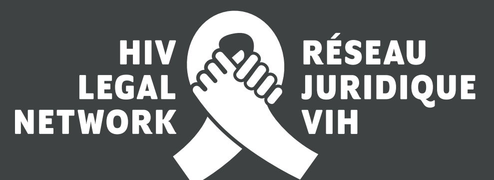
GENDER-RESPONSIVE

HEALTHCARE AND HARM REDUCTION IN PRISON

HARD TIME PERSISTS



Canada must ensure that women, trans, and gender-diverse people have access to gender-responsive and culturally safe healthcare, including harm reduction programs, in prison.

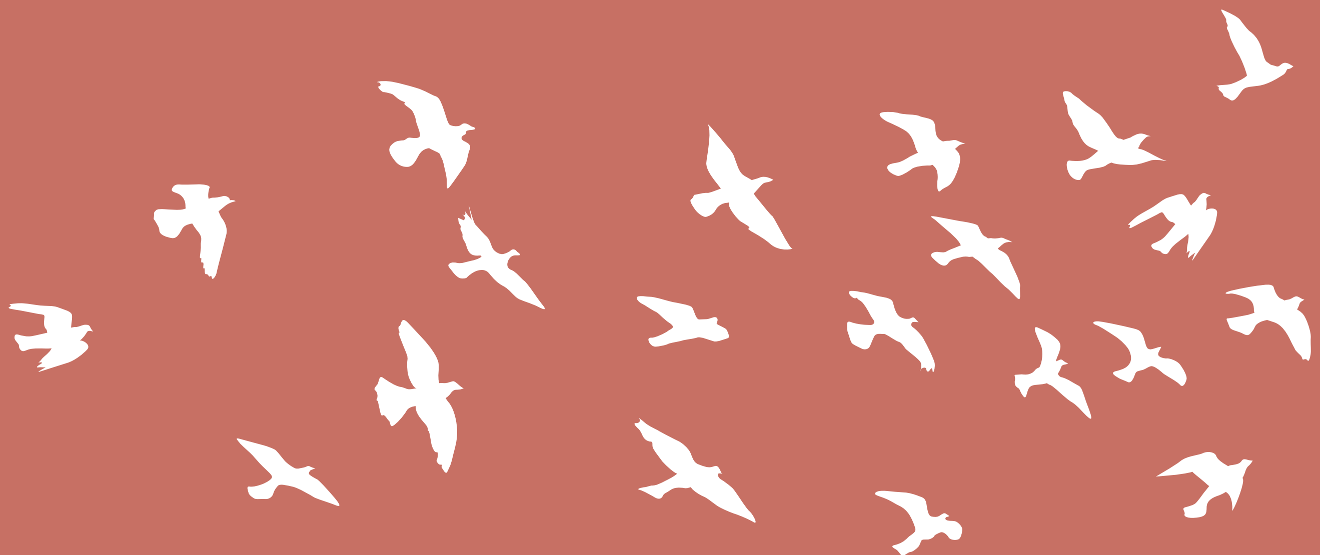
Women — particularly Indigenous women — are the fastest-growing incarcerated population in Canada, a trend driven by gender-based violence (GBV) and poverty.[1] Women who use drugs experience higher rates of GBV, while women who experience GBV use drugs at higher rates, in some cases to cope with the ensuing trauma.[2] Indeed, a vast majority of women in prison have experienced physical and/or sexual abuse, while drug and property offences make up more than half of the offences for which women are federally incarcerated.[3] Similarly, trans and gender-diverse people — including Two-Spirit and non-binary people — face disproportionate risks of criminalization and imprisonment due to systemic discrimination, poverty, and inadequate legal protections.[4] A 2022 study found that 72% of gender-diverse people in federal prison had histories of childhood abuse.[5] Like women, trans and gender-diverse people are more likely to be imprisoned for drug and property offences, as well as sex work offences.[6]

