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2020-2021



Office of the
Correctional
Investigator

Bureau de
l'enquêteur
correctionnel

Canada 

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Cover Photo: Structured Intervention Unit and Secure Unit yard at Nova Institution.



The Correctional Investigator
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June 30, 2021

The Honourable Bill Blair
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 48th Annual Report of the Correctional Investigator.

Yours respectfully,

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

Table of Contents

Correctional Investigator’s Message	ii
Executive Director’s Messagexi
National Updates and Significant Cases.	1

National Level Investigations

1. Investigation into Uses of Force Involving Federally Incarcerated Black, Indigenous, Peoples of Colour (BIPOC) and Other Vulnerable Populations	5
2. A Review of Women’s Corrections 30-Years since <i>Creating Choices</i>	22
3. Preliminary Observations on Structured Intervention Units	54
4. An Investigation of the Use of Medical Isolation in Federal Corrections	62
5. An Investigation into a Suicide in a Maximum Security Facility	66
6. Canada’s Ratification of the <i>Optional Protocol to the Convention against Torture</i> (OPCAT)	73
Correctional Investigator’s Outlook for 2021-22	80
Ed Mclsaac Human Rights in Corrections Award.	81
Annex A: Summary of Recommendations	82
Annex B: Annual Statistics	85
Annex C: Other Statistics	95
Annex D: Corporate Reporting.	98

Correctional Investigator's Message



I write the opening message to my 2020-21 Annual Report in the midst of the third wave of the global COVID-19 pandemic. Months from now, when my report has been tabled in Parliament and publicly released, I hope that the worst of these very difficult times will be behind us. It has been extremely challenging to fulfill particular aspects of my mandate when regular visits to federal prisons by my staff members continue to be suspended. Though my Office moved to a virtual visits model in early 2021, an approach that allows my investigators to confidentially interview prisoners by remote video link-up, nothing replaces in-person visits.

The added value of my Office's work rests in the ability of investigative staff to develop a personal rapport and dialogue with incarcerated individuals and prison staff, conduct in-person interviews, experience and inspect first-hand the lived realities of incarceration, and seek to resolve issues informally on site. I look forward to the day when my staff and I have returned to the office and in-person visits to prisons have resumed.

In the meantime, at the risk of being overly optimistic, I want to take this opportunity to share some thoughts and findings, based on the work of my Office, on how the pandemic has affected federal corrections. My intent is to reflect on this experience in a way that could help guide or shape the way forward for corrections in a post-pandemic world. I will conclude with some reflections on how my Office conducted business in these times of COVID-19 and will introduce some of the (non-COVID) investigations completed during this reporting period.

I think that it is fair to say that the Correctional Service of Canada (CSC), like the rest of the country, was not adequately prepared to meet the scourge of a rapidly evolving global pandemic. Understandably, there was considerable concern, confusion and even panic as the first wave of COVID-19 (end of March to end of May 2020) led to outbreaks at six penitentiaries in British Columbia, Quebec and Ontario. In the initial wave, 361 prisoners contracted the virus. A second, more-virulent wave of prison outbreaks took hold in early November with new positive case counts peaking in mid-December. By the end of the reporting period (March 31, 2021), during COVID's third wave, CSC had reported 1,450 infections among prisoners, with 21 institutions out of 43 experiencing an outbreak. Approximately ten percent of all prisoners have had a positive COVID-19 diagnosis, which is a significantly higher rate of infection than in the Canadian population.¹



COVID-19 infected units at Port Cartier Institution

Of course, statistics do not tell the whole story. Behind the aggregate numbers lie some sobering realities. Quite simply, some individuals and some institutions fared better than others. For example, proportionally more institutions in the Prairie region experienced outbreaks (7 of 12) compared to the other regions. In my second COVID-19 status update report (February 2021), I reported, with concern, that Indigenous individuals accounted for close to 60% of all positive COVID-19 cases in federal prisons since November. Demographically, Indigenous peoples behind bars are relatively younger than other racial groups. Accordingly, the higher infection rates among Indigenous peoples considerably lowered the overall age of those infected.

I also noted at that time that there appeared to be a connection between transmission rates and the infrastructure, age and design of prisons. For example, Saskatchewan Penitentiary and Stony Mountain Institution, two of the oldest and largest prisons in Canada, experienced the highest number of COVID-19 infections, including multiple outbreaks.

Both institutions house a large number of Indigenous individuals, who have suffered a higher infection rate than other groups. Also, the oldest parts of these institutions have poor ventilation, large and open congregate spaces, and cells with open bars.

At the same time, despite their substantially smaller numbers, female prisoners experienced virtually the same percentage of infections (11.8%) as their male counterparts (11.7%).² This was likely a consequence of the congregate housing and living arrangements at the regional women's sites.

¹ As of May 10, 2021, the [Government of Canada reported that 4.1% of COVID-19 tests performed in Canada](#) resulted in a positive diagnosis.

² These numbers are based on the total year-end in-custody counts for 2020-21 (N=12,399; female = 618). Obtained from CSC's Corporate Reporting System (CRS-M) Dashboard.

While the COVID-19 spread among the prison population often mirrored what was happening in the community, the differential rates of infection and the uneven spread of COVID-19 between and among the prison population would benefit from further examination. Transmission vectors (from outside to inside), community and prison rates of spread, containment and isolation measures, cleaning and hygiene protocols, and infection prevention and control measures should all be carefully scrutinized and examined for both vulnerability and resiliency. This work would help inform future prevention, surveillance and response efforts, and ideally should be conducted independent of the prison service.

1. I recommend that the Minister of Public Safety engage the Public Health Agency of Canada to conduct an independent epidemiological study of the differential rates of COVID-19 infection and spread in Canadian federal prisons and report results and recommendations publicly.

The measures adopted to contain, control and prevent active outbreaks in prison—the indefinite suspension of in-person visits, extended periods of lockdown and cellular confinement, interruption of programs and services, restrictions on yard and out-of-cell time, and the imposition of 14-day medical-isolation periods—have been exceptionally difficult and depriving for people living behind bars. At the time of writing this report, most prisons remain closed to visits and some individuals have not had a contact visit in more than a year. Other extreme measures—near-total cellular isolation (22 hours or more per day), fresh-air exercise once every two or three days, 20 minutes out-of-cell time every other day to shower or use the telephone—violate domestic law and international human rights standards. Perhaps not surprisingly, a number of prison health indicators—use-of-force incidents, number of natural deaths in custody, prisoners engaging in self-injurious behaviours—ticked upward this year, suggestive of a possible pandemic “bump” and perhaps indicative of how some prisoners cope in times of extreme stress, uncertainty and anxiety.

In my initial update, I reminded correctional and public health authorities that even in the midst of a public health emergency, fundamental human rights and dignity must still be respected. Moreover, the same measures and protections recommended by national public health authorities must be provided to correctional populations. Equivalence-of-care principles and duty-of-care obligations apply regardless of one’s status or emergency. The unusual hardships and extraordinary conditions imposed by COVID-19 on correctional populations and the issue of remedies may have to be resolved through the courts. The point, however, that prisoners’ rights required curtailment or suspension in the interest of public health and safety is one worth recognizing, as we consider the lessons learned from the pandemic.

Pandemic measures and restrictions widened gaps in the system. They exposed the lack of a medical parole framework that would have allowed some medically compromised or elderly individuals who met legislated criteria a mechanism to seek early release from prison on health grounds. In my investigation of aging and dying behind bars, I called for such a mechanism, only to be met by silence. While there is a framework by which individuals can be granted parole by exception, only a handful are approved each year, a number which remained relatively unchanged over the course of the pandemic. The continued absence of action to find a practical and cost-effective reform caused unnecessary pain and suffering throughout the COVID-19 health crisis. It could have been avoided.

In the same vein, the realities of the pandemic highlighted the widely known and well-documented inadequacies in program access and capacity behind bars, and further exposed barriers to reintegration in a system that has unfortunately refused to update its technological and service-delivery platforms for prisoners. When the pandemic struck, there was simply no capacity to support on-line or virtual learning or correctional programming of any kind in a federal penitentiary. When program interventions—educational, vocational and correctional—were suspended or curtailed by pandemic measures and staff reductions, there wasn't enough bandwidth or infrastructure to pivot to remote, digital or e-learning platforms, beyond video visits. Our investigation into correctional interventions conducted during the second wave of the pandemic found that reductions or interruptions in programs delayed parole hearings and community release. As a result, through no fault of their own, incarcerated individuals who were eligible for community supervision spent more time behind bars than they would have in normal times.

The pandemic also laid bare a model of program service delivery that is obsolete and inexplicably information-depriving. Stuck somewhere in the early 1990s, it is a system that has failed to provide people behind bars with access to computers that do not rely on CD-ROMs or floppy disks to operate or update. In our prisons, supervised access to email or the Internet is non-existent, yet these are widely available in prisons throughout the industrialized world. In my investigation last year of learning behind bars, I noted that our federal prisons are falling further behind the rest of the industrialized world. They are not providing those who are incarcerated with the vocational skills, education and learning opportunities they need to return safely to the community and live productive, law-abiding lives. The sole recommendation from that report, like so many before it, was met by bureaucratic resistance and government inertia. Had the Service adopted or advanced recommendations from my last annual report, many of the problems that were amplified by pandemic conditions could have been reduced or avoided altogether.

It is important to acknowledge that, as bad as things were, they could have been a whole lot worse. In my last COVID-19 update, I cited a number of initiatives that have helped CSC to limit infection rates. Countless staff made exemplary efforts and personal sacrifices to continue working through the pandemic. I witnessed this dedication first-hand in visits to institutions in Quebec and Ontario during the first and second waves of the pandemic. Extraordinary commitment, selfless service and duty to others by CSC staff should be acknowledged and commended. Other bright spots in CSC's pandemic response include:

1. Access to rapid COVID-19 testing;
2. Universal campaign to vaccinate correctional populations and staff;
3. Early vaccination of medically compromised and elderly individuals in custody;
4. Expansion of video visitation capacity;
5. Collaboration with external disease infection, prevention, control and response agencies and experts; and,
6. Deliberate, focused and enhanced communication with external stakeholders and families about the latest developments in CSC's pandemic response.

These measures have undoubtedly made a positive difference and saved lives.

I would be remiss if I did not mention the commitment and courage of the not-for-profit community corrections sector and the hundreds of staff, volunteers and facilities that kept their services running and doors open to individuals returning to the community during this crisis. The community corrections sector is truly one of the unheralded and unsung heroes of these times, especially considering that prison release rates throughout the pandemic have remained relatively in line with historic averages. These providers operate with little acknowledgement and a per diem rate that is a fraction of the cost of incarceration. There is more that community providers could and should do and, with more appropriate funding and staffing levels commensurate with skills and training, I have every confidence that they could provide an even wider range of services and interventions that would better support safe and timely community reintegration.

2. I recommend that the Minister of Public Safety promptly conduct an in-depth review of the community corrections sector with a view to considerably enhancing financial, technical and infrastructure supports. Funding for a reinvigorated community corrections model could be re-profiled from institutional corrections in direct proportion to declining warrants of committal and returning admissions, and the planned and gradual closures of redundant or archaic penitentiaries.

Before concluding, let me introduce a few non-pandemic-related investigations conducted this past year that are included in the body of my report. The Office undertook an investigation of uses of force involving incarcerated Black, Indigenous and Peoples of Colour (BIPOC), as well as other vulnerable populations (women, and individuals with a history of mental-health issues, self-injury and/or attempted suicide). In context of wider social movements and calls to action in Canada and elsewhere, and consistent with our oversight role to review all uses of force in corrections, this investigation takes a specific look at the intersection of racial representation and use-of-force incidents in Canadian federal penitentiaries. Other items reported here include:

1. A Review of Women's Corrections 30-Years since *Creating Choices*;
2. Preliminary Observations on Structured Intervention Units;
3. An Investigation of the Use of Medical Isolation in Federal Corrections;
4. An Investigation into a Suicide in a Maximum-Security Facility; and,
5. A repeated request for Canada's ratification of the Optional Protocol to the Convention against Torture.

These investigations are suggestive of the non-COVID-related systemic work that remains to be addressed, along with a range of commitments such as Patient Advocates, 24/7 nursing healthcare coverage in federal prisons, and combatting sexual coercion and violence behind bars, which have been delayed because of the pandemic.

To my staff, I say a heartfelt thank you for your commitment and dedication through these extraordinary times. May we soon celebrate better and brighter days together.

On a final note, my Office has been working with the Head of Federal Agencies to develop an alternative reporting framework that would streamline reporting obligations to reduce the burden for small departments and agencies. Our objective is to meet accountabilities for stewardship and transparency to Canadians by creating a single template or annex that could be added to an existing Annual Report. This is what I have done this year in an annex to this report to lead the way to ensure that the reporting burden is reduced for small agencies with limited resources.

Ivan Zinger, PhD, JD.
Correctional Investigator

REPORTING BURDEN FOR SMALL AND MICRO AGENCIES

Since my arrival at the Office of the Correctional Investigator back in 2004, I was struck by both the complexity of operating a small independent agency and the extent of the reporting burden imposed by central agencies and other Departments. When I was first appointed as Correctional Investigator of Canada four years ago, I took over the responsibilities of my predecessor as a member of the Heads of Federal Agencies Steering Committee (Steering Committee). In 2019, the Steering Committee established four Working Groups to address various challenges experienced by small and micro agencies. I volunteered to co-lead the Working Group on the Reporting Burden. It became apparent that there is a strong consensus among small and micro agencies that the reporting burden is overly bureaucratic and developed for all government organisations, which makes it very difficult to manage for small and micro organizations. The process goes beyond what is required to adhere to the reporting principles described in the Foundation Framework for Treasury Board Policies for SDA.



Binder containing the 2020-21 corporate reporting requirements for the Office of the Correctional Investigator.

To give some perspective, as a Deputy Head of a small agency, my Office has the same reporting burden than the very large Department that is subject to my independent oversight. While my agency has only 40 employees and an annual budget of \$5.4M, I am required to issue almost same amount of reports, around 40 mandatory reports, than the Correctional Service of Canada, which has about 19,000 employees and a budget of more than \$2.5B. Unlike CSC, my legislation also requires me to produce an annual report, which provides information about the work accomplished by my Office, for each fiscal year. I recognize that it is imperative to demonstrate and assure good stewardship of taxpayers' money and sound management of human resources, but the lack of appreciation for the burden placed on small and micro agencies is striking.

The amount of red tape and unnecessary reporting requirements imposed on small and micro agencies hinder the delivery of my Office's legal mandate. I currently have four full time employees and two casual employees assigned to Corporate Services. My Office also hires occasionally contractors to support its Corporate Services (e.g., develop a new case management system and redesign our cloud website). Those OCI employees are required to manage the following:

1. Financial Management Services.
2. Human Resource Management.
3. Information Management.
4. Information Technology.
5. Management and Oversight.
6. Material services.
7. Acquisition Services.
8. Real Property Services.
9. Technical support for communication tools (Internet, Intranet).

In addition, they have to negotiate and manage a staggering 15 MOUs for various services with other Departments. This workload and the associated reporting burden are excessively high, moving away from the reporting efficiency principle and establishing a reporting framework where the cost to create and submit information should be kept to a minimum. In fact, I understand that a few small/micro agencies are now dedicating 30-50% of their personnel to Corporate Services. This is not the case for my Office but continuing with the existing staffing level without alleviating some tasks is becoming increasingly difficult.

The Heads of Small Agencies have raised the reporting burden issue with Treasury Board Secretariat (TBS) for more than a decade now. Some small gains were made years ago, e.g., removing the requirement for the Management Accountability Framework and more recently, and to its credit, TBS initiated a process to assess which reporting requirements could be streamlined. TBS launched an initiative to renew its Information Collection Requirements Inventory. This database was designed to facilitate analysis of who is subject to requirements, the types of requirements, frequency of reporting and other important areas. Concurrently, TBS was hoping to uncover any duplication or redundancy of requirements, as well as identify best practices on mode of submission (e.g., digital platforms, other ways of electronic submission) that could be used to help ease burden related to these requirements. To date, TBS identified more than 140 collection requirements in 19 policy areas and offered only minor tweaks to the overall reporting burden. More importantly, out of the 40 reports prepared by OCI during 2020-21, TBS is only responsible for 40%, so any minor reduction has limited impact on current workload.

The Steering Committee is committed to continue to work towards reducing the current reporting burden and to engage TBS by participating in workshops and information exchanges. On a parallel stream, the Reporting Burden WG considered that an alternative approach may assist the GoC's approach to reporting. The approach was simple, if there were no policy or legal constraints on existing reporting requirements, what would a report on all activities of a small agency look like? If the report was consistent with modern principles and best practices

of accountability, openness, transparency, accessibility and sound management for a publicly funded agency, what basic information should be included?

With the financial assistance of the Steering Committee, the Reporting Burden WG retained the services of a consulting firm to review all 40 reports prepared by the OCI in the last fiscal year and develop a single streamlined report that would meet the following criteria:

- **Open Data** – those items that are being reported as a result of the open government priority;
- **Transparency** – those items that are being reported to address the government priority of transparency;
- **Accessibility** – those items being reported to facilitate parliamentarians' access to reports and information;
- **Compliance** – those items being reported to comply with a policy or directive;
- **Legislative** – those items being reported as a result of a legislative requirement;
- **Sound Management** – those items being reported to demonstrate sound management to parliamentarians including oversight, stewardship, and accountability; and,
- **Duplication** – those items being reported under other requirements and not required to re-publish.

Unfortunately, the laws and regulations are so prescriptive and convoluted that compliance with the law was not achieved. This may in part explain why TBS cannot provide a larger reduction of the reporting burden of small agencies. If this alternative to reporting was going to be implemented, legislative and regulatory reforms would be required.

The report is in Annex D of my Annual Report and provides an overview of financial, human resources, planning and performance information about the operations of the OCI, as well as all reporting information to quasi-judicial bodies. This easily accessible report of only 12 pages summarizes required reporting information to fulfill OCI's commitment to the public service value of transparency and as well communicates our management successes and challenges to Parliamentarians, Canadians, auditors, controllers, stakeholders and civil society at large. With the content of this year's Annual Report, the readers can for the first time in a single document assess value for money and effectiveness of a small agency.

- 3. I recommend that the President of Treasury Board recognize the reporting burden of small and micro agencies, and play a leadership role by developing a whole-of-government approach to alleviate this burden. Before full legal and regulatory reforms can be introduced, I recommend that TBS consider legal exemptions for eligible small and micro agencies to start reporting differently.**

Executive Director's Message

I was very happy to join the Office of the Correctional Investigator (OCI) as Executive Director and General Counsel in October 2020. Although I had big shoes to fill, I was enthusiastic for a new challenge, particularly in an area I was passionate about and for an organization with such an important mandate. I am grateful to work side by side with a dedicated, hard-working team of subject matter experts as I continue to appreciate the complexity of issues that arise in correctional settings.

As with all organizations, our focus over the past year was on accommodating work from home for all employees, in addition to ensuring continued delivery of our mandate: to provide the essential service of supporting the fair and humane treatment of persons serving federal sentences. Striving to continue to deliver the same quality of service, we were faced with challenges as we were not able to go into institutions to meet with prisoners face-to-face. That said, I am proud of how we were able to pivot to virtual visits so that we could still hear from incarcerated individuals on the range of issues they are experiencing. This could not have happened without the helpful collaboration of the Correctional Service of Canada (CSC). I am encouraged by the examples I see every day of the collaboration between OCI employees and CSC staff who work together to ensure that individuals in our correctional institutions are treated with dignity and respect, in accordance with the law and human rights principles.

My first task in joining the OCI was to get to know the team and to explore what they see as challenges and opportunities for the organization. I also wanted to ensure that the management team worked together as a united, high-functioning team. The tone for collaboration and healthy working habits starts at the top of the organization, creating a safe and healthy work environment for all employees.

In the last quarter of the year, we embarked on the first phase of a strategic planning exercise. With the COVID pandemic still upon us and in the midst of a third lockdown as I write this, we needed a sense of renewal for the organization. We committed to a theme for 2021 of *Reconnecting, Re-energizing, and Re-engaging*. We decided that we will focus on providing our employees with a workplace of choice by ensuring that: employees have the tools and training they need to do their work; roles and responsibilities for all employees are clear; our website is updated, reflecting our priorities and providing easier access to our information; and we engage in developing diversified well-being initiatives to best support our employees as this pandemic continues, and going forward.

In this next fiscal year, I hope we will be able to return to the workplace and to interact with each other in person. I also look forward to determining our priorities as well as developing a road map for identifying systemic issues and investigations. We will be developing an outreach and engagement strategy with our key stakeholders so that we can find ways to establish partnerships, a necessary and effective approach for a micro-agency with limited resources. We will also continue with phase 2 of our strategic planning exercise, developing a 3–5 year plan that will help us maximize the efficiencies we must find to operate within our allotted resources.

Finally, I look forward to continuing to support Canada's Correctional Investigator, Dr. Ivan Zinger, as well as the entire team at the OCI, in delivering on our mandate to protect the human rights of those serving federal sentences.

Monette Maillet
Executive Director & General Counsel
Office of the Correctional Investigator of Canada

National Updates and Significant Cases

This section summarizes policy issues or significant individual cases raised at the institutional and national levels in 2020-21. All of the issues and cases presented here were either the subject of discussions with institutional Wardens, an exchange of correspondence, or an agenda item in bilateral meetings involving the CSC Commissioner and myself, and our respective senior management teams. This section, then, serves to document progress in resolving issues of significance or concern.

No Progress on Sexual Coercion and Violence in Federal Corrections

My last annual report included a national investigation into sexual coercion and violence (SCV) in federal prisons. It found that the prevalence of SCV is largely unknown. It revealed considerable gaps in the Service's approach to detecting, investigating and preventing sexually problematic behaviours behind bars. Further to this investigation, I issued five recommendations to improve how CSC responds to this pervasive yet underreported issue, among which was to introduce legislation immediately, similar to the United States' *Prison Rape Elimination Act* (PREA) that was introduced in 2003. I also called upon the Minister of Public Safety to fund a national prevalence study to be conducted by fully independent experts. In response to the recommendations, the Minister committed that Public Safety would develop "a research plan, slated to begin in Fall 2020 to begin assessing SCV in federal corrections . . . An interim report on the work undertaken is set to be developed by Spring 2021." In their response to the recommendations, the Service did not commit to any actionable change in approach.³ It indicated only that it would support the work to be initiated by the Department. At the time this report was written, and after requests for updates from Public Safety, my office had yet to see a research plan or interim report indicating whether such work had been initiated.

Over the course of the reporting period, my office continued to receive complaints and concerns from incarcerated persons who have witnessed or experienced SCV. Despite the recommendations issued through our national investigation, this office has observed no appreciable difference in the way CSC prevents, detects, tracks or manages these types of incidents. We continue to hear cases of alleged perpetrators simply being shuffled around within and between institutions as the preferred method for "resolving" formal complaints of sexually problematic behaviours.

In their response to our recommendations, CSC noted, "The Service takes this issue very seriously. In order to ensure a safe and secure environment for all offenders in its care and custody, numerous measures have been put in place to ensure such acts are dealt with swiftly." Unfortunately this has not been the case. There has been a disappointing lack of response and action subsequent to our recommendations. We know that the most vulnerable individuals are the ones most negatively affected by such inaction. I urge the Minister of Public Safety and the Commissioner of CSC once again to undertake the work required to address this issue effectively.

³ During the errors and omissions review, CSC indicated that they are currently developing a new Commissioner's Directive on Sexual Coercion and Violence that is to be promulgated in summer 2022. The CD will focus on the prevention, reporting, and tracking of SCV by providing tools for staff and prisoners, including addressing the reluctance of victims to come forward.

Continued Over-reliance on Use-of-Force Measures

Over the last reporting period, my use-of-force team brought to my attention a number of egregious incidents and recurring issues further to their reviews of use-of-force incidents in federal institutions. While many of these concerns are raised in the systemic investigation into uses of force I present later in this report, I want to highlight some of my office's observations and interventions on individual cases.

Time and time again, we see examples of the general over-reliance on often unnecessary, and in some cases harmful, force interventions. My staff reviewed a number of incidents demonstrating unwarranted and dangerous use of direct-impact rounds on individuals who posed a low risk of harm to themselves or others. In one case, an individual was shot with an impact round from a 40-mm launcher near his left shoulder, just above his collarbone, dangerously close to an "emergency target zone." This could have caused serious, and possibly life-threatening, injuries. After follow up from my staff, there was agreement from institutions that the use-of-force in some of these cases was inappropriate.

Similarly, my staff continue to see the over-use of inflammatory spray, which is problematic in and of itself and runs counter to the Engagement and Intervention Model (EIM). It is particularly concerning when used on individuals who have serious mental health concerns, or who are engaging in self-harm. We reviewed, for example, an incident involving a man certified under the province's mental health act. Through the course of a healthcare procedure, facilitated by the Emergency Response Team (ERT), the individual became uncooperative. In response, the ERT used two separate bursts of pepper spray, handcuffs and other forms of physical handling and, at one point, a shield to kneel the patient over a cement bench. Clearly, more time, engagement, and verbal interventions should have been used with this man to de-escalate the situation, particularly given his mental health needs. Concerns regarding this incident were raised at all levels of the review. It was clear that the approach and techniques used (particularly the second burst of pepper spray and shield) were demonstrative of serious violations of use-of-force policies, run counter to numerous principles of the EIM, and revealed a number of health care deficiencies. Furthermore, this case and a number of others reviewed by my staff this year raise concerns regarding the role and responsibilities of ERTs. Inconsistent or non-existent use of verbal interventions or negotiations, inadequate assessment and reporting on the risk associated with the actions of incarcerated individuals, and the poor deployment and unreliable operation of cameras to record incidents, among other issues, suggest the need for greater oversight of ERT interventions.

Other incident reviews and interventions by my staff involving individuals with mental health concerns, or those actively engaged in self-harm or suicidal behaviours, continue to highlight my concerns regarding the need for more-effective and humane ways of responding to complex and troubling behaviours that stem from mental health issues. We continue to see examples of use-of-force incidents where the mental health elements at play are not adequately assessed, acknowledged, communicated or factored into the interventions. In turn, these are not reflected in the reporting and documenting of incidents. In my investigation into uses of force with BIPOC individuals and other vulnerable populations, I offer a number of recommendations to the Service to improve how it responds to incidents where force is often used, particularly those involving individuals with complex needs.

Use of Force Following an Attempt to Access the Prison's Overdose Prevention Site

My office has previously reported on CSC's harm-reduction programs such as the Prison Needle Exchange Program (PNEP) and the Overdose Prevention Sites (OPS), indicating that the way in which they were developed and implemented has limited enrollment. For example, PNEP kits can be seized if the syringe or needle is altered, missing or observed outside the kit. In other words, a zero-tolerance approach to drug possession in CSC facilities remains in effect. Drugs and drug paraphernalia (except CSC-issued PNEP kit and supplies) are still considered contraband items, subject to disciplinary measures. Not surprisingly, only a handful of prisoners participate in these programs that CSC rolled out nationally in spring 2019.

Over the reporting period, my office intervened on a use-of-force case that occurred following the denial by health care to allow an individual to access the OPS. After being denied access, the prisoner returned to his unit and locked himself in his cell. Correctional officers suspected he was carrying contraband most likely because he had tried to access the OPS. When officers arrived at his cell, they found the door window was covered. They opened the door and saw the prisoner snorting a white powder. They searched his cell, and seized drug paraphernalia, but they left him in his cell, where he covered his cell window again. Authorization was given to place him in an observation cell. When the escort team arrived, he did not cooperate with several direct orders. Physical handling, pain compliance and handcuffs were used to contain the situation. While the use of force may have ultimately been necessary given the resistance and lack of cooperation, the contradiction between the zero-tolerance approach to drug possession in prisons and access to harm-reduction measures such as PNEP and OPS created a situation that should never have occurred. Individuals accessing these services should be able to do so without the fear of reprisal. This would no doubt increase the number of those willing to participate. Other measures such as verbal interaction, engagement, counselling or observation may have resulted in a more positive outcome.

Lack of Appropriate Response Following a Recommendation Pertaining to a SHU Prisoner

Nearly two years ago, my Office highlighted the cases of three men who presented similar challenges for the Service. Throughout their incarceration, the men have spent significant time in segregation, been on mental health monitoring, and been transferred many times to other institutions. More importantly, they seem unable to cope with highly structured environments that trigger violent behaviours. Their symptoms and skill deficits appear to be specifically aggravated by heightened security measures. Nonetheless, the correctional response to these maladaptive behaviours is often to further restrict their conditions of confinement.

Strategies developed by institutional staff and mental health professionals have had limited impact on their behaviours and responsiveness to interventions. Recognizing that the management of the violent behaviours of these three men has been extremely challenging for both institutional staff and management, I recommended, under section 20 of the *Corrections and Conditional Release Act*, an external in-depth examination of the correctional profiles of these three men. At the time, CSC responded that it would conduct a clinical review of their care with a view to identifying any potential opportunities for improvement, including placement options.

