Court File No. T-539-20

FEDERAL COURT

BETWEEN:

CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION RECORD
VOLUME 3 OF 5

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VOLUME 1

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B E T W E E N:

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AFFIDAVIT OF ANTHONY DOOB

I, Anthony N. Doob, of the City of Toronto, in the Province of Ontario, AFFIRM THAT:

I. Background

1. I am a Professor Emeritus of Criminology at the University of Toronto Centre for Criminology and Sociolegal Studies. Although I was trained as a social psychologist, my career has largely focussed on criminology and criminal justice policy, including research in relation to sentencing, imprisonment policy, youth justice policy and more. I have been a professor at the University of Toronto since 1968, and I held the position of Director at the University's Centre of Criminology from 1979 to 1989. I have taught numerous courses in criminology at the undergraduate, graduate and PhD level and have authored over 250 papers and publications on topics such as sentencing, penal reform, imprisonment, community-based alternatives to incarceration, conditional sentences, decarceration and more.

2. I have also reviewed much of the published research on policy-related criminological issues as a result of my role as one of the directors of a project known as *Criminological Highlights*. I started this project in 1997 and it has been funded for most of the time since then by the Department of Justice, Canada. We systematically review over 60 journals for high quality, policy-relevant criminological research. From these journals, we select eight papers to summarize and

include in each issue of *Criminological Highlights*. To date, we have summarized over 850 papers. Aside from any other benefits of this project, it means that I, the person who scans these journals and has written all but a couple of the summaries, automatically am aware of the vast majority of high quality, policy-related criminological research published in English.

3. In addition to my academic work, I have been involved in a significant number of activities related to criminal law policy for several decades. I have been consulted by the Law Reform Commission of Canada on topics including evidence, criminal juries, sentencing, public opinion of plea bargaining, and Aboriginal peoples and the law. In 1982, I sat on the committee set up by the Deputy Minister of Justice that resulted in the release of *Criminal Law in Canadian Society*, a statement described in the preface by the then Minister of Justice, Jean Chrétien, as setting out "the policy of the Government of Canada with respect to the purpose and principles of the criminal law". In 1984, I was appointed as one of the nine commissioners on the Canadian Sentencing Commission whose report was released in 1987. Later in the 1990s, I did a fair amount of work related to the development of the *Youth Criminal Justice Act* (which was introduced in 1999 and became law in 2003).

4. More recently, in 2017, I was a member of a committee that was set up to advise the then Minister of Justice on mandatory minimum penalties. This committee reported to the Minister in October 2017. In the summer of 2019, I was asked by the then Minister of Public Safety to chair a panel to advise Correctional Service Canada ("CSC") on the implementation of "Structured Intervention Units" (the apparent replacement for Administrative Segregation or solitary confinement) in Canada's penitentiaries.

5. In addition, I have been involved in less lengthy commitments over the decades in a variety of research and advisory roles with the Ontario Ministry of the Attorney General, the Ontario Ministry of the Solicitor General, Ontario, the Department of Justice, Canada, and Public Safety Canada.

6. I have been qualified as an expert witness in numerous cases, including:

a) *Chu v Canada (Attorney General)*, 2017 BCSC 630, [2017] BCJ No. 742;

b) *Charron v the Queen*, [2017] OSCJ File No. 16-67821;

c) *R v Johnson*, 2011 ONCJ 77, [2011] O.J. No. 822;

d) *R v Billard*, 2011 NSPC 31, [2011] NSJ No. 310;

e) *R v Hamilton*, [2011] OJ No. 532;

f) *R v Thomson Canada Ltd.*, 2001 ABQB 962, [2001] AJ No. 1544;

g) *R v Musson*, [1996] OJ No. 3480; and,

h) *Re Southam Inc. v R.*, [1984] 48 OR (2d) 678.

7. My academic work has been cited with approval and relied upon by judges in cases such as:

a) *R v Clifford*, 2016 NSPC 16;

b) *R v Cheung*, 2016 BCCA 221;

c) *R v Ayotte*, 2014 YKTC 21;

d) *R v Casselman*, 2014 ONCJ 198, [2014] OJ No. 1995;

e) *R v Dann*, 2011 NSPC 22, [2011] NSJ No 217;

f) *R v D.B.*, 2008 SCC 25, [2008] 2 SCR 3;

g) *R v B.V.N.*, 2004 BCCA 266;

h) *R v NA*, [2004] MJ No. 93;

i) *Quebec (Minister of Justice) v Canada (Minister of Justice)*, 2003 CanLII 52182 (QC CA);

j) *R v H.W.G.*, 2003 SKPC 122;

k) *Reference Re: Bill C-7 Respecting the criminal justice system for young persons*, [2003] Q.J. No. 2850. *R v Khan*, 2001 SCC 86, 3 SCR 823;

l) *R v Laliberte*, 2000 SKCA 27; and,

m) *R v McDonald*, 1997 CanLII 9710 (SK CA).

8. A copy of my C.V. is attached as Exhibit "A" to this Affidavit.

9. I have been asked by the Applicants to provide expert evidence in support of the Application brought by the Canadian Civil Liberties Association ("CCLA"), the Canadian Prison Law Association ("CPLA"), and the HIV & AIDS Legal Clinic Ontario ("HALCO"), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20. In particular, I have been asked to opine on the following issues:

a) Is the early release of certain prisoners from CSC institutions consistent with the objective of public safety and the protection of society?

b) What would be the impact on public safety and prison populations of releasing certain categories of people into the community for the remainder of their sentences?

II. Methodology

10. For reasons of completeness and consistency, I have used, wherever possible, data from the 2018 annual report from Public Safety Canada entitled *Corrections and Conditional Release Statistical Overview* ("CCRSO"), which was published in 2019. This is Public Safety Canada's most recent annual report. It is attached as Exhibit "B".