Prisons contribute to worse health outcomes for women, trans, and gender-diverse people, including increased risks of acquiring sexually transmitted and blood-borne infections (STBBIs), unwanted pregnancies and associated health risks, as well as toxic drug injury and death — all of which are perpetuated by isolation from communities and families while in prison.[7] STBBI prevalence, including HIV, HCV, and syphilis prevalence, is higher among women in prison than the general population *and* than men in prison.[8] In 2022, HCV antibody prevalence among women in federal prison was 32% among women compared to 20% among men.[9] All the while, the risk of toxic drug injury and death may be higher in prison, particularly for women. For instance, the risk of dying from a toxic opioid supply in Ontario, between 2015 and 2020, was 28 times higher for men in prison than for the general population, and 78 times higher for women in prison.[10] The risk of toxic opioid death was found to be particularly severe for racialized women.[11] Women are also more likely than men to engage in slashing and cutting — coping strategies to deal with histories of abuse.[12] Between 2004 and 2014, there was a reported 896% increase in slashing or cutting incidents among women in federal prisons.[13] Unfortunately, given the gender binary under which prisons operate, accurate data and reporting for trans and gender-diverse people is significantly lacking.[14]

The approaches to gender in harm reduction services can be viewed as a spectrum, ranging from gender unequal and gender blind to gender specific and finally gender transformative.

Gender-specific services recognize gender norms, roles and relationships, such as women's roles as mothers. A gender-specific harm reduction service would include accommodation for mothers such as offering childcare. Gender-transformative services work to challenge the patriarchal structures that perpetuate gender-based inequalities, such as unequal power and resource distribution. Together, gender-specific and gender-transformative services are sometimes called gender-responsive services."

Source: CATIE, *Exploring gender in harm reduction: Toward more inclusive and responsive services,* August 18, 2023. Available at www.catie.ca/prevention-in-focus/exploring-gender-in-harm-reduction-toward-more-inclusive-and-responsive.



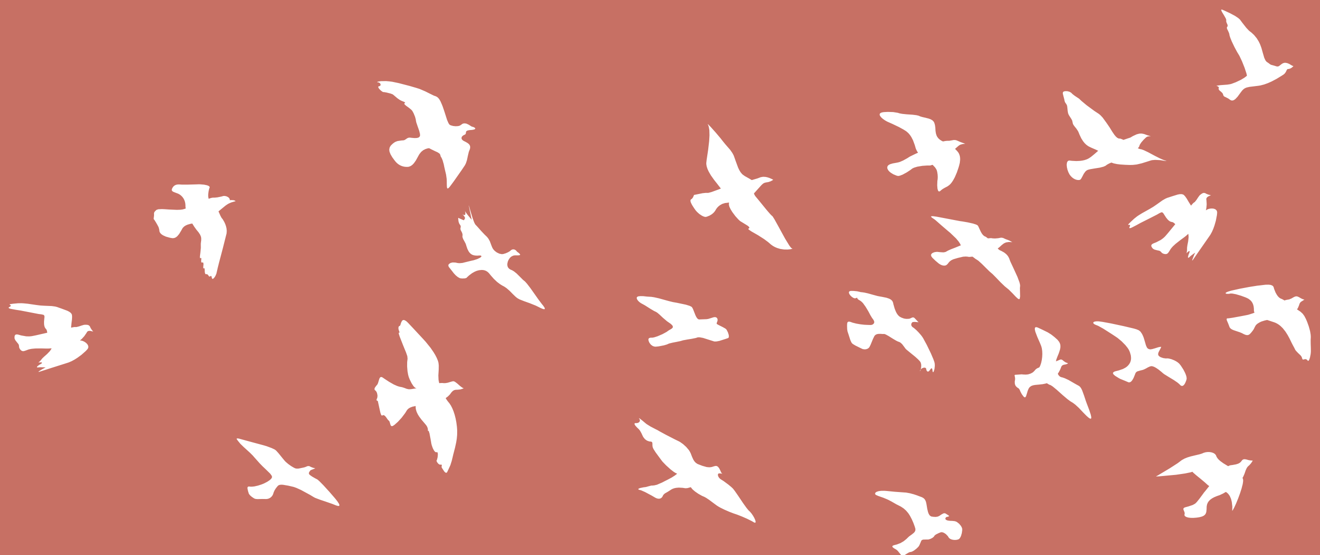
Despite repeated calls for Canada's criminal legal system to address pervasive gender-based discrimination, prisons across the country are failing to consistently provide gender-responsive services.[15] Women, trans, and gender-diverse people are routinely over-classified (placed in higher security prisons than necessary), inappropriately strip searched (including by correctional officers of the opposite gender), placed in restrictive units (that mirror segregation with little access to programs), and routinely denied basic healthcare (including harm reduction services, and reproductive and gender-affirming care).[16] At the same time, they are subjected to widespread discrimination and violence, including by prison staff and healthcare providers.[17]

At the federal level, Correctional Service Canada (CSC) has policies addressing the needs of women, trans, and gender-diverse people, yet these policies remain vague and inconsistently applied, creating critical gaps in healthcare and other essential services.

