



SENATORS GO TO JAIL:

When, why and what did they find?



The Honourable Josée Forest-Neising (1964-2021)



BACKGROUND

When Bill C-83 arrived in the Senate, Senator Josée Forest-Niesing and others worked to amend what, to those who knew correctional law and had witnessed correctional practices, were obvious and glaring deficiencies in the law. When the government rejected the Senate's amendments, Senator Josée Forest-Niesing and Senator Colin Deacon suggested that senators visit federal penitentiaries to document the implementation of Bill C-83.

Before the onset of the COVID-19 pandemic, the flaws identified by the Senate were already blatantly evident and Senators Forest-Niesing and Pate began working on a plan to try and correct corrections. The plan included the resumption of senators' visits to prisons and the re-introduction of the senate amendments to Bill C-83, this time in the form of Bill S-230.

The efforts that led to the publishing of this report, and its contents, are dedicated with gratitude to the cherished memory of our late colleague, The Honourable Senator Josée Forest-Niesing, and the too many inside who never emerge from behind the walls, as well as those whose lives are forever impacted by what happens inside.



WHEN AND WHY SENATORS DECIDED TO GO TO JAIL

Pursuant to s. 72 of the CCRA, Senators, Members of Parliament and the Judiciary have the right to access all federal penitentiaries in Canada.¹

From 2017 through 2021, the Standing Senate Committee on Human Rights conducted a study of the human rights of federally sentenced persons. That meant that Canadian Senators visited federal prisons across the country and documented conditions of confinement, human rights concerns as well as the experiences of prisoners and staff therein. For details regarding the results of the work of the Human Rights Committee, please see <https://sencanada.ca/en/info-page/parl-43-2/ridr-federally-sentenced-persons/>

Senators on the Standing Senate Committee on Aboriginal Peoples also

visited prisons while examining the issues related to the development of Nation-to-Nation relationships with First Nations Peoples in Canada. In addition, following the government's rejection of Senate amendments to Bill C-83 — introduced by the government and characterized as ending the use of segregation — Senators decided to undertake a plan to monitor the implementation of Bill C-83 and conditions of confinement in federal penitentiaries.

In total, 34 senators have visited federal penitentiaries over the past few years.

WHAT SENATORS FOUND

Since the passage of Bill C-83, Senators have visited 11 penitentiaries.

The Senators found that CSC practices often fail to comply with, much less uphold, the provisions of

the Corrections and Conditional Release Act (CCRA). Correctional realities also fail to adhere to international instruments that impact the human rights of prisoners, and contradict the principles and objectives of sentencing.

Too many of CSC's practices violate the Canadian Charter of Rights and Freedoms and the principles of fundamental justice, while operating without the Rule of Law. This report describes the state of CSC's practices in Canadian prisons as revealed by visiting Senators. It highlights shortcomings of the Correctional and Conditional Release Act, in addition to inadequacies of recent amendments to that law.

The CCRA was introduced in 1992 as an Act aimed at promoting human rights in the criminal legal and penal systems and reducing the rates of incarceration, particularly of Indige-

¹ *Corrections and Conditional Release Act, SC 1992, c 20, s71.*

nous, women and other marginalized persons.² It afforded prisoners rights related to administrative segregation, health care, search and seizure, Aboriginal programming, discipline, transfer, and various entitlements.³

The CCRA has been criticized because of its lack of safeguards and limits related to the use of segregation.⁴ The Canadian Bar Association criticized the first draft of the CCRA in 1992 for disregarding recommendations of the Correctional Law Review which would have implemented strict controls on CSC's use of administrative segregation.⁵ The Canadian Bar Association recommended that judicial authorization be required before prisoners could be placed in administrative segregation, involuntarily transferred, or placed in certain confined environments.⁶ The guiding objective of these recommendations was to ensure the practices of CSC accorded with the Rule of Law.⁷

CSC has been repeatedly criticized for not complying with prisoner grievance and request procedures as outlined in the CCRA and its Regula-

tions.⁸ In the Commission of Inquiry into Certain Events at the Prison for Women in Kingston (the "Arbour Report"), Justice Louise Arbour concluded that the prisoner grievance procedure was not taken seriously by CSC.⁹ She also emphasized the necessity of a functioning grievance procedure¹⁰ and a mechanism to incentivize CSC staff compliance with the law.¹¹

In the Senate amendments to Bill C-83 and now in Bill S-230, the Senate incorporated Justice Arbour's proposal that there should be a remedy for the violation of prisoners' rights. Remediation could result in early or expedited conditional release or a revisiting and reduction of sentences for prisoners. Practically, this remedy could function in a similar way to the rules about the inadmissibility of evidence procured in an unlawful fashion, as set forth by section 24(2) of the Charter.¹²

In 2019, the 43rd Canadian Parliament enacted amendments to the CCRA via Bill C-83.¹³ The stated legislative goal of the bill was to end the use of segregation in federal prisons, implement new structured intervention units (SIUs) and

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senators have visited federal penitentiaries over the past few years.

ensure any practices that result in separation of prisoners from the general population of a penitentiary would be done in accordance with two court decisions which changed the rules about the use of segregation.¹⁴

Another objective of the Bill was that federally sentenced prisoners placed in segregation be provided with an opportunity for meaningful human contact and to participate in certain programs and services.¹⁵

In terms of CSC's compliance with the newly amended Act, Senators' findings are as follows:

2 "50 Years of Human Rights Developments in Federal Corrections-- *Corrections and Conditional Release Act 1992*" (n.d.), online: *Correctional Service Canada* < <https://www.csc-ccc.gc.ca/text/pblct/rht-drt/13-eng.shtml>>. [Correctional Services Canada]

3 *Correctional Services Canada*, *supra* note 2.

