalent is *administrative segregation*). In this respect, it is significant that Canada was censured by the UN Committee against Torture as recently as May 2012 for its use of "solitary confinement, in the forms of disciplinary and administrative segregation, often extensively prolonged, even for persons with mental illness" (emphasis added). The Committee recommended that Canada "limit the use of solitary confinement as a measure of last resort for as short a time as possible under strict supervision and with a possibility of judicial review," and "abolish the use of solitary confinement for persons with serious or acute mental illness." The Committee's observations and recommendations are very similar, in both spirit and letter, to those of the Special Rapporteur. See, *Concluding observations of the Committee against Torture*, held on 21 and 22 May 2012 (CAT/C/SR.1076 and 1079).





## IB Physical Health

Federally incarcerated offenders are excluded from the *Canada Health Act* and are not covered by Health Canada or provincial health care systems. Section 86 of the *Corrections and Conditional Release Act* provides that the CSC must ensure reasonable access to physical and mental health care in conformity with professionally accepted standards. Under Section 87 of the *CCRA*, 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. These are important legal obligations that cannot be ignored.

The CSC is the largest single employer of nurses and psychologists in the federal public service. There are approximately 800 nurses working for the Correctional Service, along with 329 registered psychologists. CSC's physical health care sites and services received external accreditation during the reporting year, an accomplishment that speaks to the professionalism and dedication of the Service's health care staff. While the CSC struggles to recruit and retain health care professionals, there are increased efforts to hire to meet rising demands. The annual health care budget for federal corrections is increasing. In 2010-11, CSC's total planned spending on health services exceeded \$210M and includes: \$138.8M for clinical services (nursing, pharmacy, methadone maintenance, palliative care, outside hospitalization, dentistry); \$22.7M for public health services (epidemiology and surveillance, treatment and support of infectious diseases, health

education), and; \$50.4M for mental health services.<sup>17</sup>

### Aging Offenders

In last year's Annual Report, I included a special focus on the growing number of offenders aged 50 years and older behind bars, which now accounts for one-in-five federal inmates. I noted the increasing health care costs of managing this population that has increased by 50% in the last ten years. The Service's overall response to my findings and six recommendations is both contradictory and disappointing. The CSC appears satisfied that a functional health care assessment of individual inmates aged 50 and over is sufficient; there are no plans to move forward with developing a comprehensive, integrated national older offender strategy. The health and safety concerns of aging inmates detailed in the report, including victimization, mobility and assistive living needs, learning, correctional and vocational programming and palliative care, do not appear to be a priority.<sup>18</sup>

When it comes to older inmates, many of whom have shared concerns about their personal safety with this Office, there simply does not appear to be the will to move forward. In the absence of deliberate action, CSC will be forced to react as it deals with the rising numbers and costs of managing an inmate population that is increasingly physically compromised or rendered vulnerable because of age or disability.

<sup>17</sup> CSC, *Performance Management Framework*, 2010-11. These breakdowns exclude costs associated with psychologists currently reporting through Operations rather than Health Care.

<sup>18</sup> The Service provided subsequent notice of its intention to add another 100 accessible cells (bringing the overall total stock of accessible cells to 433) as part of its planned renewal and expansion projects.

## Drugs in Prison

As I reported to Parliament in October 2011, there is no doubt that the presence of illicit drugs and home-made alcohol (“brew”) in federal prisons is a major safety and security challenge. The smuggling and trafficking of illicit substances and the diversion of legal drugs inside federal penitentiaries present inherent risks that ultimately jeopardize the safety and security of institutions and the people that live and work inside them. Almost two-thirds of federal offenders report being under the influence of alcohol or other intoxicants when they committed the offence that led to their incarceration. A very high percentage of the offender population that abuses drugs is also concurrently struggling with mental illness. The interplay between addiction, substance abuse and mental health functioning is complex and dynamic. Living with addiction or managing a substance abuse problem in a prison setting creates its own laws of supply and demand, which in turn is influenced by gang activity and other pressures.

The problem of intoxicants and contraband substances in prison is difficult to measure and monitor. Drug supply and utilization are illegal and underground activities. It is extremely difficult to generate a base-line from which to measure the extent of the drug problem in federal penitentiaries. We know drugs are in prisons, we simply don't know the extent of their use. We also know that the number of drug seizures in recent years has increased, but it is difficult to say whether the Service is on top of the problem or simply scratching the surface. The question remains: is the number of contraband seizures related to better enforcement, intelligence, and staff training or



simply to increases in the amount of drugs being smuggled into federal penitentiaries? This is an important question because the prison drug trade is linked to the presence and influence of gangs, which are a major contributing factor to institutional violence and predatory behaviours such as bullying, muscling, intimidation and extortion. Within CSC facilities, it is estimated that gangs are involved in close to 25% of all major security incidents.

In August 2008, the Minister of Public Safety announced a five-year \$120M investment in CSC's anti-drug strategy. That investment has supported four key activities:

1. Expansion of drug-detector dog teams to all federal prisons.
2. Hiring of new Security Intelligence Officers (SIOs).
3. Purchase of new or advanced detection and interception technologies, such as ION scanners, x-ray machines and metal detectors, thermal imaging goggles and cellular phone detection systems.



4. More stringent search standards, augmented staff training and more robust deployment rosters at principal entrances and perimeters.

The results of these measures appear mixed and somewhat distorted. For example, since the implementation of a total tobacco ban in

CSC facilities in May 2008 (and coinciding with stepped-up interdiction efforts), tobacco has become the number one seized (and prized) illicit substance, the value of which is now grossly inflated. A small pouch of loose tobacco (about 50 grams) that retails for about \$18 is worth anywhere between \$300 and \$500 in prison.

## Issues in Focus

### Drugs in Prison – Facts and Impacts

- Close to two-thirds of offenders were under the influence of an intoxicant when s/he committed the offence leading to their incarceration. Four out of five offenders arrive at a federal institution with a past history of substance abuse.
- As of July 2011, there were 775 inmates enrolled in Opiate Substitute Treatment (previously Methadone Maintenance), representing approximately 5.4% of the total inmate population.
- Two inmates died from drug overdoses in 2010-11 and there were 53 interrupted overdoses.
- 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. Based on a 2007 inmate survey, the self-reported rates of HIV among federal inmates were 4.6% and 31% for HCV. Aboriginal women reported the highest rate of HIV at 11.7% and 49.1% for HCV respectively.
- Hepatitis C rates in prison increased approximately 50% between 2000 and 2008.
- CSC estimates that treating a prisoner with HCV costs \$22,000 while treating a prisoner with HIV costs \$29,000 per year.
- According to the 2007 inmate survey, 17% of men and 14% of women injected drugs in prison. About half of those who injected drugs shared injection equipment, including with inmates who they knew had HIV, HCV, or unknown infection status.
- While CSC makes bleach, condoms, lubricants and dental dams available, inmates reported problems of accessibility, such as broken or empty dispensers. Inmates who have HIV report concern about discrimination in federal facilities.
- CSC's substance abuse programming budget fell from \$11M in 2008-09 to \$9M in 2010-11.

#### Sources: (CSC Research Reports)

- i. *Testing and Treatment for Human Immunodeficiency Virus and Hepatitis C Virus Infections among Canadian Federal Inmates* (August 2010)
- ii. *Use of bleach and the methadone maintenance treatment program as harm reduction measures in Canadian Penitentiaries* (August 2010)
- iii. *Summary of Emerging Findings from the 2007 National Inmate Infectious Diseases and Risk-Behaviours Survey* (March 2010)
- iv. *Substance Abuse Among Male Offenders* (October 2009)

There has been a modest increase in the number of drug seizures in CSC facilities since these investments were announced. The positive random urinalysis rate, which is an objective measure of whether drug use is up or down in federal facilities, also shows a small decline, falling from a national rate of 11.25% in 2000-01 to 10.00% in 2010-11. However, after correcting for the removal of prescription drugs, the rate of positive random urinalysis has remained relatively unchanged over the past decade despite increased interdiction efforts. Indeed, a flattening of the urinalysis rate suggests that interdiction, searching and enforcement activities may have plateaued; increased efforts are met by diminishing returns.

I note that a comprehensive and integrated drug strategy should include a balance of measures – prevention, treatment, harm reduction and interdiction. The Office's analysis suggests that CSC's current anti-drug strategy lacks three key elements:

1. An integrated and cohesive link between interdiction and suppression activities and prevention, treatment and harm reduction measures.
2. A comprehensive public reporting mechanism, and;
3. A well-defined evaluation, review and performance plan to measure the overall effectiveness of its investments.

With respect to performance indicators and public reporting, a more balanced score sheet might include consideration of these measures:

- Decreased gang activity linked to the institutional drug trade;
- Reduction in the number of major security incidents, including staff and inmate assaults and injuries.

- Decrease in the transmission rate of communicable diseases associated with high risk injection drug use in prison.
- Stepped up dynamic security practices.
- Increase in the number of offenders enrolled and completing substance abuse programming.
- Reduced demand for illicit drugs through effective and innovative treatment and rehabilitative programming.
- Increased investment in substance abuse, prevention and harm reduction programming.

On balance, the facts surrounding and impacts of substance abuse and addiction in federal prisons suggest a different approach. A “zero-tolerance” stance to drugs in prison, while perhaps serving as an effective deterrent posted at the entry point of a penitentiary, simply does not accord with the facts of crime and addiction in Canada or elsewhere in the world. Harm reduction measures within a public health and treatment orientation offer a far more promising, cost-effective and sustainable approach to reducing subsequent crime and victimization.

4. ***I recommend that the Service significantly augment its substance abuse programming, treatment, counselling and harm reduction services, supports and investments to better align with the needs of offenders whose criminal activity is linked to drug addiction and alcohol abuse.***





## II Deaths in Custody

In sentencing an individual to prison, the state assumes a legal duty of care for that person's welfare. This duty extends to the prison system's need to take positive measures to prevent an inmate from dying prematurely or being abused while in custody. Prisons need to ensure the protection of inmates who are particularly vulnerable – by virtue of mental illness or disability, age, or even by the nature of their crime. The system must demonstrate that it has specific and independent systems to investigate deaths in custody and ensure that lessons are learned and that corrective measures are implemented in a timely and effective manner. In fulfilling its duty of care, practices that impact on life, liberty and the security of the person – use of force, segregation, transfer, penitentiary classifications and discipline – need to be closely monitored to ensure they are reasonable, proportionate and compliant with applicable policy and legal safeguards. Accountability, transparency, oversight and public performance reporting are other components of maintaining and, just as importantly, demonstrating safe and humane custody.

### Assessing Progress

The elements of safe custody summarized above have featured prominently in the Office's priorities since the release of our 2007 *Deaths in Custody Study*. A growing series of investigative reviews, reports and assessments, including the Office's investigation into the preventable death of young Ashley Smith, have identified individual and systemic failures and corrective recommendations aimed at preventing deaths in custody. Among other measures, the Office has called upon CSC



to implement a comprehensive public accountability and performance reporting framework that can demonstrate measurable progress in addressing factors related to preventing deaths in custody. The Office is of the view that CSC's internal investigative framework could be strengthened by appointing external health care professionals to chair reviews of suicide and serious self-injury. A senior management position solely dedicated to and invested in promoting and implementing safer custody practices – which necessarily incorporate vigilant monitoring of mentally disordered offenders in segregation and those at particular risk of suicide or serious self-injury – would go a long way to bring consistency and cohesion to CSC's overall commitment to preventing deaths in custody.

Over the previous 5 years, I have identified specific deficiencies and gaps in CSC's efforts and practices to prevent or respond to deaths in custody. Security rounds, counts and patrols, which speak to the integrity and quality of



dynamic security practices within CSC, need to improve measurably before they can be considered compliant or consistent with preservation of life principles. Round the clock health care coverage in all maximum, medium and multi-level institutions would better support the physical and mental welfare of inmates and demonstrably improve the quality, appropriateness and timeliness of CSC's response in emergency situations. I continue to call for an end to the unsafe practice that allows for prolonged segregation of mentally disordered inmates in Canadian penitentiaries. The management of mentally ill offenders, including more seamless two-way sharing of information between clinical and front-line staff, better monitoring and communication of pre-indicators of suicide risk and enhanced accountability in the use of physical restraints to stop or prevent serious self-injury are common themes identified in deaths in custody or serious bodily injury reviews and investigations.

These are hardly new concerns by any means, but they are worthy of restating all the same as they continue to define areas where the Service falls short of its duty of care. More than 140 separate reviews of deaths in custody, serious assaults and self-harming incidents involving serious bodily injury were conducted by the Office in 2011-12.<sup>19</sup> These reviews continue to point to recurring compliance problems, repeated mistakes and structural weaknesses previously identified by this Office:

1. Responses to medical emergencies which are either inappropriate or inadequate.
2. Critical information-sharing failures between clinical and front-line staff.

3. Recurring pattern of deficiencies in monitoring suicide pre-indicators.
4. Compliance issues related to the quality and frequency of security patrols, rounds and counts.
5. Management of mentally ill offenders too often driven by security responses rather than appropriate health care and treatment.
6. CSC investigative reports and processes require consistency and improvement.

In the reporting period, the following individual failures were identified via the Office's section 19 review procedures.

- Failure to verify a living, breathing body consistent with life-preservation principles during security rounds and patrols.
- Failure to initiate life-saving procedures (CPR) without delay.
- Failure to apply automatic external defibrillator (AED) as part of a mandatory resuscitation process.
- Problems in recording and communicating a history of significant self-harm and suicide attempts in a transfer of an inmate from one institution to another.
- Failure to "reset" the segregation clock for cases involving inmate transfer.<sup>20</sup>
- Failure to comply with emergency response protocols and preservation of evidence following an inmate murder.

CSC's track record of applying lessons learned over time and across its five regions based on internal individual investigations into these events continues to be spotty. While progress has been made and some positive actions

<sup>19</sup> Under Section 19 of the *CCRA*, the Service is obligated to conduct an investigation whenever an inmate dies or suffers serious bodily injury. By law, these investigations are shared with and reviewed by the Office.

<sup>20</sup> There is a legal requirement for the CSC to review all cases of inmates who are placed on administrative segregation status at the 5-day, 30-day, and 60-day intervals. The purpose of these reviews is to examine the impact of segregation on the inmate, determine whether continued placement on this status is appropriate, and to explore and document possible alternatives to continued segregation. In the case reviewed, the transfer of the inmate had the effect of stopping and starting the "segregation clock."



undertaken, the public response to a number of internal reports and reviews commissioned in follow-up to several of the Office's deaths in custody recommendations appear to be in various states of perpetual review or benign neglect.<sup>21</sup> Meantime, a number of internal reviews, audits, committees and investigations were convened during the reporting period. The *2<sup>nd</sup> Independent Review Committee into Deaths in Custody*, convened by the Commissioner in January 2012, is reviewing 25 "non-natural" deaths in CSC custody (6 suicides, 5 murders, 4 deaths by overdose or suspected overdose, 8 deaths of unknown cause, 1 death by staff intervention and 1 by injury) from 2010-11. An internal audit – *Review of Practices in Place to Prevent/Respond to Death in Custody* – was also completed in February 2012.