11. I have relied on the CCRSO because the calculations and definitions it provides tend to be consistent year after year, and they are authoritative. This consistency is important for accurately understanding trends over time. For example, "counts" of people in penitentiaries could be taken from a "census day" (e.g., number incarcerated on April 1st) or average counts for each day, or some other measure. While the method or measurement used to calculate counts would not be expected to vary count numbers by much, it would create some variation. The CCRSO is consistent

in its calculations. Similarly, the CCRSO's consistent definitions (e.g., of violence) are also important in tracing trends. Page numbers cited below, unless otherwise stated, refer to the 2018 CCRSO.

12. If data are not available in the CCRSO, other sources have been used and identified in this affidavit. Given the frequency with which I need to access certain data on things such as crime rates, homicide rates, imprisonment rates, and more, for my published works, teaching, presentations and other purposes, I maintain and regularly update various spreadsheets with data that I access frequently. I have drawn from those spreadsheets for the purposes of creating Figures 1-4 and, for the discussion in paragraph 53. Details of the sources used to obtain this data is set out in the "Data Appendix", attached as Exhibit "C". A copy of the relevant parts of my spreadsheets is attached as Exhibit "D".

III. Is the early release of certain prisoners from CSC institutions consistent with the objective of public safety and the protection of society?

13. Prisoners have less control over what they can do to protect themselves against COVID-19 infection than do those of us not in prison as prisoners have limited control over the space around them or the actions of others. One approach to mitigating the impact of COVID-19 within prisons would be to reduce the population of those serving their sentences in custody by releasing certain prisoners to serve the remainder of their sentence in the community. Doing so would protect prisoners who might otherwise have a high likelihood of contracting the disease and would protect staff and prisoners who remain in the institutions.

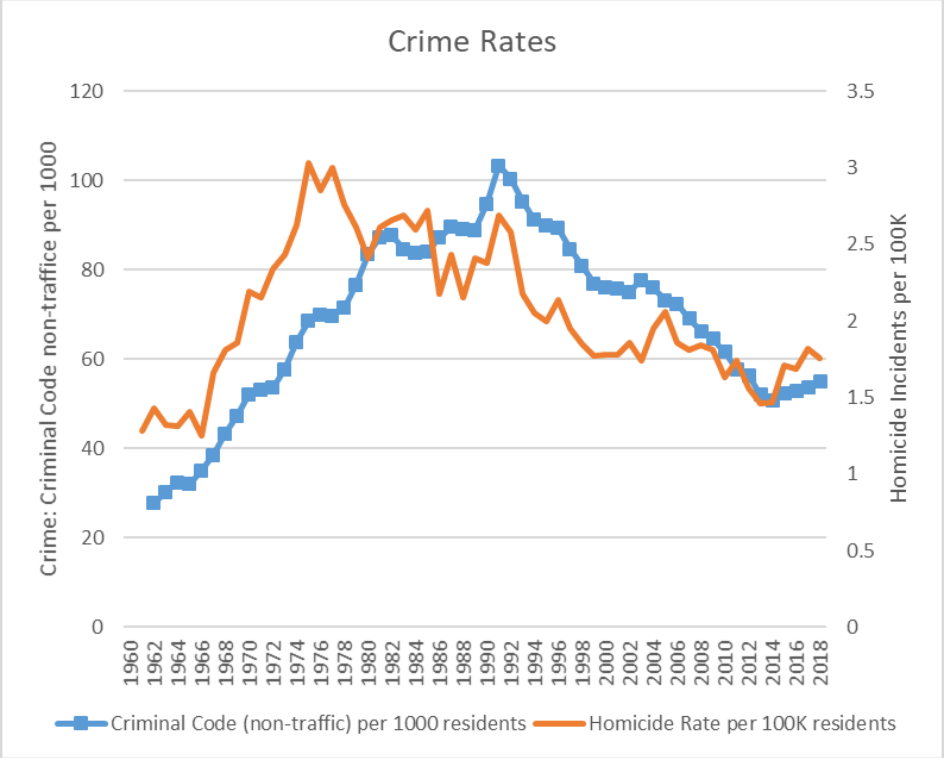
14. In this report, I am operating under the assumption that the release of prisoners would take place within the current statutory and regulatory framework that allows prisoners to complete their sentences in the community, rather than an institution. There are a variety of mechanisms that could be used, such as repeated unescorted temporary absences, day parole, or full parole. I am assuming that, as in the normal course, released prisoners may have conditions imposed on them (such as a curfew or abstinence from drugs and alcohol), that the release may be revoked if a condition is broken, and they would remain under the supervision and control of CSC. In other words, I am assuming that there would not be a marked departure from the normal process of transitioning prisoners from an institution to the community through a period of supervised,

conditional release, but simply that this transition would take place earlier than it might otherwise or as an exceptional and potentially temporary measure, in order to depopulate the prisons during the pandemic.

15. In my view, releasing certain prisoners in these circumstances would be consistent with the objective of public safety and the protection of society.

16. First, it is worth noting that there is little, if any, relationship between the rates of crime in a jurisdiction and its use of imprisonment. For several decades, crime rates have been decreasing. This can be seen in Figure 1 (showing, as examples, total crime and homicide rates).

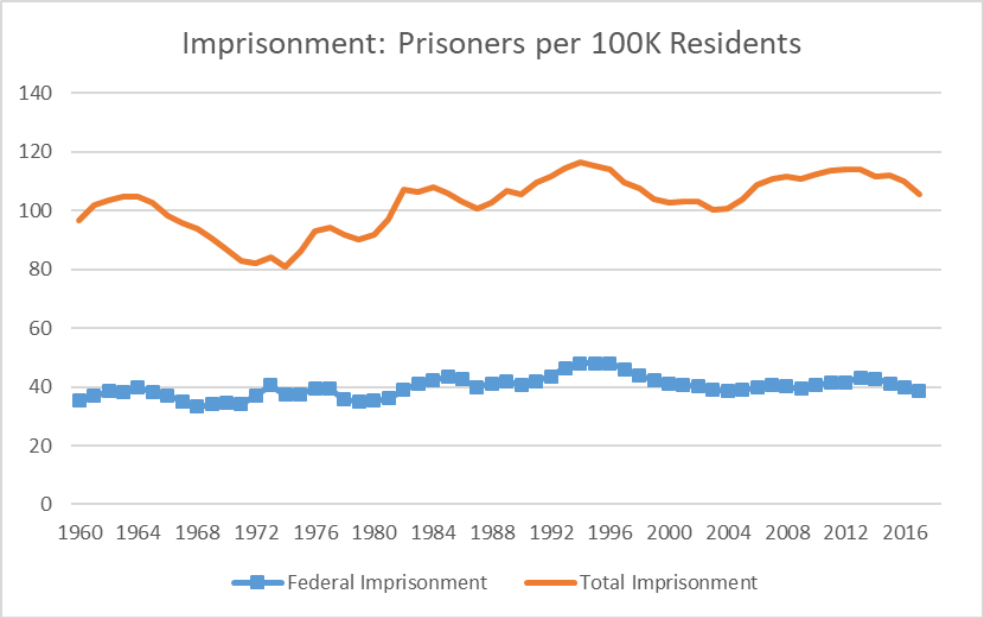
Figure 1: Crime Rates (Overall and Homicide), Canada