4 Canadian Bar Association, "*Corrections & Conditional Release Act Review*" (March 1999) at 13, online: *Canadian Bar Association* < <https://www.cba.org/CMSPages/GetFile.aspx?guid=763c-1b4e-f69a-4919-a799-b45d35bebf0d>>. [Canadian Bar Association]

5 *Canadian Bar Association*, *supra* note 4 at 13.

6 *Canadian Bar Association*, *supra* note 4 at 15.

7 *Ibid.*

8 Honourable Louise Arbour, "Commission of Inquiry into Certain Events at the Prison for Women in Kingston" (1996) at 86, online: *West Coast Leaf* < <http://www.westcoastleaf.org/wp-content/uploads/2017/06/Prison-for-Women-in-Kingston-Arbour-Report.pdf>>.

9 *Canadian Bar Association*, *supra* note 4 at 16.

10 *Ibid.*

11 *Honourable Louise Arbour*, *supra* note 8 at 106.

12 *Ibid.* at 101.

13 *C-83, An Act to amend the Corrections and Conditional Release Act and another Act*, 1st Sess, 42nd Parl, 2019, (as passed by the House of Commons June 21 2019).

14 *C-83, An Act to amend the Corrections and Conditional Release Act and another Act*, 1st Sess, 42nd Parl, 2019, cl (as passed by the House of Commons June 21 2019).

15 *C-83, An Act to amend the Corrections and Conditional Release Act and another Act*, 1st Sess, 42nd Parl, 2019, cl 32(1)(a),(b) (as passed by the House of Commons June 21 2019).

AMENDMENTS TO THE ACT:

Bill C-83 and the introduction of Structured Intervention Units



A. SEGREGATION-RELATED ISSUES

Prisoners placed in segregation, either in Structured Intervention Units (SIU), Voluntary Limited Association Ranges (VLAR), or whatever other name or designations, have rights and entitlements prescribed by the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act*. The following section of this report describes the requirements for the treatment of prisoners in segregation in a SIU, and details what Senators observed during their visits to federal prisons across Canada.

i) The right to meaningful human contact and four hours outside of cell

Prisoners placed in structured intervention units (SIUs) are entitled by law to spend a minimum of four hours outside their cell, between the hours of 7:00 a.m. and 10:00 p.m.¹⁶ SIU prisoners also retain the right to interact with others for a minimum of two hours every day.¹⁷ CSC counts as meaningful human contact,

leisure activities, programs and services that encourage the prisoner to make progress towards the objective of their correctional plan¹⁸.

The obligation of CSC to provide prisoners time outside of their cells does not apply if a prisoner refuses to leave their cell,¹⁹ fails to comply with reasonable instructions to ensure the safety of others,²⁰ or during natural disasters, work refusals, and similar emergencies.²¹

During the four hours a segregated prisoner spends outside their cell, CSC must provide them with an opportunity to engage in meaningful human contact,²² and to participate in programs that respond to the prisoner's specific needs.²³ Human contact is defined as the "opportunity for human interaction with others that is conducive to building rapport, social networks, or strengthening bonds with family or other supports".²⁴ The Office of the Correctional

Investigator of Canada has underscored the importance of the quality of the human interaction afforded to a segregated prisoner.²⁵

In order to ensure such contact, CSC must make every reasonable effort to assure the prisoner's exposure to human contact is not interfered with by physical barriers.²⁶

ii) Legal limits of time in segregation

The CCRA does not impose a specific limit to the duration of a prisoner's confinement in a structured intervention unit.²⁷ Rather, the CCRA provides that stays in SIUs must end "as soon as possible", giving CSC discretion to determinate the length of a prisoner's stay.²⁸

However, the *United Nations Standards for the Minimum Rules for the Treatment of Prisoners*, also known as the *Nelson Mandela Rules*, prescribe a bright-line limit to a prisoner's time in any form of segregation.

The Mandela Rules indicate that solitary confinement, defined as the

16 *Corrections and Conditional Release Act*, SC 1992, c 20, s 36 (1)(a).

17 *Corrections and Conditional Release Act*, SC 1992, c 20, s 36 (1)(b)(ii).

18 *Corrections and Conditional Release Act*, SC 1992, c 20, s 36 (1)(b)(i),(ii).

19 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37(1)(a).

20 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37(1)(b).

21 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37 (1)(c).

22 *Corrections and Conditional Release Act*, SC 1992, c 20, s 32 (1)(b).

23 *Corrections and Conditional Release Act*, SC 1992, c 20, s 32 (1)(b).