Over the reporting period, my office again intervened on behalf of one of the three men being held at the Special Handling Unit (SHU), as his situation had once again become critical. It also appeared that—rather than accepting my recommendation to conduct an external examination of this man’s case—the Service conducted an internal exam. It concluded that, while not ideal, the SHU is an environment where the security of this man is best maintained. My office continues to monitor this case and follow up with the institution to ensure the best-possible case-management strategies are implemented for this individual.

Investigation into Uses of Force Involving Federally Incarcerated Black, Indigenous, Peoples of Colour (BIPOC) and Other Vulnerable Populations

Correctional authorities have a variety of tools and approaches to manage situations they assess as problematic, disruptive, or potentially unsafe. In addition to less-invasive or potentially less-harmful tactics, such as verbal interventions, uses of force allow correctional staff to employ physical actions (e.g., use of restraint equipment, dispensing inflammatory spray) to gain control or obtain the cooperation of individuals and resolve situations. The staff rely on these actions daily.

The use of force dates back as far as the prison system itself. It also has a long-standing history of criticism for its potential and well-documented misuse. More recently, the issue of force—specifically applied to individuals who are Black, Indigenous, or Peoples of Colour (BIPOC) — catapulted into the forefront of international public discourse in May 2020, following the murder of George Floyd while he was restrained by Minneapolis police officers. Less than a month later, in Canada, we saw video of the violent arrest and use of force on Athabasca Chipewyan Chief Allan Adam. Since then, mounting incidents have spurred worldwide protests calling for reforms to address systemic bias and the discriminatory application of harmful, and in some cases fatal, responses to incidents. In Canada, there has been widespread public outcry calling for law enforcement and criminal justice agencies to take a closer look at their policies and practices, such as the use of force, and how they are applied to BIPOC individuals, women, individuals with mental health issues, those with histories of self-injury, and other vulnerable populations.

In the wake of these events, and many others, there has been heightened social recognition that systemic bias exists, and has for generations, in most Canadian institutions. Corrections is no exception to this reality. In this context, it is important to recognize that within the most discretionary of policies and practices, such as when and how force is used, bias—implicit or otherwise—has considerable room to creep in.

Investigating uses of force is a key priority for my Office. Following a use-of-force intervention, CSC provides us with all incident-related documentation. This includes a use-of-force report, a copy of incident-related video recordings, checklists for health services, a review of the use of force, Officer Statement and Observation Reports, prisoners' version of events, and an action plan to address deficiencies.

Part of the role my Office has taken on is not only to investigate individual complaints related to uses of force that are brought forward, but to review proactively all use-of-force incidents in federal prisons, and make recommendations to CSC when problems are identified. Furthermore, it is our responsibility to investigate concerns for which there is evidence of systemic issues in practices such as the use of force.

In previous reports, I have issued numerous recommendations calling for reductions to the use of force and the use of inflammatory agents, specifically with vulnerable populations. This office has conducted investigations into the role use of force has played in troubling individual cases, such as the deaths of Ashley Smith and Matthew Hines, and on specific groups of concern, such as women who chronically self-harm.⁴ In keeping with this office's persistent efforts to raise concerns regarding how force is used, we have also taken the current social calls-to-action as the impetus for an examination of how force is applied in federal corrections, specifically with BIPOC individuals, to advance discussions and solutions to the inequities these individuals face behind bars.

Purpose and Methods

The present investigation examines use-of-force incidents, events and occurrences involving federally incarcerated BIPOC individuals, as well as incidents involving other potentially vulnerable populations. As illustrated in the diagram below, use-of-force *incidents* are cases, as determined and tracked by CSC, consisting of situations involving at least one individuals where force was applied at least once, documented, and tracked. A use-of-force *event*, as defined for the purposes of the present investigation, includes each use-of-force incident-by-person combination, which acknowledges that each person can be involved in more than one incident, and each incident can involve more than one person. Lastly, given that each person can experience more than one type and instance of force within and across incidents and events, a use-of-force *occurrence*, as defined for this investigation, constitutes each instance of force used on each individual within and across incidents and events.

Example: Use-of-Force Incident



The above is an example of one use-of-force **incident** involving three unique individuals. This incident represents three use-of-force **events**, and nine use-of-force **occurrences**.

⁴ Office of the Correctional Investigator (2008). *A Preventable Death*; (2013) *Risky Business: An Investigation of the Treatment and Management of Chronic Self-Injury Among Federally Sentenced Women*; and (2017) *Fatal Response: An Investigation into the Preventable Death of Matthew Ryan Hines*.

Quantitative and qualitative data available for all use-of-force incidents from the last five years (April 2015 to October 2020) was extracted from CSC's data warehouse system for analysis. We examined data at the individual and incident level overall, as well as by race and groups of interest. In addition to demographic information, we examined data on the frequency of incidents, reasons for uses of force, and types of force for each person involved in each incident.

This review explored these questions:

- Who is involved in use-of-force incidents?
- How are BIPOC individuals represented in use-of-force incidents?
- What are the features of use-of-force incidents involving BIPOC?
- Is use-of-force applied differently to BIPOC and non-BIPOC individuals?
- How are other groups such as women, individuals with mental health issues, and histories of self-harm represented in use-of-force incidents?

WHAT IS USE-OF-FORCE IN FEDERAL CORRECTIONS?

Use-of-Force includes *"any action by staff that is intended to obtain the cooperation and gain control of an inmate"*. Use-of-force can be either spontaneous (i.e., an immediate intervention to a situation) or planned (e.g., staff are deployed through an intervention plan, deployment of the Emergency Response Team [ERT]).

According to CSC policy, use-of-force must be justifiable and used only as a last resort after verbal methods of negotiations have been attempted and proven unsuccessful or deemed *"inappropriate"*. Only under these circumstances may staff use force for the following reasons:

- maintain compliance with institutional rules and regulations
- maintain institutional safety and security
- self-defence
- in defence of others (staff or prisoners)
- protection of property

The following are examples of uses of force that can be used by correctional staff. One or more types of force can be used in an incident.

- physical handling or control (not including assistive or therapeutic touch)
- use of a chemical or inflammatory agent, intentionally aimed at an individual or dispensed to gain compliance
- non-routine use of restraint equipment
- use of batons or other intermediary weapons
- display or use of firearms
- any direct intervention by the ERT

Engagement and Intervention Model (EIM)

In January 2018, CSC introduced the EIM to replace the Situation Management Model as a “risk-based model intended to guide staff in both security and health activities to prevent, respond to, and resolve incidents, using the most reasonable interventions”.

According to CSC, the intention of the EIM was to incorporate a more integrated, person-centered approach than the previous model, with a focus on the following five guiding principles:

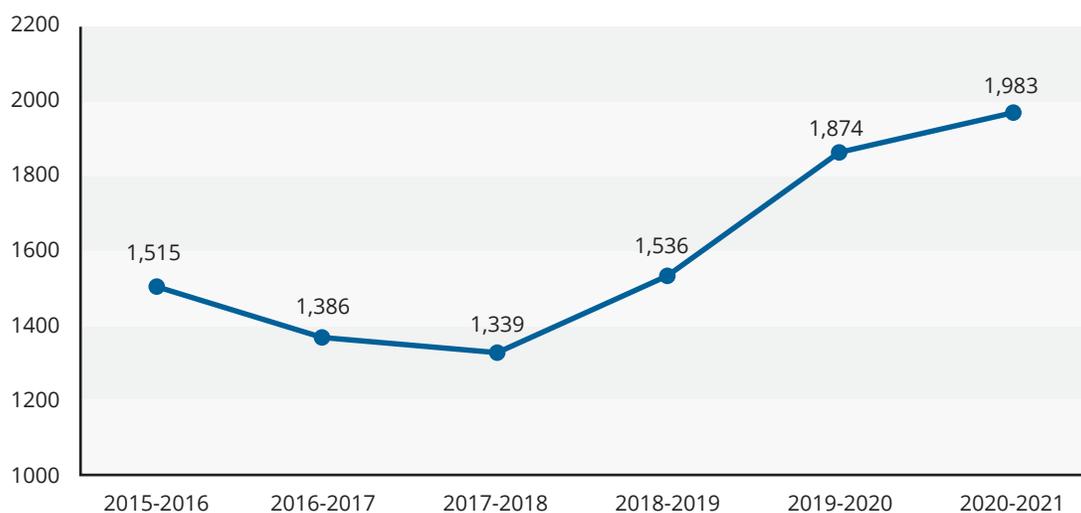
- preservation of life
- interdisciplinary teamwork
- CSC Mission & Values
- necessary & proportionate
- leadership

Source: *CSC Hub Operational Procedures “About Use of force” and “Engagement and Intervention Model”.*

Use-of-force Incidents

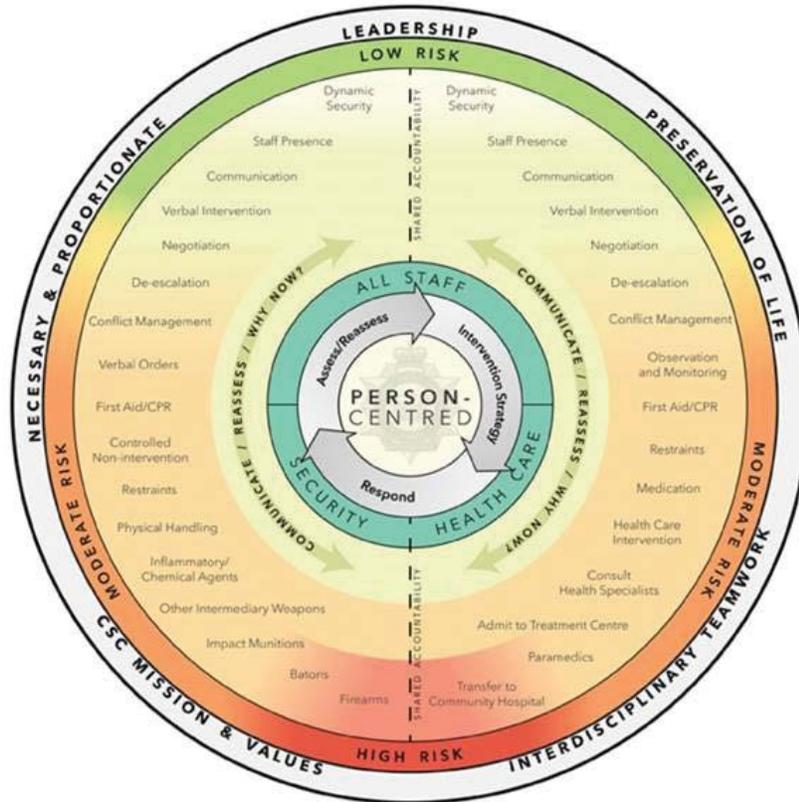
To provide context to the analysis by race, the following offers a broader description of the number of use-of-force incidents for the federal prison population overall, and a descriptive analysis of the documented reasons for uses of force and the types of force used in these incidents. Since 2015-16, there have been 9,633 documented use-of-force incidents. Despite the overall decrease in admissions to federal prisons and decreases in the prison population, the number of use-of-force incidents has *increased* steadily over the last five years.

Graph 1. Total Use-of-Force Incidents per Fiscal Year



While concerning, these increases are particularly troubling given that they coincide with the introduction of strategies aimed at reducing uses of force, most notably the Engagement and Intervention Model (EIM). The model was developed directly in response to my special report on the preventable death of Mathew Hines.⁵ He died unexpectedly in federal custody in 2015 following a series of inappropriate use-of-force incidents at Dorchester Penitentiary. I issued ten concrete recommendations to CSC regarding urgent changes needed in response to incidents that too often result in the use of force, particularly those involving individuals exhibiting signs of physical or mental health distress. Consequently, in response to the third recommendation issued in *Fatal Response*, the EIM was developed in 2017 as a “situation-management model emphasizing the importance of non-physical and de-escalation responses to incidents” that theoretically should have resulted in more “person-centered approaches” to resolving incidents. In turn, these should have led to an observable *decrease* in use-of-force incidents.

⁵ Office of the Correctional Investigator (2017). [Fatal Response: An Investigation into the Preventable Death of Matthew Ryan Hines](#).



Engagement and Intervention Model (2018)

This graphic represents CSC's risk-based, person-centered Engagement and Intervention Model, and is used to assist staff with engagement and intervention strategies.

Reasons and Types of Force

We examined the reasons why force was used, and the types of force used. Overall, the majority of incidents were attributed to being "assault related," such as assaults on inmates, and inmate fights (50%); "behaviour related," such as disciplinary issues and disruptive behaviours (37%); and those related to self-injurious behaviours, such as self-inflicted injuries (8%). The rest involved contraband, property or other issues. It should be noted that CSC's database, the Offender Management System (OMS), may not always capture the full context of incidents. In many cases, the reasons entered into the database are the most generic, or most "significant," categories. Consequently, an incident that started, for example, as a self-harming incident that later involved the individual hitting a staff member might only be recorded as an "assault-related incident." Therefore, we interpreted the reasons for force with caution. They may not have reflected the full picture of contributing behaviours.

Similarly, we examined the types of force used.⁶ For ease of analysis, we organized the more-than-40 types of force represented in the data into five categories:⁷

1. **Inflammatory Sprays** (e.g., oleoresin capsicum [OC] spray, or “pepper spray”);
2. **Inflammatory Munitions** (e.g., flameless or tactical grenades);
3. **Firearms** (e.g., 9 mm pistol, shotgun);
4. **Non-inflammatory Devices/Options** (e.g., batons, physical handling); and,
5. **Restraints** (e.g., handcuffs, leg irons, body belts).

Overall, the far-and-away most-common types of force used were inflammatory sprays. They accounted for 42.3% of all force types in all incidents. This was followed by non-inflammatory options, used in a quarter of occurrences, followed by restraints (16.2%), inflammatory munitions (9.3%), and firearms (3.3%).

Similar to the perplexing findings showing the overall rates of force increasing over time, it is both concerning and disappointing that, despite the introduction of the EIM, staff still rely heavily on inflammatory sprays to “resolve” incidents. In fact, an analysis of types of force by fiscal year showed that use of inflammatory sprays was the most common type of force in each of the last five years, accounting for 40-47% of force types used each year. This practice is contradictory to the intent and letter of the EIM. It suggests that the shift anticipated in replacing the Situation Management Model with the EIM has not occurred. This office has previously recommended that CSC evaluate whether the EIM has had the intended impacts. It is clear by these metrics it has not.

- 4. I recommend that CSC conduct an in-depth evaluation of the EIM with a view to implementing changes that will reduce the over-reliance on force options overall, particularly inflammatory sprays, and provide concrete strategies for adopting evidence-based, non-force options for resolving incidents.**

⁶ Analyses of incidents and individuals include data spanning April 2015 to October 2020.

⁷ Some types of force, such as inflammatory sprays, can be used in different ways (only aimed, or aimed and dispensed). It was not possible to determine how the types of force were used, simply that the method was used in some way.

Who is Involved in Use-of-force Incidents?

Between April 2015 and October 2020, the nearly nine-thousand documented use-of-force incidents that occurred in federal prisons involved 5,063 unique individuals.⁸ For 4,952 of these, CSC had information on demographic characteristics including race. Table 1 provides a profile by self-identified racial group of all individuals involved in a use of force.⁹ The vast majority were males (+90%), housed in medium- or maximum-security settings, and largely assessed as high-risk or high-need.

Table 1: Profile of Individuals Involved in Use-of-Force Incidents, by Race Groups

	INDIGENOUS (n = 1,932)	WHITE (n = 2,090)	BLACK (n = 609)	POC (n = 321)
AVERAGE AGE	28.3	31.2	26.8	27.4
AVERAGE SENTENCE LENGTH (YEARS)	3.8 (SD=3.7)	4.1 (SD=4.6)	3.9 (SD=3.6)	3.7 (SD=3.6)
GENDER¹				
% Male	91.6	95.7	98.2	98.4
% Female	8.4	4.3	1.8	1.6
SECURITY LEVEL²				
% Maximum	31.2	24.5	31.9	31.5
% Medium	30.9	30.2	32.3	33.3
% Minimum	1.8	1.6	1.6	1.2
% FIRST FEDERAL SENTENCE	58.6	53.0	71.6	80.7
RISK LEVEL				
% High	77.3	74.1	76.0	68.2
% Medium	21.8	23.4	21.8	28.3
% Low	0.9	2.4	2.1	3.4
NEED LEVEL				
% High	89.0	85.0	80.0	78.5
% Medium	10.6	13.6	17.6	19.6
% Low	0.5	1.2	1.6	1.9

Notes:

¹ There was no "other" gender category; however, 43 individuals had a gender considerations flag in OMS.

² There was a substantial amount of missing information on security level for each group; therefore, percentages do not add up to 100.

⁸ Data for these analyses includes all individuals involved in use-of-force incidents between April 2015 and October 2020.

⁹ Self-identified race is based on categories defined and collected by CSC for each individual upon admission to its custody. The category of Peoples of Colour includes 14 self-identified visible minority groups (excluding Indigenous and Black) based on race categories in CSC's Offender Management System (OMS).

Women and Use-of-Force

Over the five-year period, 824 incidents involved 271 unique women. Overall, women accounted for five percent of all individuals involved in uses of force, which is consistent with their proportion of the prison population. The majority of these incidents in facilities designated for women occurred in maximum security. Consistent with the prison population overall, most uses of force were related to assault (44.5%) or “behaviour-related” (27.2%). A much larger proportion of use-of-force incidents involving women, however, comprised incidents of self-injury (26.8% of all uses). For Indigenous women, nearly one-quarter (24.4%) of all incidents were in response to self-injurious behaviours.

BIPOC individuals accounted for more than two-thirds of all women involved in uses of force (67%), which was largely driven by the high numbers of Indigenous women. On average, Indigenous women accounted for 60% of all women involved in uses of force, despite accounting for approximately 40% of imprisoned women over the last five years.

When examining the use of force involving women, it is important to acknowledge the role of repeat or chronically involved individuals. As previously stated, individuals can be involved in more than one use-of-force incident. This is particularly salient for women. In fact, during the period under investigation, six women accounted for nearly one-third of all use-of-force incidents in women’s facilities. Moreover, one woman accounted for 11% of all incidents (89), and two women accounted for more than 50 incidents each. When the reasons for force were examined for all incidents involving these women, more than half were documented as occurring in response to self-injurious behaviours.

In the face of such findings, we need to ask ourselves: why are we expecting force options to effectively resolve mental health crises? Given that many of these women continue to self-harm and repeatedly experience force at the hands of correctional staff, clearly this approach is not working. If force should be used only when verbal negotiations have failed, this may be evidence that more-effective verbal negotiation and de-escalation techniques and training are needed. Staff need the right tools and training in order to respond effectively. And for the most chronically self-harming individuals, prisons may not be where they can or should receive the care they need. Meeting chronic self-harm with chronic use of force is an ineffective (and likely damaging) approach to working with people who have mental health needs. Moreover, attempts to extinguish temporarily the symptoms of otherwise possibly untreated underlying complex health issues is neither a productive nor humane correctional practice.

USE-OF-FORCE WITH OTHER VULNERABLE POPULATIONS

An examination of use-of-force incidents involving individuals with other vulnerabilities (i.e., history of self-injury and/or suicide attempts, mental health issues) was conducted for all incidents that took place between April 2015 and October 2020.

Individuals with a History of Self-injury and/or Suicide Attempts

- Nearly half (46%) of all individuals involved in a use-of-force incident had a history of self-injury or attempted suicide.
- 12% of all use-of-force incidents were identified as being as a result of self-injurious behaviour.
- More than one-quarter (27%) of all use-of-force incidents involving federally sentenced women were in response to self-injurious behaviour.
- Inflammatory sprays were the most common type of force used for incidents documented as being initiated by self-injurious behaviour (i.e., used in 43% of self-injury incidents). In fact, that rate of use of inflammatory sprays for incidents of self-harm is the same as the overall rate of use for all incident types.

- 5. I recommend CSC review and revise its policy and practice regarding use of inflammatory sprays when responding to incidents involving individuals who are self-harming or suicidal, with a view to reducing their use when responding to individuals who are experiencing mental health crises.**

Individuals with Mental Health Concerns

- Previous work by this office's use-of-force review team found that, based on a review of individual files for a sample of nearly 2,000 use-of-force incidents, 41% of cases involved at least one individual with documented mental health concerns.
- Given the lack of reliable administrative mental health indicators available, it is currently not possible to identify the proportion of individuals involved in uses of force who have mental health concerns.

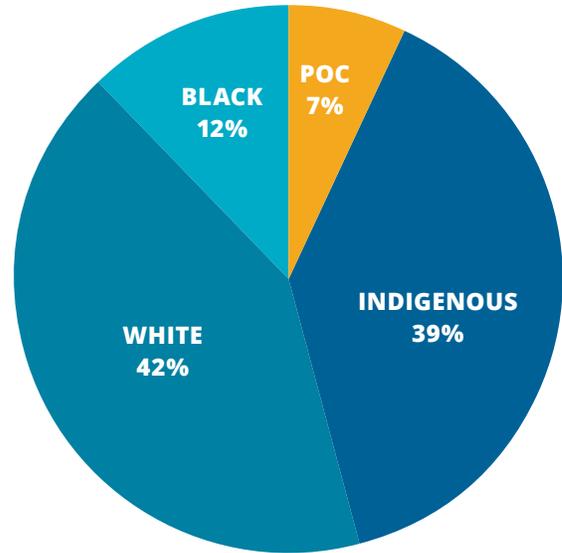
- 6. I recommend that CSC develop a reliable method for administratively tracking individuals with mental health concerns in order to identify how policies and practices, such as use-of-force, impact this particularly vulnerable population.**

Note: An attempt was made to utilize the mental health "flag" data available in CSC's Offender Management System (OMS); however, this information demonstrated numerous issues with data quality and reliability.

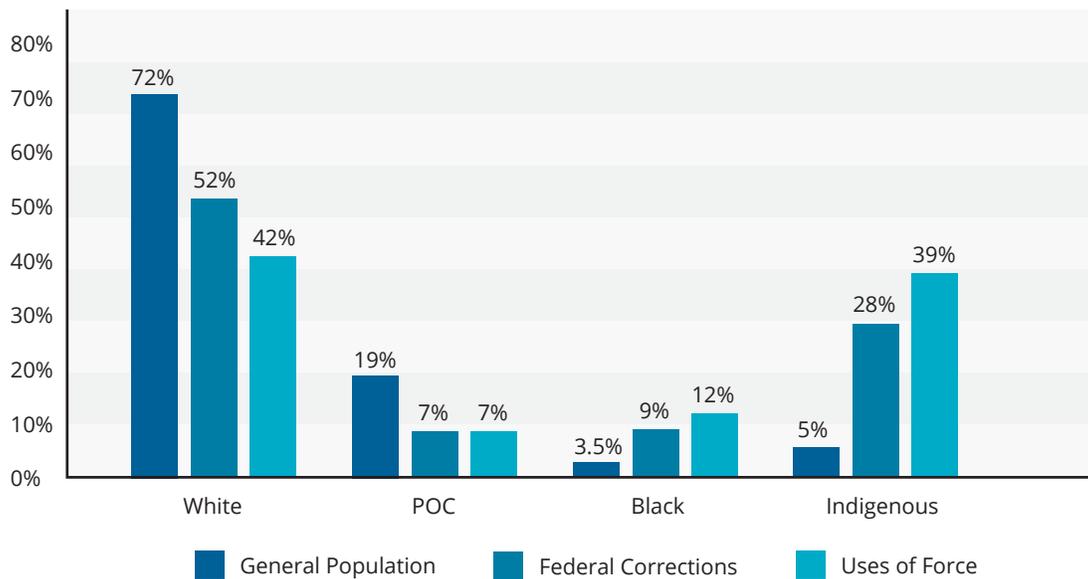
Individuals Involved in Use-of-Force Incidents by Racial Group

We examined the racial profile of individuals involved in use-of-force incidents. Despite accounting for 44% of the prison population, BIPOC individuals accounted for nearly 60% of all individuals involved in a use-of-force incident over the last five years. During the same period, White individuals accounted for 42% of all individuals involved in a use-of-force, while representing 52% of the prison population. Specifically, Indigenous individuals have been vastly over-represented, accounting for 39% of all individuals involved in uses of force, while comprising approximately 28% of the prison population over the same time. Black individuals were also over-represented, accounting for 12% while only representing 9% of the prison population.

Race of individuals involved in Use-of-Force incidents April 2015 to October 2020



Graph 2. Representation of White and BIPOC Individuals in the General Canadian Population, Federal Prison Population, and Use-of-Force Population

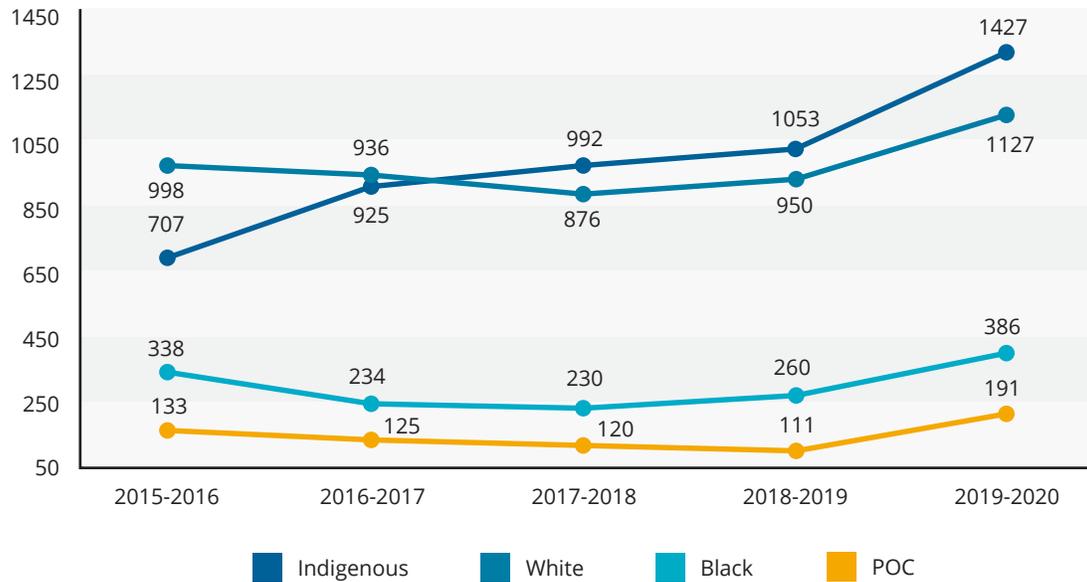


Taken together, Black and Indigenous peoples have accounted for 51% of individuals involved in uses of force since 2015 while representing 37% of the prison population and 8.5% of the Canadian population. Conversely, White individuals and Peoples of Colour were *under*-represented in the population of individuals involved in uses of force (42% and 6.5% respectively) compared to their representation in the prison population (52% and 7% respectively).

Use-of-force Events by Race

We also examined racial representation in incidents. An incident can, and often does, include more than one person, and therefore potentially more than one race group. We reviewed racial representation in use-of-force *events* (each unique incident-by-person combination). Graph 3 shows the total use-of-force events by racial group for the last five fiscal years.¹⁰

Graph 3. Total Number of Use-of-Force Events by Race per Fiscal Year



Note: The data points across race groups within each fiscal year are not mutually exclusive and therefore the total of incidents per year does not add up to the total of incidents shown in Graph 1.

It is clear that use-of-force events have increasingly involved Indigenous individuals more than any other racial group, a trend that has been on the rise since 2015-16. In fact, in that year, the number of uses of force involving Indigenous individuals exceeded the number involving White individuals. It has continued to increase since. Not only are Indigenous individuals over-represented among unique persons involved in uses of force, they are vastly over-represented in use-of-force events.

¹⁰ A use-of-force event is defined as each unique person-by-incident combination; therefore, each unique person involved in each unique use-of-force incident is counted separately and reported by race for each fiscal year.

Use-of-force Occurrences by Race

It was of interest to compare the average number of use-of-force incidents per person by racial group. Similarly, just as an individual could be involved in more than one use-of-force incident, an individual could be exposed to multiple *occurrences* (instances or applications of force) for each incident (see Table 2). For example, one individual could be involved in an incident where one occurrence and one type of force is used, such as one occurrence of physical handling. Another person could be involved in one incident but experienced three types of force and four occurrences of force, such as one occurrence of physical handling, one restraint, and two separate rounds of pepper spray.

As shown in Table 2, a comparison of the average number of use-of-force incidents and average number of force occurrences per person involved in a use-of-force incident for each race group revealed that Indigenous individuals experienced:

- The highest average number of incidents per person compared to all other groups (more than three incidents per person on average);
- The highest average number of occurrences of force compared to all other groups (i.e., more than five occurrences of force per person on average);
- Higher average number of incidents (3.01 vs. 2.78) and occurrences of force (5.45 vs. 5.02) compared to the population average; and,
- Significantly more incidents per person compared to White individuals (3.01 vs. 2.61).