Source: Statistics Canada. For details see Exhibits “C” and “D”.

17. Imprisonment rates, however, have remained relatively stable – especially when we look at federal penitentiary rates (notwithstanding many assessments that conclude that we do not need to have imprisonment rates as high as we currently have).

Figure 2: Imprisonment Rates, Canada



Source: Statistics Canada. For details, see Exhibits "C" and "D".

18. If there were a relationship between imprisonment rates and crime rates, one would expect to see rising imprisonment rates correlating with a decrease in crime rates. This, however, is not the case. While imprisonment rates have remained relatively flat, crime has, in recent years gone down. Earlier, crime went up when, again, imprisonment rates were relatively flat.

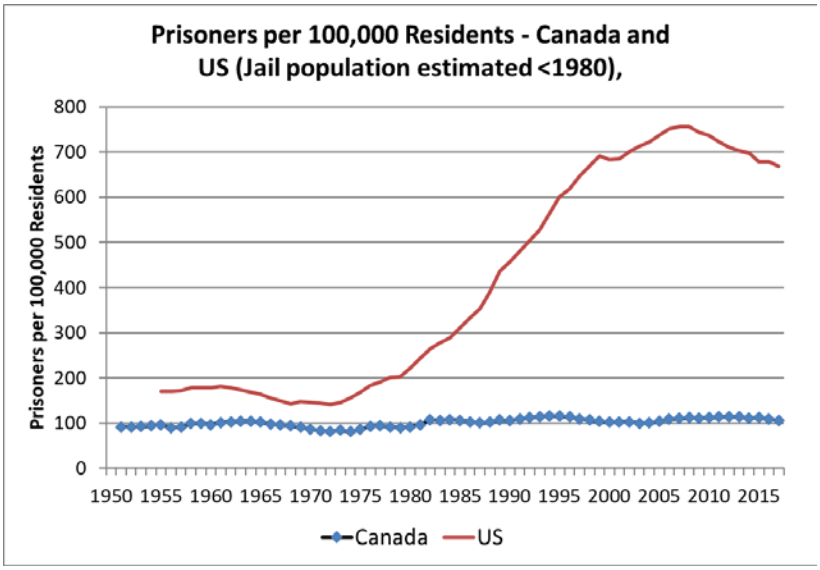
19. There is considerable research that has demonstrated that there is no consistent correlation (across time or jurisdictions) between rates of imprisonment and rates of crime; nor can it be said that imprisonment *reduces* crime.

20. Another illustration of the independence of imprisonment rates and crime rates comes from a comparison between the US and Canada. As can be seen in Figure 3, the imprisonment rates in the two countries show the same pattern until the mid-1970s but thereafter diverge dramatically. Homicide rates in Figure 4, for ease in visualizing them, are shown on different absolute scales (with the US on the left and Canada on the right scale). Homicides were chosen here for

comparison purposes because of the similar meaning in the two countries. The absolute rate of homicides in the US is dramatically higher than in Canada. (The US rate varies from being 2.7 to 4.4 times the Canadian rate).

21. What is important, however, is that the pattern of change in the homicide rates of these two countries over time is quite similar. Yet as we see in Figure 3, the pattern of change in incarceration rates is very different. This can be seen as a simple illustration of the fact that imprisonment rates and crime rates appear to be determined by quite different factors. I discuss this in detail in my paper (co-authored by Cheryl Webster) entitled "Penal Optimism: Understanding American Mass Imprisonment from a Canadian Perspective", attached as Exhibit "E".

Figure 3: Imprisonment, Canada and the US

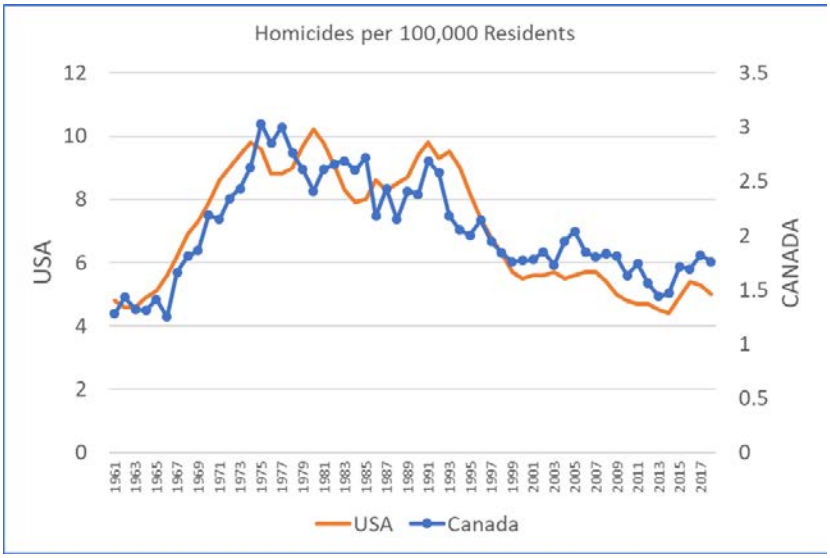


Sources: Canada data: Statistics Canada. For details see Exhibits "C" and "D".