24 Commissioner's Directive 711, Annex A, <<https://www.csc-scc.gc.ca/politiques-et-lois/711-cd-en.shtml#annexA>>.

25 Office of the Correctional Investigator, Feedback on draft Commissioner's Directives, letter to Anne Kelly, dated Nov 12, 2019 [OCI Feedback on Draft SIU Policy], quoted in *Solitary by Another Name: the ongoing use of isolation in Canada's federal prisons*, Prisoners' Legal Services, a project of the West Coast Prison Justice Society, November 2020, p 46.

26 *Corrections and Conditional Release Act*, SC 1992, c 20, s 32 (1)(b).

27 *Corrections and Conditional Release Act*, SC 1992, c 20, s 32 (2).

28 *Ibid.*



isolation of a prisoner for 22 or more hours a day without meaningful human contact, shall not exceed 15 or more consecutive days.²⁹ The United Nations considers confinement exceeding the 15-day limit an act of torture.³⁰

WHAT THE SENATORS FOUND

Senators found CSC acting unlawfully when managing prisoners placed in SIUs or other types of segregation units. For instance, prisoners confined to SIUs at Kent Institution reported that, during time spent outside their cell, meaningful

human contact did not occur.³¹ Instead, the only human interaction was with CSC staff who remained on the opposite side of a locked door.³² When Senators visited those SIUs, they observed that cell doors were not opened and prisoners reported that they were not routinely opened.³³

Some prisoners at Joliette Institution for Women reported that they had been held in segregation for up to one week at a time, without any opportunity for human contact.³⁴ Prisoners also described that, because some CSC staff had breached the confidentiality of their personal information, a resulting distrust of CSC staff made it difficult for prisoners to engage in meaningful interactions with CSC staff.³⁵ When Senators asked CSC staff about

29 United Nations Standard Minimum Rules for the Treatment of Prisoners, GA Res 70/175, 21 December 2015, UN Doc A/RES/70/175 (2015) Rule 44 [UN Mandela Rules]. See Canadian implementation in, Canadian Civil Liberties Association v. Canada (Attorney General), 2019 ONCA 243 <https://ccla.org/wp-content/uploads/2021/06/C64841.rere_-1.pdf>, and, British Columbia Civil Liberties Association v. Canada (Attorney General) 2019 BCCA 228 <<https://bccla.org/wp-content/uploads/2019/09/2019-BCCA-228-British-Columbia-Civil-Liberties-Association-v.-Canada-Attorney-General.pdf>>

30 UN Mandela Rules, *Supra* note 29.

31 Senate prison visit report, 15 September 2021, visit to Kent Institution.

32 Senate prison visit report, 15 September 2021, visit to Kent Institution.

33 Senate prison visit report, 15 September 2021, visit to Kent Institution.

34 Senate prison visit report, 6 December 2019, visit to Joliette Institution for Women.

35 Senate prison visit report, 6 December 2019, visit to Joliette Institution for Women.

A 1971 parliamentary inquiry into the Penitentiary Service of Canada [subsequently renamed the Correctional Service of Canada] stated, **“There is a great deal of irony in the fact that imprisonment... the ultimate product of our system of criminal justice itself epitomizes injustice.”**

The Honourable Mark MacGuigan (1977)



prisoners' opportunities for human contact while in segregation, staff only described that prisoners had the opportunity to do laundry, reinforcing the absence of meaningful human contact during the prisoners' confinement.³⁶

Prisoners at Springhill Institution reported similar conditions related to segregation within the prison, describing how they were not provided adequate time out of their SIU or adequate human contact during that time. Prisoners claimed that they were only able to leave their cells for 30-minute intervals on one or two occasions per day, during which time they remained completely alone.³⁷

Although no external documentation was provided, CSC staff claimed that SIU occupants were given 4 hours outside of their cells each day.³⁸ At Fraser Valley Institution, women prisoners described circumstances similar to those at Springhill. Prisoners described that in the past, no human contact was provided for segregated individuals, other than interaction with CSC staff or during the distribution of medication by other employees.³⁹ The same reality was reported at Grand Valley Institution⁴⁰ and at the Edmonton Institution for Women.⁴¹

Prisoners at several institutions reported spending prolonged periods in SIUs or in some other form of segregation. One prisoner of Springhill Institution reported that he had been isolated within an SIU for over twenty days.⁴² At Dorchester Penitentiary, the Senators met with an Inuk man who reported he had been segregated for over 100.⁴³ A document provided by the Warden of Dorchester Penitentiary confirmed that three prisoners had been in segregation for over 180 days.⁴⁴

iii) The legal requirement for daily mental health assessments

Prisoners in SIU are entitled to daily visits by CSC registered health care professionals.⁴⁵ Within 24 hours of placement in an SIU, CSC must also refer the segregated individual to the CSC department responsible for the administration of healthcare.⁴⁶ CSC must further ensure that measures are taken to provide ongoing monitoring of the health of prisoners in SIU.⁴⁷ If a staff member believes a prisoner's confinement in SIU is having a detrimental impact on their health, the prisoner's case must be referred to health care.⁴⁸

At several penitentiaries, prisoners in segregation, both in SIUs and other forms of isolation, did not have access to daily mental health checks.