Table 2: Average Number of Use-of-force Incidents and Average Number of Occurrences of Force per Person by Race Group

RACE GROUP	AVERAGE # INCIDENTS PER PERSON	AVERAGE # OF OCCURRENCES OF FORCE PER PERSON
INDIGENOUS	3.01	5.45
BLACK	2.78	5.43
WHITE	2.61	4.56
POC	2.53	4.71
POPULATION AVERAGE	2.78	5.02

While accounting for 12% of individuals involved in uses of force over the last five years, Black individuals had a higher average number of incidents per person (2.78) compared to White individuals and Peoples of Colour. It is also important to note that the average number of use-of-force occurrences for Black individuals (5.43) was very nearly as high as that for Indigenous individuals (5.45). While Black individuals are involved in a comparatively small number of incidents, their exposure to force is considerably *denser* per person compared to the other racial groups.

Reasons for and Types of Force by Racial Group

A brief examination of documented reasons for force demonstrated that while all race groups had generally the same rank order for the reasons attributed to the use-of-force incident, the following differences emerged:

- Indigenous individuals and POC had a significantly higher proportion of assault-related incidents compared to White and Black individuals, and to the total population;
- Indigenous and White individuals had significantly more uses of force attributed to self-injury compared to Black, POC and the total population; and,
- Black and POC had a higher proportion of incidents attributed to contraband than White and Indigenous peoples, and the total population.

Table 3: Reasons for Uses of Force by Race Group and Total Population

	INDIGENOUS (n = 1,932)	WHITE (n = 2,090)	BLACK (n = 609)	POC (n = 321)	TOTAL POPULATION
% ASSAULT-RELATED	53.3	45.7	49.1	56.9	50.0
% BEHAVIOUR-RELATED	34.7	39.7	41.5	31.9	37.3
% SELF-INJURY	8.1	9.7	2.9	3.0	7.8
% CONTRABAND	1.9	2.6	4.0	4.7	2.7

The Unique Role of Race in Uses of Force

The examination of use-of-force at the individual and incident levels consistently demonstrates the over-representation of Indigenous and Black individuals compared to their representation in the general population, prison population, and to other racial groups. Furthermore, it illustrates the overuse and density of force experienced specifically by Black and Indigenous individuals. While these results alone are compelling, the evidence does not tell us why over-representation exists. This in turn raises the question: could the greater use of force experienced by Black and Indigenous individuals be explained by the higher rates of these groups in higher security and risk groups? In other words, when taking into account the influence of risk level, security level, and other factors related to increased involvement in uses of force, is race uniquely related? More specifically, when making other important factors equal, does identifying as Indigenous or Black alone result in individuals being more likely to be involved in a use-of-force incident?

To explore this, two years of use-of-force data was examined, including all individuals who were in federal custody between 2018 and 2020. Individuals involved in at least one use-of-force incident were compared to those who were not involved in a use-of-force during that time (see Table 4). Information on risk level, security level, age, gender, and sentence length were obtained for each individual in order to analyze the relationship between race (Indigenous or Black, versus not) and involvement in a use-of-force incident.

Table 4: Comparison of Factors between Individuals Involved and Not Involved in Uses of Force Between 2018 and 2020

	INVOLVED (n = 2,967)	NOT INVOLVED (n = 24,283)
% INDIGENOUS OR BLACK	53.5	33.8
AVERAGE AGE	29.9	37.1
AVERAGE SENTENCE LENGTH (YEARS)	4.0	3.2
GENDER		
% Male	94.3	93.4
% Female	5.4	6.6
SECURITY LEVEL		
% Maximum	35.4	3.5
% Medium	34.0	35.2
% Minimum	1.7	21.7
RISK LEVEL		
% High	76	46.2
% Medium	21.8	37.3
% Low	1.8	13.4

Source: CSC Data Warehouse (February 2021).

Based on the data, the vast majority of all individuals incarcerated between 2018 and 2020 were males (93.5%), assessed as high or medium risk (49.5% and 35.6%, respectively), housed in medium security (35%), and serving an average sentence of 3.3 years (see Table 4).¹¹ Approximately 11% of all individuals were involved in at least one use-of-force incident, and 54% of all individuals involved in a use-of-force incident identified as Indigenous or Black.¹²

A comparison and examination of the factors (race, age, sentence length, gender, security level, and risk level) demonstrated a significant relationship between each factor and involvement in a use-of-force incident. Specifically, being younger, having a longer sentence, being male, being higher security and risk, and identifying as Indigenous or Black were significantly associated with being involved in a use-of-force incident.¹³

Next, we examined the relationship between race and involvement in a use-of-force.¹⁴ This analysis revealed that identifying as Indigenous or Black made individuals significantly more likely to be involved in a use-of-force incident. Specifically, the odds of being involved were 2.5 times greater for an Indigenous or Black individual compared to someone who identified with another racial group. When the other factors were added to the model (age, gender, risk level, security level, and sentence length), all factors were significantly associated with involvement in a use-of-force. Importantly, the results indicate that the relationship between race and use-of-force, holding the effects of all five other factors constant, was *still* significantly associated with use-of-force involvement. Put differently, after controlling for the influence of age, risk, security level, gender, and sentence length on involvement in use-of-force, being Indigenous or Black was uniquely associated with increased odds of being involved in a use-of-force incident.

Other factors likely also play a role in explaining involvement in uses of force, but this finding tells us that the over-representation of Indigenous and Black individuals in use-of-force incidents cannot simply be explained by their greater proportions in higher risk or security groups, their younger age, or sentence length. The unique and significant role of race should be a wake-up call to the Service to take an earnest look at how use-of-force methods are applied and to *whom* they are applied the most. This finding provides compelling evidence to suggest that force is applied to Indigenous and Black individuals disproportionately, and possibly because of race, above and beyond more legitimate reasons. Put simply, race alone should not be a “risk factor” for exposure to uses of force.

7. I recommend that CSC promptly develop an action plan in consultation with stakeholders to address the relationship between use-of-force and systemic racism against Indigenous and Black individuals and publicly report on actionable changes to policy and practice that will effectively reduce the over-representation of these groups among those exposed to uses of force.

¹¹ Just over one-third of individuals had missing data for security level (identified as “null” in the data).

¹² Indigenous includes the following race categories: First Nations, Métis, and Inuit. Black includes individuals who self-identified as Black, Caribbean, or Sub-Saharan African.

¹³ Chi-square and t-tests revealed a significant association or differences across each factor.

¹⁴ The statistical analyses used logistic regression to model the relationship between race and involvement in a use-of-force.

Conclusion

The use of force in prisons is a powerful tool that has been afforded to correctional agencies. It can serve an important purpose within strict parameters and in limited circumstances. But, like many other practices that have ample room for discretionary use, the use of force has become a go-to method for correctional management. It is a method that is vulnerable to the influence of implicit and explicit bias.

Evidence of the *over*-use of force generally, and specifically with Black and Indigenous individuals, is irrefutable. This reality stands in disappointing contrast to the implementation of seemingly promising measures, such as the EIM, which had demonstrated some organizational will to move away from the over-reliance on force. The outcomes, however, are not only inconsistent with, but diametrically opposed to, the intentions of such measures.

There has been no better time or motivation than the current social climate for the Service to engage in self-reflection and examine its use-of-force policies and practices overall and with specific attention to Black and Indigenous peoples, as well as other vulnerable groups, who are disproportionately and most negatively affected.

A Review of Women's Corrections 30-Years since *Creating Choices*

April 2020 marked the 30-year anniversary of *Creating Choices*.¹⁵ Launched as a blueprint for women's federal corrections in Canada, *Creating Choices* denoted the beginning of a correctional system that is recognized as woman-centered. The Commissioner of Corrections established the Task Force on Federally Sentenced Women (herein referred to as the Task Force) in 1989. The Task Force relied heavily on the lives, experiences and insight of federally sentenced women in examining the management practices for women in-custody, and in developing a plan and guidelines for future policies and interventions. The Task Force made short- and long-term recommendations that significantly changed women's corrections. It enshrined five principles integral to a woman-centered approach to corrections: empowerment; meaningful and responsible choices; respect and dignity; supportive environment; and shared responsibility.



Structured Intervention Unit and Secure Unit yard at Nova Institution

¹⁵ Correctional Service of Canada (1990). *Creating Choices: The Report of the Task Force on Federally Sentenced Women*.

Six years after the Task Force released its report, the Solicitor General of Canada released Honourable Louise Arbour's report on her inquiry into events at the Prison for Women in Kingston, ON.¹⁶ The report investigated incidents that took place between a group of incarcerated women and staff. The report issued 14 main recommendations, and served alongside *Creating Choices* as the political impetus for many of the operational and cultural changes in women's federal corrections.

My Office has reported on women's corrections in successive Annual Reports, noting many achievements, but also highlighting many problematic practices and areas where improvement was urgently needed. More than once, I have shown that an increased population of incarcerated women corresponds with an erosion of the key principles articulated in *Creating Choices*. The elevated number of incidents of self-injury, use of force, assaults (including sexual), fights, attempted suicides and interrupted overdoses among women point to a system that falls short of the principles and intentions embraced in *Creating Choices*. New issues have also arisen over the years that have further challenged the system and approaches to managing women's corrections.

In 2020-21, the Office broadly examined the evolution of women's corrections over the past three decades. We conducted confidential interviews with incarcerated women in each region, and CSC staff, to better inform our analysis and findings. Hearing directly from women who are serving time and staff who have worked within the *Creating Choices* framework is essential to better understanding the challenges and scope of the issues. We also reviewed academic literature, stakeholder resources and parliamentary reports.

The following analysis examines women's corrections, set against the nine problems identified in *Creating Choices*. These include:

1. The Prison for Women is not adequate;
2. Prison for Women is over secure;
3. Programming is poor;
4. Women are isolated from their families;
5. The needs of Francophone women are not met;
6. The needs of Aboriginal women are not met;
7. Responsibility for federally sentenced women must be broadened;
8. Women need to be better integrated into the community; and,
9. Incarceration does not promote rehabilitation.

¹⁶ Arbour (1996). [*Commission of Inquiry into Certain Events at the Prison for Women in Kingston*](#). Canada: Solicitor General Canada.

Highlights of the Main Findings

- *Creating Choices* was a ground-breaking initiative that led to many improvements in women's corrections; however, overall, little has changed for most federally incarcerated women.¹⁷
- One of the most significant changes over the past thirty years has been the sheer increase in the number of federally sentenced women. Admissions to women's federal correctional facilities more than tripled, from 170 in 1990-91 to 562 in 2019-20.
- The composition of the population changed significantly. The population of federally sentenced Indigenous women increased by 73.8% over 30 years. Indigenous women comprise 43% of the federally sentenced women population, up from 23% in 1990-91.
- Nearly all of the problems identified thirty years ago (inadequate infrastructure, over-securitization, lack of programming and services, poor community reintegration practices) remain significant areas of concern today, some have deteriorated even further and all are contributing factors to poor correctional outcomes for many women.
- A security-driven approach continues to pervade nearly every aspect of women's corrections, preventing CSC from realizing fully the vision in *Creating Choices*.¹⁸
- Programming, services, and interventions remain a substantial problem. While we heard from some women that they have had positive experiences in programs, correctional programming is not resulting in better community outcomes for many others. Indigenous women have limited access to specialized programming, and to Elders and Indigenous Liaison Officers. Job training for women is often grounded in gendered roles and expectations, offering few marketable skills.
- Despite CSC research demonstrating that women granted temporary absences (TAs) experience lower unemployment and have fewer returns to custody, the use of TAs and work releases is limited. This prevents women from pursuing services and interventions outside prison that would offer opportunities better suited to their needs and interests.
- Correctional practices that re-traumatize women (random strip searches), or a workplace culture that permits comments from staff that discriminate or bully women on the basis of their race, sexual orientation, gender identity or expression, in no way contribute to a healing environment.

¹⁷ In the Errors and Omissions review of the Annual Report, CSC clarified that "changes and improvements were previously observed but that there appears to be a regression as similar issues have once again been identified."

¹⁸ In the Errors and Omissions review of the Annual Report, CSC clarified that a security-driven approach has re-emerged in women's corrections because overall, the approach to women's corrections has fluctuated over the years.

THE VOICES OF WOMEN

As part of our work for this chapter, we interviewed a number of women serving time. Below are their thoughts on the evolution of women's corrections, challenges they face and the realization of *Creating Choices*.

On Empowerment and Choice:

"I have not felt that CSC is there to support us. Everything is a fight with management. Zero empowerment from the site, I have been disrespected by staff and witnessed staff disrespecting other inmates, I have submitted human rights complaints, discrimination/harassment complaints on behalf of other inmates. Decisions are taken in our case and they inform us of them, we are not consulted or part of the process."

"Systemically we used to have more choices (Escorted Temporary Absences, Work Releases, even what we can get on the grocery list). It seems more restrictive now."

"Escorted Temporary Absences/Work Releases abysmal. Been trying for 2.5 years but PO keeps changing things, now I need an updated Psych assessment and CP update. Frustrating."

On Programs and Services:

"I was really impressed with the Correctional Program Officer who taught my program. They were able to deal with all the different personalities and reach us in different ways. They were able to challenge me and bring me out of my shell."

"My skills are better and have improved since my program. It was a good experience. I was cautious about the info I released because of other people in the group. Spoke to the CPO about it though. My coping skills have improved significantly."

"Not having good enough access to mental health (psychiatrist), more doctors that can help, not just to prescribe meds to us."

"Aboriginal Women Offender Correctional Programming: Had an amazing experience with the Elder and the facilitator. It transformed my life."

"Volunteers who want to come in to help us have to go through so many approval process, takes so long."

"Obviously the mother-child program is positive but it could function better (lack of training of the people who are managing it, too many layers of approval)."

"Reintegration is the biggest challenge. Women leave prison with no employable skills, no solid skills on how to look for work. If you leave on SR, you're on your own, where is the building bridges? Vocational options are so limited for women (food, sewing, cleaning...)"

On Security:

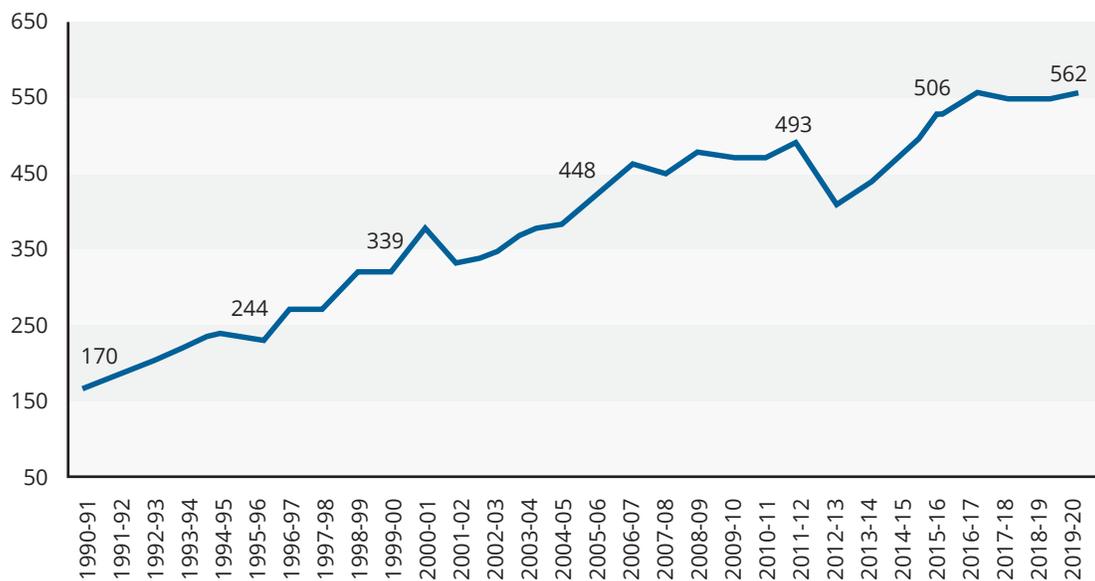
“I’ve watched it go from being women-centered and supportive...to going back to a more male model. I attribute the start of this downward trend to when PW had to start wearing uniform.”

“I feel like we have gone away from creating choice, with the exception of a few staff. Feels like more of a punishment-based model.”

Profile of Federally Incarcerated Women

One of the most apparent differences in the landscape of women’s corrections today compared to 1990 is the large increase in the number of federally incarcerated women in Canada. Admissions more than tripled from 170 in 1990-91 to 562 in 2019-20.

Graph 1. Federal Admissions to FSW Facilities 1990-91 to 2019-20



Source: CSC Data Warehouse (April 10, 2021).

According to CSC’s Data Warehouse, on April 10th, 2021 there were 615 individuals incarcerated in federal facilities designated for women. A further 713 were supervised in the community. As shown in Table 1, most women were incarcerated in the Prairie (30.1%) or Ontario (28.8%) regions. Approximately half of women were housed in medium security, while only one-quarter were classified as minimum security. Most women were serving relatively short sentences averaging three years. The vast majority (86%) were serving their first federal sentence. While the largest proportion of incarcerated women was assessed as high needs (61.3%), and medium (41%) or high risk (40%), most women were also

assessed as having medium or high levels of motivation, or accountability, or both. Based on data from CSC's Corporate Reporting system, there were nearly as many incarcerated women who identified as White (44%) as there were women who identified as Indigenous (43%); the remaining 14% identified as visible minority or other. Although the specific circumstances of Indigenous women will be discussed in a subsequent section, it is worth noting here the differences in the profile of incarcerated Indigenous women. For example, compared to incarcerated non-Indigenous women, Indigenous women were significantly younger. Their median age at admission was 29, compared to 36 for non-Indigenous women. They represented nearly twice the proportion of non-Indigenous women in maximum security, and received higher risk and needs ratings.

Table 1: Demographic Profile of Federally Incarcerated Women

	NON-INDIGENOUS (n = 327)		INDIGENOUS (n = 252)		TOTAL (N = 615)	
	# (MEDIAN)	%	# (MEDIAN)	%	# (MEDIAN)	%
AVERAGE AGE AT ADMISSION	37.5 (36)	–	30.7 (29)	–	34.7 (32)	–
SECURITY CLASSIFICATION						
Minimum	96	29.4	50	19.8	151	24.6
Medium	173	52.9	140	55.6	318	51.7
Maximum	22	6.7	32	12.7	54	8.8
AVERAGE SENTENCE LENGTH (YEARS)	3.1 (2.00)	–	3.1 (2.00)	–	3.0 (2.00)	–
FIRST-TIME FEDERAL OFFENDER	276	84.4	218	86.5	529	86
REGION						
Pacific	37	11.3	47	18.7	88	14.3
Prairie	62	19.0	115	45.6	185	30.1
Ontario	114	34.9	53	21.0	177	28.8
Quebec	63	19.3	14	5.6	84	13.7
Atlantic	51	15.6	23	9.1	81	13.2
RISK LEVEL						
High	120	36.7	123	48.8	245	39.8
Medium	140	42.8	100	39.7	252	41.0
Low	44	13.5	15	6.0	66	10.7
NEED LEVEL						
High	175	53.5	193	76.6	377	61.3
Medium	108	33.0	42	16.7	160	26
Low	18	5.5	1	0.4	21	3.4

	NON-INDIGENOUS (n = 327)		INDIGENOUS (n = 252)		TOTAL (N = 615)	
	# (MEDIAN)	%	# (MEDIAN)	%	# (MEDIAN)	%
REINTEGRATION						
High	45	13.8	3	1.2	53	8.6
Medium	187	57.2	147	58.3	349	56.7
Low	69	21.1	86	34.1	156	25.4
MOTIVATION						
High	111	33.9	63	25.0	185	30.1
Medium	167	51.1	160	63.5	337	54.8
Low	23	7.0	13	5.2	36	5.9
ACCOUNTABILITY						
High	86	26.3	53	21.0	146	23.7
Medium	176	53.8	171	67.9	361	58.7
Low	38	11.6	10	4.0	48	7.8

Notes: Data on race was unavailable for approximately 6% of the population. For the remaining demographic characteristics, data was missing for 8-15% of the population.

Source: CSC Data Warehouse (Based on women incarcerated on April 10th, 2021).

Assessment of Women's Corrections against the Nine Problems Identified in *Creating Choices*

1. The Prison for Women is Not Adequate

In 1990, the Task Force was clear that the single federal prison for women, in operation from 1934 to 2000 and located in Kingston, Ontario, was completely inadequate. Its design was based on a men's maximum-security facility, which meant that most women were held at a higher security level than required. The prison was noisy, poorly ventilated and lacked sufficient space to accommodate correctional interventions. Improvements were made over the years, but the inflexibility of the design and the prison's high security wall resembled a fortress that separated women from the community. The Task Force recommended that five regional women's sites be constructed with cottage-style units to incorporate independent living, non-intrusive security measures, natural light, fresh air, space, privacy, dedicated spiritual space, and access to land.



A yard at Edmonton Institution for Women

Five regional sites

Despite the adherence to many of the recommendations in *Creating Choices*, the regional sites continue to pose challenges. The construction of one facility in each region, while better than one national facility, still requires many women to serve their time far from their family and community. Recent CSC research found that women (and men) who received visits from friends and family were more successful when released back into the community.¹⁹ Many women are mothers, and many families cannot afford to travel for visits. Incompatibles (gang-affiliated members, individuals in protective-custody, and other groups) within a region may also require that women be transferred even further away from their supports. This may be particularly difficult for Indigenous women transferred to a region with fewer cultural supports, or women transferred to a region with little support in the language of their choice.



Communal living residences at Grand Valley Institution

¹⁹ Wardrop, Sheahan, and Stewart (2019). *A Quantitative Examination of Factors Available in the Offender Management System Associated with Successful Release*. Ottawa: Correctional Service of Canada.

Overcrowding

Built for a much smaller population, two of the five regional sites—Grand Valley Institution (GVI) and Edmonton Institution for Women (EIFW)—are often overcrowded. The intent in *Creating Choices* was that the size of each facility would reflect the regional population and that “effective implementation of community strategies should, over time, reduce the need and length of stay in these facilities.” *Creating Choices* also recommended that women be incarcerated in the region in which they are convicted and sentenced. It also provided for transfers for “personal or program reasons.” While it appears this principle is often adhered to, overcrowding and the presence of incompatibles has meant that some women have been transferred for reasons that are not personal or program-related. Over the last couple of years, overcrowding and incompatibles at EIFW has meant that several women, many of them Indigenous, have been transferred to Joliette Institution in Quebec. Not only are they moved further from their families and cultural supports, they are placed in an institution with few supports that can communicate in the language of their choice. Correctional programming was difficult to arrange in English when only a few Anglophone women were transferred to Joliette, but as the numbers rose, English correctional programs became available. Still, there is no Elder who can speak English, but there is an English-speaking Indigenous Liaison Officer. There are currently 32 women at Joliette in the Quebec region whose preferred language is English; 11 of them were sentenced in the Prairie region.²⁰ My Office recently intervened in a case where a woman was approved for penitentiary placement to EIFW upon warrant of committal. However, because of overcrowding at EIFW, she was recommended for penitentiary placement to Joliette. It was important for my Office to intervene because the woman was serving a short sentence of two years and eight months; a pen placement so far from her community could have reduced her motivation to address her needs. All her community supports, and her release plan, were in Alberta. She had been recommended for multiple programs and, as per the Case Management Team’s (CMT) assessment, she appeared focused on completing the interventions to address her needs, and motivated to work towards her Correctional Plan. The CMT reported that without appropriate programming and intervention completion, her reintegration potential was low. After my Office’s intervention, the EIFW management team changed its decision and placed her there. Transfers out of region should be minimized and used only as a last resort, not as a means of controlling population levels. More innovative solutions—such as security classification reviews, transferring Indigenous women to a Healing Lodge or returning women to the community—control population levels better, and are more beneficial to women.

Overcrowding has also been an issue in the Secure Unit at EIFW and also GVI. Many women in the Secure Units have complex mental health issues. Overcrowding and double-bunking can increase stress, anxiety, and incidents of self-harming and suicidal behaviour, particularly given that there is often very little movement out of the unit.

Infrastructure

Built many years ago, the regional facilities require regular maintenance. Women have reported issues with hot and cold water, water pressure, extreme temperatures within the units, broken appliances, and houses in disrepair. While maintenance and upkeep of the facilities is an ongoing requirement, these conditions can create tension and stress among the women, particularly when repairs take several weeks or when they must move units while repairs are being completed. In the Secure Unit

²⁰ CSC RADAR (April 28, 2021)

at one regional facility, a security panel broke last autumn; it was not replaced until this spring. During this period, the routine on the Secure Unit was modified. Women were locked in their pod after 3 pm, with no evening recreation. Their doors were locked between security rounds (every 45 minutes), resulting in numerous complaints to my Office.

Even retrofitted, the facilities are poor living spaces for aging women or those with mobility challenges. As discussed in *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody*, many physical barriers remain for those who are mobility impaired. Effective retrofits are often limited because of the age of the facility.²¹ My Office has heard complaints from women that their requests to use the elevator prompt frustrated responses from staff. Also, staffing challenges can result in extended waits for the elevator, and suggestions by officers that the women not move between floors. Infrastructure issues should not prevent women from accessing the areas they are permitted to enter.



Living unit at Grand Valley Institution

Access to health care

Over the past five years, health care has been a leading concern in complaints to my Office. Often they focus on access, medications, wait times (particularly for dental care), a lack of routine testing (mammograms, pap smears), and trauma-informed care. These issues suggest that CSC continues to struggle to fulfill its legal obligation to provide essential health care equivalent to community standards, and reasonable access to non-essential health care.²²

Ineffective grievance system

My Office has highlighted the deficiencies in CSC's grievance system repeatedly. We continue to receive complaints about relatively minor matters that should have been dealt with at the institutional level rather than escalated to my Office. Although CSC has added resources, there remain extensive delays in resolving complaints and grievances. The elimination of the second (regional) level several years ago was supposed to result in a more streamlined, two-tiered system of review and redress of prisoner complaints corresponding to a final grievance (institutional) at the national level. However, the number of grievances going forward to the national level and the amount of time required to resolve them has led to some egregious delays and backlogs. CSC has an obligation under section 90 of the *Corrections and Conditional Release Act* to resolve offender grievances "fairly and expeditiously." As I highlighted in my 2016-17 Annual Report, it would be more efficient to give managers the means and capacity to resolve matters in their institutions and to re-invest funding into Alternative Dispute Resolution, which has proven successful. Women have also reported fearing reprisal for using the grievance

²¹ Office of the Correctional Investigator and the Canadian Human Rights Commission (2019). *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody*.

²² See Section 86 of the *Corrections and Conditional Release Act*.

system and being told that their complaints will be used against them. A fair, efficient and effective prisoner grievance system would go a long way to alleviate some of the problems that plague women's institutions.

2. Prison for Women is Over-Secure

Many of the more progressive ideas and concepts in *Creating Choices* that would have created a more promising era—such as the presumption of minimum security classification at admission; no perimeter fencing; no maximum security units; and no segregation for incarcerated women—have long since been abandoned in favour of a system that puts security and control at the forefront. It was not until the minimum-security units opened in 2014 that minimum-security women were no longer surrounded by a fence. As sacrifices and compromises were made over the years, the management of women behind bars has become less distinguishable from the rest of CSC operations. The regional facilities did little to ease the overly secure environment for women and, in many respects, provided opportunities to bring in additional security measures.



The frame for a sweat lodge and the border fence at Fraser Valley Institution

Use of restrictive housing

For years, women have been subjected to various forms of restrictive housing such as segregation, clinical isolation, mental health observation, suicide watch, dry cell, and now Structured Intervention Units (SIUs). Though these different types of restrictive environments have very specific uses in policy, they often mean that women are placed in traditional prison cells in an environment that prioritizes a security-first approach over a therapeutic or healthcare-based intervention. Women have described these cells as cold, dirty and isolated. Many of the SIUs are located in areas previously used for segregation. Many observers have commented that SIUs are simply the new segregation. Given the mental health needs of many women, these restrictive and secure environments are neither appropriate nor healing. They often leave women feeling hopeless, distraught and helpless, particularly when dealing with their emotional or mental health issues. Rather than isolating women, consideration should be given, where appropriate, to placements in alternative and more supportive housing.



Observation cell next to the Structured Intervention Units at Nova Institution

The Secure Unit

The Secure Unit (maximum security) is, not surprisingly, the strictest of all areas in women's facilities. My Office has previously identified these units as highly restrictive and repressive. The closed, cramped living arrangements lead to tension, frustration and conflict. My staff continue to see many of the same women held in Secure Units visit after visit. Some have had their security classification overridden from medium to maximum. Others have been placed in the Secure Unit following behaviours arising from underlying mental health issues. Others have not successfully cascaded to lower levels of security. As well, as my Office has previously reported, women in maximum security have been subject to at least two unique classification or level systems over the years intended to manage their movements. The now defunct Management Protocol, introduced in 2003, was a very severe regime for incarcerated women considered "unmanageable" within the maximum-security population. It was used almost exclusively to manage high-needs, high-risk Indigenous women. This system was replaced by the level system, which continues to manage the movement of women when they leave the Secure Unit to access services such as health care, visits, programs or school. Women are often subject to restraint for off-unit movement. Like the Management Protocol, the level system tends to capture high-needs, high-risk Indigenous women who are over-represented in the Secure Unit.