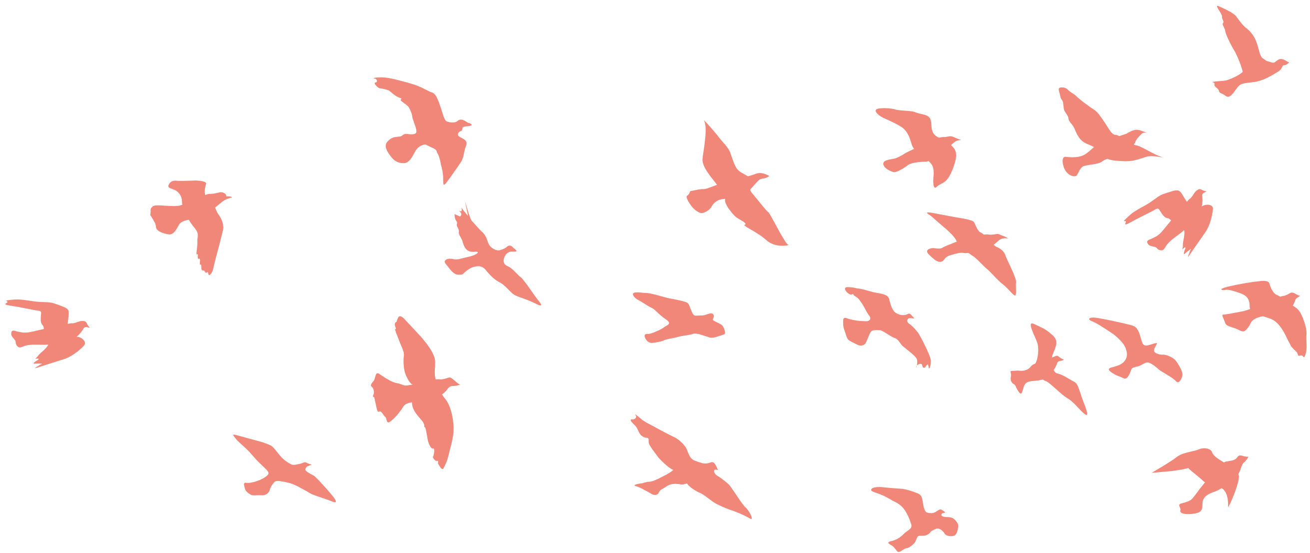
- **Gender-Responsive Healthcare:** CSC provides inconsistent access to healthcare and harm reduction in its prisons.[18] CSC has developed universal voluntary STBBI testing and treatment, including HIV and HCV treatment programs; Opioid Agonist Treatment (OAT) continuation or initiation programs; and introduced supervised consumption sites in four men's prisons and a needle exchange program in a handful of prisons, including five of six women's institutions (excluding one CSC-run women's healing lodge[19]). It is unclear whether the programs have been designed in a gender-responsive manner.[20] The *2022 National Health Survey* of women in federal prisons found that over 50% of participants had not been tested for HIV, HCV, or syphilis in the previous six months while in prison.[21] Notably, CSC previously had a gender-responsive drug use program for women, once lauded for its trauma-informed approach. However, it was quietly dismantled without public explanation.[22] CSC also lacks any safer tattooing, piercing, or slashing programs — even though the *2022 National Health Survey* found that 21% of participants had gotten a tattoo in prison within the previous six months, and over a quarter of those had used a device that had already been used by someone else.[23] Importantly, almost all participants stated they would use a safer tattooing program if it was available.[24] Moreover, in federal prisons, stakeholders noted that slashing and cutting are broadly punished in the same manner as tattooing and piercing.[25] While CSC recently collaborated with the Health Standards Organization to develop a Correctional Health Services Standard with guidelines on the health needs of women, trans, and gender-diverse people, implementation and impact of the standard on actual care remain unclear.[26]
- **Reproductive Healthcare:** CSC lacks a comprehensive policy mandating gender-specific healthcare. The existing policy merely states that healthcare professionals "may intervene according to their professional function, regardless of their sex," leaving healthcare decisions to individual providers.[27] As a result, pregnant women in federal prison are said to receive the "bare minimum" care, and women are often denied gynecological exams, healthcare for children, or family planning.[28] The Mother–Child Program, while outlined in CSC policy, has also been criticized as traumatizing — exacerbating vulnerabilities to interventions by child protection services and failing to ensure adequate perinatal care.[29]