WHAT THE SENATORS FOUND

At several penitentiaries, prisoners in segregation, both in SIUs and other forms of isolation, did not have access to daily mental health check-ins.

For example, prisoners at Nova Institution reported that they rarely had access to a psychiatrist and only on a monthly basis.⁴⁹

Some prisoners confined to restricted movement cells at Springhill Institution reported that there was limited access to mental health professionals, and when meetings with mental health professionals did occur, they were conducted in groups, preventing the possibility of confidential consultation.⁵⁰

36 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

37 Senate Prison Visit Report, 22 October 2021, visit to Springhill Institution.

38 Senate Prison Visit Report, 22 October 2021, visit to Springhill Institution.

39 Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

40 Senate Prison Visit Report 23 February 2020, visit to Grand Valley Institution for Women.

41 Senate Prison Visit Report 15 December, visit to Edmonton Institution for Women.

42 Senate Prison Visit Report, 22 October 2021, visit to Springhill Institution.

43 Senate Prison Visit Report, 22 November 2019, visit to Dorchester Penitentiary.

44 Senate Prison Visit Report, 22 November 2019, visit to Dorchester Penitentiary.

45 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37.1(2)(b).

46 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37.1(2)(a).

47 *Corrections and Conditional Release Act*, SC 1992, c 20, s 37.1(1).

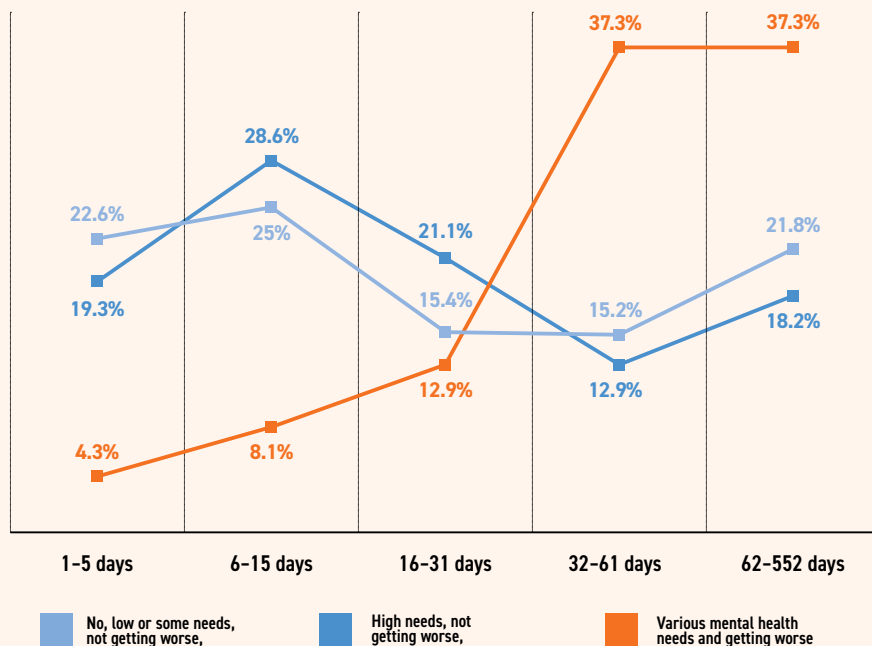
48 *Corrections and Conditional Release Act*, SC

1992, c 20, s 37.11.

49 Senate Prison Visit Report, 21 October 2021, visit to Nova Institution for Women.

50 Senate Prison Visit Report, 22 October 2021, visit to Springhill Institution.

Mental health groups and total days in SIU



"This figure, using data from the SIU-Implementation Panel's (October 2021) "Preliminary Observations" report demonstrates that "those whose mental health status was deteriorating while in the SIU were much more likely to be held for a very long time in the SIU. For example, of those identified as having various mental health issues and getting worse, 74.6% have been in SIUs for over a month. This stands in contrast to the other two groups (none, low or some needs/not getting worse; and high needs/not getting worse) where 37% and 31.1% (respectively) stayed over a month" (Table 14 <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2022-siu-iap/index-en.aspx>)

At William Head Institution, Senators observed that there was virtually no access to mental health services in the entire prison.⁵¹ Segregated prisoners reported the same circumstance at Dorchester institution,⁵² Edmonton Institution for Women,⁵³ Fraser Valley Institution for Women,⁵⁴ and Grand Valley Institution for Women.⁵⁵



B. THE RIGHT TO ACCESS TO LEGAL COUNSEL, THE WARDEN, AND EXTERNAL DECISION-MAKERS AT THE BEGINNING OF AN SIU PLACEMENT

Within 24 hours of placement in segregation, a prisoner must be informed of his or her right to legal counsel and must be given reasonable opportunity to retain and instruct legal counsel by telephone.⁵⁶ Calls

⁵¹ Senate Prison Visit Report, 10 September 2021, visit to William Head Institution.

⁵² Senate Prison Visit Report, 22 November 2019, visit to Dorchester Institution.

⁵³ Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

⁵⁴ Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

⁵⁵ Senate Prison Visit Report, 23 February 2020, visit to Grand Valley Institution.