### Public Performance Reporting

Since first reporting on this issue, I have insisted upon a public accounting from CSC with respect to its performance in preventing deaths in custody. I am pleased to report that more information than ever before is being shared and publicly released by the Service. The Office believes that the number of suicides, serious self-injury, drug overdoses, days spent in segregation, use of force interventions involving those with serious mental health issues and compliance with life-saving interventions should be part of the public record. In my third quarterly assessment of CSC's progress in preventing deaths in custody (March 2010), I stated that I looked forward to being consulted in determining performance indicators that will eventually serve as the Service's public accountability framework in preventing deaths in custody.

To that end, *Offender Deaths in Custody Performance Management Strategy – April 2010 to March 2015* was shared with the Office in draft form and presented at a national meeting of Coroners and Medical Examiners in February 2012. The document attempts to capture some key principles, assumptions and performance indicators in one comprehensive source. It includes some high-level statements of principle and intent, among them:

1. Preventing and reducing deaths in custody requires ongoing vigilance.
2. Not all deaths in custody are predictable or preventable.
3. The variables that result in preventable deaths in custody incidents can be complex, interconnected and inconsistent.
4. Different vulnerable sub-populations may require different strategies

This is an ambitious undertaking; even within the CSC, it is considered a "work in progress." I look forward to a final publicly available product that brings together efforts and statistical data encompassing several sectors of correctional activity. In my view, such a preventive model would focus on specific "at risk" individuals or groups that may be particularly vulnerable or predisposed to self-harming or dying prematurely in a CSC facility.

### Mortality Review Process and Natural Deaths in Custody

The Office continues to find reason to stand behind its assertion that the Service's internal mortality review process for reviewing "natural" deaths in custody falls considerably short of meeting legislative or investigative standards.

<sup>21</sup> Among them would include: *Verification of Progress: Correctional Service of Canada Key Commitments Relating to Deaths in Custody* (May 2010); *Final Report of the Independent Review Committee into Deaths in Custody: 2009-10* (February 2011); *Operational Examination of Long-Term Segregation and Segregation Placements of Inmates with Mental Health Concerns* (Rivera and Theriault reports, May 2010); *Report of External Review of Correctional Service of Canada Offender Complaints and Grievance Process* (Mullan Report, July 2010).



I will have more to say about the intersection between the quality and adequacy of health care provided in CSC facilities and premature deaths in custody in the near future. A report on these matters will be released in FY 2012-13 subsequent to the conclusion of the Office's ongoing systemic investigation on the Mortality Review Process.

## Prison Suicide

It is evident that there are still many points of suspension accessible to inmates. There appears to be a real vulnerability in some cells in older institutions where physical updating has been done resulting in conduits and piping running along the ceilings of the cells. In this review, 5 of 21 offenders utilized either the electrical conduits or the ventilation grills as a method to anchor their ligatures. Also 3 of 21 offenders utilized either the cell bars which are located above the cell door, or the hinges on the cell door itself. Cell furnishings i.e. a bookcase and bunk beds provided suspension points in 3 cases. All of this resulted in 11 of 21 suicides caused by some type of suspension point found in the cell.<sup>22</sup>

In the ten-year period from 2001-02 to 2010-11, there were 94 suicides in federal penitentiaries. While the suicide rate in federal custody is still seven times higher than the national average, trend data indicates that the

prison suicide rate is declining, both in proportionate (e.g. by type of death) and absolute terms.<sup>23</sup> Indeed, over the past ten years (2001-2010), the number of suicides in CSC facilities has averaged approximately 9 per year, compared with 14 between the years 1991 and 2000.<sup>24</sup>

In 2010-11, there were 54 attempted suicides reported in CSC facilities and 4 completed acts of suicide. Significantly, 3 of the 4 suicides occurred in segregation cells. CSC reported 8 prison suicides in 2011-12.

Annual inmate suicide reports prepared by CSC find that most suicide victims have struggled with a lethal combination of substance abuse, depression, abuse and neglect. Most prison suicides are by hanging (suspended by a ligature) and take place in the inmate's cell. In 2010-11, 3 inmates died by using an in-cell suspension point (smoke detector, wall mounted storage unit and electrical conduits on the ceiling). There is strong evidence to support findings that good prison design combined with quality dynamic security practices can reduce the risk of prison suicide. Effective and timely exchange of information between front-line staff and health care providers, thorough screening and suicide risk assessment, staff training in suicide awareness and prevention and timely emergency response are other keys to reducing self-inflicted deaths in custody.<sup>25</sup>



<sup>22</sup> CSC, *Significant Findings from National Investigations into Inmate Suicides 2006-2010* (Bulletin 8 – January 2010).

<sup>23</sup> See, for example, Public Safety Canada, *Corrections and Conditional Release Statistical Overview – Annual Report 2011*.

<sup>24</sup> CSC, *Annual Inmate Suicide Report 2010-2011*.

<sup>25</sup> See, for example, Tom Gabor, *Deaths in Custody: Final Report* (submitted to the Office of the Correctional Investigator, February 28, 2007); CSC, *Significant Findings from National Investigations into Inmate Suicides 2006-2010*; Prisons and Probation Ombudsman for England and Wales, *Learning from PPO Investigations: Self-inflicted Deaths in Prison Custody 2007-2009* (June 2011).



## Issues in Focus

### Prison Suicide

CSC's 2010-11 *Annual Inmate Suicide Report* involving four deaths yields some important findings:

- All four inmates had mental health concerns and/or disorders; all four inmates were prescribed medication for mental health concerns.
- Three inmates were identified as users of drugs and alcohol.
- Three inmates had been diagnosed with clinical depression.
- All four inmates had experienced some suicidal ideation during their lifetime.
- All four inmates had attempted suicide at least once before; two had attempted suicide within the last two years of their life; two inmates had been placed on a suicide watch previously.
- Three inmates had someone in their family die by suicide.

Significantly, none of the four inmates were recognized as an imminent risk for suicide or were on a suicide watch at the time of their death.

On January 21, 2010, CSC's Security Branch issued a comprehensive six-page national policy bulletin entitled *Infrastructure Vulnerabilities – Points of Suspension and Suicide Prevention*. Among other topics covered, the bulletin contained the following direction to CSC staff:

Along with the identification of vulnerabilities of specific inmates, we must also vigilantly and regularly examine the vulnerabilities that exist in our physical infrastructures, those of cell design as well as cell contents ... A list of potential vulnerabilities was compiled earlier this year by each region ... (and they) should continue to focus their efforts to mitigate the identified vulnerabilities ... It is critical that all potential points of suspension, both removable (i.e. furniture, shelving) and non-removable (i.e. electrical outlets, air vents), and other cell vulnerabilities (i.e. protective covers that have been tampered with or removed) are systematically and consistently identified, inspected, replaced, repositioned or removed.

In March 2012, the Office identified three inmate suicides in the same region which involved hanging from suspension points in their cells. There is no absolute guarantee that these suicides could have been prevented had the noted structural vulnerabilities been "systematically and consistently identified, inspected, replaced, repositioned or removed." But the risk (and opportunity) could have been substantially mitigated, especially considering that the vast majority of inmate suicides are by hanging. In two of the three institutions, the authorities admitted that their facilities did not fully comply with the January 2010 policy direction. One institution informed the Office that it had a five-year plan to remove points of suspension, but that effort had been stalled by funding issues and, more recently, overtaken by nationally driven cell renovation and expansion projects.

5. ***I recommend that CSC immediately put in place the necessary measures, including funding, to ensure the potential points of suspension in inmates' cells are identified and appropriately dealt with to prevent suicide.***

## The Way Forward

The issues reviewed illustrate concerns raised at the beginning of this chapter. They serve as a reminder that CSC has still not yet fully developed and implemented its public performance management strategy to prevent deaths in custody. At a minimum, such a strategy would be expected to articulate and measure:

1. Understanding, awareness and operationalization of CSC's legal duty of care to take all reasonable steps to reduce, mitigate and prevent deaths in custody.
2. Quality of dynamic security practices in CSC facilities (security patrols, rounds, counts, observations, interactions and interventions) based on preservation of life principles.
3. Policy compliance, accountability and performance issues, inclusive of the immediacy of management review, initiation of corrective measures and staff disciplinary actions as appropriate.
4. Management of mentally ill offenders and other "at risk" or vulnerable groups (e.g. young offenders, first-time federal offenders, offenders with histories of significant self-harm or suicide attempts).
5. Suicide prevention and awareness activities (screening for suicide risk, threat risk and needs assessments, verification of cell safety conditions – e.g. identification of potential blind spots and points of suspension).

6. Information-sharing and communication of significant pre-indicators of suicide risk between health care professionals and operational staff.

The factors that contribute to preventable deaths in custody have been extensively documented, reviewed and studied. While it is important and necessary to consolidate findings and communicate lessons learned from retroactive investigations, the far more essential and unfinished task remains to convert these into positive, sustained and measureable progress. At the risk of repeating myself, I offer three recommendations that appear more than ever to be necessary in moving the Service closer to its commitment to reduce, prevent and mitigate deaths in custody:

6. ***I recommend that CSC create a dedicated senior management position responsible for promoting and monitoring safe custody practices. This position should be invested with sufficient authority and autonomy to collect and report on performance measures consistent with the Service's legal duty of care to preserve life in custody.***
7. ***I recommend that CSC enhance the quality of security rounds, counts, patrols, interventions and interactions (dynamic security) consistent with preservation of life principles and operational policies and perform enhanced spot and compliance audits.***
8. ***At each operational site, I recommend that CSC conduct a review of internal emergency response protocols against recent compliance failures and ensure both staff and management understand their respective roles and responsibilities in carrying out life-saving interventions. Corrective measures taken should be widely communicated across the Service.***





## III Conditions of Confinement

### Population Pressures

Between March 2010 and March 2012, the total number of in-custody inmates increased from 14,027 to 14,983 inmates. This growth is expected to continue as the effects of recent legislative and policy reforms, including the *Truth in Sentencing Act*, *Tackling Violent Crime Act* and the *Safe Streets and Communities Act*, are fully felt.

Recent population growth is distributed unevenly across CSC's five regions. In the growth category, Ontario and Prairie regions lead both in proportionate and absolute terms. Both regions exceed rated capacities.<sup>26</sup> The Prairie Region accounted for 51% of all new net inmate growth between March 2010 and March 2012. Aboriginal offenders accounted for most of this increase and now represent 43% of the total offender population in the Prairie Region. As of March 2012, the Prairie Region accounts for 27.18% of the total federal inmate population. One-in-four inmates in the Prairie Region is double-bunked (the practice of housing two inmates in a cell designed for one).

Single cell occupancy is the internationally recognized accommodation standard in corrections, a standard to which the CSC still endorses as the "most desirable and appropriate method of housing offenders." The current inmate accommodation policy reflects CSC's belief that "double bunking is inappropriate as a permanent accommodation measure within the context of good corrections."



Double bunking rates fluctuate from year to year. In March 1994, the national double bunking rate peaked, exceeding 3,000 inmates, which represented 20% of the total incarcerated population. In 2002, the average double bunking rate was 12.1%, decreasing to 6.3% by 2004. As of March 2012, the national rate stood at 17.18%, representing over 2,300 double-bunked inmates. Recent growth has been even more dramatic – between March 2011 and April 2012, the number of double-bunked offenders increased by 33%.<sup>27</sup>

Most double bunking occurs in male medium security facilities, where close to two-thirds of all federal inmates are housed. Double bunking is pervasive in the regional assessment/reception units, with occupancy rates now exceeding 160% in some facilities. Double-bunking of male inmates in maximum security, once considered a measure of last resort, is rising and is also now a common practice in the secure units (maximum security) of the regional women's facilities. In April

<sup>26</sup> CSC, Monthly Population Count, April 2012 (Source: Corporate Reporting System).

<sup>27</sup> CSC, *National Report on Exemptions to Commissioner's Directive 550* (covering period April 1, 2012 to July 31, 2012), dated April 2012.

2012, the Prairie region requested (and has been granted) an exemption to double bunk 44 cells in segregation at Stony Mountain Institution.

In August 2010, in response to forecasted population increases, CSC issued *Policy Bulletin 315* that effectively suspended the requirement for the Commissioner's prior approval to increase the number of double-bunked cells. Under the revised policy, Regional authorities are permitted to increase their double bunking numbers up to 20% of overall regional rated cell capacity. Increases above that level still require the Commissioner's approval. The Prairie region now exceeds the 20% regional double bunking threshold. To manage significant population pressures, it has requested an exemption to double bunk in cells that are less than 5 square meters in size. It is feasible that double bunking could increase to 30% in this region before planned infrastructure renewal and expansion projects can provide substantive relief. The practice of granting 12-month policy exemptions, increasing regional double bunking 'caps,' permitting double bunking in cells that are less than 5 square meters, return of double bunking in segregation and the fact that some new cells that were designed for single occupancy are now being constructed based upon plans to hold two inmates have generated new concerns.

Prison crowding has negative impacts on the system's ability to provide humane, safe and secure custody. Putting two inmates in a single cell means an inevitable loss of privacy and dignity, and increases the potential for tension and violence. It is a practice that is contrary to staff and inmate safety. Crowding is linked to higher incidences of violence, prison volatility and unrest, as well as the spread of infectious diseases. CSC reported 1,248 inmate assaults

and fights in 2010-11, an increase approaching 33% over four years. Inmate injuries as a result of fights and assaults are also up. Uses of force are increasing. According to CSC's largest union of front-line workers, "double bunking is an unsafe, ineffective means by which to address population management, and will inevitably prove problematic for correctional officers, correctional staff, offenders, CSC and, finally, the general public."<sup>28</sup>

As prisons become more crowded, the physical conditions of confinement are hardening. At the higher security levels, inmates already have extremely limited opportunities for association, movement and assembly. Programming and vocational opportunities in maximum security prisons are extremely limited, defined by operational and security concerns driven largely by the influence of gangs, drugs and incompatibles.