While many of these women require a structured environment, the restrictive, security-driven approach within the Secure Unit can make their mental health issues worse. Women's behaviours, many of which contribute to their maximum-security status, are often the result of untreated trauma and mental health issues. They would be better addressed with support rather than restriction and security. The addition of full-time mental health workers within the Secure Unit would go a long way in assisting many of these women.



Structured Intervention Unit and Secure Unit yard at Nova Institution



Inside the maximum-security unit at Grand Valley Institution

The application of policy in an overly restrictive manner

Over 2015-16 to 2019-20, use-of-force incidents in women's facilities reached their highest level in 2018-19 (266 incidents) before dropping slightly in 2019-20 (242). My Office has highlighted the concerning trend in use-of-force on women who are self-harming, and on women with serious mental health issues. The replacement of the Situation Management Model with the Engagement and Intervention Model has not resulted in consistent changes to the way in which these cases are managed. Women continue to experience a security response to what should be a health-related intervention. In 2020-21, my Office investigated once again a particularly egregious case of use-of-force on a woman who was self-injuring and experiencing mental health issues (See the Use-of-Force case). While my Office received a positive response from CSC that detailed its failures, and action items to improve incident responses, this case illustrates again that ongoing work and continuous monitoring are required with respect to the management and treatment of women with mental health issues, and with individuals engaging in self-harming behaviours. Given the number of similar cases I have brought forward to the Service over the years, I remain concerned by the apparent lack of progress on these issues at the institutional and organizational level. The absence of sufficient mental health care, coupled with a security-first approach to managing situations stemming from acute psychological distress, are a risky model for an organization to reinforce, or passively allow to occur.

USE-OF-FORCE CASE

In 2020-21, my Office investigated a case of use-of-force on a young Indigenous woman residing in the Secure Unit. She was self-injuring and experiencing mental health issues.

After she used her call button to ask for assistance, correctional officers arrived at her cell. She complied with their orders, was handcuffed and led to an interview room. There, she became very agitated and resumed injuring herself. Officers gave verbal orders from outside the room to stop, but they lacked keys to enter and the woman did not stop. When the keys arrived, the officers opened the door immediately and deployed pepper spray, which stopped her behaviour.

After decontamination, the woman wanted to return to her unit. But she was not allowed. She became agitated again and resisted orders. Staff carried her to her unit.

This case illustrates once again many of the Office's systemic concerns regarding women's corrections, including:

- Reliance on security measures to manage incidents of self-harm;
- Poor adherence to the Engagement and Intervention Model;
- Lack of medical and mental health services;
- Placement and treatment of women with mental health issues in the Secure Unit;
- Gaps in post-use-of-force review procedures; and,
- Poor organizational learning.

In response to my correspondence, the Service acknowledged that more work is required to appropriately respond to health-related incidents. In fact, the Service agreed with most of my Office's assessment of what went wrong in this particular case. CSC also described measures it is implementing, including:

- Suicide Prevention and Intervention Strategy and a Clinical Framework to support staff in managing and responding to suicidal and self-injurious individuals;
- Continuous updating of curricula and scenario-based training for use-of-force;
- A Board of Investigation examining the management of institutional incidents under the old Situation Management Model and the new Engagement and Intervention Model to see if progress has been made in relation to the expected outcomes; and,
- Regional action plans to monitor the implementation of the Engagement and Intervention Model.

In September 2018, CSC implemented a random-strip-search calculator to standardize the assignment of random strip-searches. Most federally sentenced women are trauma and abuse survivors. Rather than reducing the effects of traumatic exposure, security-driven practices like these often reproduce traumatic events and worsen symptoms of previous trauma. The strip-searching policy for women should be grounded in an understanding of, and responsiveness to, the impact of trauma. To the extent possible, searches should avoid practices that are likely to re-traumatize unnecessarily, such as arbitrariness. A more trauma-informed, gender-responsive search policy would ensure an approach based only on identified risk (reasonable grounds) and necessity.

SECTION 53 SEARCH FOR CONTRABAND

On November 19, 2020, a women's facility was locked down because of suspected contraband entering the institution. In order for the searches to take place, women were brought to the gym and required to wait for a long time. During the course of the lockdown, some women underwent strip searches under section 53 of the *Corrections and Conditional Release Act*, and questioned about the presence of drugs. Adding questioning to the strip searches that had already made the women vulnerable appears particularly security-driven, with little respect for the particular needs or harm such an experience may cause.

In April 2021, my Office was informed that EIFW and Bath Institution had been chosen to pilot a body scanner.²³ While the introduction of body scanners may reduce the invasiveness of the strip search, this practice is further evidence of how far women's corrections has moved away from *Creating Choices* to normalize security measures. Today, security measures such as this are simply accepted as routine or standard operating procedures. There appears to be no room or voice to question measures that run counter to a more-progressive vision of women's corrections. The Service seems to justify this in the name of security and control. Although invasive searches may be required in some very specific instances, these should be limited to instances with sufficient evidence.

Women have raised other issues with my Office that highlight the overly secure environment within women's facilities:

- Inconsistent escort requirements: some women have reported requiring shackles with a uniformed guard for a community medical appointment but can complete an escorted temporary absence without shackles accompanied by a volunteer;
- Security staff remaining in the room during medical visits in the community;
- Overly restrictive environments within the minimum units (i.e., count every two hours, with two stand-to counts, during the day; a 3:30 pm sign-in; restrictions on the walking path; and early curfews); and,
- The over-use of cameras and surveillance contradicts a healing environment.

8. I recommend that CSC conduct an external review to evaluate all security practices within women's facilities with a view to eliminating or reducing overly secure procedures that move women's corrections further away from the objectives identified in *Creating Choices*.

3. Programming is Poor

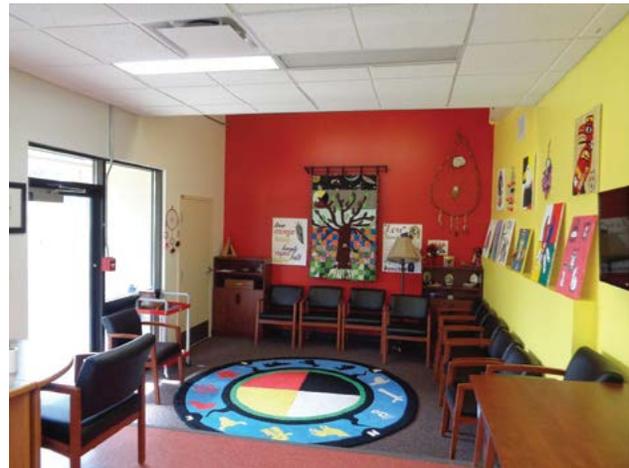
Among the issues the Task Force identified was the need for more programming. Since 1990, correctional interventions offered to federally sentenced women have changed considerably in their number, variety, and methods. In the years following *Creating Choices*, individual correctional programs were offered to target specific criminogenic needs, such as the Women Offender Substance Abuse Program and the Anger and Emotion Management Program. However, there was a significant shift in the programs' approach and content in 2010, when CSC implemented a new "holistic, gender- and culture-informed model" of correctional programs for women. The suite of Women Offender Correctional Programs (WOCP) and the Indigenous Women Offender Correctional Program (IWOCPP) shifted away from specific program targets (where a woman might have needed to complete several programs to address all of her identified criminogenic needs) to an integrated, multi-target program. This approach starts with an engagement program, followed by moderate or high-intensity components, and concludes with a self-management (maintenance) program. These program elements

²³ CSC gained the authority to use body scanners in 2019 when Parliament passed [An Act to Amend the Corrections and Conditional Release Act and another Act](#). CSC has informed my Office that it will begin the pilot project by asking prisoners to volunteer for body scans.

can be delivered in the institution or the community. This model also includes a sex offender program for women who require it. Secure-unit women are offered a modular intervention to help address the reasons for their secure-unit placement, but this programming does not replace the program(s) required in their correctional plan. As can be seen from the Voices of Women quoted earlier, we heard from many women who have had positive experiences and have enjoyed and benefited from correctional programming, both in the content and facilitators. However, we also heard many complaints. Recently, large studies and investigations into issues facing federally sentenced women have noted major deficiencies regarding their programming.²⁴ While the number and variety of correctional programs offered to federally sentenced women have increased since *Creating Choices*, clear problems remain in their availability, quality, and effectiveness.

Access to correctional programming

Timely access to correctional programs is important for many reasons, including the need to prepare women expeditiously for successful release into the community. Poor access to programming was one of the major findings of the Auditor General's (AG) 2017 investigation into women's corrections. While timely access is a considerably bigger issue for the larger population of incarcerated men, the AG's findings indicated that "Correctional Service of Canada did not allow many women to complete their correctional programs in time for parole." Furthermore, for Indigenous women, the AG said that "few Indigenous women had access to culturally-specific correctional programs or interventions because of limited availability." The AG found that Indigenous women were taking generic women's programming largely because culturally relevant programming would not be offered in time. In November 2020, CSC released its own evaluation of women's correctional programs which found similar access problems, particularly for Indigenous women. For example, only 51% of Indigenous women completed the main program before their day-parole eligibility date, compared to 79% of non-Indigenous women. While more than 95% of women were enrolled in the main program prior to their day- and full-parole eligibility, staff and incarcerated women alike noted problems with timely access. Specifically, staff attributed access barriers to resource deficiencies, particularly human resources, and insufficient program availability.²⁵ Consistent with the AG's findings, CSC's evaluation of program access found that "Indigenous individuals who were interviewed and had wanted to participate in an Indigenous program reported that they had not taken a program under



The cultural room at Fraser Valley Institution

²⁴ See for example: Senate Standing Committee on Human Rights (2019). *Interim Report - Study on the Human Rights of Federally-Sentenced Persons: The Most Basic Human Right is to be Treated as a Human Being (February 2017 - March 2018)*; also Standing Committee on the Status of Women (2018), *A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems*; and Office of the Auditor General (2017), *Preparing Women Offenders for Release—Correctional Service Canada*.

²⁵ CSC's evaluation of correctional programs did not provide survey results disaggregated for staff delivering programs at men's and women's institutions separately.

either the Indigenous Integrated Correctional Program Model (IICPM) or IWOCP, as the programs were unavailable or not offered in a timely manner.” In addition to the availability issue, CSC does not have a definition of “timely access”; therefore, absent standards, the clock runs out for many women who could have benefitted from programs. Put simply, women cannot benefit from programs if they cannot take them in time for release, or at all.

Relevance and quality of correctional programming

The ability of correctional programs to produce the desired outcomes largely depends on the relevance and quality of the program material and format. For women in correctional settings, gender- and trauma-informed programs that also target criminogenic needs have demonstrably reduced offending behaviors.²⁶ While offering a seemingly more-efficient and internally consistent new model, the shift from individualized programs to the integrated WOCP and IWOCP model brought concerns that the programs’ content would become far too generic, and thereby contradict the goal of targeting individual criminogenic needs. Correctional programming quality has been raised in recent studies examining the experience of federally sentenced women, as well as in CSC’s recent evaluation of correctional programs for incarcerated women. The results demonstrated considerable concern from both incarcerated women and staff about program quality. For example, 85% of women who participated in the WOCP evaluation survey indicated that the content of correctional programs needed to change. They pointed to a lack of relevant need areas and insufficient practical skills that would assist them in their everyday lives. Furthermore, 61% of staff reported a need to make content more relevant and useful to the participants. They said its content should be more realistic, simpler, less repetitive, and more gender-informed.

Relevance and quality are of even greater concern to women of diverse cultural or racial groups, such as Indigenous and Black women. In a survey of IWOCP participants, 75% of women said that the programming was not culturally appropriate. A quarter of staff described the content and format as insufficient in its cultural relevance or inappropriate. A majority of staff surveyed (65%) suggested improvements to program content and delivery for Indigenous women, such as more cultural sensitivity, more Elder involvement, more teachings applicable to individual circumstances, and generally more cultural relevance to the local community and the groups represented in the programs.

Effectiveness of correctional programming

Given women’s concerns about their ability to access good-quality programs, there is a question as to whether these programs effectively prepare them for successful release and reduce re-offending. CSC’s program evaluation examined the effectiveness of correctional interventions. It delivered disappointingly poor results, particularly in relation to the observed outcomes for women who completed programming compared to program-eligible women who did not participate. For example, the evaluation found that women who completed correctional programming had *higher* rates of revocations and substance-use-related outcomes compared to the non-participants. Furthermore, the evaluation found no significant differences in the grant rate for discretionary releases between women who completed programs versus those who did not.

²⁶ King (2017). *Outcomes of Trauma-Informed Interventions for Incarcerated Women: A Review*. International Journal of Offender Therapy and Comparative Criminology, 61(6), p. 667-688.

These are startling findings. They should raise major concerns for CSC. It should take a much-closer look at its program content and delivery methods to determine why they do not appreciably improve community outcomes. By this metric, CSC is failing women on one of the main goals of corrections, which is to provide those in its care with effective rehabilitative programs.

9. I recommend that CSC conduct an independent in-depth study of its Women Offender Correctional Program (WOCP) and Indigenous Women Offender Correctional Program (IWOC) to better understand why the programs have been deficient in producing improved correctional outcomes for participants, particularly for Indigenous women.

4. Women are Isolated from their Families

Maintaining a family relationship throughout their incarceration increases the chances of a woman's successful reintegration upon her release. The Task Force recognized this, particularly given the geographically isolated location of the single prison for women at the time. The construction of the five regional facilities brought many women closer to their home communities but many are still far from their family. Women have told my Office that visits can be difficult to coordinate with primary caregivers, and that long-distance visits and telephone calls are neither practical nor affordable.

Two programs have been implemented to address some of these issues:

- **Mother-Child Program:** a program allowing an incarcerated mother and their child to stay together during the mother's incarceration. Children aged four and under can participate full-time. Children aged six and under are eligible for part-time participation.
- **Video Visits:** an initiative that allows incarcerated individuals to maintain virtual contact with their family.

The addition of the minimum-security units provided areas designed to support the mother-child program, including adjoining, but separate rooms for the mother and child. The addition of these units increased participation as expected, but strict eligibility criteria implemented in 2008 have excluded many women from participation.

Most incarcerated women are mothers. These programs have served to unite some of them with their children, but the lack of specific data on eligible mothers makes it difficult to determine whether incarcerated mothers are being adequately served by these programs.

Community-based residential facilities

Given that most community-based residential facilities are located in large urban areas, women often face the prospect of being released into a community that is not their own. For women from Nunavut, Whitehorse and Yukon territories, the closest community beds are located in Ottawa, Edmonton, and Prince George, BC respectively. Moreover, with limited bed space in their community, some women end up taking any bed that becomes available in order to leave prison, even if it is further from their family than the prison itself.

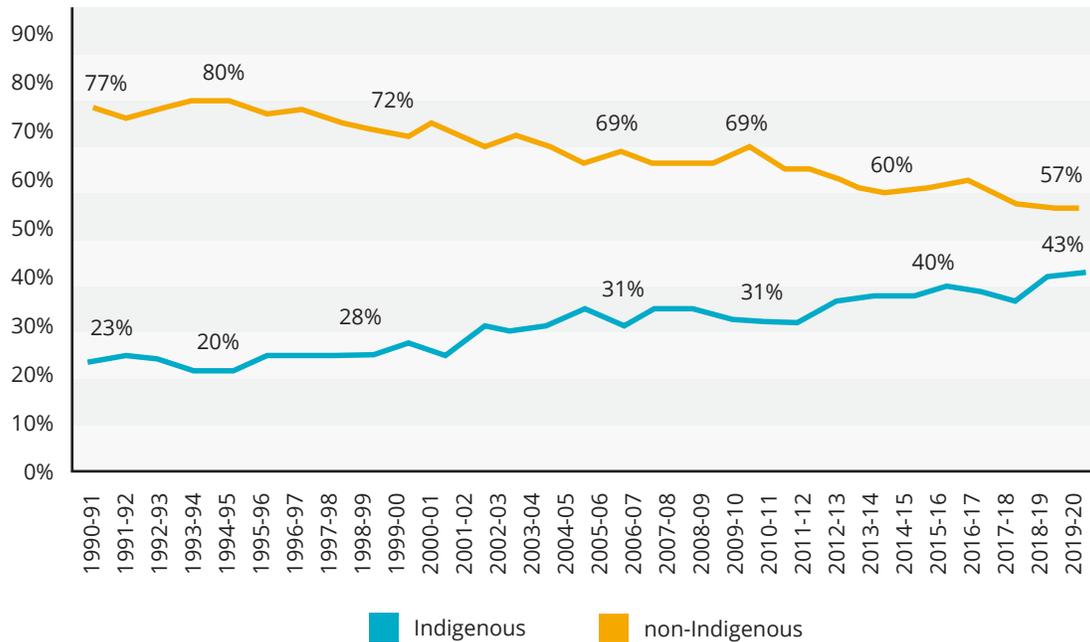
5. The Needs of Francophone Women are Not Met

The *Official Languages Act* (adopted in 1988 and revised in 2005) requires federal institutions to provide services in the official language of an individual's choice without delay. The services must be of equal quality, regardless of the language chosen. Though the first *Official Languages Act*, enacted in 1969, ensured that Canadian citizens had access to federal services in their preferred official language, the Task Force noted the lack of French-language programming for Francophone women at the Prison for Women. The construction of a regional facility in Quebec went a long way to addressing this problem.

6. The Needs of Indigenous Women are Not Met

The needs and experiences of Indigenous women in federal corrections have recently received increased attention, in part as a result of broader, large-scale inquiries such as the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), and parliamentary studies such as The House of Commons Standing Committee on the Status of Women's study on Indigenous Women in the Federal Justice and Correctional Systems. However, specific concerns about the growing number of, and inadequate treatment for, federally sentenced Indigenous women goes back decades. These issues were among those highlighted by the Task Force. As the number of Indigenous women continue to account for an increasingly larger proportion of federally incarcerated women, a respective increase in the efforts to address the complex needs and experiences of this population has never been more urgent.

Graph 2. Proportion of Admissions to FSW Facilities since 1990, by Race Category



Source: CSC Data Warehouse (April 10th, 2021).

As stated at the beginning of the chapter, Indigenous women are vastly over-represented in federal corrections, comprising 42% of incarcerated women while only accounting for approximately 4% of the Canadian population. As shown in the previous graph, the proportion of incarcerated Indigenous women has been steadily increasing over the last 30 years. In the last decade alone, the population of federally sentenced Indigenous women has increased by 73.8%. Despite new initiatives such as Healing Lodges and culturally informed correctional programs, each year the number of federally incarcerated women who identify as Indigenous continues to increase at an unabated pace. While there are various factors, both within and outside of the scope of corrections that contributes to these rates, there are many areas where the Service needs to expand and improve services for federally sentenced Indigenous women.

Indigenous women are over-securitized

In addition to being generally over-represented in the correctional population, Indigenous women are over-represented in the places and circumstances with the greatest restrictions on liberty. For example, Indigenous women are over-represented among those assessed as high-risk and designated as maximum security. We have heard examples of Indigenous women's security classification being unreasonably over-ridden to higher security levels, which in turn has a detrimental impact on their ability to access programs or be granted parole. While classification over-rides can and are used to lower or maintain security levels, I have previously raised concerns about the reliability, validity, and potential cultural bias of risk assessment and classification tools, including the use of over-rides, when applied to Indigenous peoples behind bars. The topic has been widely discussed by academics and media, and was the basis of a recent Supreme Court of Canada case.²⁷ None of the tools used to make determinations of risk and security were designed for specific use with Indigenous women. Yet they are used daily to make important decisions that directly impact on their environment, ability to access services, and work toward release. It is incumbent upon CSC to take a close look at its policies and practices and ensure that it has sufficient evidence to merit the use of these tools with *all* groups under their care, including Indigenous women.



Pathways yard at Fraser Valley Institution

In addition to being over-classified, Indigenous women account for a disproportionate number of women involved in use-of-force incidents and SIU placements. Since April 2019, federally sentenced Indigenous women accounted for 61% of all women involved in uses of force. Since the introduction of SIUs in November 2019, 80% of all SIU placements in FSW facilities involved Indigenous women. Confinement and force, even in the best circumstances, are ineffective and often inhumane ways of modifying behaviour or providing people with tools to succeed. The manner in which the Service works with women, particularly Indigenous women, therefore requires a broader cultural shift away from security and force toward a focus on culturally informed health care and rehabilitation.

²⁷ [Ewert v. Canada, \[2018\] 2 SCR 165.](#)

Indigenous women need greater access to effective and culturally relevant services

Though not unique to women's facilities, the inadequate availability of culturally relevant programs and services for Indigenous women is a major concern for this office. While CSC offers an Indigenous Women Correctional Program stream, as noted in the previous section on correctional programming and consistent with the AG's findings, we have heard many examples of programs delayed for a variety of reasons such as lack of staff. These delays deny women access to programs; they must often settle for generic alternatives to keep up with their correctional plans. Research suggests that culturally relevant correctional programming is more effective than generic programming.²⁸ While CSC's evaluation of the WOCP and IWOC programs did not show promising results, Indigenous women should receive the programming they choose and that is designed to meet their cultural needs. In 2019, CSC's national recidivism study showed Indigenous women had re-offending rates higher than both non-Indigenous women and men (i.e., 47%, 21% and 39% respectively). This is clear evidence that CSC needs to do much more to address the needs of Indigenous women, a large part of which is making *effective* services available and accessible.

A general lack of cultural services and supports appears to be an issue across regional sites and even at Healing Lodges.²⁹ Complaints describe inconsistent access to spiritual activities and ceremonies. We have heard of some institutions going months without the ability to conduct sweats, and women in Secure Units in particular reported inconsistent access to cultural programming or activities. Lack of services and programming delays are in part tied to the lack of Elders available at women's sites. We have heard that Elders are spread too thin due to staffing shortages and the high demands of balancing teaching program modules while also having responsibility over multiple units. The availability and vulnerability of Elders and other Indigenous staff are concerns this office has raised previously. The Service needs to recruit and retain more Elders and to increase the representation of Indigenous staff in women's facilities.

Indigenous women need more for their mental health

Given the history and legacy of colonization, and the disenfranchisement of Indigenous communities, the needs of Indigenous women who enter the correctional system are greater, in many ways unique, and therefore more complex. For example, nearly all federally sentenced Indigenous women have a current or lifetime diagnosis of a mental disorder and are identified as having moderate to high substance-abuse needs. Compared to their non-Indigenous counterparts, Indigenous women have significantly higher rates of reported past traumas, such as physical or sexual abuse (i.e., 72% vs. 48% for non-Indigenous women). Some evidence suggests that more than half of federally incarcerated Indigenous women attended residential school, or had a family member who attended. The actual rates are likely much higher. Relatedly, Indigenous women account for the majority of women involved in incidents of self-harm in federal prisons. For example, over the last year, Indigenous women were involved in 68% of incidents of self-injury. Many of these women experienced chronic self-injury and, in some cases, were involved in dozens of self-harming incidents each year. In the case of one Indigenous woman over a two-year period, she was involved in more than 300 incidents of self-harm. These figures

²⁸ Gutierrez, Chadwick, and Wanamaker (2018). [*Culturally Relevant Programming versus the Status Quo: A Meta-analytic Review of the Effectiveness of Treatment of Indigenous Offenders*](#). Canadian Journal of Criminology and Criminal Justice, 60(3), p. 321-353.

²⁹ There is currently one CSC operated Healing Lodge (Okimaw Ohci) and two s.81 Healing Lodges for federally-sentenced women (Eagle Women's Lodge and Buffalo Sage Wellness House).

clearly show that CSC is not meeting the mental health needs of Indigenous women. Therefore, when the stories of these individuals reach my Office, they raise a bigger question: is the Service capable of working effectively and humanely with Indigenous women who have such complex and chronic needs? Clearly, much more needs to be done to address the needs of women with traumatic histories, mental health issues, and self-harming tendencies.

We have heard time and time again that Indigenous women do not have adequate access to the psychological services, and particularly the culturally informed services they need to cope with, and work through, their mental health issues and complex traumas effectively and safely. While more trained, specialized, and culturally competent staff would serve as a first step, it is time to think outside of the box and consider community-based alternatives for women who need these services. This, in part, requires a broader and much-needed cultural paradigm shift in corrections, particularly regarding incarcerated Indigenous women, toward a system that places greater emphasis on culturally informed health care services and community engagement.

7. Responsibility for federally sentenced women should be broadened

Recognizing the importance of the voluntary sector and community stakeholders, the Task Force emphasized the inclusion of these groups in the rehabilitation and reintegration of women: “[T]he voluntary sector had a role to play in mobilizing citizenship participation, assisting government in setting priorities and preventing crime, providing critical analysis of government initiatives and providing public and community education programs. It is generally recognized by correctional systems that they alone cannot successfully accomplish all these things: the participation of the voluntary sector is required if there is to be any chance of success.”³⁰ Many community and voluntary organizations have become essential to the everyday operations of women’s institutions providing innovative programming and initiatives to assist women with their rehabilitation and reintegration back into the community. However, my Office continues to hear complaints regarding the challenges some Inmate Committees have experienced attempting to bring community volunteers into the prison. Given the diversity of the incarcerated population, efforts must be focused on ensuring that community organizations are representative of the population.



Participants in the dog program at Nova Institution

³⁰ Correctional Service of Canada (1990). *Creating Choices: The Report of the Task Force on Federally Sentenced Women*. p. 29.

BEST PRACTICES

Over the years, my Office has observed that the programs and initiatives that encompass the five principles of *Creating Choices*—Empowerment, Meaningful and Responsible Choices, Respect and Dignity, Supportive Environment, and Shared Responsibility—are those that make the most positive difference in the lives of women. These progressive, fulfilling initiatives enable women to maintain connection, express creativity and demonstrate responsibility while improving self-esteem and emotional self-worth. This leads to feelings of respect, support and dignity, and empowers women to move forward.

- Animal therapy has been a very successful healing tool. It allows women to connect with animals who do not demonstrate any judgment, but are responsive to a person's body language and overall demeanour. An example is the programs to train dogs in obedience and skills as therapy pets to assist people in need. Another is the Four Seasons Horse Teachings Program that teaches basic care for horses while contributing to healing on spiritual, emotional, social, and physical levels.
- Horticulture programming provides women with gardening skills that lead to tangible outcomes.
- The Read Aloud Program, in partnership with the Elizabeth Fry Society, allows women to read and record children's books for their children.
- Creative programming, such as drama and music programs through community partnerships, effectively enhances self-esteem and social skills.
- Walking programs at various sites allow women to walk outside of the institutional perimeter and promote physical activity.
- Peer support and mentoring programs enhance relationships for the mentor and mentee.
- "Reminder Circles" are used at Healing Lodges to discuss alternative and less-punitive resolutions to institutional charges and behaviors, giving women guidance for better choices, both immediate and long-term.
- The *My Journey Program - Alternatives to STG Lifestyle for Women Offenders*, created under the Indigenous Intervention Centre initiative, responds to the growing number of Indigenous women involved in street gangs. The facilitator brings experience, and the program is framed in a cultural context intended to help women to identify what drew them into the lifestyle, what keeps them attached and a plan that will allow them to exit the gang safely.
- Employment fairs expose women to options for post-secondary education, vocational courses and routes to employment.
- Restorative justice workshops encourage opportunities for federally sentenced individuals and the community that may lead to holistic, healthy approaches to healing.
- Staff are committed and engaged to find innovative ways to ensure women have experiences and teachings that help them advance.

Complex-needs cases at women's regional facilities

While the Task Force did not specifically address the needs of women with complex mental health needs, my Office has urged the Service often to fund alternative service agreements and make arrangements with provincial and territorial mental health providers that would allow for the transfer and placement of complex-needs individuals in community psychiatric facilities. There continues to be a handful of women with significant, complex mental health needs that are difficult to manage safely and humanely within a federal correctional facility. These women are often held in conditions, including the Secure Unit, that are inappropriate, ill-equipped and likely to make their mental health issues worse. Although they are few, they can disrupt and upset other women on the range who regularly witness incidents of self-harm and mental health crises. However, community psychiatric facilities can be reluctant to accept referrals from CSC, despite that fact that these facilities should be better equipped to support these women. Finally, it is not clear that lessons from deaths in women's facilities have been learned or applied consistently. Though some of these women are monitored by the Regional or National Complex Mental Health Committees, and receive complex case funding from National Headquarters to support their operational needs, there remain challenges to ensuring their health and safety in a dignified and humane manner.

COMPLEX MENTAL HEALTH NEEDS

There are a few federally sentenced women whose mental health needs would likely be better managed in a community psychiatric facility. One such case involves a woman who throughout her incarceration has spent considerable time in the Secure Unit under various types of observation, and in segregation.

This individual has a significant history of mental health issues, suicidal ideations, and self-injurious behaviours. Despite completing programs, she continues to struggle with her emotions and dealing with distress. She has spent some time in medium security, but behaviours resulting from her mental health issues have resulted in reclassifications to maximum security, including overrides from medium to maximum security. Rather than continuing the cycle of placements in the Secure Unit or under various types of observation, a placement in an external treatment facility would likely benefit her.