⁵⁶ SOR/1992-620, 97(2)(a),(b); Commissioner's Directive 084 "Inmate's Access to Legal Assistance and the Police" at para 10 < <https://www.csc-scc.gc.ca/>

SAY HELLO
2 HEAVEN

between prisoners and privileged correspondents are also normally confidential,⁵⁷ and prisoners retain the right to consult a lawyer when their placement is being reviewed.⁵⁸

Within 12 hours of placement in an SIU, a prisoner has the right to speak with the warden about their placement.⁵⁹ Further, SIU prisoners retain the right to access and meet in person with independent external decision makers about their placement.⁶⁰

WHAT SENATORS FOUND

Prisoners across the country reported having difficulty accessing a lawyer within the first few hours of their placement in segregation and when their placement was being reviewed. At Kent Institution, prisoners described that calls to lawyers were cancelled due to staff shortages at the prison.⁶¹ Segregated prisoners at Joliette Institution for Women reported a complete lack of access to any legal professional,⁶² as did prisoners at the Edmonton Institution for

Women,⁶³ Fraser Valley Institution,⁶⁴ Grand Valley Institution for Women,⁶⁵ and Kent Institution.⁶⁶

Prisoners across the country also described their inability to speak with wardens about their placements, within 12 hours of entering segregation. This was true for Kent⁶⁷ and Dorchester Institutions.⁶⁸ Similar inaccessibility was reported by segregated prisoners when asked if they were able to meet in person with independent external decision-makers. SIU occupants at Ste Anne-des-Plaines Regional Reception Centre never met with external decision-makers.⁶⁹



C. THE REQUIREMENT OF PROGRAMS AND SERVICES PROVIDED IN SIUS

In SIUs, all prisoners are to be provided with the same access to services and programs as those available to prisoners in general population.⁷⁰ Commissioner's Directive 711 outlines that educational, social, correctional, cultural, and spiritual programs and services must be available to individuals confined in an SIU.⁷¹

WHAT SENATORS FOUND

Many prisoners described that while in segregation, they were not able to access the programs and services available outside segregation. At Kent Institution, CSC staff acknowledged that prisoners in SIU were not able to access the library.⁷² For maximum security prisoners at Joliette Institution for Women, programs and services were largely inaccessible.⁷³ Specifically, women described that only two programs were available, and to which one prisoner in maximum security waited two years to access.⁷⁴ At Nova Institution for women, segregated prisoners only had limited access to one-on-one programming, and there was otherwise a general lack of access to such programming.⁷⁵

[acts-and-regulations/084-cd-eng.shtml](#) >.

57 Commissioner's Directive 085 "Correspondence and Telephone Communication" at para 24 < <https://www.csc-scc.gc.ca/acts-and-regulations/085-cd-eng.shtml> >.

58 Commissioner's Directive 711 "Structured Intervention Units" at para 153 < <https://www.csc-scc.gc.ca/politiques-et-lois/711-cd-en.shtml> > [Commissioners Directive 711].

59 *Ibid* at para 57.

60 *Ibid* at para 55(a).

61 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

62 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

63 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

64 Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

65 Senate Prison Visit Report, 23 February 2020, visit to Grand Valley Institution.

66 Senate Prison Visit Report, 16 December 2019, visit to Kent Institution.

67 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

68 Senate Prison Visit Report, 22 November 2019, visit to Dorchester Institution.

69 Senate Prison Visit Report, 24 January 2019, visit to Regional Reception Centre SHU (Ste Anne-des-Plaines).

70 *Commissioners Directive 711*, Supra note 58 at para 133 < <https://www.csc-scc.gc.ca/acts-and-regulations/711-cd-en.shtml#t34> >.

71 *Ibid*.

72 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

73 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

74 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

75 Senate Prison Visit Report, 21 October 2021, visit to Nova Institution for Women.



D. CHANGES TO SEGREGATION MANDATED BY CCRA AMENDMENTS

When Bill C-83 was introduced during the 42nd Canadian Parliament, it amended the CCRA by replacing “administrative segregation” cells with SIUs. Parliament amended sections 31 through 37.91 of the CCRA.⁷⁶ The introduction of SIUs was intended to provide a lawful living environment for a prisoner who could not be maintained in the mainstream prison population for security or other reasons,⁷⁷ to provide the prisoner with an opportunity for meaningful human contact, and an opportunity to

participate in programs and to services that respond to prisoners' specific needs and the risks posed by each prisoner.⁷⁸

WHAT SENATORS FOUND

Senators discovered that there was no meaningful change within federal prisons after the enactment of Bill C-83. More specifically, the objectives of SIUs were not realized: an appropriate living environment was not created by the introduction of SIUs, which did not provide prisoners with an opportunity for meaningful human contact or an opportunity for participation in programs and services that respond to the Prisoners' specific needs and risks.