CSC data shows an escalation in the number of exceptional searches, lockdowns and staff refusals to work on occupational health or safety grounds. Inmates spend more of their time locked in their cells as a result of lockdowns. In 2010-11, CSC reported 871 lockdowns in its 57 institutions, an average of 15 lockdowns per institution. Due to incompatibles, it is not uncommon to lock an institution down so that a few inmates can be moved to common areas to take part in programming, exercise, meals or to receive visits or health care attention. Other performance measures that speak to health and safety concerns inside federal institutions – number of disciplinary and institutional charges, uses of force interventions, incidents of self-harm, number of minor and major disturbances, rates of double bunking, segregation placements – suggest that many key indicators are trending in the wrong direction.<sup>29</sup> CSC's 2011-12 *Report*



<sup>28</sup> Union of Canadian Correctional Officers, *A Critical Review of the Practice of Double Bunking within Corrections*, April 2011.

<sup>29</sup> CSC, *Operational Security Status Report (Third Quarter 2011-2012)*, February 2012.



## Issues in Focus

### Prison Cells by the Numbers

#### Cell Counts:

<b>15,151</b>	cells in the 57 Institutions operated by CSC
<b>2,950</b>	Maximum Security
<b>7,846</b>	Medium Security
<b>2,890</b>	Minimum Security
<b>877</b>	Multi-Level Security (includes the Treatment Centres)
<b>588</b>	Women's Institutions
<b>14,852</b>	Cells Currently in Use
<b>2,752</b>	Cells being built, or announced, over the next 3 years

#### Double-Bunking:

<b>17.55%</b>	Offenders currently double-bunked
<b>20%</b>	Rate of regional double-bunking allowed for in policy

#### Minimum Cell Sizes:

<b>7 m<sup>2</sup></b>	Single occupancy wet cell (with toilet and wash basin)
<b>6.5 m<sup>2</sup></b>	Single occupancy dry cell (without toilet and wash basin)
<b>5 m<sup>2</sup></b>	Single occupancy cell size in many older institutions (cannot be used for double-bunking).

#### Rated Capacities\*:

<b>500</b>	Maximum & Multi-Level Security Male Institutions
<b>600</b>	Medium Security Institutions
<b>250</b>	Minimum Security Institutions
<b>150</b>	Women's Institutions

#### Double Bunking Not Permitted in Policy:

- Segregation cells
- Cells used for psychiatric care or mental health care (except where authorized as part of a treatment program)
- Cells smaller than five square metres
- Cells with no direct or indirect natural light
- Cells designated and occupied by handicapped inmates except in shared accommodation
- Cells for suicide watch (observation) unless authorized on an individual basis by the attending therapist or physician

\* Maximum number of inmates per facility allowed for in policy by security level.

on *Plans and Priorities* includes the following frank admission:

... in the context of anticipated increases in the offender population and the consequent rise in double bunking, CSC will be challenged to meet its targets with regard to the reduction of assaults and violent incidents in institutions. Everything possible will be done to provide appropriate living conditions that support offender rehabilitation and safe accommodation; however, double bunking is associated with adverse events. Therefore, until the additional accommodation capacity is ready, the organization's results may fall somewhat short of its targets.

The Office has raised repeated concerns about the practice of double bunking in federal institutions in recent years, particularly with regard to the quality and oversight of the Shared Accommodation Assessment (SAA) process. As outlined in Commissioner's Directive (CD) 550 – *Inmate Accommodation*, the CSC is to screen offenders against a number of criteria, including compatibility, vulnerability, predatory or permissive behaviour to determine suitability for double-bunked occupancy. In my two previous annual reports, I noted that this requirement is not always met, assessments are cursory, and often lack proper management review and regional oversight. These concerns persist into the present reporting period, with investigative staff regularly noting non-compliance – missing psychological assessments, “cut-and-paste” entries and incomplete documentation.

In the Office's 2009-10 Annual Report, I recommended 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.” The Service's response indicated that “it 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.” After the Service failed to issue the promised revised policy direction, I repeated this recommendation in my 2010-11 Annual Report. In response, the Service indicated that a “new protocol” would be issued by October 2011. This commitment also failed to materialize. In April 2012, an updated “undertakings and commitments grid” responding to my 2010-11 Annual Report noted that the new protocol is now expected in early summer 2012. While the Office has yet to be consulted on the revised accommodation policy, it is expected to contain “inmate placement criteria and definitions for double bunking in segregation.”<sup>30</sup>

The current inmate accommodation policy, which was promulgated in 2001, has been “under review” for an exceptionally long period of time. In the reporting period, my Office reviewed three cases involving serious sexual and physical assaults where the procedures for assessing personal suitability and compatibility for shared cell assignments were found to be incomplete, inappropriate and/or lacking in proper documentation. One case involved a homicide. In another case, although the physical assault took place in the secure unit of a regional women's facility and involved a vicious attack where an offender attempted to stab another in the face and neck, it went unnoticed by staff. Similarly, the Board of Investigation into the inmate murder noted that the assault and death went undetected for



<sup>30</sup> CSC, *2010-11 OCI Annual Report – Undertakings and Commitments Grid: Final Version* (April 23, 2012).



several hours while the existence of pre-indicators to the incident, including concerns voiced by both inmates to the authorities concerning their double-bunked cell assignment, seems to have been unheeded. In the other case of sexual assault reviewed by the Office, the victim was mentally challenged and appears to have been preyed upon by his cell mate.

These incidents suggest significant gaps in dynamic security, point to serious compliance problems with the inmate accommodation policy and reveal structural weaknesses in management review and oversight practices. As I have reported previously, the onus is on the Service to assess and monitor inmates to ensure suitability and compatibility for double-bunked and shared cell assignments. At a time of mounting population pressures, the Service must be especially vigilant in placing inmates in shared accommodation cells.

- 9. Without any further delay, I recommend that CSC promulgate its revised inmate accommodation policy, to include enhanced procedural safeguards and increased monitoring of double bunking assignments at both regional and national levels of review. The policy should be audited to a high level of assurance for compliance within 12 months of its implementation.**

## Use of 'Dry' Cells

Under section 51 of the *CCRA*, a Warden may authorize use of a 'dry cell' (a specially equipped direct observation cell and facilities used to search for and retrieve suspected contraband from bodily waste) based on reasonable grounds to believe that an inmate has ingested or is concealing contraband in a body cavity. There is considerable variation in practice across CSC regions and even within institutions as to the interpretation and procedures for 'dry celling.' In October 2009, CSC committed to promulgate a revised Commissioner's Directive for dry cell procedures.<sup>31</sup> In the interim, a security policy bulletin issued in September 2011 requested each institution to "develop a Standing Order on the Dry Cell process ... if they have not already done so." The bulletin provides some general guidance, including clarification that a dry cell is not equivalent to a segregation placement and that offenders are to be given



<sup>31</sup> Commissioner's Directive 566-7 (*Searching of Inmates*), promulgated May 26, 2011, simply repeats Section 51 provisions of the *Corrections and Conditional Release Act* for use of a dry cell. The CD does not provide additional policy instruction on the dry cell process.



reasonable opportunity to retain and instruct counsel without delay. However, the decision to permit sites to develop their own procedures virtually guarantees that there will be inconsistent, inappropriate and unnecessarily prolonged placements in very restrictive conditions of confinement. The Office continues to receive inmate complaints supporting our original (and largely) unanswered set of concerns regarding the use of dry cells:

- The presence of reasonable grounds to believe that an inmate had ingested contraband or carrying contraband in a body cavity.
- The degree and level of supervision, notification, observation and documentation to support the decision to place an offender in a dry cell.
- Compliance with the requirement to offer inmates the opportunity to make a legal call before placement in a dry cell.
- The overly restrictive conditions of confinement, impacting negatively on maintaining human dignity, including lack of privacy, use of lighting and cameras on a 24/7 basis and no prescribed limits on how long a dry cell placement can extend.

**10. I recommend that CSC issue national policy direction for dry cell placements in accordance with administrative fairness standards (clear procedural and legal safeguards and notification) and include an absolute prohibition on dry cell placements exceeding 72 hours.**

## Correctional 'Sub-Populations' and 'Segregation-Lite'

Intended for short-term confinement of high risk inmates and aptly described as a “prison within a prison,” administrative segregation involves restrictions on inmate movement and association above and beyond regular incarceration. On any given day, more than 800 inmates are housed in segregation units across the country. In FY 2010-11, out of an average inmate count of 14,200, there were 8,091 segregation placements (an increase of over 500 placements from 2009-10), of which 6,677 (or 82%) were involuntary.<sup>32</sup> CSC data indicates that the average length of stay in segregation in the last five years was 40 days. 13% of segregated offenders stayed more than 120 days.

Administrative segregation is used to manage incompatible groups and individuals, such as separating gang members, and to house protective custody and other vulnerable inmates. In some cases, as noted earlier, segregation is used to manage mentally disordered offenders who cannot function in general population or who do not meet the threshold for admission to one of the five regional treatment centres. While the law requires that segregation be used as a last resort and for the shortest period possible, it has become a standard tool of population management to maintain the safety and security of the institution.

Many institutions also run separate units with movement and association restrictions where procedural safeguards often fall well below the policy requirements of administrative or disciplinary segregation. It is not uncommon for entire sections of maximum security institutions to function as a series of separate and distinct “gang” ranges.



<sup>32</sup> The numbers reported here count admissions, not offenders. Offenders admitted multiple times to segregation are counted once for each admission. Source: Public Safety Canada, *Corrections and Conditional Release Statistical Overview: Annual Report 2011*.



As the Office has documented, these units, which have been aptly described as ‘segregation-lite,’ were initially created to operate as a voluntary or ‘temporary’ alternative to segregation. These “pilot projects,” however, have morphed into a permanent feature of the federal correctional system. They are known by various names – alternative housing unit, secure living environment, special needs unit, mental health units, intensive support units, gang ranges. Depending on their purpose these specialized units may house offenders adjusting to prison life, those making their way back to general population from segregation, offenders with special or high needs (mental health), those desiring to live free of drugs or alcohol or those requiring a more structured routine or living arrangement, typically involving limited movement, association and programming.

Falling somewhere between segregation and general population, these units proliferated from the late 1990s onward, filling a perceived need to provide CSC more accommodation options and offer a range of incentives (at one time referred to as “regimes”) to manage behaviours associated with a changing, more complex and challenging profile (e.g. mental illness, ethnicity, gang involvement).

As the population became more stratified and segmented, the more the distinction was lost between segregation and various “sub-populations.” The Office has long been critical of this practice of ‘segregation by any other name.’ While various sub-population units have been running for more than two decades now, until recently there was no legal or policy direction that specifically authorized or supported them.

The law concerning sub-populations has just been changed. With the passage of Bill-C10, the Commissioner of Corrections has been

given the authority to designate, this time lawfully, correctional sub-classifications and create an inmate incentives programme. (Many institutions already use ‘behavioural contracts’ to motivate, or induce inmate compliance). These changes carry the potential to significantly and irreversibly alter conditions of confinement in federal penitentiaries, and it is not clear if these changes will be for the better.

**11. I recommend that CSC policy contain explicit and clear language indicating the correctional purpose for placing inmates in designated units. Specialized units or ranges should have documented procedural safeguards in place to include admission and discharge criteria and these should meet a specific and defined program or criminogenic need.**

## Use of Force

Under CSC’s use of force management model, staff are accountable for using only as much force as is believed, in good faith and on reasonable grounds, to be necessary to carry out their legal duties. Use of force is an intrusive and decidedly high risk activity. In the Office’s view, there is a need for increased not diluted management accountability and oversight of the use of force review process.

In the last three years, the policy and reporting requirements for use of force have changed considerably. These changes have resulted in significantly fewer scenarios that are considered “reportable” (or reviewable) uses of force. More recent revisions to the use of force review process further streamline the number and types of incidents subject to regional or national levels of review. Under new rules, uses of force are to be triaged using a more condensed three tier review system. Level one

local incidents, which are estimated to account for about one-third of all uses of force, are subject to a compressed review involving just institutional staff. Regional authorities will review 25% of level two “moderate” uses of force interventions involving use of inflammatory agents, pointing of firearms or use of batons, shields and other intermediary weapons. National authorities will review a random 5% sample pulled from level two reviews.

These changes appear to be driven by administrative convenience and expediency. There is a significant backlog of use of force documents that pile up at national and regional headquarters every year. Review period timelines are rarely respected except in the most egregious or expedited cases. Even as new criteria are introduced to streamline and compress the process invariably there are far too few resources to conduct the reviews. The vitality of and confidence in the system to identify and correct non-compliance has long been called into question by this Office.

The OCI’s investigation and report into the dangerous use of firearms at Kent Institution in January 2010, which was publicly released in March 2011,<sup>33</sup> raised serious policy and administrative issues of national significance that may serve as a caution:

- Abuse of correctional power and authority.
- Breakdowns in management accountability and oversight.
- Gaps in use of force review and reporting procedures.
- Deterioration in dynamic security practices/principles.
- Violations of human rights law and policy.

These concerns persist. They are reflected in

performance indicators which show declining compliance with the safest, most reasonable or least invasive use of force intervention. There are long-standing problems in meeting post-use of force health care assessment guidelines and follow-up decontamination procedures. With respect to videotaping compliance, there continues to be ongoing failures to record time and date, and there are inexplicable stoppages in use of force recordings. Camera malfunctions, incompatibilities between various video-camera systems, fragmented and poor quality use of force recordings are commonly reported. A compliance rate of only 33% in this area is especially concerning given the need to exercise professionalism, restraint and proportionality in physical confrontations with inmates.<sup>34</sup> This Office relies on video recordings as part of the evidentiary record to determine whether force has been used judiciously, appropriately and compliantly.

In one of only two recommendations contained in the Kent investigation, the report called upon the Service to “commission an expert and independent review of its legal, policy and administrative frameworks governing use of force interventions in federal penitentiaries. This review should identify gaps and deficiencies in the use of force review process, and include recommended measures to strengthen accountability, monitoring, oversight and corrective functions at the regional and national levels.” CSC has not taken adequate measures to address this recommendation’s intent. Indeed, the most recent use of force review changes run contrary to the concerns documented in the Kent report.

It bears reminding that offenders involved in use of force incidents are largely rated as high risk and high needs, and frequently have a history of mental health disorders and self-injury.<sup>35</sup> CSC reports that half of all use of



<sup>33</sup> Office of the Correctional Investigator, *Unauthorized Force: An Investigation into the Dangerous Use of Firearms at Kent Institution Between January 8 and January 18, 2010* (March 21, 2011). Available at: [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca).