8. Integrate Women into the Community

The Task Force viewed community reintegration as essential to reducing the isolation and separation of women from their family, friends and community. Community access is also an effective way to broaden the supports and services available to help women take responsibility for their own lives. Temporary absences (TAs) are one way that women, particularly those with a minimum-security classification, can access the community. For individuals going before the Parole Board of Canada, TAs are particularly important in providing evidence of success within the community. An institutional head may authorize a TA for medical or administrative reasons, community service, family contact including parental responsibilities, personal development for rehabilitative purposes, or compassionate reasons.³¹ CSC research indicates that the more TAs a woman receives, the lower her chances of unemployment or returning to custody.³² Another CSC study found that women participating in any TA (Escorted Temporary Absences, Unescorted Temporary Absences, and Work Release) were significantly more likely to receive discretionary releases such as day parole.³³

Temporary absences

Over the past five years, the number of Escorted Temporary Absences (ETAs) among women with a minimum-security classification has increased in every region. While the number of Unescorted Temporary Absences (UTAs) has increased over the same time, there are still very few UTAs overall. My Office often receives complaints from women regarding TAs cancelled for a lack of staff or volunteers to accompany them. Given the importance of TAs in expanding programming options, and for women going before the Parole Board of Canada, the Service should focus more on recruiting and maintaining volunteers to ensure TAs are completed and increased.

Postponed parole hearings

Women have also complained to my Office that there is a need to postpone parole hearings often because they have not yet had the opportunity to complete their correctional programming. Women find it difficult to access the community through TAs. Because of delayed correctional programming, some must remain incarcerated longer. While the proportion of women released on day parole increased over the past five years (40.4% in 2015-16 to 54.4% in 2019-20), the proportion returning to the community at their statutory release date remains high (43.8% in 2019-20). Timely correctional programming is essential to ensuring women return to the community as early as possible.

³¹ *Corrections and Conditional Release Act*, section 17 1(b). For individuals serving a life sentence, the Parole Board of Canada may have to approve or authorize ETAs (except ETAs for medical purposes or court attendances). Similarly, if an ETA approved by a Warden was cancelled because the individual breached a condition, then subsequent ETAs (except ETAs for medical purposes or court attendances) may be authorized by the Board.

³² Helmus and Ternes (June 2015). [*Temporary Absences Reduce Unemployment and Returns to Custody for Women Offenders*](#). Ottawa: Correctional Service of Canada.

³³ Helmus and Ternes (February 2015). [*The Impact of Temporary Absences and Work Releases on Community Outcomes*](#). Ottawa: Correctional Service of Canada.

Work releases

Work releases are another important community-access mechanism. Their number has remained low over the past five years, though EIFW and GVI have had a couple of years in which they approved ten community work assignments. The low number of work releases is concerning particularly given the limited work opportunities within the facilities that would provide women with job-ready skills. At CORCAN, the special operating agency created to manage prison industries, jobs for women are often grounded in gendered roles and expectations, offering few marketable skills. In 2017-18, for example, for incarcerated women, most CORCAN employment opportunities were within the Textiles Business Line (83.5%). Assignments in construction and manufacturing represented 15.3% and 1.3%, respectively, of CORCAN assignments for incarcerated women.³⁴ In a recent investigation by the Office, women said they wanted opportunities in accounting, office administration, information technology, and residential and commercial painting.³⁵ Work releases not only offer women opportunities to work within the community, but they are also an important way CSC could broaden opportunities without creating its own infrastructure.

Table 2: Escorted Temporary Absences (ETAs), Unescorted Temporary Absences (UTAs), and Work Releases taken by Women in Minimum Security between 2015-16 and 2019-20

INSTITUTION	2015-16	2016-17	2017-18	2018-19	2019-20
FRASER VALLEY					
ETAs	187	110	202	376	627
UTAs	0	3	1	13	27
Work Releases	0	1	2	1	2
EIFW					
ETAs	181	229	459	606	908
UTAs	15	7	218	43	57
Work Releases	1	1	10	10	5
GRAND VALLEY					
ETAs	720	956	779	1053	1118
UTAs	28	31	14	28	46
Work Releases	4	4	4	8	10

³⁴ Correctional Service Canada (2017-18). *Employment and Employability Results Report*.

³⁵ Office of the Correctional Investigator Canada (2020). *2019-20 Annual Report*. See investigation, *Learning Behind Bars: An Investigation of Educational Programming and Vocational Training in Federal Penitentiaries*.

INSTITUTION	2015-16	2016-17	2017-18	2018-19	2019-20
JOLIETTE					
ETAs	351	392	516	342	258
UTAs	9	9	41	8	28
Work Releases	2	1	0	0	0
NOVA INSTITUTION					
ETAs	6	8	19	238	134
UTAs	0	0	0	5	1
Work Releases	0	0	2	4	2

Note: Medical ETAs and UTAs are excluded.

Source: CSC Data Warehouse (August 27, 2020).

Lack of community bed space

Even when women are granted day parole, the bed shortage in community-based residential facilities (CBRFs) can leave them lingering in prison. This is particularly concerning given research that shows that a gradual supervised release provides individuals a better chance of successful reintegration.³⁶ For paroled women with mobility issues, complex mental health concerns, addictions or substance-abuse needs, the number of treatment beds available is even lower. CBRFs can include private-home placements, an option that is rarely used. The challenge for CSC is to ensure that women returning to the community find beds. Alternatives and innovative approaches should be pursued to ensure they are returned to their communities as early as possible and in collaboration with community partners.

10. I recommend that CSC significantly increase the use of temporary absences and work releases for women, particularly those in minimum security, to ensure they can regularly access the community to provide more options and enhance their opportunities for successful reintegration.

11. I recommend that CSC return to the basic principles identified in *Creating Choices* and develop a long-term strategy to ensure that all women are prepared at their earliest date possible to return to the community and that significant resources be reallocated to the community supervision program and community correctional programming to support women back in the community.

³⁶ See Parole Board of Canada (PBC) statistics found in its [Performance Monitoring Reports](#) that highlight the importance of a period of gradual supervised release in terms of correctional outcomes.

9. Incarceration does not promote rehabilitation

The vast majority of incarcerated women will return eventually to the community. Given that reality, one of the main goals of the correctional system is to provide them with rehabilitative opportunities and tools to prepare for a successful return. One of the problems identified in *Creating Choices* was the inherent difficulty of accomplishing rehabilitative aims in prison. The very nature of its physical, social, and cultural environment makes a prison a uniquely challenging setting in which to foster and encourage prosocial change in people. Therefore, in order for the Service to meet its task of supporting rehabilitative change, it bears a responsibility to make very determined efforts to reduce barriers and enhance mechanisms that are most important for effective rehabilitation.

The previous sections touched on the more tangible elements of corrections that contribute to (or hinder) rehabilitation (e.g., correctional programming, reintegration initiatives). But, also fundamental to the process of rehabilitation are *intangible* factors that directly affect the quality of the healing environment, such as the culture, social climate and dynamics, and systems of power and support. It is these areas that are often neglected, as they are more difficult to measure and diagnose, and therefore are less likely to be addressed. Nonetheless, it is these elements in which women's corrections may need to make the biggest strides. To illustrate some of the more intangible rehabilitative needs and gaps that remain, the following value statements are offered as guideposts, marking the direction women's corrections needs to go to improve rehabilitation.

Women need to feel safer: More than 80% of federally sentenced women have experienced physical violence, and nearly 70% report having experienced past sexual abuse. For Indigenous women, the rates are higher. Given this context, women need—in addition to good quality, targeted interventions—the basics of healthy daily living, such as the feeling of safety. This office has repeatedly heard that women do not feel physically safe when they endure re-traumatizing practices, such as random strip-searches and unnecessary force. We have heard that women do not feel emotionally safe when they are discriminated against or bullied by staff or fellow incarcerated persons on the basis of their race, sexual orientation, gender identity or expression. We have heard that women feel spiritually unsafe when their cultural practices or belongings are disparaged or desecrated. My Office has often said that individuals go to prison as punishment, not for punishment. Therefore the Service has the responsibility to increase its efforts to provide incarcerated women with an environment free of gender- and culture-based violence, where they can pursue rehabilitative goals safely.

Women need space to heal: It is estimated that nearly three-quarters of federally incarcerated women have a lifetime or current mental disorder, and a majority of this group also have co-occurring mental health and substance-abuse issues.³⁷ Consequently, the need for services and staff trained to manage complex cases has never been greater. Nonetheless, too many federally sentenced women cannot access the services and supports that are essential to their rehabilitative process. We have heard examples of women waiting months for escorted temporary absences to access sexual-assault support services not available on-site. At most institutions, there are wait lists for programs such as Dialectical Behaviour Therapy (DBT), making it difficult for some women to benefit from programs that should be available. Furthermore, the lack of supports and services is compounded by the often-austere, grim prison environment that is counterproductive to healing. This is particularly true of

³⁷ Brown, et al. (2018). *Prevalence of Mental Disorder among Federally Sentenced Women Offenders: In-Custody and Intake Samples*. Ottawa: Correctional Service Canada.

Secure Units, which house women with some of the greatest needs. Now more than ever, incarcerated women need the places and spaces to heal effectively. Funding should be redirected towards the services that they need most.

Women need to have a sense of purpose:

One of the barriers to rehabilitation is boredom. We heard from one woman serving a life sentence that she often finds herself mindlessly sewing squares of fabric simply to pass the time. In the absence of purposeful activity, women are often left feeling depressed, hopeless, and generally unmotivated. This is particularly so for women in maximum-security settings. In some cases, as my Office has previously reported, boredom leads to stress and incidents of violence or self-harm. In highly controlled environments such as the prison setting, it is difficult to inspire people to feel a sense of value in their daily lives. This is an essential element to encourage women to participate in the rehabilitative process. While some institutions have developed innovative programs for women, more must be done, particularly for women serving long sentences, to give them a greater sense of meaning and purpose.

Women need prosocial models and support:

In addition to maintaining their institution's safety and security, correctional staff must also contribute to a prosocial environment to assist incarcerated women through their rehabilitation. Many staff in women's facilities live up to this dual role, but this office has heard countless examples of staff exhibiting the very behaviours and attitudes the Service is attempting to extinguish in the incarcerated population. It is simply unacceptable for staff to direct derogatory, homophobic or transphobic language towards incarcerated women. We heard examples of staff mocking or denigrating women who participate in certain programs (e.g., needle exchange program or Opioid Agonist Treatment), thus creating a disincentive for participation in rehabilitative activities. Furthermore, the staffing shortage in women's facilities is a chronic issue that affects the institutional climate. A staff shortage reduces women's access to the daily services or programs they need. Moreover, the staff borrowed temporarily from men's facilities, many of them men, have not been trained properly to work in women's facilities. These stopgap measures have a direct impact on the rehabilitative climate and dynamics of women's facilities, and depart from the spirit and letter of Creating Choices. Incarcerated women need properly trained, prosocial staff who will encourage their progress and contribute to a positive, rehabilitative institutional culture.



Vocational training at Grand Valley Institution



Vocational training at Joliette Institution

Emerging Issues in Women's Corrections

While many of the problems identified thirty years ago remain, other issues have arisen that the Task Force did not directly anticipate. They have become particularly prominent within the last decade. The addition of "gender identity or expression" to the list of prohibited grounds of discrimination in the *Canadian Human Rights Act* (June 19, 2017), and the advocacy of the LGBTQ2+ community, have pushed the Service to rethink its policies seriously, particularly with respect to housing transgender individuals and the impact on other prisoners. As well, gang affiliations have become more prominent over the years, creating a group of women, many of whom are young and Indigenous, who require specialized assistance, support and programming.



Living units at Nova Institution

Gender considerations

My Office first reported substantively on the issue of gender identity and gender expression in the 2018-19 Annual Report where I identified many of the challenges faced by women's facilities in particular, in integrating and supporting transgender women. Since that time, my Office has received complaints from transgender individuals and others, including complaints about inappropriate comments from CSC staff and other incarcerated women which could be considered transphobic. Over the reporting period, my Office reviewed and provided extensive comments on CSC's proposed Commissioner's Directive (CD) 100: *Management of Offenders with Gender Identity or Expression Considerations*. This new stand-alone CD is an important step towards recognizing and addressing the needs of incarcerated individuals with gender identity and expression concerns, and in addressing my Office's call for a single point of policy direction on these issues. My Office identified gaps and issues with respect to the proposed CD:

- The need for an internal or external Working Group with specialized expertise to provide, guidance, support, training, and education to staff and prisoners;
- The CD would benefit from an additional review by external experts in the field;
- The CD requires responsibilities associated with the proactive protection of individuals with gender considerations and the development of a mechanism for these individuals to report abuse;
- The need for staff training and the development of specialized staff; and,
- The Gender Considerations Case Review Board (GCCRB) requires further specifications. For example, there is currently no recourse mechanism should an individual wish to challenge the outcome of a GCCRB decision.

These concerns were raised with the Service on November 27, 2020 and as of the time of writing this report, my Office has not received any follow-up. Nor has the proposed CD been promulgated. Since raising our concerns, my Office has received further complaints from transgender individuals, and has reviewed a particularly egregious use-of-force incident on a transgender woman that resulted in a disciplinary investigation against CSC staff. This is an area my Office will certainly monitor.

Female gang members

Currently, 11.1% of federally sentenced women have a documented gang affiliation. Likely this is an underestimate. For 25 of the 68 gang affiliates, their gang type is listed as Indigenous. In other words, 37% of all women with a gang affiliation are listed as having ties to an Indigenous gang. CSC research suggests that compared to non-gang affiliated women, those with a gang affiliation have more serious criminal histories, cause more disturbances within the institution, and have higher levels of risk; they have lower levels of motivation, lower potential for reintegration, and poor institutional adjustment. In addition, many have prior youth and adult convictions and have previously served time.³⁸ These findings and statistics suggest there is an important need to understand the profile and needs of gang-involved women so that effective gang-management and intervention strategies can be developed. Currently, CSC's national strategy for managing gangs is limited and appears to focus primarily on identification and verification rather than the overarching elements of prevention, intervention and disaffiliation. My Office will monitor this issue closely with the intention of ensuring a better, more-coordinated approach to assisting these individuals.

³⁸ Scott (2012). *Women Gang Inmates: A Profile*. Ottawa: Correctional Service of Canada.

Conclusion

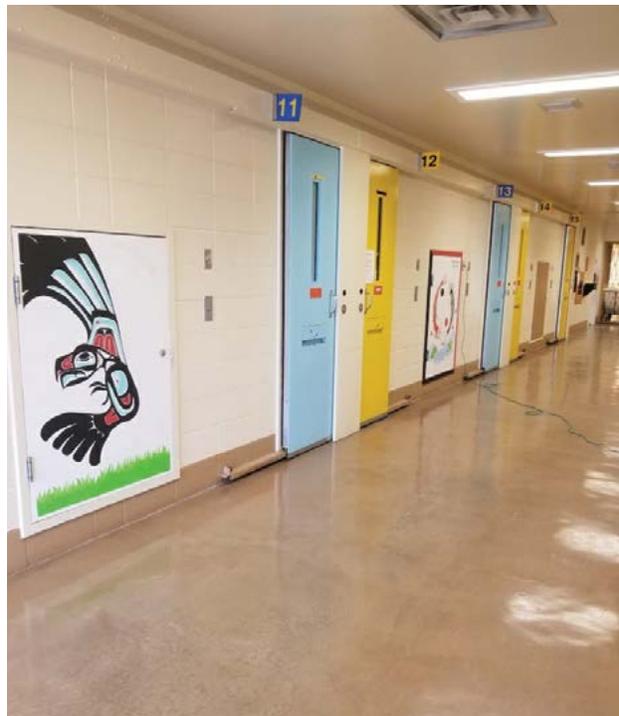
Though many changes have occurred over 30 years in women's federal corrections, little has improved for the lives of many incarcerated women. Nearly all of the problems identified three decades ago remain significant concerns, and new issues have arisen. One of the most significant issues, the over-reliance on security measures, pervades nearly every problem within women's corrections. The exceedingly secure environment was in no way envisioned by the Task Force. In many ways, it has prevented the Service from fully realizing the values and principles established in *Creating Choices*. Fences, official Correctional Officer uniforms, stab-proof vests, over-reliance on pepper spray, and now a body scanner – these all point to a regime focused on security and containment, not on rehabilitation and reintegration. In terms of security measures, some women's facilities, particularly the Secure Unit, are beginning to resemble men's institutions. Moreover, while the establishment of regional facilities addressed many of the concerns of the Task Force, they have created others. The regional facilities have allowed the Service to incarcerate more women. I am very much reminded of the saying, "If you build it, they will come." The availability of prison cells has shifted the focus away from the community services and interventions highlighted in *Creating Choices*. It is clear that more-targeted change, including shifting institutional resources to the community, is required if we are to have any hope of realizing the vision of the Task Force and *Creating Choices*.

- 12. I recommend the development of alternative accommodations for women housed in secure units and the eventual closure of all secure units. If secure units remain open, they should only be used for temporary removal and separation of women after a serious incident until a proper alternative placement is found.**

Preliminary Observations on Structured Intervention Units

In my last Annual Report, I briefly discussed the Government's decision to amend the *Corrections and Conditional Release Act* (CCRA) to bring "transformational changes" to prisons. These changes included abolishing solitary confinement as defined by the *Mandela Rules*. In practice, the strategy was to replace the previous administrative-segregation regime with Structured Intervention Units (SIUs).³⁹

Rollout of the SIUs began in November 2019, a few months before the COVID-19 pandemic began.⁴⁰ As part of the overall strategy, the Minister of Public Safety established an external SIU Implementation Advisory Panel in September 2019⁴¹ to monitor the implementation of SIUs across the country. The Minister also appointed 12 Independent External Decision Makers (IEDM)⁴² to review cases of individuals confined in SIUs and make decisions with respect to the length of stay and conditions of a placement.



The SIU range at Bowden Institution

At the outset, aware that CSC was under pressure to implement SIUs, and that an Advisory Panel had been struck to monitor the implementation, I decided not to monitor heavily or evaluate CSC's compliance until a reasonable amount of time had passed. No sooner had I made this decision than the pandemic began, and CSC facilities rapidly went into lockdown. During that time, members of the Advisory Panel released four reports examining CSC's compliance with the legislative requirements for SIUs.⁴³

³⁹ Canada's 2018 Fall Economic Statement allocated \$300 million over six years and \$71.7 million annually, towards resources, including staff, to run SIUs.

⁴⁰ SIUs are operating at 11 institutions for men and all five regional women's prisons. Individuals at different security levels can reside in the same SIU.

⁴¹ Public Safety Canada (September 2019). [Government appoints expert Advisory Panel to monitor new correctional system. News Release.](#)

⁴² Public Safety Canada (2020). *Transforming Federal Corrections (Bill C-83)*. Retrieved on May 11, 2021 from: <https://www.securitepublique.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20200621/021/index-en.aspx>.

⁴³ The advisory panel's term of office ended before it received any data from CSC. However, two members, Anthony Doob and Jane Sprott, pursued CSC data even after the panel's term had expired. See their reports: Doob and Sprott (October 26, 2020). *Understanding the Operation of Correctional Service Canada's Structured Intervention Units: Some Preliminary Findings*; Sprott and Doob (November 2020). *Is there Clear Evidence that the Problems that have been Identified with the Operation of Correctional Service Canada's "Structured Intervention Units" were Caused by the COVID-19 Outbreak? An Examination of Data from Correctional Service Canada*; Sprott and Doob (February 2021). *Solitary Confinement, Torture, and Canada's Structured Intervention Units*; Sprott, Doob, and Iftene (May 2021). *Do Independent External Decision Makers Ensure that "An Inmate's Confinement in a Structured Intervention Unit is to End as Soon as Possible"?*



An SIU cell at Port Cartier Institution



The SIU common room at Port Cartier Institution

Though the COVID-19 pandemic has prevented my Office from physically visiting institutions since March 2020, my investigators have been using video links and phone calls to interview individuals incarcerated in SIUs, and to discuss matters with CSC staff. We see the need for a thorough investigation of the SIU rollout. In the meantime, I have made preliminary observations based on the following:

- In-person interviews conducted over the past 18 months;
- Analysis of complaints submitted to my Office by individuals in SIUs;
- Reviews of IEDM decisions delivered to my office under section 37.83(3) of the *CCRA* and 23.07 of the *Corrections and Conditional Release Regulations (CCRR)*; and,
- Responses to questionnaires, sent by my Office between March and April 2021, to CSC staff working in SIUs and the individuals housed in these units.⁴⁴



The SIU yard at Port Cartier Institution

The observations that follow must be put in the context of the COVID-19 pandemic during which conditions of confinement similar in nature to administrative segregation became somewhat normalized across all parts of institutional life. Strict compliance with the SIU provisions in the *CCRA* was perhaps an unrealistic expectation, particularly for those institutions that were experiencing outbreaks.

⁴⁴ Responses were received from fourteen staff at seven institutions, and nine SIU residents at five institutions.

Structured Intervention Units: Gaps and challenges following implementation

1. Problems with transparency and accountability

The amendments to the *CCRA* introduced through Bill C-83 included a number of provisions requiring CSC to “maintain a record” in its operation of SIUs for several situations:

- a. When an individual is transferred to an SIU, indicating the reasons for granting the authorization and any alternative that was considered;
- b. When that individual has been offered an opportunity for four hours out of cell and two hours of “meaningful” human contact each day, noting if they refuse and the reason given for the refusal;
- c. When that individual has *not* been given such an opportunity and the reason for denying them such; and,
- d. When human interaction in the SIU is mediated or interposed by bars, security glass, door hatches, screens or other physical barriers.



The SIU range at Port Cartier Institution

My Office has identified 17 other provisions under law where CSC would reasonably be expected to maintain some administrative record in its operation of SIUs.⁴⁵ Despite being aware of these requirements since the summer of 2019 when the *CCRA* amendments took effect, CSC has not provided my Office with any reliable or timely compliance data.

2. Lack of information regarding CSC’s compliance with IEDM removal orders

As per section 37.83 (3) of the *CCRA*, an IEDM has the power to direct the removal of individuals from SIUs under certain conditions. While CSC has a formal review process to respond to the recommendations of IEDMs, the only information my Office has about them comes from responses to questionnaires we sent in March and April 2021. Only two of the seven institutions we canvassed reported that they were issued IEDM removal orders with which they were not able to comply. Virtually all CSC staff agreed that compliance was a significant challenge. One staff member said: “Very often, when IEDMs make a decision to withdraw from the SIU, we have already tried everything in the institution. Having a [protective-custody] clientele greatly limits our transfer options. Our institution is very often the end of the line and we no longer have the option of transferring an offender to another maximum-security institution”

⁴⁵ These include daily visits from registered healthcare professionals, recommendations to the Warden by registered healthcare professionals regarding SIU conditions, visits by the Warden, and decisions regarding the release of individuals from SIUs.

SIU STATISTICS – WHAT WE KNOW

SIU Placements

As of May 6, 2021 there were 173 individuals in an SIU. All but two were male. Of the 173 individuals, 46.8% self-identified as Indigenous, 31.2% White, and 13.3% Black. As per Commissioner's Directive 711: *Structured Intervention Units*, if a detainee is authorized for transfer to an SIU, but is incarcerated at an institution without an SIU, that detainee may be subject to a "Restricted Movement" designation. As of May 6, 13 men were subject to restricted movement. Of these, seven identified as White, five as Indigenous, and one Black.

Source: CSC Data Warehouse, May 6, 2021

SIU Complaints to the OCI

Between November 30, 2019 and April 15, 2021, my Office received 171 complaints about SIUs from 120 unique complainants (113 male, six female, and one undisclosed). Of these, 35% of complainants self-identified as White, 34% Indigenous, and 20% Black. Atlantic Institution, Edmonton Institution, and Saskatchewan Penitentiary accounted for 42% of all complaints and 37% of all complainants. Overall, 40% of complaints to my Office regarding SIUs were related to placement decisions and ill-treatment by staff. Other reasons for complaints included unhygienic conditions or risk of COVID-19 exposure; the complainant refuses to transfer; temperature (too cold); access to supports; and access to programs and education.

Source: OCI, Scripta Database, April 2021

According to CSC staff, IEDMs often fail to appreciate the risk that removal may pose to the individual or the feasibility of a removal order. For several reasons, an individual may not be reintegrated into the mainstream prison population, including security concerns (incompatibles), population dynamics, or even the physical limitations of the institution. However, CSC staff said that they felt "pressured" to comply with IEDM orders. At times, the only option remaining was an interregional transfer, which had been especially difficult to arrange during the pandemic. CSC staff also said that one of their biggest challenges in complying with IEDM removal orders was the refusal of residents to leave SIUs when, compared to other areas of the prison, these environments are perceived (by staff and prisoners alike) to be significantly more desirable, or safer, places to reside, particularly at maximum-security facilities.

3. Comparatively better conditions in SIUs resulting in refusals to leave

The legislative framework for SIUs has failed to prevent the creation, use or extension of segregation-like conditions. A wide range of restrictive confinement conditions and practices exists outside of SIUs that are subject to little or no external oversight or independent monitoring. These include:

- Medical-isolation units where individuals can now be kept in isolation without any external oversight for up to 24 days;
- Voluntary Limited Association Ranges;
- Therapeutic Ranges;
- Protective custody units; and,
- Secure Units (maximum security) for women.



The SIU range at Stony Mountain Institution

Some of these areas might have strict operational functions under policy but, in practice, these highly restrictive environments avoid external scrutiny and at times have violated international standards of humane custody. Because of legislated requirements and oversight, SIUs are often less-restrictive than the situation prevailing in general population at the maximum-security facilities, with greater access to services and interventions, more opportunity to engage with staff (social workers, clinicians, programs officers) and, often, more out-of-cell time. A number of CSC staff remarked that the SIUs had far *better* conditions than the mainstream prison environment in maximum-security institutions. As one interviewee put it, “mainstream definitely gets less attention and interventions, fewer options.” Staff described the SIU environment as one where:

- There are fewer prisoners;
- Residents receive interventions with staff every day;
- The pressure of living in prison is substantially reduced;
- Progress can be made on programs;
- Staff are accountable to very specific legislative provisions (time out of cell, human contact); and,
- Residents feel safer and more secure than they would in the mainstream prison environment.

Most of those residing in SIUs said positive things about their stay. A typical day included yard time, showers, SIU programming, telephone time and opportunities to interact with program officers, faith leaders, Elders, or groups. Many also commented positively on SIU staff. Describing the Elders and Indigenous Liaison Officers visiting the SIUs, one individual said, “You can tell that they care and want to be there to help us.” Another commented, “If someone says no, that they don’t want to come out of their cell, they’re not just left there . . . Staff really try to get at why they don’t want to come out . . . and encourage them to come out of their cell.”



The SIU yard at Stony Mountain Institution



The SIU cultural room at Stony Mountain Institution

Not surprisingly, my Office has learned that, in maximum security institutions, individuals often refuse to leave SIUs because they perceive their experience there as more favourable. Interviews with SIU residents indicated that all but one would refuse to reintegrate, or would only consider reintegration under specific conditions. Most explained that their reluctance to reintegrate was due to feeling unsafe or unproductive in the general population, or not wanting to be placed into protective custody (or other sub-populations) at the risk of being labelled. One prisoner put it this way: “Being in the general inmate population requires playing games with the other inmates, by either participating in drug culture or concealing weapons and contraband for others. If you don’t participate, the other residents think that something suspicious is going on, like you’re talking to security.” Others remarked that the SIU was more conducive to advancing on their correction plan or moving into medium security. As one individual explained, “I’ve worked hard to change my life and to stay out of trouble. Used to be involved in subculture and [gangs]. The SIU is safer for me. I’ll refuse to leave SIU until my release date.”

Refusals are typically addressed by alleviating integration concerns or by arranging transfers to other regions. All the staff reported that they work continuously to motivate and encourage residents to leave the SIU. They provide many options and use a team-based approach to maximize alternatives. Other good practices that CSC staff reported using included:

- Mediation;
- “Field trips” to units to familiarize individuals with the mainstream population;
- Case conferences;
- Transfers to a regional treatment centre for those with mental health issues;
- Liaising with other sites about available programming; and,
- Changes to security level.

That said, it seems clear that the more oppressive conditions in maximum-security prisons need to be addressed to relieve the pressures (debt, intimidation, mental health issues, personal safety, incompatibles) forcing prisoners to “voluntarily” seek out SIU placements.

COMPLAINTS ABOUT CONDITIONS OF CONFINEMENT IN THE MAINSTREAM PRISON POPULATION

My Office received many complaints from prisoners at a maximum-security institution that staff shortages had reduced their access to the institution's gymnasium and outside yard. Several said they had gone days without access, and that the severe conditions of confinement were leading to tensions within the prisoner population. Many also said that the SIU seemed to be more appealing as individuals housed there had daily access to the yard and "meaningful human contact."

In response to my Office's intervention, the institution indicated that it has hired several recruits and that it continues to monitor and flag staffing needs with regional headquarters. Staffing issues are to be expected during the pandemic, but the basic rights of persons incarcerated in the mainstream population should not be compromised.