Any changes to administrative segregation units were negligible, at best. At Joliette Institution, prisoners did not notice a difference between SIUs and the segregation cells operational before Bill C-83 came into force.⁷⁹

The only additions to the segregation common area (in order to promote meaningful human contact) was a couch, a Pinel restraint bed, and the removal of a cage in front of a door leading to an outside yard.⁸⁰ The small asphalt area intended as an outdoor ‘yard’ for prisoners remained unchanged.⁸¹

CSC staff discuss the possibility of an “Enhanced Support Housing” unit with additional programming, but at the time of the Senators' visit the unit was not yet operational.⁸²

At Nova Institution, prisoners reported that the implementation of Bill C-83 resulted in additional reliance upon segregation.⁸³ Recreation time, programs, and access to extended temporary absences was reduced.⁸⁴

⁷⁶ C-83, *An Act to amend the Corrections and Conditional Release Act and another Act*, 1st Sess, 42nd Parl, 2019, (as passed by the House of Commons June 21 2019).

⁷⁷ *Ibid*

⁷⁸ *Ibid*

⁷⁹ Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

⁸⁰ Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

⁸¹ Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

⁸² Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

⁸³ Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution for Women.

⁸⁴ Senate Prison Visit Report, 21 October 2021,

CSC staff blamed the situation on the COVID-19 Pandemic, even though the implementation of Bill C-83 predated the pandemic’s onset.⁸⁵ At the Edmonton Institution for Women⁸⁶, and Grand Valley Institution⁸⁷, prisoners observed no meaningful difference in the segregation units before and after the implementation of the Bill: additions to the segregation area included a couch, television and re-painting of the walls.⁸⁸ The same minor physical changes were implemented at Fraser Valley Institution.⁸⁹

At Kent Institution and Ste. Anne-des-Plaines Regional Reception Centre, some prisoners saw the implementation of C-83 as a positive change because it had the potential to provide segregated prisoners, particularly those previously characterized as in need of ‘protective custody’ more access to programs and services, time out of cell, psychological services, and access to hygiene than prisoners in the institution’s general population.⁹⁰ This underscores the reality that conditions in the general population of prisons are akin to segregation, as

visit to Nova Institution for Women.

85 Senate Prison Visit Report, 21 October 2021, visit to Nova Institution for Women.

86 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

87 Senate Prison Visit Report, 23 January 2020, visit to Grand Valley Institution.

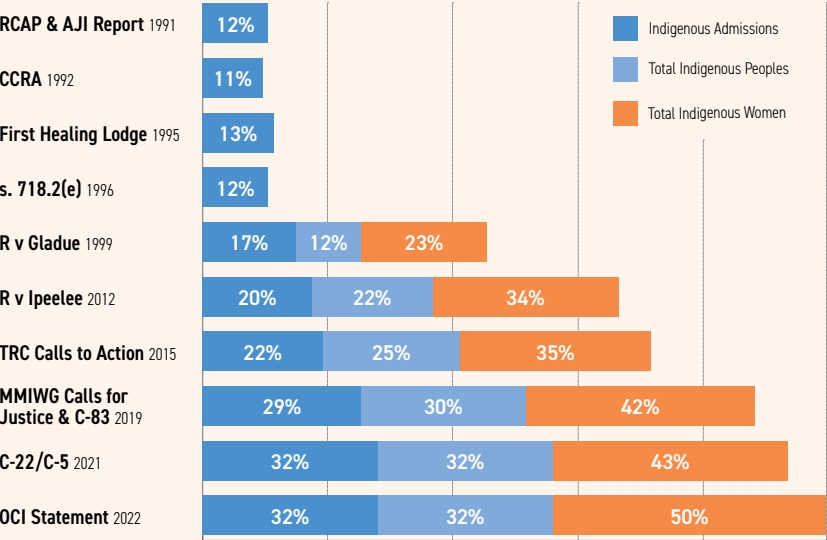
88 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

89 Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

90 Senate Prison Visit Report, 16 December 2019, visit to Kent Institution; Senate Prison Visit Report, 24 January 2019, Visit to Regional Reception Centre SHU (Ste Anne-des-Plaines).

Mass Incarceration of Indigenous Peoples

% OF FEDERAL PRISONERS



SOURCES

ADMISSION DATA: Canadian Centre for Justice Statistics, Adult Correctional Services in Canada annual reports;
TOTAL POPULATION DATA (INDIGENOUS PEOPLES & INDIGENOUS WOMEN): Office of the Correctional Investigator annual reports and December 2021 news release



prisoners have access to fewer programs, services, activities, and monitoring.



E. PRISON CONDITIONS

While visiting federal prisons, Senators also evaluated whether the overall conditions of the prison, including segregation and general population areas, complied with Canadian and international law. The following section describes the discrepancies between conditions in Canadian prisons and the law.

i) Living Conditions

Canadian law requires that CSC adhere to all applicable federal health, safety, sanitation and fire laws within each penitentiary, in order to ensure a safe and healthful penitentiary environment.⁹¹ Further, the Service is required to ensure that every prisoner has adequate clothing and food, is provided adequate bedding, hygiene items, and articles necessary for personal health and cleanliness.⁹²

WHAT SENATORS FOUND

Conditions of confinement did not meet legislative requirements. Conditions at Dorchester Institution,⁹³

Joliette Institution,⁹⁴ and Edmonton Institution for Women⁹⁵ were substandard and the EIFW warden confirmed that most living units required significant renovation.⁹⁶