<sup>34</sup> CSC, *Use of Force Annual Report 2010-11*.



force interventions in 2010-11 occurred in maximum security institutions. Inmate injuries were recorded in 15% of interventions while staff reported a 12% injury rate. The Office's review of 814 uses of force incidents during the reporting period reveals further concerns:

- 21.7% of all use of force incidents took place where a mental health issue/concern was identified.
- Aboriginal inmates were involved in 28.4% of all use of force incidents.
- 5.9% of all incidents involved an offender allegation of excessive use of force.
- Emergency Response Teams intervened in 10% of incidents.

The Service has progressively sought to administratively streamline and compress its internal use of force review framework, including what is considered a 'reportable' use of force, at the very same time that there has been a steady increase in the number of uses of force. For example, so-called "spontaneous" uses of force have increased from 74% to 81%. There was a 26.5% increase in the use of pepper spray, which was deployed in over 600 incidents in 2010-11, representing 51% of all reported uses of force interventions.<sup>36</sup> The increased use of pepper spray coincides with its standard general issue in maximum, medium and multi-level facilities in September 2010. Although CSC links the increased use of pepper spray to staff and inmate safety, the OCI reviews suggest a depreciable decline in the use of de-escalation techniques involving conflict resolution through verbal negotiation, mediation and compromise. The resort to use inflammatory spray in half of all use of force

interventions suggests just how widespread reliance on this tool has become at the expense of other, more dynamic and less invasive responses. As predicted, there appears to be an inverse relationship between the quality and quantity of dynamic security practices and the standard issuing of pepper spray in CSC facilities.<sup>37</sup>

**12. I recommend that CSC's use of force review, accountability and monitoring framework be significantly strengthened to include a mandatory national review of all uses of force interventions where a mental health issue or concern is identified.**

## Diversity in Corrections

If prison reflects society, it is not surprising that the profile of Canadian corrections is changing, mirroring an increasingly diverse, multi-ethnic, aging and pluralistic society. Beyond the rising number of mentally ill people involved in the criminal justice system, the question of *who* is ending up behind bars these days raises some equally important questions reflecting larger societal trends:

- In the past five years, the total federal offender population (community and incarcerated) increased by 1,827 offenders (+8.7%).
- All new net growth in the offender population in the last five years is accounted for by increases in Aboriginal (+722), Black (+598), Asian (+312) and other visible minority groups.

<sup>35</sup> CSC, *A Review of Use of Force in Three Types of Correctional Facilities*, January 2011.

<sup>36</sup> As of May 2011, consistent with a recommendation made by this Office, removing a chemical or inflammatory agent delivery system from its holster and displaying it an individual(s) is considered a reportable use of force.

<sup>37</sup> Thomas Gabor, *The Impact of Issuing OC Spray Routinely to Correctional Officers*, Ottawa: Correctional Service of Canada, 2009.

- During this time, the total Caucasian offender population remained stable. As of April 2011, 64.1% of the total federal offender population is Caucasian.
- In the last ten years, the incarcerated Aboriginal women offender population has increased by 85%, and risen approximately 26% for Aboriginal men.
- Close to one-in-five federally incarcerated offenders is aged 50 or over. This segment of the offender population has increased by 50% over the past decade.
- In the last 10 years, the number of federally incarcerated Black Canadians increased by over 40% (from 766 inmates in FY 2000-01 to 1,294 in FY2010-11), with most of this increase occurring in the last five years.
- Black inmates now account for approximately 9% of the overall inmate population, whereas they represent approximately 2.5% of the general Canadian population (*Census 2006*).

The *CCRA* provides that correctional policies, programs and practices respect, among other things, ethnic, cultural and linguistic differences. Canada's correctional authority faces increasing pressures to accommodate a wide range of diversity and needs – be it language, culture, religious identification, diet or ethnicity. In turn, working with a more diverse offender population portends significant challenges with respect to CSC's employment equity obligations and practices – recruitment, retention, sensitivity and cultural awareness training. Outreach with community groups will continue to be key.

## Black Inmates

Black inmates now account for approximately 9% of the total inmate population. It is one of the fastest growing sub-groups in corrections. The majority of Black inmates are incarcerated

in the Ontario region (59.7%), followed by Quebec (17.6%), Prairies (10.7%), Atlantic (8.5%) and Pacific (3.6%).

The increasing over-representation of Black inmates in federal corrections presents important challenges for the Correctional Service of Canada, particularly in ensuring that programs and services are developed and maintained to meet the needs of a diverse population. In light of the recent and rapid increase in the number of Black inmates, the Office launched a review to explore their experiences in federal custody. The objectives of this review are threefold:

1. Provide an overall profile of federally incarcerated Black offenders in federal custody.
2. Gather information about the experiences of Black inmates in federal penitentiaries.
3. Assess and review the actions taken by CSC to respond to the needs of this growing segment of the prison population.

Some of the factors to be considered in this investigation include:

- Access to programs and services for Black inmates and the extent to which these resources (including health and mental health care) are responsive to the needs of this population.
- Barriers which may lead to differential correctional outcomes for Black offenders.
- Awareness and sensitivity training of correctional officers and frontline correctional workers.
- CSC's recruitment, retention and hiring practices and policies, particularly with respect to employment equity results.

The Office will report its findings and recommendations on these issues in FY 2012-13.





## Roles and Responsibilities of Security Intelligence Officers (SIOs)

In the reporting period, the Office intervened in a few cases where management of human sources and exchange of information raised concerns about the roles and responsibilities of Security Intelligence Officers (SIOs) who now work in both CSC institutions and the community. These Officers have “peace officer” status and their work often includes the interception, collection and management of sensitive security intelligence information. This information may be used as part of a preventive security program involving drug interdiction, management of gangs and incompatibles, protection of crown witnesses and intelligence exchange with other components of the criminal justice system, including law enforcement, parole and intelligence authorities.<sup>38</sup>

Needless to say, security information that is derived or intercepted from human sources must be strictly protected and only shared on a “need-to-know” basis. The problem, as the

Office sees it, is that there appears to be policy and procedural gaps pertaining to the roles and responsibilities of SIOs, particularly their scope of legal authority. SIO assessments are difficult to contest as sources are protected and information sharing is limited. In the Office’s view, there is a need to clarify the policy framework that governs SIO activities, given that security intelligence information derived and exchanged by CSC-managed sources can be used as a basis for decisions that have a significant impact on retained rights and liberties including security (re)classifications, transfers, segregation placements, parole decisions and even pursuit of criminal charges.

**13. I recommend new guidelines be issued to clarify the roles, responsibilities and scope of policy and legal authorities for both community and institutional Security Intelligence Officers.**

<sup>38</sup> For a more complete description of the roles and responsibilities of Security Intelligence Officers see, *Treasury Board (Correctional Service of Canada) v. Public Service Alliance of Canada*, 2012 PSLRB 46 (CanLII).

## IV Aboriginal Issues

### Assessment of Progress

Correctional outcomes for Aboriginal offenders continue to trend in the wrong direction. Results are not significantly improving in most key indicators of correctional performance:

- Over the last 10 years, while the overall non-Aboriginal inmate population has modestly increased by 2.4%, the Aboriginal inmate population has increased significantly by 37.3%.
- Approximately 4% of the Canadian population is Aboriginal, while 21.4% of the federal incarcerated population is Aboriginal.
- Aboriginal offenders are much more likely than others to have their parole revoked, less likely to be granted day or full parole, most often released on statutory release or held until warrant expiry date.
- Aboriginal offenders are referred to proportionately more programs than their non-Aboriginal counterparts of equivalent risk and need.<sup>39</sup>
- Aboriginal offenders return to CSC custody at a higher rate post-warrant expiry.



### Issues in Focus

#### Aboriginal Corrections Policy Development Process

1. In July 2010, in response to an OCI recommendation, the Service made a commitment to conduct a review of its Mental Health Strategy to “identify opportunities for improvements and cultural appropriateness for Aboriginal offenders.”
2. On August 20, 2010, the Office asked the Service for additional information concerning this commitment.
3. On October 26, 2010, the Service responded that it would share terms of reference for the Aboriginal review when they are developed.
4. On October 04, 2011, nearly a year later, the terms of reference were shared with the Office.
5. A Request for Proposal was sent to tender, closing November 10, 2011. The contract stipulated that the work was to be concluded by July 2012.
6. Two full years later, a report is expected in Fall 2012.

<sup>39</sup> CSC, *Aboriginal Offenders – A Statistical Analysis* (Table 51: Program Referrals Comparing Offenders by Risk and Need), April 2011.



- Aboriginal male inmates are twice as likely to be affiliated with a gang.
- Aboriginal inmates are disproportionately more involved in self-harm incidents.

As the Office has previously reported and as performance results show, the gap between Aboriginal and non-Aboriginal correctional outcomes is widening over time.<sup>40</sup> Based on current trends and outcomes that show no apparent sign of changing, there is every indication that the proportion of Aboriginal inmates will reach one-in-four in the near future.

### **OCI's Review of Section 81 and 84 Provisions**

The Office is completing an investigation into the use of Section 81 and Section 84 provisions of the *CCRA* to assess the extent to which these have been used by CSC to enable Aboriginal communities to direct the care and custody of offenders under their control (Section 81) and, in the case of Section 84, to determine conditions of release for those offenders planning to be returned to an Aboriginal community. Originally conceived by Parliament to transfer significant authority to Aboriginal communities for the care, custody and reintegration of Aboriginal offenders, the

Office has previously commented on the historic under-utilization of these provisions. While it is understood that not all Aboriginal communities are receptive to resettling offenders in their community, it is troubling that the number of successful Section 84 releases has fallen below 100 Aboriginal offenders annually.

The *CCRA* directs the Correctional Service to take a new and different approach to address the chronic over-representation of Aboriginal people in federal corrections. Twenty years on, there is as compelling need as ever for CSC to make significant systemic, policy and resource changes in how it deals with Aboriginal offenders and their communities. More of the same simply is not good enough. If one-in-five of Canadian inmates are of Aboriginal descent, it should not be unreasonable to expect a proportionate and equivalent investment in resources, people, programs and priorities.

In light of the pending release of its investigative review of Sections 81 and 84 in FY 2012-13, the Office will not issue Aboriginal-specific recommendations in this year's Annual Report. Instead, we will be asking CSC to publicly respond to the investigation's findings and recommendations when it is issued.

<sup>40</sup> CSC, *Aboriginal Corrections Accountability Framework Year End Report 2010-2011*, 2011.





## V Access to Programs

CSC is responsible for the provision of programs that contribute to the rehabilitation of offenders and their successful return to the community. CSC core correctional programs have positive impacts on offender behaviour and reduce reoffending rates. As the Office has previously noted, when programs are provided in an accessible and timely manner, consistent with risk, needs and responsivity principles, they work very well. However, access to programs in a correctional environment is a function of demand, availability and capacity. Significant waitlists, limited access and actual delivery and participation in programs, particularly at higher security levels, remain significant challenges for the Service.

A random snapshot of core correctional program<sup>41</sup> participation by male inmates taken on February 1, 2012, indicated that, of the seven institutions surveyed, only 324 or 12.5%

of a total 2,594 offenders were enrolled in a core correctional program. At those same institutions, the number of offenders on a ‘waitlist’ exceeded 35%. The Office’s position is that, consistent with evidence-based corrections,<sup>42</sup> offenders should be actively engaged in programming to address their criminogenic risks and needs as soon as practical after admission, regardless of sentence length, security level or parole eligibility.

Considering that program completion is an important consideration for conditional release, these statistics are not very encouraging. Over the past several years, the Office has reported on the Service’s capacity to provide access to correctional programs in support of timely and safe community reintegration. More than 60% of federal offenders delayed or cancelled parole hearings in FY 2011-2012.<sup>43</sup> The proportion of federal

### Snapshot of Core Correctional Program Participation by Security Level

Security Level	Number of Inmates	Number of Inmates Participating in Core Correctional Programming	% of Inmates Participating in Core Correctional Programming
Maximum (3 Institutions)	937	79	8.4%
Medium (3 Institutions)	1463	176	12.0%
Multi-Level (1 Institution)	194	69	35.6%
<b>TOTAL</b>	<b>2594</b>	<b>324</b>	<b>12.5%</b>

<sup>41</sup> Core correctional programs address the criminogenic needs of federal offenders and include: substance abuse, family violence, violence prevention, sex offender programming, women’s programs and community maintenance. Institutions delivering the Integrated Correctional Program Model (ICPM) were not surveyed.

<sup>42</sup> See, for example, Andrews, D., Bonta, J. and Wormith, S. *The Risk-Need-Responsivity (RNR) Model Does Adding the Good Lives Model Contribute to Effective Crime Prevention?* Criminal Justice and Behavior vol. 38 no. 7 (July 2011).

<sup>43</sup> CSC Corporate Reporting System as of April 15<sup>th</sup>, 2012.



offenders released on statutory release (when they reach the two-thirds point of their sentence) continues to eclipse the proportion released on full or day parole.

### Contact with the Outside World

A 2003 survey of Canadian prison libraries concluded that inmates are generally information-deprived: they have limited access to quality reference and educational materials, and no access to the Internet. The authors warned that information poverty, exacerbated by low literacy levels, renders inmates ill-equipped to cope with the complexities of Canada's information-driven society upon release.<sup>44</sup> Upon release, especially after having served years behind bars, inmates are often ill-prepared for employment, to resume social relationships and other aspects of living in the outside world.

Inmate access to computers is becoming increasingly scarce. An October 2002 decision prohibits an offender from bringing a personal computer into a federal penitentiary. This

decision allowed inmates who had access to computers in their cell before the 2002 prohibition to retain them. There are now just 115 inmate-owned computers approved for personal inmate use, declining from approximately 800 in 2002. There are no personal computers permitted in maximum security facilities; most of what remains are found in minimum security institutions. Assuming the status quo, inmate ownership of computers will only further erode. While inmates are permitted use of common stand-alone computers which are provided, maintained and monitored by CSC, accessibility remains very limited and functionally problematic. For example, there were six computers in the common areas of Drummond Institution, a medium security facility with an average inmate count of over 400.

A decade later it is difficult to see any remaining rationale or logic behind CSC's position on these matters, especially as technological security applications evolve. As recently as March 2012, CSC's senior



<sup>44</sup> See, Curry, A., Wolf, K., Boutilier, S., & Chan, H. (2003). *Canadian federal prison libraries: A national survey*. *Journal of Librarianship and Information Science*, 35(3), 141-152.

## Issues in Focus

### US Bureau of Prisons TRULINCS Program

Effective February 2011, the US Bureau of Prisons made inmate email available in all 116 of its federal correctional facilities. More than half of the Bureau's 122,300 inmates qualify for the TRULINCS (Trust Fund Limited Inmate Computer System) program. The idea behind TRULINCS is to help inmates keep ties with the community and family members by allowing them email access. It helps inmates conduct limited job searches, reaching out to employers who may be willing to hire ex-offenders. All email correspondence is subject to monitoring; it is a closed system. Inmates consent to monitoring when they agree to participate in the program. Contacts consent to monitoring when they approve corresponding with the inmate and are notified each time they receive correspondence from the inmate. No tax dollars are used for the program. It is funded by profits from inmate purchases of commissary products and telephone services. Inmates are charged 5 cents per minute to use the computer.