4. Negative Impacts of the COVID-19 Pandemic on SIUs

There is no doubt that the pandemic has had a significant impact on both SIUs and mainstream prison populations. During outbreaks, my Office has been informed that institutions have often not provided prisoners with their daily entitlements of four hours out of their cells and two hours of meaningful human contact. In some cases, CSC staff reported that they had to invoke the exception under section 19(1) (b) of the *CCRR*, which exempts CSC from meeting these provisions during "epidemics." Even when the site was not experiencing outbreaks, they were still required to observe public health guidelines, which required them to conduct visits through windows or barriers.

To their credit, the staff respondents demonstrated how often they were able to surmount challenges by replacing group activities with one-on-one programs, often delivered by video or phone. "This rarely happened before the pandemic," said one interviewee. "Now we can offer virtual programs."

Conclusion

My Office will undertake more work in this area over the coming year and will continue to monitor SIUs and restrictive housing practices. In the meantime, I offer my preliminary observations:

1. The lack of data and transparency from CSC with respect to its SIU operations has made it difficult to assess its compliance with legislation.
2. The expeditious removal of prisoners from SIUs and compliance with IEDM removal orders has been challenging.
3. Some individuals find SIU conditions *more favourable* than the mainstream maximum-security prison population because of their greater access to services and interventions, daily visits by nurses and Wardens, more opportunity to engage with non-security staff, and the possibility of greater out-of-cell time.
4. Given these “more favourable” conditions, some individuals refuse to leave the SIUs, as even the IEDMs have attested.
5. The pandemic has generally spared individuals confined in SIUs from the restrictive impact COVID-19 has had on prisons in general, with the exception of lockdowns during institutional outbreaks.

13. I recommend that CSC publish forthwith a quarterly record of SIU placement authorizations under section 34 (2) of the CCRA, including the reasons cited for granting authorization. This record should also include the number of instances where individuals were subjected to Restricted Movement under section 37.91 (1) of the CCRA.

14. I recommend that CSC finalize and publish a timeline indicating how it plans to meet its legislated reporting requirements under section 37 (2) (Obligations of the Service) and section 32 (3) (Physical Barriers), as well as under section 37.2 (Health care recommendations).

An Investigation of the Use of Medical Isolation in Federal Corrections

During the early days of the pandemic, my Office observed CSC placing both symptomatic and asymptomatic individuals into “Medical Isolation.” On April 23, 2020, in our first update on the impacts of COVID-19 on federal corrections, we raised concerns about this practice. It included cases of near-total cellular confinement (22-hours or more per day) and the denial of fresh-air exercise. In our second update, we reported, “Indefinite lockdowns or extended periods of cellular isolation continued at many facilities, even those that had not experienced an outbreak.”



Medical isolation unit at Stony Mountain Institution

In July 2020, CSC “provisionally”⁴⁶ issued a directive: *Medical Isolation and Modified Routine for COVID-19* (CD-822). In my review, I expressed concerns with its definition of medical isolation. I specifically drew attention to practical distinctions between medical isolation and quarantine identified by experts in the field of prison health.⁴⁷ Specifically, quarantine separates those who *may* have been exposed to a contagious disease and restricts their movement, while medical isolation singles out those who show symptoms or test positive for COVID-19.

The criteria for CD-822, however, appear to apply medical isolation quite broadly, including:

- All new admissions.
- Those who have been in close contact with others who had symptoms or a diagnosis.
- Transfers from external outbreak sites.
- Interregional transfers.



Medical isolation cell at the Regional Reception Centre

⁴⁶ CSC’s external memo seeking input from stakeholders on CD-822, stated, “Given the urgent need to implement measures to prevent the spread of the disease, the enclosed policy was provisionally promulgated on July 16, 2020, without formal consultation...Once all feedback has been received and considered, the policy will be revised.” As of June 17, 2021, no changes have been made to CD-822 and it is still date stamped *July 16, 2020* (web page last modified on May 19, 2020).

⁴⁷ Cloud, Augustine, Ahalt, and Williams (2020). *The Ethical Use of Medical Isolation – Not Solitary Confinement – to Reduce COVID-19 Transmission in Correctional Settings*. University of California San Francisco: AMEND.



Medical isolation unit at Saskatchewan Penitentiary (maximum-security)



Medical isolation unit at the Federal Training Centre

In effect, anyone entering an institution appeared to be a candidate for medical isolation – even without the symptoms or a positive test for COVID-19.⁴⁸

As the pandemic intensified, I became increasingly concerned. CSC's approach to medical isolation had the potential to violate retained liberties by imposing restrictions beyond what was required to meet health and safety objectives, or that were clinically unjustified.⁴⁹ I decided to investigate by comparing the number of confirmed COVID-19 cases and the medical-isolation placements.

What I found was discouraging. On September 22, 2020, CSC's offender database showed not one active COVID-19 case, yet 376 prisoners were in medical isolation. Even when COVID-19 cases emerged, the number of medical isolations ran far higher. On November 17, 2020, with only 22 confirmed cases, the database showed 456 individuals in medical isolation. That same day, CSC publicly reported that 358 prisoners had recovered from COVID-19 and that 29 cases were inconclusive; a further 15 cases were pending. These numbers seem to indicate that CSC's use of medical isolation far exceeded the need.

⁴⁸ The inherent problem with casting such a wide net is compounded by paragraph 3(a) of CD-822, which gives the Warden the authority to medically isolate individuals admitted on a new warrant of committal or returns to custody following a suspension or revocation. According to policy, all other cases require the recommendation of a registered healthcare professional before the institutional head can authorize medical isolation. I am aware that a number of individuals were placed in medical isolation without the prior recommendation of Health Services, even though they were not new admissions or returning after a suspension or revocation.

⁴⁹ For a more in depth review of this topic, the Expert Network on External Prison Oversight and Human Rights (a network, which I chair, under of the International Corrections and Prisons Association) published a newsletter on October 7, 2020, titled: [Adapting to COVID-19: Medical Isolation and Quarantine in Prison during a Pandemic](#).

In March, 2021, my Office confirmed⁵⁰ that there were between 247 and 401 individuals in medical isolation at the eight institutions with the highest number of COVID-19 cases at that point in time. Of these, between 165 and 168 had been in medical isolation for 14-days or more. Institutions provided reasons why individuals remained in isolation beyond 14 days. For some, especially at the women's sites where population pressures continue to be a problem, CSC would reset the isolation clock to start the count from zero if a living unit received an individual with COVID-19 and a high transmission risk. Another common reason was a change in national policy. According to an updated version of CSC's risk management framework, *Shaping the New Normal* (March 5, 2021 – Version 13):

Upon admission / return, the inmate must medically isolate for **24 days, being released on day 25**. 24 days is required to cover both the incubation and recovery periods. As close as possible to day 14, the inmate will be offered a COVID-19 test. If the test is negative, there is no need for a recovery period and the medical isolation will end on day 15. If the inmate refuses the test or if the test is positive, they will remain in isolation until fully recovered and medically cleared by health services, which would normally be day 25. Should the inmate agree to be tested between days 15 and 24, and the result is negative, their isolation period may end. Note: inmates who have been confirmed to have recovered from COVID-19 will not be required to medically isolate, if medically cleared by Health Services (*emphasis our own*).

I am not aware of any clinical basis for a 24-day medical isolation period to cover both incubation and recovery, and there does not seem to be any precedent to justify such a lengthy isolation. Given the high risk for transmission in closed environments, I acknowledge the need to *err* on the side of caution. However, the application of restrictions to residual liberties should not degrade or violate the minimum standards and safeguards enshrined in law:

- Minimum out-of-cell time, including access to fresh air exercise;
- Regular health checks;
- “Meaningful” contact with others;
- External oversight and independent review; and,
- Access to programs and services.



The medical isolation unit yard at the Federal Training Centre

⁵⁰ Given historical issues with CSC's “flag” data, the Office obtained these numbers by first consulting CSC NHQ and then independently surveying the institutions. The large discrepancy in individuals medically isolated at the eight institutions is due to the fact that one institution was experiencing an outbreak during the data collection period.

Some of the recommendations I made in my initial review of CD-822 were never implemented, yet they remain applicable today. Accordingly:

- 15. I recommend that Commissioner's Directive 822: *Medical Isolation and Modified Routine for COVID-19*, be immediately revised to include:**
 - a. Definitions that clearly distinguish between the practice of medical isolation and quarantine, including clinically relevant criteria where appropriate.**
 - b. Service standards (time restrictions, response times) for medical clearance and the institutional head's authorization to discontinue medical isolation and quarantine.**
 - c. Time restrictions for quarantine and medical isolation, with clear guidelines to allow for the extension of restrictions as per the advice of health care.**
 - d. A requirement that any stays in medical isolation beyond 14-days be flagged in the offender management system (OMS), and be subject to the same level of review and oversight as those in place for Structured Intervention Units.**
 - e. Basic expectations for conditions of confinement including out-of-cell, yard, and shower time, access to video visitation, and health care visits.**

An Investigation into a Suicide in a Maximum Security Facility

Through 2020-21, my Office closely monitored the progress of CSC's investigation into the tragic death of a young Indigenous man who took his life in a maximum-security prison. Based on CSC's initial reports, I flagged to the Commissioner my preliminary concerns:

1. A succession of involuntary transfers from one maximum-security facility to another, made only to relieve this man's solitary-confinement status.
2. Lack of consideration to the severity and frequency of his self-injurious and suicidal behaviours.
3. Insufficient consideration of Indigeneity (*Gladue* factors, also known as Indigenous social history) in managing this young man's sentence, including carrying out his transfers.

Based on these and other concerns, on December 13, 2019, I recommended that the National Board of Investigation (NBOI or Board):

1. Include a board member recognized as an expert in Indigenous incarceration;
2. Be chaired by an external mental health professional; and,
3. Complete its investigation as soon as possible, keeping my Office apprised of its progress, and that it share its preliminary or draft reports.

I further requested that CSC's investigation take into account the entire period of this man's incarceration, and not just focus on the immediate events, factors or circumstances that led him to take his own life.

The pandemic significantly delayed the board's investigation of this case, including site visits and interviews, as well as its report. At my request, the board provided a preliminary draft report in August 2020. Upon review, on November 19, 2020 I requested an advance copy of the final report, board members' interview notes, and their working papers. These documents were provided on December 2, 2020. Subsequently, I requested that CSC provide me with all relevant health care records, including mental health and clinical progress notes.

The underlying findings and numerous issues of non-compliance identified by the board in its final report, subsequently confirmed by the Office's review of correctional files and medical records, are deeply disturbing. In reporting on this case, out of respect to the deceased and his family, my Office has withheld personal information to protect their privacy. That said, the facts of the case are not in dispute.

Supporting Facts and Case Analysis

At the time of his death, M was a young, Indigenous man serving his first federal sentence for second-degree murder. The nature of his offence all but predetermined that M would be classified and placed in a maximum-security facility where it was expected that he would serve at least the first two years of his life sentence.⁵¹ Early in his incarceration, M initially appeared to CSC staff as engaged, active, and motivated; their casework records showed that they considered him “polite and respectful” and often described his behaviour, demeanour, outlook, and attitude on life as “positive.” M repeatedly expressed interest in upgrading his formal education. The casework records also note his interest and participation in Indigenous services and interventions, including smudging ceremonies and healing circles.⁵²

As the NBOI report makes clear, the turning point in M’s incarceration came when he was assaulted and stabbed several times by a group of prisoners, seemingly revenging M’s testimony in implicating associates in the murder for which he was convicted. Understandably, from that point forward, M expressed legitimate fear for his life and safety. He immediately requested a “voluntary” placement in segregation. Once there, he resisted all attempts to return him to the mainstream prison population. Following the assault, M was continuously maintained in segregation, often under some form of mental health observation (suicide watch) or other restricted confinement status (e.g. Voluntary Limited Association Range), right up until his suicide six months later.

In an attempt to alleviate or relieve M’s segregation status CSC resorted to involuntary transfers. In a six-month period, M was subject to three involuntary transfers. These transfers – which followed mandated reviews and were considered by CSC to be in his “best interests” or a chance for him to make a “fresh start” at another institution – were opposed by M, often violently. In fact, the lead-up to each transfer typically prompted him to escalate resistive or assaultive behaviour, and threats or acts of violence or self-harm. CSC typically used force to end each incident, often with pepper spray or a cell extraction that required the presence of, or handling by, the Emergency Response Team. Over time, successive incidents of assaultive or resistive behaviour against staff had the effect of narrowing or limiting placements other than segregation. From one mandated segregation review to the next, the need to relieve M’s segregation status was at issue. The ends and means of using involuntary transfers to alleviate segregation status are ultimately self-serving practices, particularly if the next placement results in more of the same.

Each successive transfer and reception at a new institution seemed to interrupt or impede M’s progress, or the rapport that he may have been building with staff. With each transfer, M became less engaged with his correctional plan, mental health and cultural supports; he became even more isolated and withdrawn. Inexplicably, the last two involuntary transfers were made to institutions on the other side of the country. Both lacked Elder services and other Indigenous supports. The transfers permanently removed M from any source or hope of maintaining familial or cultural supports, and his mental health predictably declined.

⁵¹ CSC has consistently denied the existence of the now-infamous “two-year rule” (an unwritten rule that means a life-sentenced individual must serve the first two years of a life sentence in a maximum-security facility). The Office’s review of casework records indicates that M was “expected” to spend the first two years of his sentence in maximum-security, ostensibly due to the nature and gravity of his offence and a prior assault on an officer. In this case, the operational effect of the two-year rule meant that M could be transferred only to or from a maximum-security facility, a point not raised in the NBOI report. Despite M’s known suicidal and self-injurious behaviours, there is little documentation to indicate that CSC considered an alternative or exceptional placement to a Treatment Centre (psychiatric hospital, or a medium-security penitentiary), that could have meant maintaining some semblance of cultural and familial supports. The real-life consequences of managing life-sentenced people according to the “two-year rule” can be deadly. The Office has long called on CSC to acknowledge *and* abolish this practice.

⁵² Further details about M’s childhood, upbringing, Indigeneity, and the offence itself are withheld to protect M’s identity.

The NBOI report makes clear that there was never any serious or sustained attempt, clinical or otherwise, to get to the underlying issues of M's increasingly self-destructive behaviours. These behaviours manifested uniquely during M's incarceration. M's suicidal and self-harming behaviours were typically managed on a per-incident basis, usually followed by a crisis intervention. There seemed to be no sustained effort or interest in diagnosing or treating M's legitimate fears and anxieties that were the cause of his refusal to integrate. At various points in the chronology of M's deepening cycle of disconnectedness and despair, the board's report expressed surprise that he was not considered for referral to a Treatment Centre (psychiatric hospital) for mental health stabilization. To be fair, the report noted that M frequently denied active suicidal or self-injurious ideation, often declaring later that he intended only to prevent his transfer. In other words, M's self-destructive behaviours were consistently seen as acts to avoid transfer into the mainstream population.

The board identified a clear and escalating pattern in the severity and frequency of M's suicidal and self-injurious behaviour across time and transfer. Over the course of his short period in custody (16 months), this behaviour cumulatively manifested itself in six known suicide attempts, 12 incidents of self-injurious behaviour, and 22 expressions of suicidal ideation/behaviour. Significantly, the board found that M's self-inflicted behaviour was consistently minimized, downplayed or dismissed by staff, interpreted as instrumental (or willful) in nature, presumably to avoid integration with other prisoners. Staff perceived his fears and anxiety about integration as unwarranted, even though M felt that isolation was the only way to keep himself safe from harm.

Despite M's cycles of self-harm, suicidal ideation and other behaviours (noose tying, covering his cell windows, refusing to leave his cell), CSC never completed a comprehensive assessment of his suicide risk. Staff were aware of these behaviours, but there was no mental health treatment plan in place and no coordinated mental health continuum of care present among the transfer sites. To the point of the matter, there is no record or document to indicate that the involuntary transfers were opposed out of concern for M's mental health. Mental health transfer opinions and transfer summaries were either not shared with receiving institutions or lacked relevant information. Formal summaries of mental health concerns or clinical progress notes were not forwarded from one site to the other. In effect, there was no continuity or continuum of care from one site to the next. As the board concludes, M's history of self-injurious behaviour and suicidal ideation should have effectively ruled out his involuntary transfer. As the board put it: "The focus on alleviating Administrative Segregation status was the predominant case-management consideration." In managing M's sentence, it becomes abundantly clear that security and operational concerns trumped health care considerations.

Even by CSC standards, the board's eight recommendations seem timidly worded in their direction and intent. Like a number of other boards, these recommendations seem proportionately out-of-sync with the seriousness of the events in question. Three recommendations deal with operational or dignity concerns: address blind spots in camera coverage of cells, acquire more stable window coverings to block the cell window of an individual who could see the body, and purchase barriers (e.g. crime screen or tent) to cover a dead body.

On more substantive matters, the board only makes one recommendation that seems to consider M's Indigeneity: that the board's findings be considered by national authorities in guiding and monitoring the strategic direction for Indigenous Corrections. Other recommendations direct the Assistant Commissioners of Health or Policy to "consider:"

1. Implementing a process to ensure case management issues are considered in their totality;
2. Reviewing the timeline for consideration of mental health concerns to ensure information is current and proximal to [involuntary] transfers;
3. Reviewing documentary requirements for suicidal behaviour; and,
4. Ensuring this information is clear and written down to facilitate continuity of care upon transfers.

The board's recommendations are primarily incident-driven and reactive, rather than systemic or preventive. Whether on their own or in their totality, it is not clear that the implementation of, or compliance with, any one of these measures would have prevented M's suicide.

Consistent with nearly every other CSC investigation into suicides, the board concluded that there were "no pre-incident indicators that could have predicted M's death." Actually, there were several immediate, documented and *known* suicide risk factors:

- a. M refused his noontime meal, then hanged himself a few hours later;
- b. M had accrued prison debts and paid them off the day before his death;
- c. M had fashioned a noose and hung it on the back of his window the week before his suicide;
- d. M's cycle and pattern of engagement in cyclical periods of self-injurious and suicidal behaviours became more frequent and severe as CSC prepared each involuntary transfer, and;
- e. M spoke of the loss of family members immediately preceding his own death.

Finally, though there was an attempt to document and account for M's Indigeneity post-incident, the effort comes across as procedural and perfunctory. In any case, the board seems to have abandoned the attempt as its narrative progresses. In fact, beyond an initial and brief description of M's family history and background—history of substance abuse, family suicide, dislocation, familial involvement with residential schools and M's experience with child welfare authorities—there was little sustained effort to include an Indigenous social-history analysis in this investigation. It is clear that M made progress; he was engaged and connected at institutions where Indigenous services, access to Elders and other cultural and spiritual services were available. Conversely, his mental health deteriorated in receiving facilities where those same cultural and spiritual interventions were substantively lacking. One is left wondering what a *Gladue*-inspired investigation would have yielded differently or substantively in the depth of analysis, findings, and recommendations.

Findings

From documentation received and reviewed in this case, I would draw attention to some other findings independently reached by my Office's review of M's suicide.

1. The "voice" of health care in M's case was missing or not heard, dismissed or disregarded, subsumed or subservient to operational and institutional security concerns. The tendency for security to trump or override health concerns is not new. It is, however, quite disturbing in terms of how banal and common this tendency and these acts of omission are to prison suicide investigations. In this case, health care failed to advocate for M's mental health needs, as required by law for involuntary transfers. The disregard for M's mental health, the continuous use of solitary confinement to manage his disruptive, assaultive or self-injurious behaviours, and his fall into despair and hopelessness all point to a series of cascading and systemic failures to provide for the necessities of his care required to protect and preserve life behind bars. Several of these failures have been previously documented in other prison suicides in segregation units.
2. At the time of M's death, the practice of administrative segregation was under intense public and media scrutiny. The timing and circumstance of M's case coincided with stepped-up efforts to reform segregation practice and end solitary confinement in federal corrections. Internally, there was mounting pressure and clear direction to reduce the overall number of placements and lengths of stay in "voluntary" segregation. Though the board's report refers to the primacy of alleviating M's segregation status through involuntary transfers, there is no attempt to put this case or the decisions rendered into their immediate policy and operational contexts. Curiously, for whatever reason, there appears to have been little national oversight of this case, despite the complex mental health needs and risks in play, and the elevated scrutiny of segregation (solitary confinement) practices at the time of M's death.
3. Within CSC, we have observed an organizational bias to interpret non-suicidal, self-injurious behaviour as "instrumental" or malingering in nature (willful or self-serving in aim or intent), especially among male prisoners. Such omissions or oversights can be dangerous and even deadly. As the board rightly notes: "The fact that the expressions [of self-injurious or suicidal expression] are interpreted as instrumental does not reduce the risk." Chronic self-injury, suicidal expression, or an escalation in the frequency and severity of these behaviours should be clinically assessed, and a treatment plan put in place immediately.
4. Lessons learned from other preventable deaths, particularly in relation to suicides in solitary confinement, do not seem to be applied from one incident investigation to the next. The board itself refers to similar findings in previous CSC investigations, yet still reaches a familiar conclusion: M's suicide could not have been predicted nor prevented. However, the supporting facts, as well as the long list of areas of non-compliance, and the lack of consideration of M's Indigeneity and mental health status, defy such a conclusion. More significantly, there are only two areas that really matter in an internal investigation of a suicide death in CSC custody – establishing what went wrong and how similar tragedies can be *prevented*. Unfortunately, the prevention piece is largely missing, which concerns me greatly.
5. CSC's investigation could have been substantially enriched by insights into M's upbringing, involvement with and influence by criminal peers and groups, history of substance abuse, and the impact of neurological disorder(s) on his behaviours. These factors should have informed M's care and treatment plans. Instead, they are regarded as a footnote in a narrative of mostly

disconnected and incongruous meaning. M's Indigeneity seemed to matter little in a system where incidents of self-inflicted violence are misunderstood or perceived through a faulty lens of instrumentality.

Conclusion

The real tragedy of M's case is a failure to learn from previous preventable deaths. M's case hinges on an escalating cycle of self-inflicted violence in depriving environments. His acts of self-violence were met by institutional violence. These disturbing narratives have been repeated a number of times in recent memory. The use of segregation or other restrictive confinement to manage complex mental health behaviours, and the use of involuntary transfers as a means to "relieve" or "reset" segregation status, were contributing factors in the preventable death of Ashley Smith in 2007. In 2013, the Office documented the fact that solitary confinement is an independent risk factor associated with prison suicide.⁵³ The literature has long established that physical isolation increases the risk of suicidal behaviour. Deprivation can be expected to elevate rather than reduce self-harm coping mechanisms. Although solitary confinement is now prohibited in federal corrections, CSC continues to place mentally ill people in intolerably harsh and depriving confinement.

This case demonstrates, again, how poorly understood non-suicidal self-injury (NSSI) is, particularly for men, and perhaps even more so for Indigenous men in prison. The assumption that NSSI is *primarily* for instrumental reasons is unfounded and reflects a bias against incarcerated persons generally (and incarcerated males specifically), because they are often believed to be deceitful or intrinsically malingering by nature. Moreover, incarcerated men are often pegged as being instrumentally motivated because of their lower likelihood to seek help for emotional or psychological issues. No doubt, a history of trauma and systemic racism would further compound these already complex issues.

For both men and women, NSSI is *primarily* for the purposes of emotional regulation. This is even more true for individuals with a history of trauma and a lack of modeling of healthy coping strategies. To interpret self-harming behaviours systematically as a bluff in an effort to exert control over one's environment—because of gender and/or setting biases (and possibly/likely cultural incompetence), and not as a result of clinical assessment—is a dangerous line of thinking with, as in this case, fatal consequences.

Based on my investigation of M's suicide while in the care and custody of CSC, I make the following four recommendations:

- 16. I recommend that CSC's team of national investigators within the Incident Investigations Branch (IIB) be comprehensively trained in the principles and practices of *Gladue* analysis and *Gladue* report-writing (Indigenous social history). Further, National Boards of Investigation into a person of Indigenous ancestry should be principally led, investigated, and written from an Indigenous social history perspective.**

⁵³ See Office of the Correctional Investigator (2014). *A Three Year Review of Federal Inmate Suicides (2011-2014)*.

17. I recommend that a *Gladue*-informed summary of M's case be prepared and used as a national training and learning tool for all CSC staff. In the interests of transparency and accountability, any documentation prepared to meet my recommendations in this case should be made public.

18. I recommend that CSC discontinue the practice of labeling non-suicidal self-injurious behaviour in prison settings as "instrumental," "willful," or "deliberate" in nature or intent. A comprehensive mental health assessment of self-injurious and suicidal persons should be completed, and clear guidance provided to front-line staff in how to manage and de-escalate incidents of self-injurious and suicidal behaviour.

19. I recommend that the Commissioner proactively issue a formal apology to M's family for the systemic failures of Correctional Service Canada.

Canada's Ratification of the *Optional Protocol to the Convention against Torture* (OPCAT)

This past year has shown us just how vulnerable those in institutionalized settings are—from long-term care homes to prisons—and how we must ensure their protection to the highest extent possible.

Canada has been known as a world leader in protecting human rights and democratic values. Laws and agencies guarantee our human rights. Canada has also been a leader by joining many international human rights treaties and making a commitment to report to the United Nations on their implementation. The *Convention against Torture* (CAT) is one example.

Canada signed the CAT in 1985 and ratified it in 1987. However, merely reporting on how it meets its CAT obligations is not enough to ensure that the most vulnerable who are in places of detention are protected against mistreatment and torture behind closed doors. There exists a gap in Canada's human rights system in protecting those in detention.

"The most effective way of preventing torture therefore is to expose all places of detention to public scrutiny."⁵⁴

Adopted by the General Assembly of the United Nations in 2002, the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) fills that gap. Countries who ratify the OPCAT are required to adhere to human rights obligations under international law for those in places of detention, and replace the secrecy traditionally associated with places where liberties are curtailed with openness, transparency, and accountability. Unfortunately, Canada has not signed OPCAT.

In his 2005-06 Annual Report, my predecessor urged the government to demonstrate leadership by signing and ratifying OPCAT:

"Moving quickly on signature and ratification would add to Canada's long historical tradition of promoting and defending human rights at home and abroad. It would also provide an opportunity to review the role and mandate of oversight agencies involved in the monitoring and inspections of 'places of detention' and strengthen oversight mechanisms where required."

Fifteen years have passed. Despite persistent appeals by this Office and others, Canada has yet to ratify.

The Obligation of State Parties under OPCAT

OPCAT imposes two main obligations on state parties: cooperate with the UN Subcommittee on Prevention of Torture (SPT) and designate one or several independent National Preventive Mechanisms (NPM) to carry out the OPCAT mandate.⁵⁵

⁵⁴ United Nations General Assembly (August 14, 2006). [Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). UN Document A/61/259.

⁵⁵ Official Records of the General Assembly (January 9, 2003). [Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). United Nations Document A/RES/57/199.

The NPM would establish a system of regular and unannounced visits to places of detention. If implemented in Canada, the NPM would have minimum powers under Article 19 of the Optional Protocol to visit places of detention, and:

1. Regularly examine the treatment of the persons deprived of their liberty in places of detention . . . with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
2. Make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; and,
3. Submit proposals and observations concerning existing or draft legislation.

Who Would Fall Under the Remit of OPCAT?

A narrow approach to implementing OPCAT would focus solely on places of detention. On any given day, Canada detains roughly:

- 326 individuals in immigration detention (2019-20);⁵⁶
- 14,778 adults in remand custody (2018-19);⁵⁷
- 8,708 adults in provincial or territorial custody (2018-19);
- 14,071 in federal custody (2018-19); and,
- 716 in youth custody (2018-19).

These numbers declined during the pandemic but, on any given day, roughly 40,000 individuals are in detention in Canada. This excludes those held under temporary police detention, detained in psychiatric facilities, armed forces detention, and courthouse cells.

The *Concluding Observations* of the UN Committee against Torture, adopted in December 2018, suggest that Canada is not sheltered from cases of individual or systemic ill-treatment of detained persons:

- Over-representation of Indigenous people in the prison population;
- Body cavity searches that may be abusive or violate human dignity;
- Lack of appropriate capacity, resources and infrastructure to manage seriously mentally ill prisoners;
- Deficiencies in general standards and conditions of detention, including sanitation, hygiene, and nourishment;

⁵⁶ Canada Border Services Agency. *Annual Detention, Fiscal Year 2019 to 2020*. Retrieved on June 21, 2021 from <https://www.cbsa-asfc.gc.ca/security-securite/detent/stat-2019-2020-eng.html>.

⁵⁷ Malakieh (December 21, 2020). *Adult and Youth Correctional Statistics in Canada, 2018/2019*. Ottawa: Statistics Canada.

- Preventable deaths in custody; and,
- The use of solitary confinement.

In addition to detained populations, as per Article 4 of OPCAT, the NPM mandate would also extend to all places where “people are or may be deprived of their liberty.” The UN Human Rights Office of the High Commissioner (OHCHR) states that OPCAT purposefully adopts a broad approach in defining places where liberty is deprived.⁵⁸ Besides detention centres, OHCHR also lists psychiatric institutions, means of transport for the transfer of detainees, and social care homes.