US data: The early data are from Pastore, Ann L., and Kathleen Maguire. 2004. *Sourcebook of Criminal Justice Statistics*. For details of this and other data used, Exhibits "C" and "D".

Note: Because local jail data are not systematically available in the US prior to 1980, jail populations were estimated using the ratio of jail to prison population post-1980.

Figure 4: Homicide Rates: Canada and the US



Sources: Canada: Statistics Canada. For details see Exhibits "C" and "D". For the US, see Figure 3 and Exhibits "C" and "D".

22. Second, there are no data that I am aware of that would support an argument that spending a few months longer in prison reduces the offending rate for a person released from prison. I am also not aware of any data that affirms that holding prisoners until their warrant expiry dates changes, to a measurable degree, the likelihood of offending within, for example, the two years after release.

23. The best test for gauging the impact of an unexpected release from prison on rates of recidivism comes from analyses of what happened when this exact thing did occur: when people were released unexpectedly from US prisons because of a decision to retroactively reduce the "guideline" sentence for certain offenders in the US. Full summaries of two studies that explored this are attached as Exhibits "F" and "G". As stated in the conclusion to one of these summaries:

> It would appear that an unexpected reduction of over 2 years in prison for these cocaine offenders did not encourage them to re-offend. Various analyses suggest that the re-offending rates for various subgroups of these offenders did not differ significantly from the re-offending rates for those who served the sentences they expected when they were first sentenced (Exhibit "F")

24. Although I cannot definitively say that the results cited above would be the same for all types of offenders in all circumstances, they are consistent with other criminological studies. There is a substantial amount of research suggesting that the severity of the penalty that a person receives does not affect their likelihood of reoffending. (See for example, "The Effects of Imprisonment: Specific Deterrence and Collateral Effects". Research Summaries Compiled from Criminological Highlights by Anthony N. Doob, Cheryl Marie Webster, and Rosemary Gartner, 2014, attached as Exhibit "H").

25. In addition to the studies on unexpected early release, the data show that the rate of serious offending by people released on parole or at statutory release is very low. These data are summarized in Table 1. This table looks at the average of five years (2013/14 to 2017/18). The numbers refer to the average number of people released on full parole, day parole or via statutory release per year over five years.

Table 1: Successful and unsuccessful conditional releases [Average numbers per year]

Type of Release	Average number of revocations with a violent offence	Average number of revocations with a non-violent offence	Average number of revocations for a breach of release conditions	Successful completions (without a breach or offence)	Total completions: successful and unsuccessful
Day Parole	4.8 (0.14%)	33.8 (1.0%)	268.6 (7.9%)	3085 (90.9%)	3392.2 (100%)
Full Parole	5.0 (0.49%)	28.2 (2.8%)	89.4 (8.7)	901.2 (88%)	1023.8 (100%)
Statutory Release	84.6 (1.5%)	452.8 (7.8%)	1556 (26.7%)	3735.6 (64.1%)	5829 (100%)

Source: CCRSO, p. 94-98, Exhibit "B".

26. These data demonstrate that the majority of statutory releases and the vast majority of releases on parole are successful, meaning that the person does not end up back in an institution as a result of something they did while they were released. A very small percentage of people commit a violent crime while on a release for a previous offence. Most unsuccessful releases "fail" because the person breaches one of the conditions of their release. These conditions are often quite

diverse but can include things like a curfew, a prohibition on the use of drugs or alcohol, or limitations on where a person can go or who they can see.

27. The conditions of a person's release are imposed by the Parole Board of Canada (the "PBC") and enforced by CSC officers. This underscores an important point: when people serve their sentences in the community, they remain under the supervision of CSC. In 2018, CSC had 1,432 people working on community supervision (CCRSO, page 24, Exhibit "B") and 9,131 people in the community under supervision (CCRSO, page 34, Exhibit "B"). In effect, then, CSC currently has one staff person involved in community supervision for every 6.38 prisoners. If one were to exclude the 354 people working in "administration" and "others" this would mean that there were 1,075 CSC community supervision staff or one person supervising, on average about 8.5 prisoners.

28. There are two comments to be made about the limitations of this data. The first is that Table 1 does not include people who are on full parole while serving a life sentence. The reason for this is that there is no possibility of a "successful" completion for "lifers", because, as the CCRSO indelicately puts it, the table "excludes offenders serving indeterminate sentences because they do not have a warrant expiry date and can only successfully complete full parole upon their death." (CCRSO, p. 96, Exhibit "B"). However, as I explain in paragraphs 57 to 62 below, in general, lifers who are released from penitentiaries have a very low rate of reoffending.

29. Secondly, while Table 1 uses the data related to "revocation with a violent offence" in the CCRSO, there is a different set of data in this report that could be used to evaluate the rates of reoffending by prisoners on parole or statutory release: namely, the "number of offenders convicted for violent offences" (while under supervision) (CCRSO, p. 100, Exhibit "B"). The numbers in this set of data are quite similar: over 4 years (2013/14 to 2016/17) an average of 5.75 (0.58%) of people released on day parole; 7.75 people on full parole (0.2%); and 93.25 people on statutory release (2.6%), were convicted of a violent offence. I would note that the CCRSO cautions its readers against using the data on this measure for 2017/8 because delays in prosecution may underestimate the actual number of convictions. Hence these figures are only for 2013/14 to 2016/17.

30. Regardless of which set of data is reviewed, my conclusion remains the same – risk of a violent offence by a person released on parole or statutory release is quite low.

31. Another way in which the number of violent offences apparently committed by those on day parole, full parole, and statutory release might be put in context is by looking at the proportion of all of those adults in Canada charged for violent offences, who are on some form of conditional release from Canada's penitentiaries. This is a relatively straightforward calculation. According to Statistics Canada data attached as Exhibit "I", there were 156,216 adults charged with a violent offence in 2018. And, we can see from Table 1 that in an average year, approximately 94.4 people on some form of conditional release had their release revoked for violent offences. Based on the data showing the average number offenders convicted for violent offences while under supervision, described in paragraph 29 above, one would estimate that about 107 people on conditional release might have been convicted for a violent offence. This would mean that fewer than one tenth of one percent (0.06% or 0.07%, depending on which of the separate estimates in Table 1 and paragraph 29 one accepts) of the adults charged for violent offences in Canada were on some form of conditional release from Canada's penitentiaries in 2018 when they committed the offence. Said differently at least 99.93% of adults charged for violent offences in Canada were *not* on any form of conditional release from Canadian penitentiaries in 2018.