Executive Committee recommended retaining the same direction as ten years ago. An ensuing 'preliminary' discussion about 'potential' future developments on this file ended with a commitment to return at a future date to discuss 'preliminary possibilities.'

For an inmate whose sentence is near completion, access to the outside world is especially important. In theory, on-line access to various resources, including legal research, could radically expand the amount of information that could be safely accessed in a prison setting. In preparing to return to the community, inmates need all manner of services and supports to ease the re-entry process – housing, employment, restoring credit, establishing identity, accessing social services. Paper-based information is simply no longer able to provide much that is current, relevant or easily accessible.

CSC's current suite of Commissioner's Directives that govern inmate access and contact with the outside world – including but not limited to: Correspondence and Telephone Communication (2001); Electronic Data

Processing Security (1987); Interception of Communications Related to the Maintenance of Institutional Security (1997); Access to Material and Live Entertainment (1999); Control of Items Critical to the Security and Safety of Institutions (1992) – are in serious need of update and reform. The Office notes that many correctional jurisdictions around the world permit inmates monitored access to email and controlled use of the internet to maintain contact with family, promote community ties, conduct legal research and allow for access to information. In today's world, without digital skills, tools and knowledge, there can be little expectation for long term success upon release.

**14. I recommend that CSC conduct a review of its security, policy and procedural framework governing inmate access and contact with the outside world with a view to promoting and significantly expanding use of computers to enhance family and community ties in support of safe and timely reintegration.**





## VI Federally Sentenced Women

Crowding is prevalent in the five regional women's facilities, particularly Grand Valley Institution (GVI) near Kitchener, Ontario and the Edmonton Institution for Women. In the two year period between March 2010 and March 2012, the in-custody population of federally sentenced women increased by 21%, surpassing 600 inmates for the first time ever.<sup>45</sup> In the course of this reporting period, the Office expressed concerns regarding the use of common spaces, such as gymnasiums and private family visiting units to temporarily accommodate rising inmate numbers. I reported last year that some women inmates were being housed in the interview room of the Secure Unit (maximum security) where there was no running water or toilet facilities. These accommodation practices give rise to serious security, privacy and dignity concerns and are inconsistent with safe, reasonable and humane custody.

While CSC continues to use non-purpose built space to accommodate women offenders on a case-by-case basis, a number of temporary and permanent housing measures have been implemented. The Service provided the following information on short and mid-term accommodation measures in response to the Office's request for a list of all options and alternatives that have been explored or implemented:



- 16-bed expansion of an existing Section 81 agreement to accommodate minimum security women offenders.
- Exchange of Service Agreement with Manitoba correctional authorities creating 25 beds for federal use.
- 16-bed temporary accommodation unit (trailers) at Grand Valley Institution.
- More focused and timely case management practices and planning to better support timely reintegration.

Furthermore, as part of the Service's overall renewal and expansion plans, 152 new beds at a cost exceeding \$30M will be added to the regional facilities over the next two years, with GVI and Edmonton set to expand by 44 beds each.

The Office commends the effort and resolve of the Service in addressing spiraling population pressures, mindful that women's corrections is

<sup>45</sup> CSC, Corporate Reporting System, *Monthly Population Count*, April 2012.

not immune to the negative impacts of prison crowding noted earlier in this report. Once predominantly the exclusive domain of male corrections, there is concern that violence and unrest have increasingly become features in the regional women's facilities. Use of force interventions, inmate fights and assaults, institutional charges and incidents of self-harm among women offenders are all trending in the wrong direction. Of special concern to the Office is the fact half of all use of force incidents involved women with identified mental health issues. Fully two-thirds of all use of force incidents in the regional facilities involved Aboriginal women inmates.

The Office's review of two separate inmate assaults that occurred in a double-bunked area of the Secure Unit (maximum security) of a regional women's facility raises some familiar themes:

- Gaps in dynamic security practices.
- Lack of due diligence in assessing and monitoring double bunking assignments.
- Non-compliant use of force reporting, including preservation and retention of video recordings.
- Threshold for determining "serious bodily injury."

**15. I recommend that CSC convene an investigation into all assaults that occurred in FY 2011-12 involving federally sentenced women in Secure Units (maximum security) to include a review of dynamic security policies and practices, double-bunking status and procedures for use of force reporting and review.**

## Complex Needs (Self-Harm)

In November 2010, the Service opened a 10-bed Complex Needs Program on a pilot basis in the Pacific Region. It is a national resource offering treatment for consenting chronic self-injurious male offenders. There is no equivalent site or program for women offenders.

As I reported last year, acutely mentally ill women offenders are housed on the Churchill Unit, a co-located unit attached to the male Regional Psychiatric Centre (RPC) in Saskatoon, or in the Institut Philippe-Pinel in Montreal in one of 12 contracted beds. The few women offenders residing at the RPC are amongst the most acutely mentally ill in the federal correctional system. Even as CSC expands the women offender capacity at the RPC, the Office continues to intervene in cases that, because of their complexity, we believe should be transferred to outside treatment facilities, beyond the limited use of this practice in Quebec.

In an extreme case, the Office expressed concern about the use of specialized restraint equipment and a protective helmet worn for prolonged periods of time to clinically manage serial head-banging. We remain concerned about the management of this case, primarily because the Service has no experience or policy for using specialized equipment of this nature. Moreover, most of these interventions are completed by security staff. Despite our cautions and the lack of policy or internal expertise, the Service seems intent on investing considerable resources, up to and including the construction of padded cells at the RPC, to manage the most challenging cases. Use of such cells must be accompanied by additional health care human resources. The Office is of the view that these resources would be better spent by transferring these women to treatment





facilities that have the proven expertise, experience and infrastructure to safely and appropriately provide care.

In the coming year, the Office will report on an investigation that it is currently conducting into CSC's management of self-injurious women offenders. Among other areas, the Office will review how CSC staff responds to incidents of self-injury among federally sentenced women and assess the use and impact of institutional disciplinary measures, criminal charges and other security controls to prevent or manage self-harming behaviours.

***16. I recommend that the Minister prohibit CSC from introducing or using padded cells in any of its treatment facilities.***



# Correctional Investigator's Outlook for 2012-13

The Correctional Service of Canada is in the midst of the largest physical transformation of cell stock in Canadian correctional history. It is also managing a significant \$295M reduction in its operating budget over the next two years as a result of the government's deficit reduction measures. These changes, which are likely to impact programs, services and supports for offenders, coincide with the most significant and far-reaching reforms of the *Corrections and Conditional Release Act* in its twenty year history. At a time of restraint on government budgets and rising inmate numbers corrections needs to be understood as more than just bricks and mortar, dollars and cents and numbers of inmates. As this year's Annual Report documents, prison crowding has negative effects on the system's capacity to provide safe and humane conditions of confinement and prepare offenders for timely release. Building additional cells is only part of the answer. The need to get priorities right while balancing increased capacity demands with planned spending cuts is acute. Getting it wrong will have untold implications for several future generations of federal inmates, and, in turn, on public safety.

In June 2012, the 20<sup>th</sup> anniversary of the promulgation of the *CCRA* was marked. Enacted in 1992, the *CCRA* reflects over 175 years of experience in federal corrections. As new reforms pass into law, we are reminded that the *CCRA* repealed and replaced laws from another era bringing correctional practice into conformity with the *Canadian Charter of Rights and Freedoms*. The operational principles that the modern legislation expressed – the paramount importance of

public safety; the notion that offenders retain all rights except those necessarily restricted by the sentence; the concept of the least intrusive or "least restrictive" measure; safe, gradual and timely reintegration of offenders; the rule of law – rests upon *Charter* provisions and a well-developed history of case law.

Of course, like all legislation, the *CCRA* is not perfect and could be improved. The government's purposes for amending the *Act* are principally threefold: increasing offender accountability; tightening the rules governing conditional release, and; strengthening the interests of victims in the correctional process. As I have testified before various Parliamentary committees, there is every expectation for offenders to be held accountable for their crimes and adhere to their correctional plans. It is also important for victims to be empowered and engaged. Provisions allowing for enlarged participation of victims in parole proceedings, greater sharing of information with victims and enhanced offender accountability are not separate from rehabilitative aims. My Office supports these measures, which in their application should increase public confidence and enhance the accountability of those within the system.

Other measures present more serious concerns in terms of their intent, implications and application. The more potentially contentious measures include:

- Introduction of an inmate incentives and privileges scheme attached to progress against an inmate's correctional plan objectives.





- Expansion of the range of prison disciplinary offences, including changes to disciplinary segregation.
- Replacing the “least restrictive” principle with language that permits “necessary and proportionate” measures.
- Introduction of electronic monitoring.
- Instruction for correctional and paroling authorities to manage the sentence with “due regard for the nature and gravity of the offence” and “degree of responsibility of the offender.”
- Authorization for the Commissioner of Corrections to designate correctional “sub-classifications.”
- Extension of the waiting period for parole applications.

It is an open question regarding what the combined impact of these measures will hold for federal correctional practice. Recasting some of the purposes and principles of the *Act* will undoubtedly require clear policy direction and training for staff to properly interpret and apply new legal authorities. That said, replacing the constitutionally-derived “least restrictive” principle with “necessary and proportionate” measures seems to add an unnecessary layer of ambiguity and discretion where precision and consistency are required. This language may make it more difficult for my staff to hold CSC to account for decisions and actions carrying significant life, liberty and security interests (e.g. segregation placements, use of force scenarios, security classifications, and involuntary transfer). In the end, I suspect that the courts will intervene to clarify the scope of this language.

On a similar point, it surely is not the role of correctional or paroling authorities to add further punishment to the sentence of the

courts. It is the prerogative of the courts to take into account the nature, gravity, culpability and degree of harm done by the convicted offender. Indeed, once the court passes sentence, questions of seriousness, proportionality, necessity and responsibility begin to fade into the background. Like sentencing, the correctional process must be equally discerning and discriminating in its management of an individual offender’s degree of risk, needs and responsiveness to change. Correctional authorities need to be mindful of the courts’ reasons for sentence while remembering that their job is administrative, not judicial, in nature. Corrections is not about exacting further retribution. It is about preparing for the future.

There are compelling reasons to be explicit when directing correctional authorities in how a sentence of imprisonment is to be administered. While there is room for interpretation in some of the reforms that Parliament has recently adopted, including the notion of correctional “sub-classifications” and inmate incentives, I expect the Correctional Service to be guided by what is lawful, fair and evidence-based, not what may be expedient or convenient. The Office will be closely monitoring how CSC moves forward in giving operational expression to these new legislative authorities. As in all of the Office’s oversight activities, we will be looking for legality, fairness and compliance. I appreciate the professional relationship my Office shares with the Correctional Service that will serve us well during what I expect to be a busy and challenging year ahead.



## ***Ed Mclsaac Human Rights in Corrections Award***

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

The 2011 recipient of the *Ed McIsaac Human Rights in Corrections Award* was Kim Pate, Executive Director of the Canadian Association of Elizabeth Fry Societies (CAEFS).



Left to Right: Mr. Ed Mclsaac, Kim Pate (centre) and Mr. Howard Sapers





# Annex A:

## Summary of Recommendations

- 1. I recommend that an external clinical expert be contracted to conduct a compliance review against clinical measures identified in CD 843 and that the results of this review and the Service's response be made public.*
- 2. I recommend that the Service prepare an expert report on the barriers to alternative mental health service delivery in federal corrections and publicly release a management action plan to mitigate these barriers, including clear timelines for implementation of new service arrangements with external healthcare providers.*
- 3. I once more recommend, in keeping with Canada's domestic and international human rights commitments, laws and norms, an absolute prohibition on the practice of placing mentally ill offenders and those at risk of suicide or serious self-injury in prolonged segregation.*
- 4. I recommend that the Service significantly augment its substance abuse programming, treatment, counselling and harm reduction services, supports and investments to better align with the needs of offenders whose criminal activity is linked to drug addiction and alcohol abuse.*
- 5. I recommend that CSC immediately put in place the necessary measures, including funding, to ensure the potential points of suspension in inmates' cells are identified and appropriately dealt with to prevent suicide.*
- 6. I recommend that CSC create a dedicated senior management position responsible for promoting and monitoring safe custody practices. This position should be invested with sufficient authority and autonomy to collect and report on performance measures consistent with the Service's legal duty of care to preserve life in custody.*
- 7. I recommend that CSC enhance the quality of security rounds, counts, patrols, interventions and interactions (dynamic security) consistent with preservation of life principles and operational policies and perform enhanced spot and compliance audits.*
- 8. At each operational site, I recommend that CSC conduct a review of internal emergency response protocols against recent compliance failures and ensure both staff and management understand their respective roles and responsibilities in carrying out life-saving interventions. Corrective measures taken should be widely communicated across the Service.*
- 9. Without any further delay, I recommend that CSC promulgate its revised inmate accommodation policy, to include enhanced procedural safeguards and increased monitoring of double bunking assignments at both regional and national levels of review. The policy should be audited to a high level of assurance for compliance within 12 months of its implementation.*

10. *I recommend that CSC issue national policy direction for dry cell placements in accordance with administrative fairness standards (clear procedural and legal safeguards and notification) and include an absolute prohibition on dry cell placements exceeding 72 hours.*
11. *I recommend that CSC policy contain explicit and clear language indicating the correctional purpose for placing inmates in designated units. Specialized units or ranges should have documented procedural safeguards in place to include admission and discharge criteria and these should meet a specific and defined program or criminogenic need.*
12. *I recommend that CSC's use of force review, accountability and monitoring framework be significantly strengthened to include a mandatory national review of all uses of force interventions where a mental health issue or concern is identified.*
13. *I recommend new guidelines be issued to clarify the roles, responsibilities and scope of policy and legal authorities for both community and institutional Security Intelligence Officers.*
14. *I recommend that CSC conduct a review of its security, policy and procedural framework governing inmate access and contact with the outside world with a view to promoting and significantly expanding use of computers to enhance family and community ties in support of safe and timely reintegration.*
15. *I recommend that CSC convene an investigation into all assaults that occurred in FY 2011-12 involving federally sentenced women in Secure Units (maximum security) to include a review of dynamic security policies and practices, double-bunking status and procedures for use of force reporting and review.*
16. *I recommend that the Minister prohibit CSC from introducing or using padded cells in any of its treatment facilities.*