Women prisoners at Grand Valley Institution reported that many living units were in need of repair because of leaking roofs, mold, and ventilation issues, particularly in maximum security areas.⁹⁷ At Kent Institution, Senators noted that cells CSC staff scheduled Senators to visit had been cleaned, but other areas were generally not.⁹⁸ Senators observed dried feces on the wall of prison cell, which had never been cleaned up.⁹⁹

Similarly at Ste. Anne-des-Plaines Regional Reception Centre, cells were poorly ventilated, despite their location near air conditioned and well-ventilated staff offices.¹⁰⁰ Senators also noticed that some areas of Ste. Anne-des-Plaines Centre were not properly maintained, observing one cell which had been flooded from a toilet containing fecal matter and toilet paper.¹⁰¹

94 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution.

95 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

96 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

97 Senate Prison Visit Report, 23 January 2020, visit to Grand Valley Institution.

98 Senate Prison Visit Report, 16 December 2019, visit to Kent Institution.

99 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

100 Senate Prison Visit Report, 24 January 2019, visit to Ste. Anne-des-Plaines Regional Reception Centre & SHU.

101 Senate Prison Visit Report, 24 January 2019,



F. ABILITY TO FILE COMPLAINTS AND GRIEVANCES AND ACCESS PARLIAMENTARIANS

Prisoners must be able to file requests or grievances without interference from correctional officers or prison authorities.¹⁰² According to the law, prisoners are entitled to privileged and confidential access to the Office of the Correctional Investigator (OCI),¹⁰³ Canadian Human Rights Commission (CHRC),¹⁰⁴ Courts, and Parliamentarians.

WHAT SENATORS FOUND

No prisoners, at any institution visited by Senators, reported having proper access to requests or grievances without the possibility of reprisal from prison

visit to Ste. Anne-des-Plaines Regional Reception Centre & SHU.

102 Commissioner's Directive 081 "Offender Complaints and Grievances" para 5(a)-(h) < <https://www.csc-scc.gc.ca/acts-and-regulations/081-cd-en.shtml> >.

103 <https://www.oci-bec.gc.ca/index-eng.aspx> "Due to the ongoing travel restrictions in effect across Canada, please note that my Office will be pivoting to a virtual visit model. The manner in which we will be proceeding is similar to our regular way of doing scheduled on-site visits. We will ensure secure and confidential access to inmates through visual electronic platforms that comply with our legislative mandate."

104 <https://www.chrc-ccdp.gc.ca/en/complaints/complaint-faqs> "All complaints are confidential. However, during the process, we will need to provide the person or organization that you are complaining against your name and complaint to get their side of the story."



authorities. At Fraser Valley prison for women, several prisoners reported that the grievance process was ineffective, and those using the process to report harassment feared reprisal.¹⁰⁵

At Kent Institution, fear of reprisal from CSC staff caused some prisoners to not engage the request and grievance process altogether.¹⁰⁶ One prisoner of Kent reported that grievances alleging racial discrimination were systematically denied.¹⁰⁷ Notably, Kent Institution has an overrepresentation of Indigenous prisoners at a rate higher than the national average for federal institutions.¹⁰⁸

At Joliette Institution, women reported that medical treatment was denied to some prisoners.¹⁰⁹ Indigenous

and English-speaking prisoners described being treated in discriminatory and abusive ways, and that non-Québécois prisoners had very limited access to services.¹¹⁰

Prisoners at every institution Senators visited reported that the grievance system was dysfunctional and that CSC staff too often retaliated against those who tried to use it. This was the reality at Nova,¹¹¹ Springhill,¹¹² William Head,¹¹³ Dorchester,¹¹⁴ Edmonton Institution for Women,¹¹⁵ Fraser Valley Institution,¹¹⁶ Grand

110 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution.

111 Senate Prison Visit Report, 21 October 2021, visit to Nova Institution for Women.

112 Senate Prison Visit Report, 22 October 2021, visit to Springhill Institution.

113 Senate Prison Visit Report, 10 September 2021, visit to William Head Institution.

114 Senate Prison Visit Report, 22 November 2019, visit to Dorchester Institution.

115 Senate Prison Visit Report, 15 December 2019, visit to Edmonton Institution for Women.

116 Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

105 Senate Prison Visit Report, 13 September 2021, visit to Fraser Valley Institution.

106 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

107 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

108 Senate Prison Visit Report, 15 September 2021, visit to Kent Institution.

109 Senate Prison Visit Report, 6 December 2019, visit to Joliette Institution.

Speaking about the Correctional Service of Canada following the inquiry into events at the Prison for Women in Kingston, the Commission noted, **“The Rule of Law is absent, although rules are everywhere.”**

The Honourable Justice Louise Arbour
(1996)

MINDING

(CHOOSE FOR YOU CAUSE
YOUR THE ONLY PERSON
THAT CAN

(YOUR PURPOSE IS
NOT YOU SAY IT IS)

(IF YOU CAN SEE IT IN
YOUR THOUGHTS YOU CAN
HOLD IT IN YOUR HAND)

(WHAT YOU RESIST YOU
ATTRACT)

(THERE IS NO SUCH
THING AS A HOPELESS
SITUATION!)