32. There is no doubt that community safety is an important consideration when determining whether or not certain prisoners can spend part or all of their sentence in the community. A naïve observer might think that holding a prisoner in as secure a setting as possible throughout a sentence would maximize the protection of society. That, however, would ignore an important aspect of the protection of society: that most prisoners are, in fact, released from prison.

33. Each decision to make a discretionary release of someone from penitentiary prior to their warrant expiry should involve the consideration of two separate risks. The first is the risk that a prisoner, if released, will commit an offence when released, but prior to the date when, by law, they must be released. However, we know from the analysis related to Table 1 that the risk of violent offences by this population while on conditional release is very small.

34. The second risk that should be considered is whether holding a person in an institution until their warrant expiry (or longer than necessary), will increase the risk of them offending in the long

term. This could occur for two possible reasons: the criminogenic effects of imprisonment, and the reduced amount of time that the former prisoner would be living with supervision and support (from CSC) in the community while they are reintegrated into society. Some of the research on the impact of imprisonment as compared to serving sentences in the community is summarized in the collection of *Criminological Highlights* summaries with the title "The effects of Imprisonment: Specific Deterrence and Collateral Effects" 2014, attached as Exhibit "H". Reintegrative programs for former prisoners can also be effective (see *Criminological Highlights* 11(3)#5, attached as Exhibit "J"). Hence reintegration through gradual release prior to warrant expiry, which may involve some short-term risk to society, may in fact, in the long run, maximize protection of society by providing more, rather than less, time for a person to be aided and supervised during the reintegration process.

35. Simply put, there is a short-term risk of an earlier-than-legally-necessary release, and there is a long-term risk of reoffending with a shorter-than-necessary supervision period. However, in balance, it is my view that this is one of those circumstances where society is served by taking a short-term risk to obtain a more advantageous long-term outcome. It is not surprising, therefore that facilitating reintegration is one of the standard criteria for granting parole.

IV. What would be the impact on public safety and prison populations of releasing certain categories of people into the community for the remainder of their sentences?

36. Below I have attempted to identify the impact of releasing broad categories of prisoners who could presumptively be appropriate to shift from serving their sentences in institutions to serving their sentences in the community. Although I do not have access to CSC's routine (and regular) assessment of the "risk" posed by individual prisoners, I have looked at CSC's published data in order to identify groups of prisoners whose release during the pandemic would result in a substantial decrease in the prison population, and who would pose very little risk to public safety.

37. These categories identified below are not mutually exclusive and some prisoners may fall within multiple categories. I do not have the data that would allow me to determine the extent of any overlap.

38. In addition, within some of the groups identified below, there may be certain prisoners who cannot be released because they are not eligible for certain types of release as a matter of law, or who, based on an individualized assessment of risk, would not be suitable candidates for release. Since I do not have access to this data, I am not able to determine how many prisoners within each category would be ineligible for release. However, in my assessment of risk below, I am assuming that these individuals would not be released in an attempt to depopulate prisons during the pandemic.

a) Prisoners within six months of their statutory release date

39. Statutory release is the main way that prisoners are released from penitentiaries. Full parole is the other main way that prisoners are released from institutions, but as can be seen in Table 2 (below) full parole accounts for only a small portion of releases (about 4% by these estimates).

40. Through statutory release, most prisoners are released automatically once they have completed 2/3 of their sentence to serve the remainder of their sentence in the community. They must regularly report to a CSC Parole Officer and follow conditions. If they fail to do so, the release may be revoked. In addition, some prisoners can be denied statutory release. In the case of a prisoner who is serving a sentence for an offence that caused death or serious bodily harm, a sexual offence against a child, or a drug offence, CSC may refer the case to the PBC if it is of the opinion that there are reasonable grounds to believe that the prisoner is likely to commit an offence causing death or serious bodily harm, a sexual offence against a child, or a serious drug offence before the expiration of the prisoner's sentence according to law. After conducting a review, the PBC may order that the prisoner not be released before the expiration of his or her sentence. It is within this context that I have assessed the risk to the public of releasing prisoners who are within six months of their statutory release date and who have not been referred by CSC to the PBC.

41. As I have indicated above, there is no evidence to suggest that early release has any impact on rates of recidivism (or to the contrary, that serving a few additional months would have an impact). Therefore, in my view, there would be no measurable effect on public safety if prisoners with an upcoming statutory release date were released a few weeks or months early in order to reduce the pressure on the prison system during the pandemic.

42. It is relatively straightforward to identify those prisoners eligible for statutory release because a person's statutory release date can be calculated very simply (it is the day when the prisoner has served 2/3 of the sentence).

43. I have reviewed the data from the CCRSO in order to estimate the number of prisoners who could be released in this manner. My review has resulted in two different calculations, although the numbers are quite similar. The results are set out in Table 2. There are other ways of estimating releases, but they can be complicated by the fact that people can receive multiple releases (e.g., day parole followed by either full parole or statutory release; full parole followed by a revocation and then statutory release) and therefore might be double-counted in a data set.

44. Penitentiary counts (Table 2), in recent years, have been fairly stable, as have new warrant-of-committal (sentenced) admissions to penitentiaries. Total "releases" from penitentiaries are harder to count since a single person can be released more than once (e.g., more than one form of parole, statutory release, at warrant expiry). But we can estimate "net total" releases by considering that a person gets out of penitentiary in one of two ways: by being officially released or by dying (escapes or long term ‘"unlawfully at large" episodes are very rare).