# Annex B: Annual 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
<b>Administrative Segregation</b>			
Conditions	40	66	106
Placement/Review	143	179	322
<b>Total</b>	<b>183</b>	<b>245</b>	<b>428</b>
<b>Case Preparation</b>			
Conditional Release	19	26	45
Post Suspension	9	7	16
Temporary Absence	3	4	7
Transfer	7	11	18
<b>Total</b>	<b>38</b>	<b>48</b>	<b>86</b>
<b>Cell Effects</b>	<b>167</b>	<b>219</b>	<b>386</b>
<b>Cell Placement</b>	<b>21</b>	<b>22</b>	<b>43</b>
<b>Claim</b>			
Decisions	6	14	20
Processing	9	6	15
<b>Total</b>	<b>15</b>	<b>20</b>	<b>35</b>
<b>Community Programs/Supervision</b>	<b>5</b>	<b>11</b>	<b>16</b>
<b>Conditional Release</b>	<b>14</b>	<b>9</b>	<b>23</b>
<b>Conditions of Confinement</b>	<b>249</b>	<b>234</b>	<b>483</b>
<b>Conviction/Sentence-Current Offence</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>Correspondence</b>	<b>65</b>	<b>62</b>	<b>127</b>
<b>Death or Serious Injury</b>	<b>30</b>	<b>14</b>	<b>44</b>
<b>Decisions (General) - Implementation</b>	<b>178</b>	<b>49</b>	<b>227</b>
<b>Diets</b>			
Medical	6	11	17
Religious	1	14	15
<b>Total</b>	<b>7</b>	<b>25</b>	<b>32</b>

**Table A: Complaints (1) By Category (cont.)**

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

<b>Category</b>	<b>I/R(2)</b>	<b>Inv (3)</b>	<b>Total</b>
<b>Discipline</b>			
ICP Decisions	2	0	2
Minor Court Decisions	0	6	6
Procedures	12	11	23
<b>Total</b>	<b>14</b>	<b>17</b>	<b>31</b>
<b>Discrimination</b>	<b>8</b>	<b>5</b>	<b>13</b>
<b>Double Bunking</b>	<b>22</b>	<b>21</b>	<b>43</b>
<b>Employment</b>	<b>42</b>	<b>35</b>	<b>77</b>
<b>Financial Matters</b>			
Access	26	19	45
Pay	30	33	63
<b>Total</b>	<b>56</b>	<b>52</b>	<b>108</b>
<b>Food Services</b>	<b>24</b>	<b>26</b>	<b>50</b>
<b>Grievance</b>			
3 <sup>rd</sup> Level Review	14	15	29
Decision	31	25	56
Procedure	112	58	170
<b>Total</b>	<b>157</b>	<b>98</b>	<b>255</b>
<b>Harassment</b>	<b>65</b>	<b>54</b>	<b>119</b>
<b>Health and Safety - Inmate Worksites/Programs</b>	<b>0</b>	<b>2</b>	<b>2</b>
<b>Health Care</b>			
Access	93	192	285
Decisions	75	81	156
Medication	121	133	254
<b>Total</b>	<b>289</b>	<b>406</b>	<b>695</b>
<b>Health Care - Dental</b>	<b>12</b>	<b>23</b>	<b>35</b>
<b>Hunger Strike</b>	<b>1</b>	<b>13</b>	<b>14</b>
<b>Immigration / Deportation</b>	<b>0</b>	<b>3</b>	<b>3</b>
<b>Information</b>			
Access/Disclosure	60	31	91
Correction	42	33	75
<b>Total</b>	<b>102</b>	<b>64</b>	<b>166</b>
<b>Inmate Requests</b>	<b>12</b>	<b>9</b>	<b>21</b>
<b>IONSCAN</b>	<b>0</b>	<b>1</b>	<b>1</b>



**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
<b>Legal Counsel - Quality</b>	<b>13</b>	<b>7</b>	<b>20</b>
<b>Mental Health</b>			
Access/Programs	2	7	9
Quality	0	2	2
Self-Injury	13	30	43
<b>Total</b>	<b>15</b>	<b>39</b>	<b>54</b>
<b>Methadone</b>	<b>9</b>	<b>9</b>	<b>18</b>
<b>OCI</b>	<b>0</b>	<b>4</b>	<b>4</b>
<b>Official Languages</b>	<b>4</b>	<b>1</b>	<b>5</b>
<b>Operation/Decisions of the OCI</b>	<b>6</b>	<b>3</b>	<b>9</b>
<b>Outside Court</b>	<b>10</b>	<b>9</b>	<b>19</b>
<b>Parole Decisions</b>			
Conditions	19	14	33
Day Parole	23	22	45
Detention	10	3	13
Full Parole	11	10	21
Revocation	35	31	66
<b>Total</b>	<b>98</b>	<b>80</b>	<b>178</b>
<b>Police Decisions or Misconduct</b>	<b>3</b>	<b>2</b>	<b>5</b>
<b>Private Family Visits</b>	<b>79</b>	<b>79</b>	<b>158</b>
<b>Program/Services</b>			
Women	1	0	1
Aboriginals	4	19	23
Access	23	30	53
Decisions	10	16	26
Language Access	0	1	1
Other	8	10	18
<b>Total</b>	<b>46</b>	<b>76</b>	<b>122</b>
<b>Provincial Matter</b>	<b>2</b>	<b>2</b>	<b>4</b>
<b>Release Procedures</b>	<b>40</b>	<b>29</b>	<b>69</b>
<b>Religious/ Spiritual</b>	<b>19</b>	<b>12</b>	<b>31</b>
<b>Safety / Security</b>			
Incompatibles	15	22	37
Worksite	0	1	1
<b>Total</b>	<b>15</b>	<b>23</b>	<b>38</b>

**Table A: Complaints (1) By Category (cont.)**

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

<b>Category</b>	<b>I/R(2)</b>	<b>Inv (3)</b>	<b>Total</b>
<b>Safety/Security of Offender(s)</b>	<b>27</b>	<b>60</b>	<b>87</b>
<b>Search and Seizure</b>	<b>17</b>	<b>15</b>	<b>32</b>
<b>Security Classification</b>	<b>45</b>	<b>47</b>	<b>92</b>
<b>Sentence Administration</b>	<b>11</b>	<b>5</b>	<b>16</b>
<b>Staff</b>	<b>176</b>	<b>134</b>	<b>310</b>
<b>Telephone</b>	<b>63</b>	<b>78</b>	<b>141</b>
<b>Temporary Absence</b>			
Escorted	8	19	27
Unescorted	5	3	8
<b>Total</b>	<b>13</b>	<b>22</b>	<b>35</b>
<b>Temporary Absence Decision</b>	<b>22</b>	<b>22</b>	<b>44</b>
<b>Transfer</b>			
Implementation	34	43	77
Involuntary	83	93	176
Pen Placement	17	18	35
Voluntary	61	59	120
<b>Total</b>	<b>195</b>	<b>213</b>	<b>408</b>
<b>Urinalysis</b>	<b>1</b>	<b>8</b>	<b>9</b>
<b>Use of Force</b>	<b>10</b>	<b>29</b>	<b>39</b>
<b>Visits</b>	<b>53</b>	<b>42</b>	<b>95</b>
<b>Uncategorized(*)</b>			<b>181</b>
<b>Grand Total</b>			<b>5789</b>

(\*) Includes: complaint topics which are not represented by the complaint categories outlined above, or complaints that address multiple categories at the same time.

**Table B: Complaints By Institution / Region**

Region	Institution	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
<b>FSW</b>				
	Edmonton Women Facility	39	27	8
	Fraser Valley	39	21	2
	FSW - RPC	3	0	2.5
	Grand Valley	170	53	11
	Joliette	39	18	5
	Nova	44	8	2
	Okimaw Ohci Healing Lodge	32	16	1
	<b>Total</b>	<b>366</b>	<b>143</b>	<b>31.5</b>
<b>Atlantic</b>				
	Atlantic	192	63	14
	Dorchester	121	57	9
	Shepody Healing Centre	8	3	3
	Springhill	96	15	6
	Westmorland	18	12	3
	<b>Total</b>	<b>435</b>	<b>150</b>	<b>35</b>
<b>Ontario</b>				
	Bath	93	29	7
	Beaver Creek	62	23	3.5
	Collins Bay	215	114	14
	Fenbrook	177	45	11.5
	Frontenac	31	18	4
	Joyceville	117	51	7.5
	Kingston Penitentiary	322	85	12.5
	Millhaven	241	39	11.5
	Millhaven - Assessment Unit	36	5	9
	Pittsburg	13	4	3.5
	RTC - Ontario	82	18	4
	Warkworth	406	164	12
	<b>Total</b>	<b>1795</b>	<b>595</b>	<b>100</b>
<b>Pacific</b>				
	Ferndale	19	13	2
	Kent	249	46	12
	Kwikwèxwelhp	5	1	1.5
	Matsqui	50	3	4
	Mission	85	31	9
	Mountain	203	52	9
	RTC - Pacific	147	32	9
	William Head	11	5	1.5
	<b>Total</b>	<b>769</b>	<b>183</b>	<b>48</b>





Table B: Complaints By Institution / Region (cont.)

Region	Institution	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
<b>Prairies</b>				
	Bowden	117	16	3
	Bowden Minimum	3	0	3
	Drumheller	63	29	7
	Drumheller Minimum	3	1	2
	Edmonton	270	75	18.5
	Grande Cache	112	31	7.5
	Grierson Centre	8	4	0.5
	Pe Saskatew	20	3	3
	Riverbend	34	6	1.5
	Rockwood	7	2	1.5
	RPC- Prairies	150	65	2.5
	Saskatchewan Penitentiary	136	2	3
	Saskatchewan Maximum	101	7	3
	Stan Daniels Centre	4	3	1
	Stony Mountain	121	30	7
	Willow Cree	1	0	0.5
	<b>Total</b>	<b>1150</b>	<b>274</b>	<b>64.5</b>
<b>Québec</b>				
	Archambault	76	25	8
	Archambault - CRSM	51	9	8
	Cowansville	94	43	9
	Donnacona	109	24	12
	Drummond	77	38	7
	FTC	19	0	1
	La Macaza	138	34	3
	Leclerc	108	15	9
	Montée St-Francois	40	8	2.5
	Port Cartier	170	23	6.5
	RRC Québec	104	21	9.5
	SHU - USD	123	30	10.5
	Ste-Anne-Des-Plaines	17	5	3.5
	Waseskun Healing Lodge	3	0	1
	<b>Total</b>	<b>1129</b>	<b>275</b>	<b>90.5</b>
	CCC/CRC/ Parolees in Community	137	0	0
	Federal Inmates in Provincial Institutions	7	0	0
	Uncategorized	1	0	0
	<b>Grand Total</b>	<b>5789</b>	<b>1620</b>	<b>369.5</b>

**Table C: Complaints and Inmate Population - By Region**

Region	Total Number of Complaints	Inmate Population ( *)
Atlantic	435	1,257
Quebec	1129	3,192
Ontario	1795	3,964
Prairie	1150	3,659
Pacific	769	1,763
Women's Facilities	366	604
CCC/CRC/Community/Provincial Facilities	144	N/A
Uncategorized	1	1
<b>Grand Total</b>	<b>5789</b>	<b>14,440</b>

\* Inmate Population broken down by Region: As of April 8, 2012, according to the Correctional Service of Canada's Corporate Reporting System.

**Table D: Disposition of Complaints by Action**

Action	Disposition	Number of Complaints
<b>Internal Response</b>	Uncategorized	185
	Advise/Information Given	1508
	Assisted by Institution	203
	Pending	9
	Recommendation	1
	Refer to Grievance Process	203
	Refer to Institutional Staff	285
	Refer to Warden	229
	Rejected as unfounded	130
	Systemic/Multiple	52
	Withdrawn	145
	<b>Total</b>	<b>2950</b>



Table D: Disposition of Complaints by Action (cont.)

Action	Disposition	Number of Complaints
<b>Inquiry</b>	Uncategorized	7
	Advise/Information Given	744
	Assisted by Institution	893
	Pending	35
	Recommendation	13
	Refer to Grievance Process	105
	Refer to Institutional Staff	226
	Refer to Warden	71
	Rejected as unfounded	141
	Systemic/Multiple	31
	Withdrawn	92
	<b>Total</b>	<b>2358</b>
<b>Investigation</b>	Uncategorized	3
	Advise/Information Given	141
	Assisted by Institution	118
	Pending	14
	Recommendation	19
	Refer to Grievance Process	34
	Refer to Institutional Staff	45
	Refer to Warden	41
	Rejected as unfounded	34
	Systemic/Multiple	19
	Withdrawn	13
	<b>Total</b>	<b>481</b>
<b>Grand Total</b>	<b>5789</b>	

**Table E: Areas of Concern Most Frequently Identified by Offenders**

Category	#	%
<b>Total Offender Population</b>		
Health Care	694	11.99%
Conditions of Confinement	481	8.31%
Administrative Segregation	427	7.38%
Transfer	408	7.05%
Cell Effects	381	6.58%
Staff	309	5.34%
Grievance	254	4.39%
Decisions (general) - Implementation	226	3.90%
Parole Decisions	178	3.07%
Private Family Visits	158	2.73%
<b>Aboriginal Offenders</b>		
Health Care	81	12.11%
Conditions of Confinement	76	11.36%
Administrative Segregation	52	7.77%
Transfer	49	7.32%
Cell Effects	39	5.83%
Staff	37	5.53%
Harassment	32	4.78%
Grievance	31	4.63%
Parole Decisions	25	3.74%
Information	16	2.39%
<b>Women Offenders</b>		
Conditions of Confinement	73	19.95%
Health Care	29	7.92%
Administrative Segregation	25	6.83%
Staff	24	6.56%
Parole Decisions	20	5.46%
Visits	20	5.46%
Cell Effects	19	5.19%
Mental Health	18	4.92%
Transfer	17	4.64%
Telephone	16	4.37%



# Annex C: Other Statistics

## A. Mandated Reviews Conducted in 2011-12

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

### Mandated Reviews By Type of Incident

Assault	54
Murder	2
Forcible Confinement	1
Suicide	4
Attempted Suicide	8
Self-Harm	4
Injuries (Accident)	35
Overdose Interrupted	11
Death (Natural Cause)	18
Death (Unnatural Cause)	3
Other*	4
<b>Total</b>	<b>144</b>

\* Investigations convened under S. 97 & 98 of the *CCRA*, including disturbances, sexual assaults, etc.

### Notes:

1. The Correctional Service of Canada has adopted different policy processes to investigate “natural” cause versus non-natural deaths in custody. For 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 approves corrective measures to be taken.