> All of these issues, and what gives rise to them, are reminders of the continuing drift from the philosophy and operational principles that were intended to ground women's corrections in Canada.
>
> We are not that far removed in time from the enthusiasm that greeted the closing of Canada's only Prison for Women in Kingston, and the opening of the five regional women's facilities in the late 1990s. However, many of the ideas and concepts from a more promising era in women's corrections — presumption of minimum-security classification at admission for women; no perimeter fencing at the regional women's facilities; no maximum security (Secure Units); no segregation for women offenders — have long since been abandoned. As compromises were made, the management of women behind bars has become less distinguishable from the rest of CSC operations."

Source: Office of the Correctional Investigator, *Annual Report: 2017-2018,* 2018. Available at https://oci-bec.gc.ca/sites/default/files/2023-06/annrpt20172018-eng.pdf.



- **Gender-Diverse Healthcare:** In 2022, CSC introduced *Commissioner's Directive 100: Gender Diverse Offenders,* allowing individuals to self-identify and be placed in prisons aligned with their gender identity or expression.[30] However, the policy includes a broad exception: individuals can still be placed according to their assigned sex at birth if "overriding health or safety concerns cannot be resolved."[31] The vague exception has resulted in ongoing harm, with the majority of transfer requests by trans and gender-diverse people to prisons that align with their gender identity refused. Information obtained by the Queen's Prison Law Clinic shows that between December 2017 and March 2022, 83% of trans women who requested a transfer to a women's prison were denied.[32] "Safety concerns" were the basis for many of the refusals.[33] Additionally, while the policy states that trans and gender-diverse people must have access to essential healthcare, including gender-affirming care, access remains inaccessible in practice. Waitlists are said to be exceptionally long and "security concerns" are regularly cited as a reason to deny care.[34]



Ms. Boulachanis was subject to *prima facie* discrimination because of her gender identity or expression, given that she was denied a transfer to a women's institution, even though that is what corresponds to her current gender identity and expression and the designation of sex that now appears on her act of birth. [...]

Ms. Boulachanis was also subject to *prima facie* discrimination from another perspective. While all inmates undergo a risk assessment to determine their security classification, it is only in the case of trans women inmates that the [CSC] use this assessment to deny them the possibility of being accommodated in a women's institution. A cisgender woman who presented just as great a risk as Ms. Boulachanis would automatically be sent to a women's institution. [...] I find it hard to believe that physical capability is so important in assessing the risk posed by an inmate that, for that reason alone, trans women inmates must be treated as men."

Source: *Boulachanis v Canada (Attorney General),* 2019 FC 456

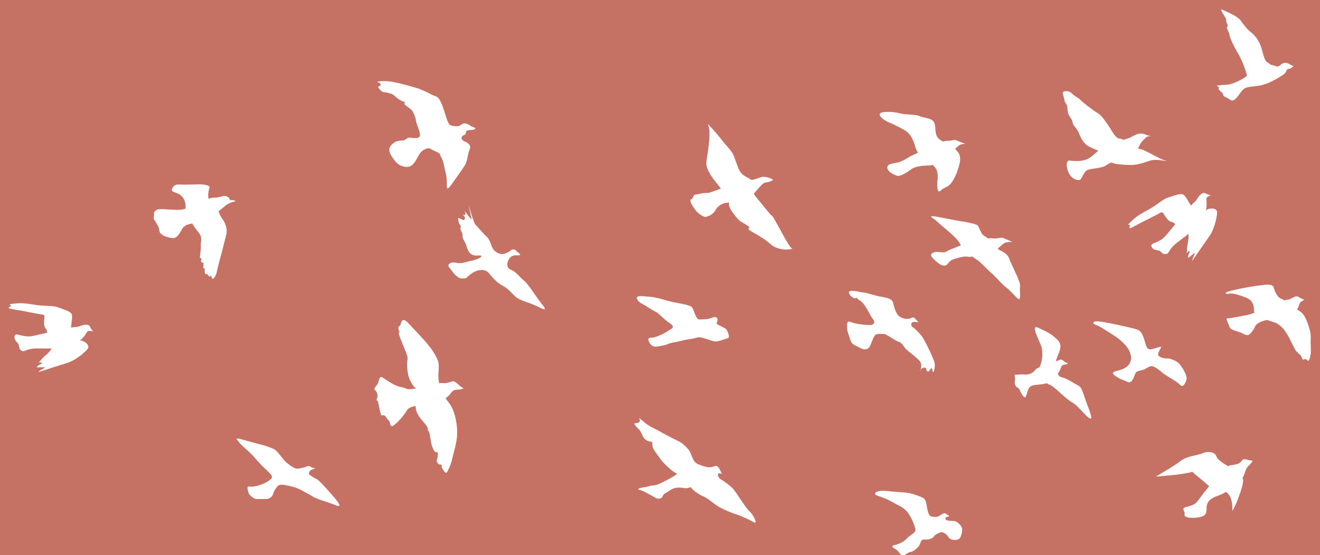
At the provincial and territorial level, gender-responsive care is inconsistently provided, and no jurisdiction has implemented a comprehensive framework to meet the healthcare needs of incarcerated women, trans, and gender-diverse people.