Table 2: The Flow of Prisoners into and out of Penitentiaries

Year	Average count of prisoners (p.36)	Number of warrant-of-committal admissions (p.38)	Deaths (p. 70)	Full parole releases (p. 82)	Statutory releases (p. 80)
2013-14	15,342	5,071	48	163	5,636
2014-15	14,886	4,818	67	185	5,373
2015-15	14,712	4,891	65	178	5,309
2016-17	14,159	4,908	47	166	4,888
2017-18	14,092	4,718	unavailable	208	4,427
Average	14,638	4,881	45	180	5,127

Source: CCRSO, Exhibit "B".

45. Over the past 5 years, there have been an average of 5,127 statutory releases every year, which, assuming a steady rate of release, would result in an average of 427 statutory releases from Canada's penitentiaries every month.

46. If all prisoners in custody today who are scheduled for release within six months on statutory release were, instead, released immediately (or within a week or two) as a result of a decision to grant day or full parole by the Parole Board of Canada, the penitentiaries would be emptied of approximately 2,562 prisoners (about 17.5% of the total number of prisoners).

47. To maintain this reduction, CSC would need to continue to release prisoners approximately 6 months in advance of their ordinary statutory release date, given that there would also be an inflow of new prisoners each month. This would result in the steady release of approximately 427 prisoners per month.

48. Another way of calculating the average number of statutory releases would be to take the number of admissions, less the number of deaths. These numbers are relatively stable across a four to five-year period. Given the stability of counts, admissions, and deaths, the net number of

releases from Canada's penitentiaries in a year is roughly the number of admissions minus the number of deaths or 4,836.[1]

49. Using this rather simple approach to estimating releases, I would estimate that every month (on average) we can expect approximately 403 people to be released, assuming a steady rate of release each month.

50. Note that this estimate is marginally different from the one made above: one is based on an assumption of stability of CSC population and looks at warrant-of-committal admissions. The other looks at releases. The point is a simple one: no matter which way one calculates, there are about 400 people, on average, who are going to get out in each month.

51. While releasing prisoners who are within 6 months of their statutory release date would result in a one-time increase in the number of prisoners released, if the practice of releasing people within 6 months of their statutory release date is maintained throughout the pandemic, the number of prisoners released monthly after the initial release would remain the same as before the pandemic.

b) Older prisoners eligible for a conditional release

52. Older prisoners who are eligible for some form of conditional release constitute another easily identifiable group who could be assessed for release into the community, with many posing a relatively low risk of committing another serious offence. All indications are that older prisoners are not a risky group in terms of public safety or in terms of recidivism rates more generally. They are also a group who, based on public health warnings, are at a particular risk if they contract COVID-19.

53. It is well established that older people are less likely than younger people to be involved in serious crime. We can see this most easily in the age of those admitted to penitentiary compared to the age of the adult population (Table 3 below). In addition, however, people's offending rates

[1] There are other ways in which this number can be estimated. In 2017-18, for example, there were 1,062 successful completions of full parole and 3,545 successful completions of statutory release (CCRSO, p. 96 and 98, Exhibit "B") for a total of 4,607 successful completions. If one were to add to that the number those people whose release was revoked because of a breach of conditions, this would increase this number by 1,398 to 6,005.

drops off with age, though the rate of drop-off varies with time (see *Criminological Highlights* 6(4)#3), attached as Exhibit "K". Another example comes from current Canadian homicide data, In looking at the age of adults (age 18+) accused of homicide offences in Canada for the period 2014-2018, 87.3% of the adults accused of homicides were age 18-49 whereas this age group constitutes 52.8% of the 2018 adult population. Those in their 50s constitute 7.7% of the adult homicide accused but are 17.8% of the 2018 adult Canadian population. Finally, those age 60 and older constitute 5% of those adults accused of homicide but are 29.5% of the Canadian population.[2] In addition, many older prisoners are people who have been incarcerated for a long time, having committed their offence many years or decades ago.

54. In Table 3 below, we see that those 50 years and older constitute 47.3% of the adult population of Canada. However, using CSC admissions as a proxy for "adults in Canada known to have committed serious offences", older people (age 50+) constitute only 16.9% of the admissions to CSC custody, and those over 60 are a mere 5.3% of the new admissions.

Table 3: Prisoners tend to be young, but there are many older prisoners

Age Group	Canada Adult Population, age 18+ (2018)	Percent of Canada adult population	Number of CSC in custody	Percent of CSC in-custody population (p. 48)	Number of CSC admissions (2017-8) (p. 44)	Percent of CSC admissions (2017-8) (p. 44)
18-49	15,770,626	52.8%	10,544	74.8%	3,920	83.1%
50-59	5,305,888	17.8%	2,236	15.9%	548	11.6%
60+	8,811,720	29.5%	1,312	9.3%	250	5.3%
Total	29,888,234	100%	14,092	100%	4718	100%

Source: CCRSO, Exhibit "A"; Statistics Canada CANSIM. See Exhibits "C" and "D"

55. As shown in Table 3, approximately 3,548 of CSC's custodial population are age 50 or older. This is about 25% of the total CSC prisoner population. The release of people within this group could therefore dramatically assist with the depopulation of prisons in the context of

[2] Source: The "age of accused" accused of homicide data and the estimates of the age distribution for Canadian adults were obtained from Statistics Canada's CANSIM website. See Exhibits "C" and "D".

COVID-19. As I've pointed out previously, not all of these prisoners, however, would be eligible for release as some of them may be serving sentences for whom the forms of release available may be more restricted.

56. While not all members of this group would be eligible for release, the general point holds: given their high vulnerability to COVID-19, and their relatively low likelihood of committing serious violent offences, older prisoners would be an obvious group to look at when considering additional releases at this time.

c) Prisoners serving life sentences

57. There are many people serving their life sentences in the community (on parole). It would be understandable if someone were to think that lifers are a particularly difficult group to shift from institutions to community supervision. I would suggest, to the contrary, that lifers may constitute a group who could be moved to the community.

Table 4: Serving life sentences for murder: How does the "in custody" CSC population compare to the "in the community under supervision" CSC population?