## B. Use of Force Reviews Conducted by the OCI in 2011-12

The Correctional Service is required by policy to provide all pertinent and relevant use of force documentation to the Office. This documentation typically includes the Use of Force Report, copy of the 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.

### OCI Use of Force Statistics for FY 2011-12

	Atlantic Region	Quebec Region	Ontario Region	Prairie Region	Pacific Region	Federally Sentenced Women	National
<b>REPORTED INCIDENTS REVIEWED BY THE OCI</b>	<b>61</b>	<b>130</b>	<b>123</b>	<b>274</b>	<b>112</b>	<b>114</b>	<b>814</b>
<b>USE OF FORCE MEASURES APPLIED</b>							
Emergency Response Team	14	7	15	23	13	12	84
Verbal intervention	58	68	101	249	107	101	684
Physical Handling	45	85	98	229	103	95	655
Restraint equipment	39	79	87	216	98	84	603
Display of OC (inflammatory spray)	3	19	19	36	18	3	98
Use of OC (inflammatory spray)	26	75	59	153	57	43	413
Use of CS (chemical agents)	0	5	2	2	1	4	14
Distraction Device	0	1	2	1	0	1	5
Shield	5	18	17	16	10	11	77
Baton	2	7	10	5	1	1	26
Display / Charging of firearm	0	0	1	9	0	0	10
Use of firearm - warning shot	0	1	2	6	2	0	11
Use of firearm - aimed shot	0	0	0	0	1	0	1
<b>INDICATORS OF CONCERN</b>							
Aboriginal	8	17	20	88	21	77	231
Women	0	0	0	2	1	105	108
Mental Health issues identified (CSC)	5	9	11	49	12	58	144
<b>INJURIES</b>							
Injuries to offender - Non Serious Bodily Injury	2	23	16	21	12	2	76
Injuries to offender - Serious Bodily Injury	0	0	1	0	3	1	5

### C. Toll-Free Contacts in 2011-12

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:	18,703
Number of minutes recorded on toll-free line:	87,530



### D. National Level Investigations Initiated in 2011-12

1. Deaths in Custody (Mortality Review) – ongoing
2. Chronic Self-Injury among Women Offenders – ongoing
3. Aboriginal Offenders (Sections 81 and 84 Review) – ongoing
4. Conditions of Confinement (Correctional 'Sub-Populations') – ongoing
5. Black Offenders in Federal Corrections – ongoing

**Response of the  
CORRECTIONAL SERVICE OF CANADA**

**to the**

**39<sup>th</sup> ANNUAL REPORT  
of the  
CORRECTIONAL INVESTIGATOR**

**2011 - 2012**





## INTRODUCTION

The Correctional Service of Canada (CSC), as part of the criminal justice system and respecting the rule of law, contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control.

CSC administers court-imposed sentences for offenders sentenced to two years or more. CSC has a presence in all regions of Canada, managing institutions of various security levels and supervising offenders on different forms of conditional release, while assisting them to become law-abiding citizens. CSC also administers post-sentence supervision of offenders with Long Term Supervision Orders for up to 10 years.

The past few years have seen significant changes to CSC's operational environment and this is expected to continue into the foreseeable future. This is due to the challenging offender profile, legislative reforms, fiscal restraints and the changing demographics of the staff complement across the country.

With respect to the offender profile, we continue to see an offender population with more extensive histories of violence and violent crimes; previous youth and adult convictions; affiliations with gangs and organized crime; higher rates of infection of Hepatitis C and Human Immunodeficiency Virus (HIV); a disproportionate representation of First Nations; Métis and Inuit offenders; significant substance abuse histories and related problems; and mental health disorders.

In this challenging context, CSC's priorities are:

1. Safe transition to and management of eligible offenders in the community;
2. Safety and security of staff and offenders in our institutions and in the community;
3. Enhanced capacities to provide effective interventions for First Nations, Métis and Inuit offenders;
4. Improved capacities to address mental health needs of offenders;
5. Efficient and effective management practices that reflect values-based leadership, and
6. Productive relationships with increasingly diverse partners, stakeholders, and others involved in public safety.

Legislatively, over the past few years, several bills were passed that impact on CSC, including the *Serious Time for the Most Serious Crime Act* and the *Protecting Canadians by Ending Sentence Discounts for Multiple Murderers Act*, and the *Tackling Violent Crime Act*. The cumulative impact of these legislative changes has resulted in an increase in the offender population count since 2010, offenders, on average, remaining in custody longer, and changes in the way we offer services to offenders.

At the same time, the Government of Canada's Budget 2012 related to the Deficit Reduction Action Plan (DRAP) will result in a number of cost-saving measures that total \$295 million over the next three years and will increase offender accountability and realize operational efficiencies at national and regional



headquarters and at operational sites across the country. DRAP initiatives will create both operational challenges for the Service in the coming years, as well as new opportunities.

This is truly a time of renewal within CSC and consequently the Service welcomes the report of the Correctional Investigator: it provides an

important, independent perspective on the Service's policies and operations. CSC will continue to work closely with the Correctional Investigator to address and resolve issues of mutual concern raised in his report, in pursuit of its mandate and in the interest of public safety for Canadians.

## ACCESS TO PHYSICAL AND MENTAL HEALTH SERVICES

### Recommendation 1:

**I recommend that an external clinical expert be contracted to conduct a compliance review against clinical measures identified in CD 843 and that the results of this review and the Service's response be made public.**

CSC supports in principle the goal of this recommendation which is to strive for continuous quality improvement and to have an active monitoring process to ensure compliance with legislative and policy requirements. There are several processes currently in place that review compliance of Commissioner's Directive (CD) 843 *Management of Inmate Self-Injurious and Suicidal Behaviour*, for example:

- Management Control Frameworks (MCFs). These are management self-auditing tools which test for compliance. An MCF for CD 843 was completed in fiscal year (FY) 2011-2012 without any major compliance issues noted.
- Regional Suicide/Self-Injury Prevention Management Committees (RSPMCs). These regional management committees review each incident of self-injury/suicide attempt on a monthly basis and verify compliance issues. In addition, co-chairs meet annually to share best practices and address common issues.

- Investigations. CSC regularly conducts investigations into self-injury, suicide and attempted suicide.

In addition to the processes noted above, CSC will organize a roundtable of external subject matter experts, regarding the effective management and treatment of serious self-injurious offenders in a correctional environment. The roundtable will also be asked to look at other methods for measuring compliance with the law and policy. The themes of this roundtable will be made public.

Further, the frequency for the MCF review of CD 843 will be increased to annually over the next two years (as opposed to every two years) and the results of the MCF will be discussed at CSC's Executive Committee

### Recommendation 2:

**I recommend that the Service prepare an expert report on the barriers to alternative mental health service delivery in federal corrections and publicly release a management action plan to mitigate these barriers, including clear timelines for implementation of new service arrangements with external healthcare providers.**

**CSC does not support this recommendation.** In accordance with the

*Corrections and Conditional Release Act*, CSC provides inmates with essential health care, and reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community.

CSC is currently implementing critical aspects of the Mental Health Strategy as a result of funds received in Budgets 2005, 2007, 2008, and 2010. Results to date are encouraging. For example, in FY 2011-2012, approximately 48% of (N 9,925) incarcerated offenders received mental health services and 22% of (N 3,097) offenders in the community received a mental health service. CSC Psychiatric Treatment Centres, all five of which are accredited, received a total of 675 admissions in FY 2011-2012. The average length of stay in a Treatment Centre during that year was approximately 154 days for acute or sub-acute treatment and 393 days for psycho-social rehabilitation. As well, an evaluation of the Community Mental Health Initiative indicated that the risk of suspension and revocation in the group who received a community mental health specialist service was 34% and 59% lower, respectively, than the comparison group.

While CSC has made significant progress in addressing the mental health needs of offenders it is recognized that more can be done. In January 2011, the report of an external expert consultant engaged by CSC to review the feasibility of alternative service delivery (including mental health service delivery) concluded that a contractual or full transfer of CSC health services to other health authorities would be impractical for a number of reasons, primarily stemming from the absence in Canada of a national health delivery authority. Instead, the report recommended that CSC continue to explore ways to enhance the delivery of mental health services primarily through strengthened

internal governance and continued partnership development.

CSC is committed to maintaining and expanding community partnerships in the area of mental health where community capacity exists. This focus is key to providing the stability and support necessary for an offender to be released and remain in the community in a law-abiding manner. For example, CSC and Institut Philippe-Pinel have a long standing partnership to provide in-patient psychiatric care to women offenders. CSC has also engaged the not-for-profit community and, in any given month, over 100 beds are available for offenders with mental health care needs, across Canada, in community based residential facilities.

Further, in FY 2011-2012, CSC's community mental health staff conducted over 1,900 contacts with community health and social services providers in order to facilitate local partnership development and the provision of essential mental health services to offenders.

In addition to many local and specialized community mental health partnerships across the country, CSC regularly engages with the major forensic hospitals in Canada and the Federal/Provincial-Territorial Mental Health Working Group. One of the goals of these two engagements is to identify opportunities for innovative and creative partnerships to enhance service delivery.

Over the last five years, CSC has been consulting with external independent experts to conduct specialized mental health assessments on offenders with complex needs in order to define appropriate treatment planning. Lastly, in addition to ongoing partnership activities, CSC will continue to engage with external experts regarding the effective management and treatment of offenders with complex needs.





CSC is committed to ongoing partnership development within the constraints of the funding available, including consultation with subject matter experts, and will provide a list of external assessments completed in FY 2012-13 by April 2013.

### **Recommendation 3:**

**I once more recommend, in keeping with Canada's domestic and international human rights commitments, laws and norms, an absolute prohibition on the practice of placing mentally ill offenders and those at risk of suicide or serious self-injury in prolonged segregation.**

**CSC supports this recommendation in principle.** Administrative segregation is a legislative measure available to the Service to help ensure the safety of all inmates, staff and visitors. It is employed by CSC as a last resort for the shortest period of time necessary to manage the serious risk posed by an inmate's association with other inmates. In order for an inmate to be placed and maintained in administrative segregation, he or she must meet the stringent criteria set out in section 31 of the *CCRA* and there must be no reasonable alternative to segregation. The inmate is entitled to all of the procedural and substantive safeguards outlined in the law and policy including regular segregation reviews. Furthermore, CSC works assiduously to return a segregated inmate to the general population as soon as it is safe to do so.

In accordance with section 87 of the *CCRA*, CSC specifically takes into consideration an offender's state of health and health care needs in determining whether to place the offender in segregation. Except in emergency situations, consultation with an offender's case management team will occur before a

segregation placement which includes consultation with mental health care professionals as appropriate. All reasonable alternatives to segregation will be considered, including whether an inmate with mental health concerns could be safely and appropriately managed in a treatment centre or similar environment.

In recognition of the importance of building appropriate safeguards around mental health and administrative segregation, CSC is strengthening its policy framework in the following ways:

- Adding explicit requirements to CD 709 *Administrative Segregation* for staff to assess, consider and properly document the mental health care concerns of an inmate being considered for segregation placement, including any plan to address the inmate's health concerns. Their assessment will also be documented as part of the immediate needs checklist. CD 709 is anticipated to be promulgated in September 2012; however, the Case Management Bulletin stipulating the requirement to complete the immediate needs checklist was promulgated on October 21, 2010.
- Clarifying that an inmate who is placed in an observation cell for the sole purpose of suicide/self-injury observation is not to be admitted to administrative segregation.
- Reinforcing that information gathered from the health care assessment conducted when an inmate is segregated be made available to staff working with the inmate and documented on the inmate's segregation file in addition to the health care file. (Case Management Bulletin September 2011); and

■ Clarifying that inmates who are at an increased risk for self-injury or suicide are to be managed in accordance with CD 843, *Management of Inmate Self-Injurious and Suicidal Behaviour* (promulgated in July 2011) which emphasizes the requirement to use least restrictive measures for the purpose of preserving life and preventing serious bodily injury while maintaining the dignity of the inmate in a safe and secure environment. It also directs staff to work in an interdisciplinary team to ensure that a comprehensive approach and plan is developed. Further direction was issued which reinforced that such inmates are not to be placed on administrative segregation status strictly as a result of their self harming behaviours. This Case Management Bulletin was promulgated on June 12, 2012.

In cases where there are no reasonable alternatives to segregation, an inmate's mental health is considered as part of the segregation review process. CSC's psychologists are consulted as appropriate to determine if there are acute mental health concerns and will determine if the inmate requires a referral to specialized health services, including psychiatric care. More comprehensive mental health assessment may also be conducted to identify the inmate's particular mental health or behavioural needs and develop an appropriate plan for his or her successful reintegration back to the inmate population.

Finally, to address the recommendation of the 2010-2011 OCI Report, recommendation 16, quarterly audits are being conducted to ensure mental health considerations are taken into account and documented in a decision to initiate or maintain a segregation placement. Also on a quarterly basis, senior managers at the regional and national levels, review the

cases of several inmates in long-term segregation faced with significant reintegration difficulties across the country to discuss alternatives with the objective of facilitating releases from administrative segregation for these offenders at the earliest opportunity.

#### **Recommendation 4:**

**I recommend that the Service significantly augment its substance abuse programming, treatment, counselling and harm reduction services, supports and investments to better align with the needs of offenders whose criminal activity is linked to drug addiction or alcohol abuse.**

**CSC supports this recommendation** and has significantly augmented National Substance Abuse Program delivery. The Integrated Correctional Program Model was designed by the same program developers of the National Substance Abuse Program and it was designed to address the same underlying causes of criminal behaviour with the same competencies that made CSC's National Substance Abuse Program successful at reducing the likelihood of general and violent recidivism. The main goal of both the National Substance Abuse Program and the Integrated Correctional Program Model is that they are designed to address the risk factors related to offending, in particular, offending linked to substance abuse. The Integrated Correctional Program Model has incorporated the most effective aspects of CSC's National Substance Abuse Program but has the added benefit of allowing enrolments on a continual basis which has resulted in greater program accessibility for offenders who need substance abuse programming. In addition, offenders can access the program much earlier in their sentence.





Enrolments for substance abuse programs and the Integrated Correctional Program Model have increased by 35% from FY 2008-2009 to 2011-2012 with the total number of enrolments increasing from 3,799 in 2008-2009 to 5,145 in 2011-2012.<sup>1</sup> The Integrated Correctional Program Model targets multiple programming needs, including substance abuse which is why it is included.

Over the coming year, CSC will be focusing on motivating offenders who refuse to participate

in programs to participate in key interventions, such as the National Substance Abuse Program, as a means of assisting them in their release preparations and becoming law-abiding citizens. In addition, the Integrated Correctional Program Model also includes a motivation component to encourage offenders to actively participate in the programming and intervention components of their correctional plan.