- **Gender-Responsive Healthcare:** Gender-responsive healthcare, including harm reduction programming, is largely lacking in provincial and territorial prisons throughout the country.[35] For instance, only British Columbia, Alberta, Newfoundland, and Prince Edward Island make universal voluntary STBBI testing accessible throughout their prisons. Moreover, only British Columbia, Prince Edward Island, and Nova Scotia ensure that people have access to HCV treatment in prison — despite high HCV prevalence among women in provincial and territorial prisons.[36] Safer sex supplies are only accessible in Manitoba and Quebec, and safer drug use and safer tattooing and piercing programming is not available in any jurisdiction.
- **Reproductive Healthcare:** Only Prince Edward Island mandates gender-specific healthcare, including cancer screenings, abortion services, pregnancy care, and parenting support. Other provinces provide vague or inconsistent commitments.[37] A 2024 study confirmed that there were no policies governing hormonal contraception in any prisons in Canada.[38] In practice, access to reproductive healthcare is inconsistent. In Ontario, birth control is not consistently available.[39] In Nova Scotia, incarcerated women do not have regular access to sexual and reproductive health screenings or birth control — they face difficulties accessing basic products, including menstrual products and clean underwear.[40] Alberta recently cut its women's health program due to lack of funding.[41]
- **Gender-Diverse Healthcare:** British Columbia, Nova Scotia, Ontario, Saskatchewan, Prince Edward Island, New Brunswick, and the Yukon have policies addressing the rights of trans and gender-diverse people, yet these policies remain inadequate.[42] Most allow placement in gender-aligned prisons only if "health and safety concerns" can be resolved, a broad exception frequently used to deny transfers. Additionally, many policies limit gender-affirming care to personal items and clothing, while access to hormone therapy and medical transition services remain inconsistent.[43] The gaps are even more pronounced in provinces without specific policies, where people are systematically placed in prisons that are not appropriate to their gender.[44] For instance, in Quebec, anatomy is the main factor in determining where people are placed. Trans and gender-diverse people are also often subject to segregation, with limited access to services.[45]

“

In my work, it is obvious that there are almost no policies to support prevention of pregnancy and pregnancy termination, which are both very important in the context of STBBIs […]. These are very important, but they are invisible to prison services at both the provincial and federal level.”

– Martha Paynter, Director of Nursing Research, Contraception and Abortion Research Team, University of British Columbia, and Assistant Professor, Faculty of Nursing, University of New Brunswick (Interview with the HIV Legal Network, February 23, 2023)



Moving forward, federal, provincial, and territorial governments must ensure that gender-appropriate healthcare, including harm reduction services, are consistently available to women, trans, and gender-diverse people.

Women, trans, and gender-diverse people have a fundamental right to freedom from discrimination, including in the prison environment, and the present lack of programs and services tailored to the needs of women, trans, and gender-diverse people in prison marks a clear violation of Canada's promise to promote, protect, and respect the rights of all people without distinction based on gender or gender identity.[46]

1. Prioritize decarceration and alternatives to detention

Given the systemic inequities embedded in the criminalization, policing, and incarceration of women, trans, and gender-diverse people, and particularly Indigenous and racialized women, trans, and gender-diverse people,[47] all levels of government must invest in trauma-informed and non-carceral alternatives to detention and develop plans to decarcerate women, trans, and gender-diverse individuals. Notably, during the early months of the COVID-19 pandemic, Nova Scotia reduced its provincial jail population by 42% — demonstrating both the feasibility and urgency of meaningful decarceration when political will and public health considerations align.[48]

These efforts must prioritize, resource, and expand Indigenous-led programs and programs developed for and by racialized people. Provincial, territorial, and municipal governments must invest in social services, including income assistance, housing supports, community-based programming, and harm reduction and health services. The federal government also has a key responsibility to fund and support these efforts through national strategies, transfer payments, and direct investments, particularly in housing, health, and Indigenous-led initiatives. All levels of government must work together to ensure access to supports for women, trans, and gender-diverse people to respond to the reality that criminalization and incarceration are driven by poverty, gender-based violence, and other systemic inequities.