(TREAT OTHERS THE
WAY YOU WANT OTHERS
TO TREAT YOU!)

(IT IS IMPOSSIBLE TO
SEE THOUGHTS AND HAVE
BAD THOUGHTS AT THE
SAME TIME)

(THINK THOUGHTS OF
PERFECTION)

(MAN BECOMES WHAT
HE THINKS ABOUT)

(THE REAL SECRET TO
POWER IS CONSCIOUSNESS
OF FEELING)

(LAUGHTER ATTRACTS JOY, PEACE,
AFFECTION AND LEADS TO MIRACULOUS
CURES)

(TO CHANGE ANYTHING
GO WITHIN AND EMIT
A NEW SIGNAL WITH YOUR
THOUGHTS AND FEELINGS)



(JOY, LOVE, FREEDOM, HAPPINESS, LAUGHTER
THAT'S WHAT IT IS!)

(YOUR MISSION IS THE
ONE YOU GIVE YOURSELF)

(MONEY DOESN'T BRING HAPPINESS
BUT HAPPINESS BRINGS MONEY)

(WHAT YOU ARE FEELING FOR ANOTHER
YOU ARE BRINGING BACK TO YOU!)



(WHAT YOU CONSTANTLY THINK
ABOUT YOU WILL ATTRACT INTO
YOUR LIFE!)

(YOUR CURRENT THOUGHTS
IS YOUR FUTURE LIFE!)

(AS YOU GIVE THE BEST OF YOU,
YOU WILL BE STRUCK BY THE
SEED THAT COMES BACK TO YOU!)

(GIVE YOUR DREAM ON THE
INSIDE FIRST COMPLETELY AND
TOTALLY AND THEN IT WILL
MANIFEST IN YOUR LIFE!)

(TO NOT LOVE OURSELVES ONLY
KEEP US FROM WHAT WE WANT FROM
US! WHEN WE DON'T LOVE OURSELVES
WE ARE LITERALLY PUSHING THEM AWAY
FROM US!)

(LET GO OF DIFFICULT THINGS!
CULTURE CODES AND SOCIAL BELIEFS
YOU ARE THE ONLY ONE WHO CAN
CREATE THE LIFE YOU DESIRE!)

(YOUR POWER IS IN YOUR
THOUGHTS SO STAY AWARE AND
ALWAYS REMEMBER TO
THINK POSITIVELY)

Valley Institution¹¹⁷ and Ste Anne-des-Plaines Regional Reception Centre.¹¹⁸ Indeed, Senators heard this throughout the Human Rights Committee report as well as the post Bill C-83 visits.

Most prisoners were also unable to access to the OIC, CHRC, courts and parliamentarians. With the exception of Fraser Valley institution, all other prisoners indicated that they were unable to contact Senators, MPs, the OIC or CHRC without interception of correspondence or fear of reprisal from CSC.¹¹⁹



G. REQUIREMENT THAT PRISONERS HAVE ACCESS TO LEGISLATION AND POLICIES

Canadian law requires that federal prisoners have access to the laws and policies governing the prison in an effective and timely way.¹²⁰

117 Senate Prison Visit Report, 23 January 2020, visit to Grand Valley Institution.

118 Senate Prison Visit Report, 24 January 2019, visit to Ste. Anne-des-Plaines Regional Reception Centre & SHU.

119 All Senate Prison Visit Reports, with the exception of the 17 December 2019 visit to Fraser Valley Institution.

120 Corrections and Conditional Release Regulations (SOR/92-620) at para 97(3).

WHAT SENATORS FOUND

The prisons Senators visited should all have had accessible libraries, but most were not accessible to prisoners.¹²¹¹²² At most prisons, individuals have limited to no access to the institutional libraries and laws and policies were often outdated.¹²³

121 Senate Prison Visit Report, 17 December 2019, visit to Fraser Valley Institution.

122 Senate Prison Visit Report, 21 October 2021, visit to Nova Institution for Women.

123 For instance, the 23 February 2020 visit to Grand Valley Institution.

Isolation in SIU by region

Percentage of prisoners who received an average of less than the mandated “2 hours of meaningful human contact” and never received their full legislated 4 hours out of their cell.

ATLANTIC
36.9%

QUEBEC
48.6%

ONTARIO
27.4%

PRAIRIES
17.1%

PACIFIC
50.2%

SOURCE: Preliminary Observations of the Operation of Correctional Service Canada's Structured Intervention Units (26 October 2021)

CONCLUSION AND SIGNIFICANCE

Senators' visits revealed the failure of the government/CSC to comply with the Charter, the CCRA and its Regulations, not to mention the UN's Minimum Rules for the Treatment of Prisoners. Particularly in light of the abject failure and inadequacy of Bill C-83, these injustices call attention to the need for legislative reform to the CCRA.

Senate Bill S-230 would amend the CCRA in order to address the failure of the government to ensure adequate correctional oversight and remedial options.



“After each prison visit, I wonder if we’re committed to delivering a Correctional system or just a Punishment system.”

The Honourable Colin Deacon
after visiting federal
penitentiaries in his jurisdiction.