## DEATHS IN CUSTODY

### Recommendation 5:

**I recommend that CSC immediately put in place the necessary measures, including funding, to ensure the potential points of suspension in inmates' cells are identified and appropriately dealt with to prevent suicide.**

**CSC supports this recommendation in principle;** however, absolute elimination of any form of suspension point is not feasible as suspension points are possible from even the most unlikely objects. Nonetheless, CSC strives to eliminate unnecessary suspension point opportunities and more importantly, where it is not feasible or practical to do so, our goal is to ensure that frontline staff are aware of any vulnerabilities in every cell before placing an offender in a cell who may have tendencies toward self-injuring or suicidal behaviours.

A Security Bulletin was released on January 21, 2010 on Infrastructure Vulnerabilities – Points of Suspension and Suicide Prevention. The bulletin indicated that it was critical that all potential points of suspension, both removable and non-removable, and other cell vulnerabilities are systematically and consistently identified, inspected, repaired, replaced, repositioned or removed. In June 2012, CSC Form 1448 National Cell Condition Checklist was updated and posted on the Infonet.

CD 550, Inmate Accommodation, continues to be under review by CSC, however CSC issued an interim direction to all operational sites in June 2012, in the form of a security bulletin. This bulletin directs staff to complete a National Cell Condition Checklist (CSC form 1448) at a minimum of once per month to identify blind spots and potential points of suspension.

<sup>1</sup> Data source: PMMR, Database: CJIL, Extract Date: 2012-04-15.

## Recommendation 6:

**I recommend CSC create a dedicated senior management position responsible for promoting and monitoring safe custody practices. This position should be invested with sufficient authority and autonomy to collect and report on performance measures consistent with the Service's legal duty of care to preserve life in custody.**

**CSC does not support this recommendation.** It is the role of all senior managers in CSC to promote safe custodial practices. At the local level, the institutional head, in accordance with *Corrections and Conditional Release Regulations*, is responsible for the care, custody and control of all inmates in the penitentiary. As well, at the regional level the Regional Deputy Commissioner (RDC) and Assistant Deputy Commissioner Institutional Operations have direct responsibility for the oversight of safe custody practices. At the National Headquarters level, there are two senior executives – the Senior Deputy Commissioner (SDC) and the Assistant Commissioner, Correctional Operations and Programs (ACCOP) – who are tasked with the responsibility to collect and report on performance measures regarding safe custody practices.

The role of the SDC includes the oversight responsibility for internal investigations. Through this function, the SDC meets monthly with all RDCs and Functional Policy Heads at NHQ to discuss National Boards of Investigations – their findings and recommendations – as well as trend data. These lessons learned are documented throughout the organization. As well, discussions are facilitated on whether these issues are systemic or isolated incidents. A roll-up of trends related to completed

investigations was shared with Executive Committee members and a Management Action Plan is being prepared to build on these lessons learned.

Additionally, under the leadership of the SDC, a second Independent Review Committee was convened by CSC to review all non-natural deaths in custody during the FY 2010-2011. This Report will also be shared throughout the organization and used as an additional learning tool.

In light of the “individual failures” identified by the OCI on page 19 of the OCI *2011-2012 Annual Report*, CSC has undertaken a review of the 152 National Boards of Investigation that were convened in 2011-2012 to ensure that these were not systemic issues and that they have in fact been addressed through corrective measures. Of the 152, only 29 were investigations related to a death in custody. These 29 investigations were examined in detail to ensure that appropriate measures were taken to prevent a reoccurrence of the areas identified by the OCI. All of the corrective measures have or will be discussed with EXCOM members, at the National Investigations meeting, to ensure that performance is improved in these areas where necessary and that “Lessons Learned” are shared with all CSC Regions. In addition, all RDCs share the identified trends in Investigations with their respective management teams.

In addition, the ACCOP has created a Performance Measurement Framework for inmate deaths in custody which has been shared with senior managers and the OCI office, and allows for ongoing monitoring and implementation of strategies. It is anticipated the next report on performance measurement will be available by December 31, 2012.





Also, a Review of Practices in Place to Prevent/Respond to Deaths in Custody was completed in February 2012 as part of CSC's 2011-2014 Risk-Based Audit Plan. As well, in the context of CSC's strategic priority for the safety and security of staff and offenders within institutions a total of 109 separate actions/commitments have been made by CSC to better respond to/prevent deaths in custody. Since 2009, CSC has been completing a progress report on a semi-annual basis on the implementation status of these commitments. The review conducted in February 2012 found that 22 of the 24 commitments related to risk have been completed. CSC is committed to implementing its action plan for areas that will assist in preserving life in custody.

#### **Recommendation 7:**

**I recommend CSC enhance the quality of security rounds, counts, patrols, interventions and interactions (dynamic security) consistent with preservation of life principles and operational policies and perform enhanced spot and compliance audits.**

**CSC supports this recommendation.**

CSC's policy framework with respect to rounds, counts, patrols, interventions and dynamic security is well defined and will continue to be strengthened with regular reviews and updates. These policies clearly identify expectations and accountabilities for staff at all levels. In addition, the activities associated with these policy requirements are a prevalent aspect of both initial training for staff as well in subsequent refresher training. Notwithstanding the policy framework and training, a number of internal and external reviews have identified ongoing concerns with compliance to the policy requirements. To that end, enhanced oversight of security patrols, including spot checks and compliance

reporting, has been implemented in each region.

CSC will continue to implement processes that will improve the quality of rounds and counts, including best practices such as those that are currently in place in the Atlantic Region.

Moreover, a national refresher on Dynamic Security was offered to correctional staff in FY 2011-2012.

Most recently, a national Working group comprised of CSC managers and staff, as well as UCCO-SACC-CSN representatives, has conducted a review of security rounds to prevent deaths in custody. The report of the Working Group will be presented to EXCOM in December 2012.

#### **Recommendation 8:**

**At each operational site, I recommend CSC conduct a review of internal emergency response protocols against recent compliance failures and ensure both staff and management understand their respective roles and responsibilities in carrying out life-saving interventions. Corrective measures taken should be widely communicated across the Service.**

**CSC supports the intended goal of this recommendation.**

CSC through its governance and policy has clear direction on areas of responsibility for both staff and management to ensure preservation of life while in custody. CSC has enshrined in its policy framework that directors of operational units must conduct a medical emergency exercise at least every 12 months to assess the effectiveness of contingency plans and to give staff members the necessary practice in their respective roles in the event of an emergency. Furthermore, operational sites are required to conduct "quarterly on-site simulations of



medical emergencies that allow staff to practice and remain current in skills”.

In addition, all operational unit contingency plans require review at least every 12 months. Any gaps identified from the review requiring amendments, and/or certification that the review has been completed, are forwarded to National Headquarters through Regional Headquarters. In addition, if gaps are identified through interventions used to manage or control incidents, the Situation Management Model is reviewed, and if required, amended accordingly. CSC also tracks all compliance failures identified in the MCF through a review of Internal Emergency Response Protocols. Sites are measured against specific criteria in relation to Management of Emergencies, Fire Safety, Use of Security Equipment, Management of Inmate Self-Injurious and Suicidal Behaviour, Use of Restraint Equipment, etc. Through this reporting structure, non-compliance is identified and sites are required to rectify in anticipation of the next nationally reported review. MCF results are reviewed and discussed at Executive Committee meetings in order to ensure that organizational gaps and/or deficiencies are immediately addressed.

The role of the SDC includes responsibility for internal investigations. Through this function, the SDC meets monthly with all RDCs and Functional Policy Heads at NHQ to discuss National Boards of Investigations – their findings and recommendations – as well as trend data. The monthly meetings allow for a comprehensive review of internal emergency responses and identification of compliance failures and areas of strengthening. Corrective measures are identified that appropriately address any compliance failures and sites are required to report on implementation.

Furthermore, these monthly discussions allow for the identification of trends and lessons learned that are communicated throughout the organization, as well as an opportunity to distinguish between systemic or isolated incidents. A roll-up of trends related to Boards of Investigation, including internal response protocols, was shared with Executive Committee members and a Management Action Plan is being prepared to build on these lessons learned.

It is the position of CSC that the Service has a robust review process in place. The organization’s MCF provides an internal emergency response review protocol and a policy framework. In addition, the monthly SDC Incident Investigation meetings with RDCs and Sector Heads allow for review of specific actions undertaken in response to emergencies at the sites and identify any compliance failures that require corrective measures. Any trends or identified systemic issues are then shared throughout the Service.





## CONDITIONS OF CONFINEMENT

### Recommendation 9:

**Without any further delay, I recommend that CSC promulgate its revised inmate accommodation policy, to include enhanced procedural safeguards and increased monitoring of double bunking assignments at both regional and national levels of review. The policy should be audited to a high level of assurance for compliance within 12 months of its implementation.**

**CSC supports the recommendation in principle** but does not support the implementation of regional and national levels of review. Tools are being developed to assist correctional officers in conducting appropriate, safe and secure cell assignment including double bunking. These tools will include amended OMS screens which will ensure that the officer addresses each area of consideration. These changes are anticipated to be completed by June 30, 2013. Also, guidelines for the completion of the double bunking assessment will be prepared so as to provide support to the officers completing the assessment. These guidelines will be completed by December 31, 2012.

Promulgation of CD 550, Inmate Accommodation, is anticipated for September 2012. In the interim, however, CSC issued interim directions to all operational sites in May and June 2012, in the form of security bulletins. The policy reinforces accountabilities and provides the structure for ensuring that appropriate assessments and assignments are being completed. In addition, regions will ensure that performance is monitored and assessed locally, and where there are deficiencies, managers will be held accountable.

### Recommendation 10:

**I recommend that CSC issue national policy direction for dry cell placements in accordance with administrative fairness standards (clear procedural and legal safeguards and notification) and include an absolute prohibition on dry cell placements exceeding 72 hours.**

**CSC supports this recommendation in part** and issued a National Policy direction in regard to dry cell placements. The Institutional Head is required to review each placement in a dry cell on a daily basis. In addition, the inmate may make written representations for consideration at the daily review. Furthermore, the policy requires that “the institutional head will inform the Assistant Deputy Commissioner Institutional Operations, when the placement of an inmate in a dry cell under section 51 of the *CCRA* exceeds 72 hours.”

As such, at this time, we do not have an absolute prohibition on placements exceeding 72 hours, as there have been incidents of offenders reinserting or swallowing foreign objects to avoid detection, which necessitates the continued placement beyond a 72 hour time period. We recognize the potential concerns with respect to the health and dignity of the individual in these circumstances. As such, CSC will adjust the policy framework to ensure any dry cell placement exceeding 72 hours requires a physical and mental case assessment completed for each subsequent 12 hour period.



### **Recommendation 11:**

**I recommend that CSC policy contain explicit and clear language indicating the correctional purpose for placing inmates in designated units. Specialized units or ranges should have documented procedural safeguards in place to include admission and discharge criteria and these should meet a specific and defined program or criminogenic need.**

CSC supports this recommendation and will be reviewing the current make-up, purpose and operational practices of the various specialized units and ranges across the country in light of the recent amendments to the *Corrections and Conditional Release Act*. This review will also include developing specific procedural safeguards and guidelines with respect to admission and discharge into these units and their general operating and programming practices.

### **Recommendation 12:**

**I recommend that CSC's use of force review, accountability and monitoring framework be significantly strengthened to include a mandatory national review of all uses of force interventions where a mental health issue or concern is identified.**

**CSC does not support this recommendation.** The Revised CD 567-1 - *Use of Force* was promulgated on June 13, 2012. The new policy streamlines the process and reduces the amount of national reviews which will take place. The rationale for the new policy was to concentrate limited resources for regional and national reviews on situations of greatest importance; thus, ensuring timeliness and

attention. As such, it is anticipated that problematic situations will continue to warrant and receive reviews at the appropriate levels. In addition, CSC recognizes that the OCI will maintain its practice of reviewing all use of force interventions and will respond accordingly to any significant issues brought to CSC's attention.

### **Recommendation 13:**

**I recommend new guidelines be issued to clarify the roles, responsibilities and scope of policy and legal authorities for both community and institutional Security Intelligence Officers.**

**CSC does not support this recommendation.** The policy framework for Security intelligence contained in the CD 568 series has been completely revised. The roles and responsibilities of the Security Intelligence Officers (SIOs) and all others involved in an intelligence role have been clarified and strengthened. As well, there are direct cross references to all legislation such as the *CCRA* and the *Access to Information and Privacy Act* that have an impact on the responsibilities and legal obligations of the SIO.



## ACCESS TO PROGRAMS

### Recommendation 14:

**I recommend that CSC conduct a review of its security, policy and procedural framework governing inmate access and contact with the outside world with a view to promoting and significantly expanding use of computers to enhance family and community ties in support of safe and timely reintegration.**

**CSC does not support this recommendation** but will explore methods of improving inmate access and contact with the outside world. These methods will not be limited to

expanding inmate access to computers. For example, video conferencing may prove to be a viable method of enhancing family and community ties. Further, CSC has also added more correctional programs to computers for inmate use in program rooms.

CSC will also explore options that are being examined in other jurisdictions to provide safe and secure access via technology to family and personal information.

## FEDERALLY SENTENCED WOMEN

### Recommendation 15:

**I recommend that CSC convene an investigation into all assaults that occurred in FY 2011-12 involving federally sentenced women in Secure Units (maximum security) to include a review of dynamic security policies and practices, double-bunking status and procedures for use of force reporting and review.**

**CSC supports this recommendation in principle.** In the last five years, the number of inmate assaults involving a maximum security woman at the five regional facilities has fluctuated between 5 and 23 per year, reaching its peak in 2009-2010. The number of use of force incidents involving maximum security women has decreased by 23%, from 91 to 70. In the same time period, the maximum security population has increased by 25%, from 51 women in 2007-2008 to 64 in 2011-2012. CSC will undertake this fiscal year an

independent review of these incidents with the intent of identifying lessons learned, policy compliance issues, and areas for improvement as they relate to practices and procedures.

### Recommendation 16:

**I recommend that the Minister prohibit CSC from introducing or using padded cells in any of its treatment facilities.**

The use of padded cells for therapeutic reasons is consistent with community practice. The padded cell is an intervention that is part of a comprehensive treatment plan in limited and exceptional circumstances. Currently, CSC has one padded cell located at the Regional Psychiatric Centre in Saskatoon. Comprehensive clinical guidelines and monitoring procedures are being developed with the advice of an external expert psychiatrist before CSC considers the possibility of expanding their use to other treatment centres.