2. Provide consistent gender-responsive services and programs

Women, trans, and gender-diverse people have the right to healthcare that is gender-responsive, gender-affirming, and culturally safe, regardless of their involvement in the criminal legal system. Gender-responsive and gender-affirming programs are known to have a profound impact on health and well-being. For instance, STBBI prevention measures reduce the risk of pregnancy complications and fertility issues (e.g. infertility caused by untreated infections like chlamydia and gonorrhea).[49] Prenatal care significantly improves health outcomes for mothers and children, leading to reduced rates of low birth weight, preterm birth, infant mortality, and other adverse outcomes.[50] Regular cervical exams, and access to immunizations, are crucial for the early detection and prevention of cervical cancer and other reproductive health issues.[51] Gender-affirming care, like hormone therapy, dramatically improves well-being by reducing depression, anxiety, and the risk of suicide.[52] These services must be recognized as fundamental to the health and dignity of incarcerated women, trans, and gender-diverse people.

Those responsible for healthcare in prison across Canada must invest in programs and services — inside and outside healthcare — that are designed to meet the specific needs of incarcerated women, trans, and gender-diverse people, consistent at least with those available in the community. They must ensure access to voluntary and gender-sensitive harm reduction services, and services addressing reproductive and sexual health, mental health, gender-based violence, and the unique barriers faced by transgender, non-binary, and Two-Spirit people in prison. The federal government must, for instance, improve their Minimum-Security Units, to ensure focus on independence and gradual release, and offer connection to cultural programs, mother–child programs, and other meaningful activities.[53] Importantly, prison administrators *must* facilitate and expedite institutional transfers for trans and gender-diverse people based on their gender identity, with their input. Transfer decisions must be meaningfully and transparently justified. Trans and gender-diverse people must have the opportunity to submit high-priority appeals of transfer decisions.

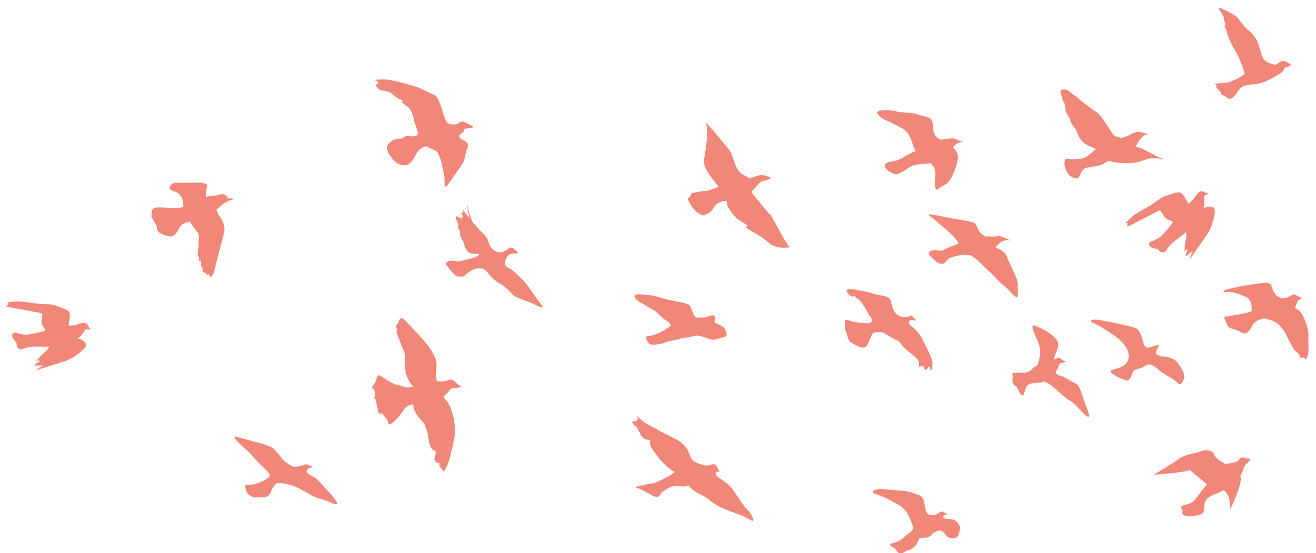
3. Prioritize gender sensitivity and understanding

Prison administrators across the country must develop and implement strategies to ensure understanding among all prison staff, including healthcare staff, of gender and gender diversity.