Therefore, a more-liberal definition of “deprivation of liberty” would include the hundreds of thousands of Canadians residing in nursing homes, chronic care, or long-term-care hospitals, who bore the brunt of the COVID-19 pandemic.⁵⁹ Indeed, long-term-care residents and staff accounted for more than two-thirds of all deaths in Canada, between March 2020 and February 2021, which were related to COVID-19.⁶⁰

Many long-term-care residents still must contend with neglect and abuse. Canadian military officials reported last May the horrifying conditions they found in five seniors’ homes with residents drugged, malnourished, bullied, and left in soiled beds for days.

Although there is still debate about what falls under the remit of OPCAT’s Article 4, some believe that the question of whether nursing and long-term-care homes qualify has long been settled.⁶¹ Australian legal scholar Laura Grenfell argues:

“People who are deprived of their liberty in closed aged care units are in a vulnerable position and are at a disproportionately high risk of torture or cruel, inhuman or degrading treatment. Closed units in aged care facilities should not be allowed to fall under the OPCAT radar.”⁶²

The Canadian military report bears out Grenfell’s admonition, and raises important questions about the quality of inspection mechanisms.⁶³

Naturally, one might ask what recourse exists for those who find themselves or their loved ones subjected to inhumane conditions. How do we protect the dignity of those who depend entirely upon others for their well-being, care, and safety, and who have limited ability to engage in effective self-advocacy?

⁵⁸ Office of the United Nations High Commissioner for Human Rights (2018). Preventing Torture – The Role of National Preventative Mechanisms: A Practical Guide. UN Document HR/P/PT/21.

⁵⁹ Hsu, et al. (2020), *Impact of COVID-19 on residents of Canada’s long-term care homes – ongoing challenges and policy responses*. London: International Long Term Care Policy Network.

⁶⁰ Canadian Institute for Health Information (2021). *The impact of COVID-19 on long-term care in Canada: Focus on the first 6 months*.

⁶¹ See for example, Canada OPCAT Project (May 9, 2020). *“The Canadian Seniors Care Home Scandal – A catalyst for Change?”*

⁶² Grenfell (2019). *Aged care, detention and OPCAT*. Australian Journal of Human Rights, 25:2, p. 248-262.

⁶³ Pedersen, Mancini, and Common (September 25, 2020). *“Comprehensive Nursing Home Inspections Caught up to 5 Times More Violations. Why did Ontario Cut Them?”* CBC News.

Existing Oversight and Monitoring in Canada

Canada hosts 26 external oversight bodies mandated to respond to complaints, and to investigate systemic issues in public and private institutions.

In 2018, Matthew Pringle catalogued Canadian organizations with jurisdiction over places of detention:⁶⁴

- Two federal ombudsman offices;
- One federal human rights commission;
- 10 provincial or territorial ombudsmans;⁶⁵ and,
- 13 provincial or territorial human rights commissions.

Excluding the two federal ombudsman offices—the National Defence and Canadian Forces Ombudsman and the Office of the Correctional Investigator—the rest have broad, varied mandates that go beyond detention settings. More importantly, they rarely engage in proactive inspections. Instead, their work is largely triggered by an often-cumbersome complaints process. At the provincial and territorial level, broad mandates and limited resources often mean that places of detention receive partial attention.

In short, Canada’s oversight and monitoring system is predominantly *reactive*.

Where individuals are routinely deprived of their liberty, there seems little reason to comply with international human rights standards. Canada has a strong framework of laws and policies including the *Canadian Charter of Rights and Freedoms*, the *Criminal Code*, the *Immigration and Refugee Protection Act*, and the *Corrections and Conditional Release Act*. However, even when an organization’s commitment to human rights standards is enshrined in domestic law, there still seems to be a disconnect between the pledge and the practice.

In brief, Canada lacks a robust, coordinated, and proactive framework of monitoring and inspection to ensure the humane and lawful care and custody of individuals deprived of liberty. OPCAT could offer such a framework.

Canada’s Longstanding Promise to Ratify OPCAT

In Canada’s seventh periodic report under the CAT, the Minister of Foreign Affairs stated that the Optional Protocol “will no longer be optional for Canada in the future.”⁶⁶ The submission, made during the early days of Prime Minister Trudeau’s first term, added that:

“Canada would begin a process to join it. The accession process will involve extensive consultations with other interested federal departments; the provinces and territories; Indigenous governments that may be implicated; and civil society. The Minister of Foreign Affairs is confident that once the necessary steps have been taken and all voices have been heard, Canada will be in a position to accede to the Optional Protocol.”

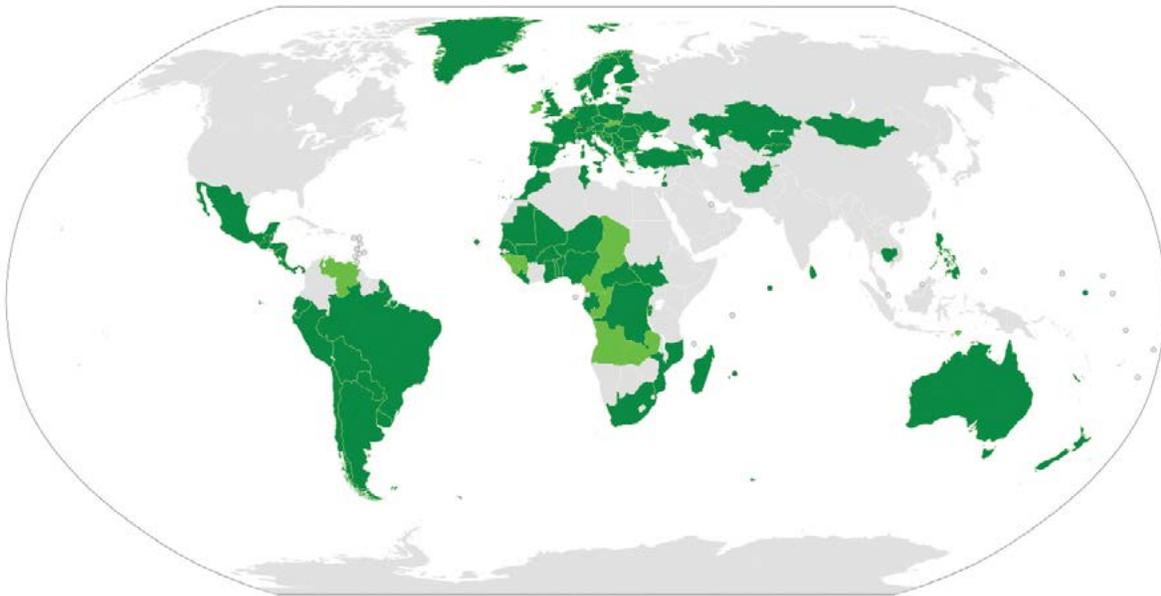
⁶⁴ Pringle (2018). *Instituting a National Preventive Mechanism in Canada - Lessons Based on Global OPCAT Implementation*. PhD Dissertation, Aberystwyth University.

⁶⁵ The Northwest Territories has since established its [first ombudsman office](#).

⁶⁶ United Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (September 13, 2016). *Consideration of Reports Submitted by States Parties under Article 19 of the Convention Pursuant to the Optional Reporting Procedure*. UN document CAT/C/CAN/7.

In December 2016, the Department of Justice shared with my Office a discussion paper titled, “OPCAT: Considerations for Determining a Position on Canada’s Accession.” On May 19, 2017, I wrote to the Minister of Justice and Attorney General of Canada to “offer some practical suggestions and options for moving forward with the ratification of OPCAT, including the implementation of a new single federal mechanism for all places of detention under federal authority, as well as sequencing and timing for signature and ratification.” At the time, I was encouraged, and I expected to see movement on the OPCAT under the new government, but there has been no progress.

In fact, Canada has said since 2006 that it would consider the ratification of OPCAT, and has received repeated international pats on the back.⁶⁷ Today, 90 countries have ratified the Optional Protocol, including three of our Five Eye partners: the United Kingdom, Australia, and New Zealand.⁶⁸ The United States formally objected to OPCAT in 2002.⁶⁹



Graphic: A map of the world showing the countries that have ratified the OPCAT in dark green, signed but not ratified in light green, and non-members in grey.

Source: [Louperivois, CC BY-SA 4.0](#), via Wikimedia Commons. Map last updated on October 24, 2019. Retrieved on July 26, 2021.

⁶⁷ Holmes (2013). *The Politics of Torture, Human rights, and Oversight: The Canadian Experience with the UN’s Optional Protocol to the Convention Against Torture (OPCAT)*. Master’s Thesis, University of Ottawa.

⁶⁸ United Nations Treaty Collection (status as of: May 13, 2021). *Status of Treaties: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

⁶⁹ Human Rights Watch (July 24, 2009). *United States Ratification of International Human Rights Treaties*.

Our government has been called to ratify OPCAT by Dubravka Šimonović, the UN Special Rapporteur on Violence against Women (April 2018);⁷⁰ Catalina Devandas-Aguilar, the UN Special Rapporteur on the Rights of Persons with Disabilities (April 2019);⁷¹ and more than 20 countries during the UN Human Rights Council's *Universal Periodic Review* in 2018.⁷²

Advancing OPCAT Implementation in Canada

The common refrain from Canadian bureaucrats is that implementing OPCAT in a federal state is just too complicated. They suggest the provinces and territories are not willing, or that a federal-provincial-territorial agreement would take too great an effort. And, in any case, the existing human rights commissions and ombudsman offices sufficiently address Canada's needs of prison oversight.

Indeed, as the preceding analysis demonstrates, the system is inadequate. I am not suggesting that we start from scratch; rather, my proposal is to enhance what already exists. Other federal and devolved states have ratified and implemented OPCAT, so Canada does not have to reinvent the wheel.⁷³

Take Australia, for example. It ratified OPCAT on 21 December 2017, but declared under Article 24 that it would postpone its obligation to establish its NPM for three years.⁷⁴ Like Canada, Australia is a federation. Each Australian state and territory has its own mechanisms to oversee its prisons and detention centres. Despite having its fair share of challenges on the road to implementation, Australia continues to forge ahead.⁷⁵ Other federations and devolved states have implemented the OPCAT, including Germany, Argentina, Brazil, United Kingdom, Spain, Switzerland, Mexico, and South Africa.

For Canada, the ratification of OPCAT with a declaration under Article 24 might be the way forward. This would allow the federal government to show its immediate commitment to international conventions, while giving it a clearly defined timetable to conduct meaningful consultations on OPCAT implementation with its Provincial and Territorial partners, stakeholders, and civil society. Canada would also be able to draw on the invaluable advice and support of the UN Subcommittee on *Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.⁷⁶

⁷⁰ Office of the United Nations High Commissioner for Human Rights (April 23, 2018). [End of Mission Statement by Dubravka Šimonović, United Nations Special Rapporteur on Violence against Women, its Causes and Consequences - Official visit to Canada](#).

⁷¹ Office of the United Nations High Commissioner for Human Rights (April 12, 2019). [End of Mission Statement by the United Nations Special Rapporteur on the Rights of Persons with Disabilities, Ms. Catalina Devandas-Aguilar, on Her Visit to Canada](#).

⁷² United Nations General Assembly, Human Rights Council (May 11, 2018). [Universal Periodic Review – Canada](#). UN document A/HRC/WG.6/30/CAN/1.

⁷³ Buckland and Olivier-Muralt (2019). [OPCAT in federal states: Towards a better understanding of NPM models and challenges](#). Australian Journal of Human Rights, 25:1, p. 23-43.

⁷⁴ Australia, Commonwealth Ombudsman (September 2019). [Implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\): Baseline Assessment of Australia's OPCAT Readiness](#).

⁷⁵ McInerney (June 10, 2020). [“How Political Game-Playing is Putting Prisoner Safety at Risk”](#). Croakey. See also Australian Human Rights Commission (2020). [Implementing OPCAT in Australia](#).

⁷⁶ Office of the United Nations High Commissioner for Human Rights. *Optional Protocol to the Convention against Torture (OPCAT) – Subcommittee on Prevention of Torture*. Retrieved on May 13, 2021 from: <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx>

Meeting the Terms of OPCAT

There are considerable advantages in the federal government establishing a new, single, and dedicated NPM for all places of detention under its authority (penitentiaries, immigration holding centres, Canadian Forces Service Prison and Detention Barracks, and RCMP cells). The NPM would have the added benefit of serving as a centre of national expertise and assistance for the rest of the country as Canada moves toward full ratification. It is important that the NPM be independent, sufficiently resourced, and properly mandated to carry out its work effectively.

Finally, a new NPM for all federal places of detention could best prioritize resources to inspect higher-risk places of detention. Farming out responsibilities to existing oversight agencies would be more costly and could inadvertently result in redundancies or inconsistent inspection practices.

Ratification and implementation of OPCAT would add a layer to correctional oversight. In the case of federal corrections, a system of regular penitentiary inspections conducted at the national (NPM) level and internationally by the UN Subcommittee on the Prevention of Torture (SPT), with both bodies focused on prevention, would best complement the roles and responsibilities of my Office, which is largely complaint-driven.

Canada risks being left behind as one of the few states committed to democracy, pluralism, and the rule of law that has yet to ratify this important human rights-based convention.

Regardless of whether a new or specialized body or combination of existing institutions are designated to meet OPCAT obligations, Canada needs to get on with the ratification to make it clear that we support efforts, at home and abroad, to protect the rights and dignity of *all* persons deprived of liberty regardless of cause, circumstance, or context.

20. I recommend that the Prime Minister of Canada fulfill this Government's commitment by signing the *Optional Protocol to the Convention against Torture* and taking concrete steps within the next four years to ensure that this important human rights instrument is ratified.

Correctional Investigator's Outlook for 2021-22

Like all Canadians, the circumstances of the past year created unique challenges for this Office in conducting our daily work. While difficult, it also afforded us the opportunity to reflect on the ways in which we carry out our mandate. As we look ahead and slowly emerge from the pandemic, and we begin to re-engage with our clients and partners in the more conventional ways we used to enjoy, my Office will be implementing some of the lessons learned from the past year to enhance the ways in which we carry out our work.

In the coming year, we will be conducting activities to refine and formalize our approaches to individual and systemic investigations. Part of this work will involve launching a new stakeholder-engagement strategy to better inform and bolster the scope and impacts of our work.

For our systemic work, we are scoping, reviewing, and conducting initial analysis of data in order to build on the investigations we conducted over the past year, such as the use of force with BIPOC individuals. In particular, we are focusing on issues affecting federally incarcerated Indigenous persons, with targeted investigations of programs within the Indigenous Continuum of Care. We will continue to monitor the implementation and impacts of SIUs in a post-pandemic context. Additionally, we will be undertaking investigative work looking at the availability and impacts of community reintegration practices for federally-incarcerated persons.

Though the pandemic brought some interruptions to our efforts in exploring our role and function in an inspection capacity, in 2021-22 we intend on furthering that preliminary work in enhancing our investigative mandate through inspection activities. To this end, we will continue with video visitations until institutional visits can fully resume, hopefully in the very near future.

In closing, as I reflect on what this last year has shown us, it is that we were able to not only adapt and continue to move forward in trying times, but we have been able to emerge, with a stronger focus and an appetite for innovation, on the other side. In this spirit, my Office and I look forward to a productive year ahead in carrying out our important oversight responsibilities.

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 incarcerated persons.

The 2021 recipient of the Ed Mclsaac Human Rights in Corrections award was Joey Twins, a survivor of the infamous Prison for Women in Kingston, Ontario. Today, she is a passionate advocate for Indigenous women, girls, and youth in conflict with the law.



Photo of Joey Twins

Annex A: Summary of Recommendations

Note: Responses to the recommendations were withheld due to a federal election having been called before the annual report could be tabled in parliament. The OCI expects that responses to its recommendations will be posted publicly when the report is tabled.

- 1. I recommend that the Minister of Public Safety engage the Public Health Agency of Canada to conduct an independent epidemiological study of the differential rates of COVID-19 infection and spread in Canadian federal prisons and report results and recommendations publicly.**
- 2. I recommend that the Minister of Public Safety promptly conduct an in-depth review of the community corrections sector with a view to considerably enhancing financial, technical and infrastructure supports. Funding for a reinvigorated community corrections model could be re-profiled from institutional corrections in direct proportion to declining warrants of committal and returning admissions, and the planned and gradual closures of redundant or archaic penitentiaries.**
- 3. I recommend that the President of Treasury Board recognize the reporting burden of small and micro agencies, and play a leadership role by developing a whole-of-government approach to alleviate this burden. Before full legal and regulatory reforms can be introduced, I recommend that TBS consider legal exemptions for eligible small and micro agencies to start reporting differently.**
- 4. I recommend that CSC conduct an in-depth evaluation of the EIM with a view to implementing changes that will reduce the over-reliance on force options overall, particularly inflammatory sprays, and provide concrete strategies for adopting evidence-based, non-force options for resolving incidents.**
- 5. I recommend CSC review and revise its policy and practice regarding use of inflammatory sprays when responding to incidents involving individuals who are self-harming or suicidal, with a view to reducing their use when responding to individuals who are experiencing mental health crises.**
- 6. I recommend that CSC develop a reliable method for administratively tracking individuals with mental health concerns in order to identify how policies and practices, such as use-of-force, impact this particularly vulnerable population.**
- 7. I recommend that CSC promptly develop an action plan in consultation with stakeholders to address the relationship between use-of-force and systemic**

racism against Indigenous and Black individuals and publicly report on actionable changes to policy and practice that will effectively reduce the over-representation of these groups among those exposed to uses of force.

8. I recommend that CSC conduct an external review to evaluate all security practices within women's facilities with a view to eliminating or reducing overly secure procedures that move women's corrections further away from the objectives identified in *Creating Choices*.
9. I recommend that CSC conduct an independent in-depth study of its Women Offender Correctional Program (WOCP) and Indigenous Women Offender Correctional Program (IWOCP) to better understand why the programs have been deficient in producing improved correctional outcomes for participants, particularly for Indigenous women.
10. I recommend that CSC significantly increase the use of temporary absences and work releases for women, particularly those in minimum security, to ensure they can regularly access the community to provide more options and enhance their opportunities for successful reintegration.
11. I recommend that CSC return to the basic principles identified in *Creating Choices* and develop a long-term strategy to ensure that all women are prepared at their earliest date possible to return to the community and that significant resources be reallocated to the community supervision program and community correctional programming to support women back in the community.
12. I recommend the development of alternative accommodations for women housed in secure units and the eventual closure of all secure units. If secure units remain open, they should only be used for *temporary* removal and separation of women after a serious incident until a proper alternative placement is found.
13. I recommend that CSC publish forthwith a quarterly record of SIU placement authorizations under section 34 (2) of the *CCRA*, including the reasons cited for granting authorization. This record should also include the number of instances where individuals were subjected to Restricted Movement under section 37.91 (1) of the *CCRA*.
14. I recommend that CSC finalize and publish a timeline indicating how it plans to meet its legislated reporting requirements under section 37 (2) (Obligations of the Service) and section 32 (3) (Physical Barriers), as well as under section 37.2 (Health care recommendations).

15. I recommend that Commissioner's Directive 822: *Medical Isolation and Modified Routine for COVID-19*, be immediately revised to include:
 - a. Definitions that clearly distinguish between the practice of medical isolation and quarantine, including clinically relevant criteria where appropriate.
 - b. Service standards (time restrictions, response times) for medical clearance and the institutional head's authorization to discontinue medical isolation and quarantine.
 - c. Time restrictions for quarantine and medical isolation, with clear guidelines to allow for the extension of restrictions as per the advice of health care.
 - d. A requirement that any stays in medical isolation beyond 14-days be flagged in the offender management system (OMS), and be subject to the same level of review and oversight as those in place for Structured Intervention Units.
 - e. Basic expectations for conditions of confinement including out-of-cell, yard, and shower time, access to video visitation, and health care visits.

16. I recommend that CSC's team of national investigators within the Incident Investigations Branch (IIB) be comprehensively trained in the principles and practices of *Gladue* analysis and *Gladue* report writing (Indigenous social history). Further, National Boards of Investigation into a person of Indigenous ancestry should be principally led, investigated, and written from an Indigenous social history perspective.

17. I recommend that a *Gladue*-informed summary of M's case be prepared and used as a national training and learning tool for all CSC staff. In the interests of transparency and accountability, any documentation prepared to meet my recommendations in this case should be made public.

18. I recommend that CSC discontinue the practice of labeling non-suicidal self-injurious behaviour in prison settings as "instrumental," "willful," or "deliberate" in nature or intent. A comprehensive mental health assessment of self-injurious and suicidal persons should be completed, and clear guidance provided to front line staff in how to manage and de-escalate incidents of self-injurious and suicidal behaviour.

19. I recommend that the Commissioner proactively issue a formal apology to M's family for the systemic failures of Correctional Service Canada.

20. I recommend that the Prime Minister of Canada fulfill this Government's commitment by signing the *Optional Protocol to the Convention against Torture* and taking concrete steps within the next four years to ensure that this important human rights instrument is ratified.

Annex B: Annual Statistics

Table A: OCI Complaints by Category and Resolution Status⁷⁷

COMPLAINT CATEGORY OR SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
ADMINISTRATIVE SEGREGATION	0	4	4
Placement or Review		1	1
Other		3	3
CASE PREPARATION	24	125	149
CELL EFFECTS	22	224	246
Canteen		22	22
Exchange		1	1
Penitentiary Pack	2	35	37
Search or Seizure	1	7	8
Transfers	6	33	39
Other	13	126	139
CELL PLACEMENT	0	20	20
Double Bunking		5	5
Unit or Range		7	7
Other		8	8
CLAIMS AGAINST THE CROWN	1	26	27
Processing		5	5
Other	1	16	17
Decisions		5	5
COMMUNITY SUPERVISION	1	41	42
CONDITIONAL RELEASE	1	61	62
Application		3	3
Conditions		6	6
Day Parole		1	1
Detention		2	2
Full Parole		2	2
Revocation		3	3
Other	1	20	21
Suspension		24	24

⁷⁷ The OCI may commence an investigation on receipt of a complaint by or on behalf of a federally sentenced person, or on its own initiative. Complaints are received by telephone, letters, and during interviews with the OCI's investigative staff at federal correctional facilities.

COMPLAINT CATEGORY OR SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
CONDITIONS OF CONFINEMENT	62	669	731
Health and Safety of Inmate Worksites		15	15
Lockdown	5	58	63
Recreation time	1	29	30
Sanitation or Cleanliness	3	28	31
Temperature	4	18	22
Access to Showers	1	2	3
Other	48	519	567
DEATH OF INMATE	1	5	6
DIETS	3	45	48
Medical	1	5	6
Religious		24	24
Special Diets	1	5	6
Other	1	11	12
DISCIPLINE	6	39	45
Major Charges	1	10	11
Minor Charges	1	19	20
Procedures		8	8
Other	4	2	6
DISCRIMINATION	5	60	65
Gender		10	10
Race	3	22	25
Religion		14	14
Other	2	14	16
EMPLOYMENT	9	34	43
Suspension	5	10	15
Other	4	22	26
Access		2	2
FILE INFORMATION	14	190	204
Correction	5	47	52
Access	1	40	41
Other	8	103	111
FINANCIAL MATTERS	10	102	112
Pay	3	37	40
Access		6	6

COMPLAINT CATEGORY OR SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
Other	7	59	66
FOOD SERVICES	2	44	46
GRIEVANCES	14	92	106
Corrective Action		1	1
Decision		5	5
Other	8	58	66
Procedure	6	28	34
HARASSMENT BY INMATE	0	12	12
Physical		2	2
Sexual		2	2
Verbal		1	1
Other		7	7
HARM REDUCTION	0	5	5
Needle Exchange Program		1	1
Opiate Substitution Therapy		4	4
HEALTH AND SAFETY	11	120	131
HEALTH CARE	41	470	511
Access	8	112	120
Decisions	5	33	38
Dental	2	42	44
Hunger Strike		2	2
Medication	15	138	153
Other	11	143	154
INMATE REQUEST PROCESS	0	8	8
Procedure		3	3
Response		2	2
Other		3	3
LEGAL ACCESS	5	64	69
MAIL	11	92	103
Delivery or Pickup	3	38	41
Seizure	1	3	4
Other	7	51	58
MENTAL HEALTH	4	45	49
Access	1	17	18
Decisions		6	6

COMPLAINT CATEGORY OR SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
Quality of care	2		2
Self-Injury	1	9	10
Other		13	13
MOTHER-CHILD PROGRAM	0	1	1
OCI (COMPLAINTS AGAINST)	7	73	80
Decisions or Operations	1	5	6
Other	6	68	74
OFFICIAL LANGUAGES	2	1	3
OUTSIDE COURT	0	3	3
OUTSIDE JURISDICTION	0	3	3
PAROLE BOARD OF CANADA DECISIONS	8	53	61
PRACTICE OF SPIRITUAL OR RELIGIOUS OBSERVANCE	2	5	7
PROGRAMS	15	55	70
Access	10	35	45
Decisions		4	4
Quality or Content	1		1
Other	4	16	20
PROVINCIAL OR TERRITORIAL MATTERS	0	1	1
RELEASE PROCEDURES	3	56	59
SAFETY OR SECURITY	17	166	183
Incompatibles or other Offenders	10	66	76
Staff	4	18	22
Other	3	82	85
SEARCH	0	18	18
Dry cell		3	3
Regular		3	3
Strip search		1	1
Other		11	11
SECURITY CLASSIFICATION	11	50	61
Initial	1	1	2
Review	5	14	19
Other	5	35	40
SENTENCE ADMINISTRATION	0	8	8
STAFF	30	485	515
Case Management	10	80	90

COMPLAINT CATEGORY OR SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
Correctional Staff	9	134	143
Management		21	21
Other	11	250	261
STRUCTURED INTERVENTION UNIT (SIU)	2	28	30
Conditions	1	6	7
Placement or Review	1	9	10
Other		13	13
TELEPHONE	10	123	133
Access to a telephone	2	20	22
PIN	3	38	41
Use Suspension		5	5
Other	5	60	65
TEMPORARY ABSENCE	3	26	29
Compassionate	2	12	14
Escorted	1	7	8
Unescorted		3	3
Other		4	4
TRANSFER	15	186	201
URINALYSIS	1	10	11
USE OF FORCE	12	34	46
VISITS	9	114	123
Cancellation or Suspension		22	22
Primary Family Visit		10	10
Private Family Visit	2	31	33
Regular visits	1	4	5
Treatment of Visitors		2	2
Other	6	45	51
COMPLAINT CATEGORY TO BE DETERMINED	7	1	8
NOT ENOUGH INFORMATION TO ASSIGN CATEGORY	1	10	11
GRAND TOTAL ⁷⁸	402	4,107	4,509

⁷⁸ These totals are a snapshot of the OCI's internal data from the week of May 17, 2021. Future reporting may be different as cases are updated.

Table B: Cases and Interviews by Region and Institution

REGION OR INSTITUTION	CASES	INTERVIEWS ⁷⁹
ATLANTIC	432	49
Atlantic	83	3
Dorchester	173	17 ⁸⁰
Nova Institution for Women	61	22
Shepody Healing Centre	16	-
Springhill	99	7
QUEBEC	945	104
Archambault	105	24 ⁸¹
Centre régional de santé mentale	18	-
Cowansville	127	9
Regional Reception Centre	86	5 ⁸²
Donnacona	91	20
Drummond	51	5
Federal Training Centre	139	7
Joliette	98	12
La Macaza	144	12
Port-Cartier	60	8
Special Handling Unit	22	-
Waseskun Healing Lodge	4	2
ONTARIO	830	113
Bath	171	21
Beaver Creek	130	11
Collins Bay	83	10
Grand Valley Institution for Women	79	24
Joyceville	23	25 ⁸³
Joyceville Assessment Unit	94	-

⁷⁹ Given the restrictions imposed on our office due to the COVID-19 pandemic, our investigators were able to visit only 10 Ontario and Québec institutions (one day at each institution) over the summer of 2020. Though more inspections were scheduled, the closing of prisons in the Québec region on September 26, 2020 interrupted Office plans. Starting in January 2021, the Office pivoted to a virtual visit model, which guided how investigators conducted business during the pandemic. Over the reporting period, 43 virtual visits were conducted (one to each institution and healing lodge). These virtual and in-person visits resulted in 481 interviews. Additional interviews were also completed for the two investigations featured in the body of this Annual Report: "A Review of Women's Corrections: 30-Years since *Creating Choices*" and "Preliminary Observations on Structured Intervention Units." These investigations involved a combination of virtual visits, telephone interviews, and written responses via email with both staff and prisoners. In light of the above complexities, readers should not compare the data in this table to those in previous Annual Reports.

⁸⁰ Includes Shepody Healing Centre.

⁸¹ Includes Centre régional de santé mentale.

⁸² Includes the Special Handling Unit.

⁸³ Includes Joyceville's Assessment Unit and TD Unit.