	Type of offender:		
Placement:	People serving life sentences for murder	People serving sentences for other offences or serving an indeterminate sentence	Total
CSC's custodial population	2,939 (20.9%)	11,153 (79.1%)	14,092 (100%)
CSC's population that is serving their sentence in the community	1,820 (19.9%)	7,311 (80.1%)	9,131 (100%)

Source: CCRSO, p. 60, "Exhibit B".

58. No matter how one looks at the data, it is clear that CSC already has a substantial number of people serving life sentences for murder being supervised in the community. Table 4 shows that

there are 1,820 people serving life sentences for murder currently in the community. This constitutes about 20% of the CSC population that is in the community. Similarly, about the same portion (20.9%) of the "in custody" CSC population is serving a life sentence for murder.

59. Those who are convicted of murder have obviously done one of the most serious, if not the most serious, crime imaginable. It is worth pointing out, however, that the repeat homicide rate of those convicted of murder is exceedingly low. CSC did a study a few years ago of 3,032 people who had been arrested, convicted, and given a federal sentence for murder or manslaughter in the 10-year period ending 1 January 2008. Only ten of these 3,032 people had been under supervision for a previous murder or manslaughter. A summary of this study is attached as Exhibit "L".

60. This is not an unusual finding. By the time a person is released for murder (a minimum of 10 years), that person is likely to be past the age when they are likely to reoffend, as the data on older prisoners establishes. This finding is similar to data collected earlier in Canada, and reviewed recently, suggesting that those who serve sentences for a homicide offence and are subsequently released have a very low reoffending rate, especially for homicide (in Canada, less than 1%). This review, entitled "Recividism of paroled murderers as a factor in the utility of imprisonment", is attached as Exhibit "M". Some of the findings from Canada and elsewhere are summarized in the summary from *Criminological Highlights,*15(1)#2 attached as Exhibit "N".

61. My purpose in looking at those in penitentiaries for murder is, however, simple. As a group, these prisoners are not as risky to release as might be thought. As shown in Table 4, we have over 1,800 people who have been convicted of murder serving their sentences in the community. As such, those serving a sentence for a homicide offence should not be excluded from release from custody.

62. Like older prisoners, there are some people within this group who may not be good candidates for release. A starting point for the consideration for expedited release of those serving life sentences would be to examine those who are past their parole eligibility date and who are classified as being relatively low risk.

d) Relatively Short Sentences

63. Of the 23,223 people under the control of CSC (both in custody and in the community), 9,138 (or 39%) are serving sentences of less than 4 years (CCRSO, p. 42, Exhibit "B").[3] Releasing offenders within this group could significantly assist in reducing the prison population during the pandemic.

64. Public concern about earlier-than-traditional releases from penitentiaries may come, implicitly, from the belief that we are protected from re-offending by the incapacitation of those likely to commit offenses. However, by imposing a relatively short sentence, a judge has already determined that these individuals do not need to be removed from society for a significant period of time for public safety reasons.

65. In addition, these prisoners are going to be released in the relatively near future anyway. If a person is serving a sentence of three years, they will almost certainly be released no later than 2 years into their sentence (through statutory release) to serve the remainder of their sentence in the community. A person serving a sentence of 4 years, will most certainly be in the community "automatically" after serving 32 months in custody.

e) Prisoners already identified by CSC as being minimum risk

66. CSC has made an "offender security level decision" for approximately 90% of prisoners in custody and has determined them to be either a minimum, medium or maximum security risk level. (CCRSO, p. 55-56, Exhibit "B"). According to the Commissioner's Directive: Security Classification and Penitentiary Placement, these security-level classifications are based on CSC's assessment of: how the individual will adjust to the institution, their risk of escape, and their risk to public safety. See Exhibit "O". According to this data, there are about 3,070 prisoners (24% of in-custody offenders), whose risk level is classified as "Minimum Risk" (CCRSO, p. 56, Exhibit "B").

[3] Unfortunately, this is not broken down by whether the person is in custody or in the community.

67. Given that CSC has already done a fairly thorough risk assessment, this is an easily identifiable group who could be considered for early release to serve their sentence in the community during the pandemic.

f) Those who, until it was abolished in 2011, would have been eligible for "accelerated parole review"

68. Canada used to have a method of releasing prisoners fairly early in their sentences without much bureaucratic effort. Known as "accelerated parole review", prisoners who were serving time for non-violent offences could be reviewed by the PBC without an in-person hearing and be released on their first parole eligibility date (or earlier on day parole).

69. During the 5 years (2001/2 to 2005/6) *before* it became a hot political issue, 55-60% of those released on full parole received it through this "summary" procedure (CCRSO, 2006, p. 90, excerpt attached as Exhibit "P"). During this 5-year period there was an average of about 610 successful full parole completions (and an average of 6.4 -- about 1% -- revocations for a violent offence) of those who were released through accelerated parole review. For day parole, there were an additional average of 710 successful completions with an average of 3.2 revocations (about one-half of one percent) for a violent offence. Day parole was available prior to an individual's full parole eligibility date. These data demonstrate that recidivism for violent offences for people released through this procedure was quite low.

70. Although this procedure has been abolished, certainly those prisoners who would have been candidates for an accelerated parole review could be considered and similar criteria could be applied in assessing them to determine whether they would be low risk candidates for release during the pandemic.

V. Conclusion

71. In conclusion, it is my view that certain prisoners can be released early with a minimal risk to public safety and with a substantial effect on prison population. The categories of prisoners that ought to be considered for early release include: those who are reaching their statutory release date, older prisoners, prisoners serving life sentences, prisoners serving shorter sentences, and

prisoners identified by CSC as being minimal risk or low risk who would have been eligible under the old "accelerated parole review" process.

72. I make this affidavit in support of the Applicants' Application and for no improper purpose.

AFFIRMED BEFORE ME at Toronto, Ontario, this 12th day of June, 2020

Commissioner for Oaths for the Province of Ontario.

Anthony N. Doob

This is Exhibit "A" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

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May 2020

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Journal of Experimental Social Psychology. Editorial board, 1971-72. Associate editor, 1972-1974. Editor, 1974- 1977. Editorial board, 1978-1987.