An understanding of gender and gender diversity must be treated as requirements when hiring new staff, and gender and gender diversity training must be embedded into all stages of staff development. Healthcare providers, in particular, must receive targeted training that draws on the research of gender-based discrimination and its impact on healthcare decisions. Training alone is not sufficient. These programs must be implemented and regularly updated by independent and community-based organizations with expertise in gender-appropriate care, harm reduction, and trauma-informed practices. Prisons must be subject to independent audits and ongoing evaluation to assess whether they are meeting their stated commitments to gender sensitivity and inclusion. These audits should include community-led oversight and incorporate the lived experiences of incarcerated women, trans, and gender-diverse people. Their contributions must be appropriately funded and compensated, with clear mechanisms in place to act on findings and ensure accountability.

Bright Spot

Wellness Within (Nova Scotia) is a non-profit organization based in Nova Scotia that works for "reproductive justice, prison abolition, and health equity."[54] Volunteers, including trained and certified doulas, used to provide pregnancy support, along with abortion, chest feeding, and newborn care supports in prisons across Nova Scotia. However, that work has now been transferred to a local doula organization. Wellness Within now facilitates workshops and resource materials for healthcare professionals, as well as women, trans, and gender-diverse people who have experienced or are experiencing criminalization. For instance, they attend the women's unit of Central Nova Scotia Correctional once a month to speak to incarcerated individuals about reproductive rights, parenting, and fertility.



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1 HIV Legal Network, *Hard Time Persists – Healthcare and Harm Reduction for Indigenous People in Prison,* 2025 [*Hard Time Persists*]; HIV Legal Network, *Hard Time Persists – Healthcare and Harm Reduction for Racialized People in Prison*, 2025. See also, Correctional Services Canada (CSC), *Regional Profiles of Canadian In-Custody Women Federal Offenders*, 2023, available at www.canada.ca/en/correctional-service/corporate/library/research/glance/467.html; Policy4Women, *Rising Incarceration Rates of Racialized Women*, 2018, available at www.criaw-icref.ca/images/userfiles/files/P4W_BN_IncarcerationRacializedWomen_Accessible.pdf; Justice Canada, *Understanding Women's Experiences with the Criminal Justice System as Accused and Offenders*, June 11, 2024, available at www.justice.gc.ca/socjs-esjp/en/women-femmes/ao-ad [*Understanding*]; Canadian Association of Elizabeth Fry Societies, *Detention of Women in Canada: Report to the Human Rights Council on Canada's Third Universal Periodic Review*, 2017, available at https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5362&file=EnglishTranslation [*CAEFS Submissions*]. Women exposed to GBV are often forced to engage in survival strategies that are criminalized — particularly as women, compared to men, are more likely to be single parents, lack access to affordable childcare, and lack access to employment opportunities and stable housing.

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3 *Understanding, supra* note 1; CSC, *Statistics and research on women offenders*, 2024, available at www.canada.ca/en/correctional-service/programs/offenders/women/statistics-research-women-offenders.html.

4 E.g., K. Jacobsen et al., "Prevalence and Correlates of Incarceration Among Trans Men, Nonbinary People, Two-Spirit People in Canada," *J Correct Health Care* (2023) 29(1); CSC, *Examination of Gender Diverse Offenders*, 2022, available at https://publications.gc.ca/collections/collection_2022/scc-csc/PS83-3-442-eng.pdf [*Gender Diversity*].

5 *Gender Diversity, ibid*.

6 *Gender Diversity, supra* note 4.

7 E.g., CSC, *Infectious Diseases, Risk Behaviours, and Harm-reduction in Women's Institutions*: *Findings from the 2022 National Health Survey*, 2024. Available at www.canada.ca/en/correctional-service/corporate/library/research/glance/r-480.html [*National Health Survey*].

8 *Ibid*. See also, M. Erickson et al., "'They look at you like you're contaminated': how HIV-related stigma shapes access to care for incarcerated women living with HIV in a Canadian setting," *Can J Public Health* (2021) 112(2): 282-292.