REGION OR INSTITUTION	CASES	INTERVIEWS ⁷⁹
Joyceville TD Unit	1	-
Millhaven	84	12 ⁸⁴
Regional Treatment Centre - Millhaven	18	-
Warkworth	147	10
PRAIRIES	1,243	147
Bowden	196	23
Buffalo Sage Wellness House	5	4
Drumheller	108	15
Eagle Women's Lodge	1	5
Edmonton	240	12
Edmonton Institution for Women	87	24
Grande Cache	116	7
Grierson	1	0
O-Chi-Chak-Ko-Sipi Healing Lodge	0	0
Okimaw Ohci Healing Lodge	9	4
Pê Sâkâstêw Centre	7	2
Prince Albert Grand Council Spiritual Healing Lodge	5	5
Regional Psychiatric Centre	75	7
Saskatchewan	295	22
Stan Daniels Healing Centre	1	0
Stony Mountain	93	13
Willow Cree Healing Lodge	4	4
PACIFIC	791	68
Fraser Valley Institution for Women	63	6
Kent	120	6
Kwîkwêxwelhp Healing Village	4	1
Matsqui	170	13
Mission	197	16
Mountain	84	14
Pacific	82	9 ⁸⁵
Regional Reception Centre - Pacific	7	
Regional Treatment Centre - Pacific	43	-
William Head	21	3
CCC-CRC/ PAROLEES IN THE COMMUNITY⁸⁶	268	
GRAND TOTAL	4,509	481

⁸⁴ Includes the Regional Treatment Centre, Assessment Unit, and the TD Unit.

⁸⁵ Includes the Regional Treatment Centre.

⁸⁶ CCC – CRC: Community Correctional Centres and Community Residential Centres.

Table C: Cases and Days in Federally Sentenced Women's Institutions

REGION OR INSTITUTION	CASES	INTERVIEWS
ATLANTIC	61	22
Nova Institution for Women	61	22
QUEBEC	98	12
Joliette	98	12
ONTARIO	79	24
Grand Valley Institution for Women	79	24
PRAIRIES	102	37
Buffalo Sage Wellness House	5	4
Eagle Women's Lodge	1	5
Edmonton Institution for Women	87	24
Okimaw Ohci Healing Lodge	9	4
PACIFIC	63	6
Fraser Valley Institution for Women	63	6
GRAND TOTAL	403	101

Table D: Disposition of Cases

ACTION	NUMBER
Internal Resolution ⁸⁷	2,357
Inquiry ⁸⁸	1,804
Investigation ⁸⁹	413
TOTAL	4,574⁹⁰

⁸⁷ **Internal Resolution:** When the investigator only reviews simple file information or notes, or speaks with the federally sentenced individual before closing the case.

⁸⁸ **Inquiry:** Same as Internal Resolution except that the investigator also completes one action in response to the complaint to acquire additional information before closing the case.

⁸⁹ **Investigation:** Same as Inquiry, but with two or more additional actions. Investigations differ in that they are more complex than Inquiries and require more significant analysis. Any case that results in a recommendation is also classified as an Investigation. An Investigation may also be a systemic case which requires that the situation be monitored.

⁹⁰ A case may be reopened and re-resolved more than once, each with its own reasons for why it is closed. This is the reason that the total in this table is larger than the actual number of complaints reported in Table A.

Table E: Cases, Individual Complainants, and In-Custody Population by Region

REGION	CASES	INDIVIDUALS ⁹¹	IN-CUSTODY POPULATION ⁹²
Atlantic	432	207	1,274
Quebec	945	393	2,454
Ontario	830	419	3,293
Prairies	1,243	579	3,812
Pacific	791	342	1,730
TOTAL ⁹³	4,241	1,940	12,399

⁹¹ The number of individuals who contacted our office to make a complaint (i.e., complainants). Fifty-nine cases were removed because the complainant(s) wished to remain anonymous.

⁹² Year-end count of in-custody population broken down by region for fiscal year 2020-21, according to the Correctional Service Canada's Corporate Reporting System (CRS-M).

⁹³ Does not include CCC-CRCs or Parolees in the community. There were 158 unique contacts from the community.

Table F: Top Ten Most-Frequently Identified Complaint Categories by Population

POPULATION / CATEGORY	NUMBER	PERCENTAGE
TOTAL IN-CUSTODY POPULATION		
Conditions of Confinement	731	16.21%
Staff	515	11.42%
Health Care	511	11.33%
Cell Effects	246	5.46%
File Information	204	4.52%
Transfer	201	4.46%
Safety or Security	183	4.06%
Case Preparation	149	3.30%
Telephone	133	2.95%
Health and Safety	131	2.91%
INDIGENOUS PRISONERS		
Conditions of Confinement	190	13.86%
Staff	165	12.04%
Health Care	157	11.45%
Cell Effects	93	6.78%
Transfer	69	5.03%
File Information	64	4.67%
Safety or Security	63	4.60%
Telephone	42	3.06%
Financial Matters	37	2.70%
Health and Safety	35	2.55%
FEDERALLY SENTENCED WOMEN		
Conditions of Confinement	100	23.20%
Health Care	62	14.39%
Staff	41	9.51%
Cell Effects	22	5.10%
Health and Safety	20	4.64%
Telephone	17	3.94%
Programs	14	3.25%
Safety or Security	12	2.78%
Case Preparation	11	2.55%
Security Classification	8	1.86%

Annex C: Other Statistics

A. Mandated Reviews Conducted in 2020-21

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

Mandated Reviews by Type of Incident

INCIDENT TYPE	REVIEWS
Death (Natural Cause) ⁹⁴	38
Assault	36
Overdoses	21
Injuries	14
Attempted Suicide	10
Suicide	9
Murder	5
Self-Injury	2
Death (Other)	1
TOTAL	136

B. Use-of-Force Reviews Conducted by the OCI in 2020-21

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

- Use-of-force report;
- Copy of incident-related video recording;
- Checklist for Health Services review of use-of-force;
- Post-incident checklist;
- Officer's Statement or Observation Report; and
- Action plan to address deficiencies.

Note: The data in the following tables represent only incidents reviewed by the OCI in 2020-21, which is a subset of all use-of-force cases received during the same period.

⁹⁴ Deaths due to "natural causes" are investigated under a separate Mortality Review process involving a file review conducted at National Headquarters.

Table 1: Frequency of Most Commonly Used Use-of-force Measures

	ATL	QUE	ONT	PRA	PAC	NATIONAL
REPORTED INCIDENTS REVIEWED BY THE OCI	150	329	231	593	168	1,471
MOST COMMON MEASURES USED⁹⁵						
Physical Handling	114	186	126	407	108	941
Verbal Intervention	54	107	49	456	161	827
Inflammatory Spray (IS) or Chemical Agent (CA) ⁹⁶	64	214	100	324	90	792
MK-4 (IS)	20	87	53	130	55	345
MK-9 (IS)	26	63	27	116	27	259
T-21 Muzzle Blast (IS)	4	25	8	46	4	87
MK-46 (IS)	3	31	5	22	4	65
T-16 (IS)	3	1	5	6	0	15
T-21 (CA)	2	6	0	1	0	9
ISPRA (IS)	5	0	1	2	0	8
Grenades (CA)	0	0	1	1	0	2
T-16 (CA)	1	0	0	0	0	1
Other (IS)	0	1	0	0	0	1
Restraint Equipment (handcuffs, leg irons)	42	100	142	344	96	724
Pointing Inflammatory Agent with Verbal Orders	5	24	34	102	25	190
Emergency Response Team (ERT)	18	34	18	27	32	129
Shield	8	13	7	38	17	83
Soft (Pinel) Restraints	2	15	3	30	3	53
Direct-Impact Round Fired	2	9	1	7	23	42
Baton	1	3	3	18	2	27
Pointing Direct Impact Round	0	1	0	9	13	23
Distraction Device DT-25 (flash grenade)	0	0	0	4	18	22
Display and Charge of Firearm	1	1	1	7	1	11
C8 Carbine (firearm)	0	0	0	10	1	11
GRAND TOTAL⁹⁷	311	707	484	1,783	590	3,875

⁹⁵ A use-of-force incident can involve more than one measure.

⁹⁶ Inflammatory Sprays commonly referred to as OC (oleoresin capsicum) or “pepper spray,” contain a natural active ingredient capsaicin derived from pepper plants. Chemical Agents contain an active chemical ingredient, and result in extreme irritation of the eye tissues, producing the involuntary closure of the eyes. The devices listed here are designed to deliver either inflammatory or chemical agents, or both.

⁹⁷ Totals are larger than the number of incidents reviewed by the OCI because each incident can involve more than one measure.

Table 2: Frequency of Most Commonly Used Use-of-force Measures at Women's Institutions

REPORTED INCIDENTS REVIEWED BY THE OCI	93
MOST COMMON MEASURES USED	FREQUENCY
Verbal Intervention	87
Physical Handling	80
Restraint Equipment (handcuffs, leg irons)	43
Inflammatory Spray (IS) or Chemical Agent (CA)	22
MK 4 (IS)	14
MK-9 (IS)	6
MK-46 (IS)	2
Pointing IS or CA with Verbal Orders	11
Soft (Pinel) Restraints	5
Emergency Response Team (ERT)	3
Shield	2
GRAND TOTAL	253

C. Toll-Free Contacts in 2020-21

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

Number of toll-free contacts received in the reporting period: 19,143

Number of minutes recorded on toll-free line: 72,116

D. National Level Investigations in 2020-21

1. Report of an Investigation into the Resumption of Correctional Interventions (*Third COVID-19 Update*, February 23, 2021).
2. Investigation into Uses of Force Involving Federally Incarcerated Black, Indigenous, Peoples of Colour (BIPOC) and Other Vulnerable Populations (date of 2020-21 Annual Report tabling).
3. A Review of Women's Corrections 30-Years since *Creating Choices* (date of 2020-21 Annual Report tabling).
4. Preliminary Observations on Structured Intervention Units (date of 2020-21 Annual Report tabling).
5. An Investigation of the Use of Medical Isolation in Federal Corrections (date of 2020-21 Annual Report tabling).
6. An Investigation into a Suicide in a Maximum-Security Facility (date of 2020-21 Annual Report tabling).

Annex D: Corporate Reporting

A. OCI at a Glance

Who We Are

The Correctional Investigator is mandated by Part III of the *Corrections and Conditional Release Act* (CCRA) as an Ombudsman and the primary function of the Office of the Correctional Investigator (OCI or the Office) is to investigate and bring resolution to complaints from federally sentenced persons. The OCI is an independent agency, which has a responsibility to review and make recommendations on the Correctional Service of Canada's (CSC) policies and procedures arising from individual complaints to ensure that systemic areas of concern are identified and appropriately addressed. It also carries out systemic investigations of issues that affect large numbers of federally sentenced persons.

As a micro agency, OCI functions with a \$5.4M budget that consists of \$4.5M salary budget (including employee benefits plans) and \$898K allocated to the operational and maintenance budget.

Table 1: Financial Highlights

KEY FINANCIAL INDICATORS (DOLLARS)	2020-21	2019-20	2018-19	2017-18
Total Revenues	-	-	-	-
Total Expenditures	\$5,827,476	\$5,440,958	\$5,201,287	\$4,850,447
AUTHORITIES USED BY PROGRAM (DOLLARS)	2020-21	2019-20	2018-19	2017-18
Ombudsman for federal offenders	\$4,736,304	\$4,533,378	\$4,330,805	\$3,631,480
Internal Services	\$1,091,172	\$906,680	\$870,482	\$1,218,967
Total Expenditures	\$5,827,476	\$5,440,058	\$5,201,287	\$4,850,447

Operation Risks

The OCI has identified two ongoing operational risks:

1. OCI's nation-wide mandate and the sheer number and complexity of issues present a coverage risk due to high travel requirements that includes travel to remote locations.
 - The implementation of virtual visits to comply with pandemic measures and minimize COVID-19 spread has provided the Office with a temporary alternative to in-person visits.
2. The resolution of complaints in an environment traditionally closed to public scrutiny requires that the Office not only be, but be seen to be, independent of the Correctional Service of Canada, Public Safety and Emergency Preparedness, and the Minister.
 - The Correctional Investigator reporting relationship and authority to conduct independent investigations demonstrates the Office's impartiality and effectiveness.

In addition to the above, OCI has also identified the following operational risks:

3. Phoenix continues to pose a risk of pay errors affecting employees as well as the management of the organizational budget.
 - Increasing the capacity in the Corporate Services Directorate will provide the team with some dedicated capacity, support and ability to respond to employee compensation issues in a timely manner.
4. COVID-19 pandemic that has presented a significant risk to the health of employees as well as the continuity of operations.
 - While an essential and critical service whose operations must continue, OCI was successful for the most part in restructuring office practices to accommodate work from home and support virtual visits to ensure continued delivery of the mandate. The lack of in person visits hindered the ability of the OCI to fully meet its legal mandate.⁹⁸

OCI Results Framework⁹⁹

The OCI's Departmental Results Framework and Program Inventory identifies the following:

- One core responsibility that is to provide independent oversight of federal corrections through the investigations of individual complaints of federally sentenced persons (incarcerated or in the community);
- One program inventory that serves as the Ombudsman for federally sentenced persons to protect the independence and impartiality of the Office and support a safe, lawful and humane federal correctional practice.

⁹⁸ To learn more about the Government of Canada's COVID response and OCI's expenditures towards implementing the government's response visit [GC InfoBase: Infographic for The Correctional Investigator Canada](#).

⁹⁹ For more information on the organization's mandate letter commitments, see the [Prime Minister's Mandate letter to the Minister of Public Safety and Emergency Preparedness](#) (December 13, 2019).

DEPARTMENTAL RESULTS FRAMEWORK	CORE RESPONSIBILITY: Independent Oversight of Federal Corrections		INTERNAL SERVICES
	DEPARTMENTAL RESULT: A safe, lawful and humane federal correctional practice.	INDICATOR: Percentage of recommendations made in relation to individual offender complaints that were addressed by the CSC.	
INDICATOR: Percentage of recommendations made in relation to the OCI's corporate priorities that were addressed by the CSC.			
PROGRAM INVENTORY	PROGRAM: Ombudsman for Federal Offenders.		

Table 2: Performance Highlights

KEY PERFORMANCE INDICATORS	TARGET	2020-21	2019-20	2018-19	2017-18
Percentage of recommendations made in relation to individual offender complaints that were addressed by the CSC	90%	82%	89%	89%	69%
Percentage of recommendations made in relation to the OCI's corporate priorities that were addressed by the CSC	100%	85%	100%	100%	100%

B. What We Achieved

Core Responsibilities

Independent Oversight of Federal Corrections

The Office of the Correctional Investigator conducts investigations of complaints by federally sentenced persons (incarcerated or in the community); by sentenced persons on behalf of another sentenced person; and by family and friends on behalf of a sentenced person. It also carries out systemic investigations of issues that affect large numbers of federally sentenced persons. The Office reviews all Correctional Services of Canada investigations of deaths in custody and serious bodily injury cases to ensure compliance with law and policy, and conducts reviews of all use of force incidents. The OCI's investigative activities support a safe, lawful and humane federal correctional practice to ensure that federal correctional decisions and practices are in compliance with human rights, law, policy, and are fair.

Results

Fiscal year 2020-21 was a challenging one for all, as measures were implemented to contain the spread of the COVID-19 pandemic, while also being innovative and accommodating the continuation of operations through the implementation of virtual visits. The office conducted 43 virtual visits (148 days) and conducted nine (9) inspections (9 days).

During the last year, the investigative team received 4,509 complaints out of which 4,107 were reviewed/investigated. In addition to having conducted 481 interviews with sentenced persons, the team also produced and published three COVID-19 status updates providing an assessment of the pandemic impact within correctional institutions.

Furthermore, the office conducted reviews of 1,471 incidents involving use of force and 136 reviews of investigation reports conducted under sections 19 and 19.1 of the *CCRA* related to incidents involving death or serious bodily injury.

Gender-Based Analysis Plus

OCI's focus for the 2020-21 fiscal year for GBA+ was on three specific groups: federally sentenced persons who are Indigenous; who are women; and those who have mental health issues.

Results

In its Annual Report, OCI demonstrated its commitment to GBA+ through its investigative work on Uses of Force involving federally incarcerated Black, Indigenous, Peoples of Colour and other vulnerable populations including women and individuals with mental health concerns. The Office continues to raise concerns regarding the lack of progress on tracking, responding to and preventing incidents of sexual coercion and violence. With changes to the *Canadian Human Rights Act*, OCI increasingly received and investigated complaints regarding the treatment of gender diverse individuals in federal institutions, and also conducted a comprehensive review of CSC's new Commissioner's Directive on gender considerations. Finally, the Office completed a focused review of women's corrections 30-years since *Creating Choices*. This investigation included an analysis of a variety of GBA+ groups including Indigenous women, women with mental health considerations and gender diverse individuals housed in facilities designated for women.

2030 Agenda for Sustainable Development

The United Nations 2030 Agenda for Sustainable Development is a plan of action for people, the planet and for prosperity. It seeks to strengthen peace in a larger freedom. Poverty in all its forms and dimensions is a challenge across this and other countries. If the clients served by the Office of the Correctional Investigator do not have a successful re-integration back into their communities, their rates of recidivism increase and the chances that they fall into poverty increase as well.

Results

Through the delivery of its mandate, the OCI contributes to two main UN 2030 Agenda for Sustainable Development goals: Gender Equality (5) and Peace, Justice and Strong Institutions (16).

As indicated in the GBA+ section, in its 2020-21 Annual Report, OCI examined the evolution of women's corrections over a thirty-year period, since the release of the landmark report on the state of women's corrections, *Creating Choices*. OCI's in-depth review of women's corrections offers a number of targeted recommendations to improve conditions for women who are federally incarcerated, with specific consideration of the needs of Indigenous women and women with complex histories of trauma and mental health concerns.

Additionally, through the continuous delivery of its mandate, the OCI also contributes to the Peace, Justice and Strong Institutions goals by ensuring the fair and humane treatment of persons serving federal sentences. The OCI demonstrated this through its investigative work and recommendations related to use of force and CSC's security-first approach to working with people who have mental health needs and its overuse with Black and Indigenous individuals. To support a stronger organization, the OCI increased its capacity to do more systemic investigative work. The investigative team also worked collaboratively with CSC staff to respond to inmate complaints with goal of improving conditions in institutions. Finally, OCI collaborates with international partners through the Expert Network to identify best humane practices in corrections.

Greening Government

Of the 13 goals identified as part of the Federal Sustainable Development Strategy, the Office has put in place measures to improve the carbon footprint with respect to greening government and clean energy.

Results

Over the past year, COVID19 pandemic has expedited OCI's workforce mobility and has accommodated its personnel to work from home by implementing digital signature and paperless office practices. The Office has also been successful in pivoting and implementing virtual visits, which will inform our future planning and help improve our carbon footprint in support of the greening government initiative.

Supporting Information on the Program Inventory¹⁰⁰

Table 1: Performance Statistics

	2020-21	2019-20	2018-19
OCI COMPLAINTS BY CATEGORY & RESOLUTION STATUS			
Active	402	341	347
Resolve	4,107	5,212	4,904
TOTAL	4,509	5,553	5,251
CASES & OCI'S DAYS IN INSTITUTIONS			
Cases	4,509	5,553	5,176
Interviews	481	1,132	1,345
Days in Institutions	N/A	354	476
CASES & OCI'S DAYS IN FEDERALLY SENTENCED WOMEN'S INSTITUTIONS			
Cases	403	562	592
Interviews	101	109	161
Days in Institutions	N/A	54	49
DISPOSITION OF CASES			
Internal Resolution	2,368	2,900	1,769
Inquiry	1,821	1,996	1,604
Investigation	416	669	586
Resolution Unspecified	0	37	945
Pending	372	0	347
TOTAL	4,977	5,602	5,251
CASES, COMPLAINANTS, & POPULATION UNDER CSC JURISDICTION			
Cases	4,509	5,553	5,251
Individual Complainants ¹⁰¹	2,098	2,460	2,478
Total CSC Population ¹⁰²	21,512	23,102	23,464
MANDATED REVIEWS BY TYPE OF INCIDENT			
Assault	36	46	38
Murder	5	3	1

¹⁰⁰ Financial, human resources and performance information for the Office of the Correctional Investigator's Program Inventory is available in the [GC InfoBase](#).

¹⁰¹ These numbers represent unique complainants who reached out to our office from both federal prisons and community correctional settings.

¹⁰² These totals include both the in-custody population and those under community supervision.

	2020-21	2019-20	2018-19
Suicide	9	5	2
Attempted Suicide	10	11	8
Self-Harm	2	0	2
Injuries (Accident)	14	18	7
Overdose Interrupted	21	9	8
Death (Natural cause)	38	8	44
Death (Unnatural cause)	1	8	4
Escape	0	1	2
TOTAL	136	109	116
USE-OF-FORCE			
Reported incidents reviewed by OCI	1,471	1,109	1,616
Reported incidents reviewed by OCI (Federally Sentenced Women's Institutions)	93	72	159

Internal Services

Internal Services are those groups of related activities and resources that the federal government considers as services in support of programs and/or required to meet corporate obligations of an organization. Internal Services refers to activities and resources of the 10 distinct areas that support Program delivery in the organization. Regardless of the Internal Services delivery model in a department, these areas include: Acquisition Management; Communications; Financial Management; Human Resources Management; Information Management; Information Technology; Legal; Materiel Management; Management and Oversight; and, Real Property Management.

Results

The fiscal year 2020-21 has been a challenging one for Internal Services teams across all organizations. The OCI's internal services were successful in providing information technology and information management equipment and available applications to ensure the implementation of work from home practices and support the continuing delivery of the program. Building on this momentum, the OCI has also initiated its Digital Office project with the implementation of digital signature and rolling out of a new information management system.

C. Analysis of Trends in Spending and Human Resources

Table 1: Budgetary Performance Summary for Core Responsibilities and Internal Services (dollars)

CORE RESPONSIBILITIES	MAIN ESTIMATES	PLANNED SPENDING	TOTAL AUTHORITIES AVAILABLE FOR USE	ACTUAL SPENDING (AUTHORITIES USED)	DIFFERENCE (ACTUAL SPENDING MINUS PLANNED SPENDING)	PLANNED SPENDING		ACTUAL SPENDING (AUTHORITIES USED)		
						2021-22	2022-23	2019-20	2018-19	2017-18
						2020-21				
Independent oversight of federal corrections	4,273,557	4,316,189	4,760,125	4,736,304	420,115	4,272,778	4,272,778	4,533,278	4,330,805	3,631,480
Internal Services	1,030,053	1,050,018	1,176,390	1,091,172	41,154	1,050,018	1,050,018	907,680	870,482	1,218,967
TOTAL	5,303,610	5,366,207	5,936,515	5,827,476	461,269	5,366,207	5,322,796	5,440,958	5,201,287	4,850,447

As demonstrated in the table above, the organization's expenditure pattern has been consistent for its core responsibility and internal services, fluctuating only slightly from year to year. The displayed increase in actual spending from 2019-20 to 2020-21 is mainly due to compensation adjustments due to new collective agreements. The OCI is not unionized but matches gains and benefits negotiated in collective agreements. The 2018-19 increase is attributable to program integrity funding secured in Budget 2018, which enhanced capacity to undertake investigations in federal correctional facilities.¹⁰³

Table 2: Human Resource Summary for Core Responsibilities and Internal Services (full-time equivalents)

DEPARTMENTAL PLANNING & RESULTS	ACTUAL FULL-TIME EQUIVALENTS				PLANNED FULL-TIME EQUIVALENTS	
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
CORE RESPONSIBILITIES						
Independent oversight of federal corrections	32	32	36	33	35	35
Internal Services	4	4	5	5	6	6
TOTAL	36	36	41	38	41	41

¹⁰³ Information on the Office of the Correctional Investigator's organizational appropriations is available in the [Government Expenditure Plan and Main Estimates](#).

As demonstrated in the table above, the organization's FTE count remained stable ranging on average 39 FTEs. The increase in the number of FTEs starting in 2018-19 is attributable to program integrity funding secured in Budget 2018.

Table 3: Analysis of Trends in Spending (dollars)

DEPARTMENTAL PLANNING & RESULTS	ACTUAL EXPENDITURES				PLANNED EXPENDITURES	
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
APPROPRIATION						
Statutory	495,747	481,070	545,982	657,160	567,907	567,907
Voted	4,197,024	4,369,377	4,894,976	5,170,316	4,735,703	4,735,703
TOTAL	4,692,771	4,850,447	5,440,958	5,827,476	5,303,610	5,303,610

Over the last several fiscal years, the Office of the Correctional Investigator's actual spending incrementally increased over the past four years. The program integrity funding secured in Budget 2018 increased the spending in 2019-20 to \$5.2 million.

Table 4: Condensed Statement of Operations (dollars)

DEPARTMENTAL PLANNING & RESULTS	ACTUAL RESULTS				PLANNED RESULTS
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
FINANCIAL INFORMATION					
Total expenses	5,356,331	5,742,866	6,065,332	Data not available*	6,040,371
Total revenues	-	-	-	-	-
NET COST OF OPERATIONS BEFORE GOVERNMENT FUNDING AND TRANSFERS	5,356,331	5,742,866	6,065,332	DATA NOT AVAILABLE*	6,040,371

***Note:** Actual results for 2020-21 will be available in fall 2021 following the tabling of financial statements.

The Condensed Statement of Operations highlights the Office of the Correctional Investigator's consistency in establishing planned results and linking these to the financial resources required to achieve them.

Financial Statements and Highlights

Following the tabling of the public accounts, the Office of the Correctional Investigator's financial statements (unaudited) for the year ended March 31, 2021, will be made available on the departmental website at www.oci-bec.gc.ca.

D. Access to Information¹⁰⁴

OCI is committed to responding to information requests from the public, the media and all those interested in our operations in a timely manner.

From April 1, 2020 to March 31, 2021 OCI received 28 new requests under the Access to Information Act and the Privacy Act. The OCI closed 40% of these requests within legislated timeframes.

No complaints were submitted to the Privacy Commissioner during this reporting period.

Table 1: Access to Information and Privacy Requests

LEGISLATIVE AUTHORITY	2020-21	2019-20	2018-19
<i>Access to Information Act</i>	15	34	39
<i>Privacy Act</i>	13	16	8

E. Official Languages

In accordance with Section 48 of the *Official Languages Act*, OCI must submit official languages data into the Official Languages Information System II (OLIS II) to facilitate the President of the Treasury Board submitting an annual report to Parliament. The data below provides official languages information as at March 31, 2021.

Table 1: Data Pertaining to the *Official Languages Act*

POSITION BY REGION	TOTAL NUMBER OF EMPLOYEES	FIRST OFFICIAL LANGUAGE	
		ENGLISH	FRENCH
National Capital Region	34	14	20

¹⁰⁴ Summaries of completed ATI requests by the Office of the Correctional Investigator is available on the [Open Government Portal](#). The Annual Report to Parliament on the *Access to Information Act* can be found on the OCI [website](#).

No official language complaints were filed with the Office of the Commissioner of Official Languages for this reporting period.

F. Proactive Disclosure

OCI is committed to making information readily available. By doing so, Canadians and Parliament are better able to hold the Government and public sector officials to account.

Travel, Hospitality, and Conference Expenditures¹⁰⁵

In accordance with Section 4.1.3 of the Treasury Board Directive on Travel, Hospitality, Conference and Event Expenditures, departments are required to disclose the total annual expenditures for travel, hospitality and conferences. The total 2020-21 THC expenditures are as follows:

Table 1: Total 2020-21 THC Expenditures

EXPENSE	AMOUNT
Travel	\$1,698.31
Hospitality	\$1,260.11
Onsite Conference	\$1,764.26

Contracts Over \$10,000

In accordance with the Contracting Policy, departments are required to disclose information on contracts over \$10,000, as well as standing offer agreements and supply arrangements used by government departments. During the last fiscal year, the Office has awarded six (6) contracts over \$10,000, which represents a total amount of \$176,071.76.¹⁰⁶

¹⁰⁵ The complete annual report is available on the [Open Government Portal](#).

¹⁰⁶ The complete listing is available on the [Open Government Portal](#).

Position Reclassification¹⁰⁷

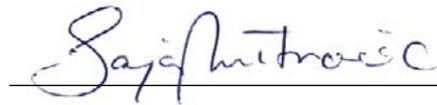
In accordance with Section 85 of the *Access to Information Act*, departments are required to disclose when a reclassification of an occupied position in a government institution occurs. Over the last fiscal year, the following OCI positions were reclassified:

Table 2: Position Reclassifications at the OCI

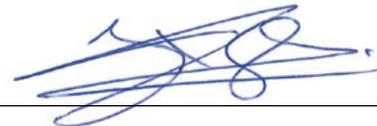
POSITION TITLE	NUMBER OF POSITIONS	INITIAL CLASSIFICATION & LEVEL	NEW CLASSIFICATION & LEVEL
Senior Policy & Research Advisor, Systemic Investigations	1	EC-05	EC-06
Early Resolution Officer	7	AS-02	PM-02

G. Attestation

I attest that, to the best of my knowledge, all information in the above referenced data reported is accurate and complete.



Sonja Mitrovic
CFO, Director, Corporate Services and Planning



Ivan Zinger
Correctional Investigator of Canada

¹⁰⁷ The complete listing is available on the [Open Government Portal](#).