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10 A. Butler et al., "Burden of opioid toxicity death in the fentanyl dominant era for people who experience incarceration in Ontario, Canada, 2015–2020: A whole population retrospective cohort study," *BMJ Open* (2023) 13.

11 A. Owusu-Bempah et al., "Opioid toxicity deaths in Black persons who experienced provincial incarceration in Ontario, Canada 2015–2020: A population-based study," *Preventive Medicine*, (2023) 177.

12 See, e.g., Canadian HIV/AIDS Legal Network, *Women in Prison, HIV and Hepatitis C*, 2012, available at www.hivlegalnetwork.ca/site/women-and-hiv-women-in-prison-hiv-and-hepatitis-c/?lang=en; A. M. DiCenso et al., "Unlocking Our Futures: A National Study on Women, Prisons, HIV, and Hepatitis C," *Prisoners' HIV/AIDS Support Action Network*, 2003, available at www.drugsandalcohol.ie/5394/1/PASAN_Unlocking_Our_Futures.pdf; A. Gordon, "Self-Injury Incidents in CSC Institutions Over a Thirty-Month Period," *CSC*, 2010, available at www.canada.ca/content/dam/csc-scc/migration/005/008/092/005008-0233-01-en.pdf; S. F. MacDonald et al., "Examination of Gender Diverse Offenders," *CSC*, 2022, available at https://publications.gc.ca/collections/collection_2022/scc-csc/PS83-3-442-eng.pdf.

13 See, e.g., K. Harris, "Self-harm incidents among female prisoners highest in Prairies," *CBC News*, March 18, 20215, available at www.cbc.ca/news/politics/self-harm-incidents-among-female-prisoners-highest-in-prairies-1.3000397; CSC, *Coroner's inquest touching the death of Ashley Smith*, May 21, 2014, available at www.canada.ca/en/correctional-service/corporate/library/coroners-inquest-touching-death-ashley-smith.html.

[14] See, e.g., *Gender Diversity, supra* note 4, reporting 20% of gender diverse people engaging in self-harm.

[15] See, e.g., Office of the Correctional Investigator (OCI), *Annual Report: 2017-2018,* 2018, available at https://oci-bec.gc.ca/sites/default/files/2023-06/annrpt20172018-eng.pdf [*OCI 2017*]; *CAEFS Submissions, supra* note 1.

[16] See, e.g., *OCI 2017*, *ibid*; OCI, *Annual Report 2022-2023*, 2023 [*OCI 2023*], available at https://oci-bec.gc.ca/en/content/office-correctional-investigator-annual-report-2022-2023; G. Folley et al., "Correctional Transgender Policy in Canada's Federal Prison System," (2024) 35(4): 216-240.

[17] See, e.g., *OCI 2017*, *supra* note 15; *OCI 2023*, *ibid*; *Gender Diversity, supra* note 4.

[18] See, e.g., *Hard Time Persists, supra* note 1.

[19] CSC, *OPS/PNEP 2024-2025: Implemented Sites and Data*, August 2024.

[20] See, e.g., M. Erickson et al., *supra* note 8.

[21] CSC, *Infectious Diseases, Risk Behaviours, and Harm Reduction in Women's Institutions: Findings from the 2022 National Health Survey*, 2024. Available at https://publications.gc.ca/collections/collection_2025/scc-csc/PS83-5-R480-eng.pdf.

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[26] Health Standards Organization, *Health Standards Organization and The Correctional Service of Canada (CSC) are pleased to announce the publication of the Correctional Health Services standard*, January 21, 2025. Available at https://healthstandards.org/general-updates/health-standards-organization-and-corrections-service-canada-csc-are-pleased-to-announce-the-publication-of-the-correctional-health-services-standard/.

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[30] CSC, *DC 100: Gender Diverse Offenders*, May 9, 2022.

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[33] *Ibid*.

[34] PASAN (Communication with the HIV Legal Network, May 13, 2024).

[35] See, e.g., *Hard Time Persists, supra* note 1.

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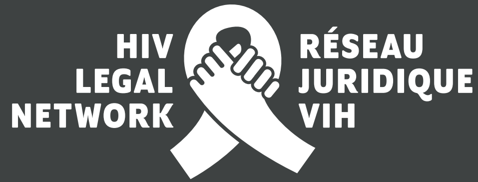

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