Journal of Law and Human Behaviour. Editorial and Advisory Board, 1975-1982.

Journal of Personality and Social Psychology. Editorial board, 1979.

British Journal of Social Psychology. Member of the overseas editorial board, 1979-1983.

Canadian Journal of Behavioural Science. Editorial board, 1982-1985.

Basic and Applied Social Psychology. Editorial board, 1979 - 1990.

Journal of Applied Social Psychology. Editorial board, 1979- 1995.

Crime and Justice: A Review of Research. Editorial board, 1988-1995; 2007-present

Criminal Law Forum. Editorial Board, 1989-1992.

Social Behaviour and Personality. Board of consulting editors, 1992-2000.

Canadian Journal of Community Mental Health. Editorial Board, 2000 – 2002.

*Canadian Journal of Criminology and Criminal Justice (*formally the *Canadian Journal of Criminology)*. Editorial Advisory Board, 1995-2010. Associate editor, 2010-present.

Criminologie. Editorial Board, 1991-present.

Criminology and Criminal Justice,[Prior to February 2006 it was called: *Criminal Justice: The International Journal of Policy and Practice*.]. Editorial board, 2001-2016.

Criminological Highlights. September 1997 – present. [I share responsibility for this project with Rosemary Gartner.] Along with the Centre's librarian, some doctoral students at the Centre of Criminology, and a few other faculty members, we produce an 'information service' on criminological research that is broadly distributed in Canada and in more than 40 other countries. There are 6 issues per volume, and one volume every 12-15 months.

Punishment and Society. International Associate Editorial Board, 2010-2017.

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An Incomplete List of Other Things

Department of Psychology, University of Toronto: Undergraduate secretary, 1969-1972. Associate chairman, 1972-1974.

Centre of Criminology, University of Toronto. Director, 1979-1989. Graduate coordinator, 1993-1995. Acting Director, 2001-2, Fall term 2009.

Law Reform Commission of Canada. Consultant (evidence, criminal jury, sentencing, 1972-1978; Public opinion of plea bargaining, 1988; Aboriginal peoples and the criminal law, 1990).

Social Science Research Council of Canada. (subsequently renamed "Social Science Federation of Canada"). Canadian Psychological Association representative on Committee on Policy and Finance, 1971-1974. Chairman of Committee on Policy and Finance, 1973-1974. Member of the Council 1972-1974. Member of the Research policy Committee, 1974-1977.

Psychology consultant, 1973-1975. Hamilton Publishing company (Division of John Wiley and Sons)

Canadian Psychological Association: Member of the Scientific Affairs Committee, 1973-1978. Member of the Publications Committee, 1976-1978.

Advisory Board of Psychiatric Consultants of the Canadian Penitentiary Service: Member, 1974-75.

American Psychological Association. Member of Ad Hoc Committee on the future of the *Journal of Personality and Social Psychology* 1974-1975). Member of Division 8 (Personality and Social Psychology) Publications Committee, 1973-1975.

Consultant: Time-Life Books, 1975-1976 (for a book on Violence and aggression in their Human Behaviour series).

Canada Council: Member of Consultative Committee on Ethics, 1975-1976.

Addiction Research Foundation of Ontario: Member of the Professional Advisory Board, 1977-1983.

National Research Council. Member of the Advisory Committee on Biosafety. 1977-1978.

Consultant to Bureau of Management Consulting, Supply and Services, Canada, on various projects, 1977-1978.

Task Force on vandalism (Ministry of the Attorney General of Ontario) Research director, 1979-1981.

Research Advisory Committee of the Children's Services Division of the (Ontario) Ministry of Community and Social Services. Member, 1979-1983.

Canadian Police College. Police manager curriculum panel. 1979- 1980.

The Ontario Legal Aid Plan. Member, area committee, York County. 1979-1989.

Canadian Civil Liberties Association. Member of the Board of Directors, 1981-1982. Vice-President, 1982-1984 and 1990-1996. Treasurer, 1984-1990.

Fellow of the Canadian Psychological Association (1983-1995) and the American Psychological Association (1982-1995).

Canadian Centre for Justice Statistics. Member, Programme Advisory Committee for the Courts Programme, 1985-1989.

Canadian Sentencing Commission. Commissioner, 1984-1987.

Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on "Criminal justice policies..." Vienna, 30 May to 3 June 1988. Vice-Chairperson and one of ten experts invited by the Secretary-General.

Nishnawbe-Aski Legal Services Corporation (Thunder Bay, Ontario). Consultant on the assessment of criminal justice problems in NAN communities. 1990-1995.

Expert Advisory Group for the National Longitudinal Survey of Children and Youth (Health and Welfare, Canada and subsequently Human Resources Development, Canada). Member, August 1992 – 1998.

Office of the Auditor General, Canada. Member of the Advisory Committee for the audit of Revenue Canada, Tax Expenditures. 1994. Member of the Advisory Committee for the audit of the National Parole Board, and Community Corrections branch of Correctional Services, Canada. 1994. Member of Advisory Committee for the audit of penitentiary treatment programs, 1995-6. Member of Advisory committee on correctional issues, 1998-9. Consultant on their overview of the criminal justice system, 2001-2002. Member of Advisory Committee on Male Offender Reintegration, 2002 – 2003. Member of the Advisory Committee on the Performance Audit on Expanding Capacity of Federal Prisons (2013-2014).

National Center for Juvenile Justice (U.S.A.) Pittsburgh, Pennsylvania. Member of the Board of Fellows, 1995 - 2015.

Correctional Research and Development Committee of Correctional Service Canada. Member, 1995 - 1997.

Justice for Children and Youth. Member, Board of Directors, 1996 - 2000.

Revenue Canada. Member, Compliance Advisory Committee, 1996-1999.

Correctional Service Canada. Commissioner's Forum. Member, 1997 – 2001.

Community Peace Programme. School of Government, University of the Western Cape. Cape Town, South Africa. Consultant, 1997-1999.

Consultant to Department of Justice, Canada, on the development of the *Youth Criminal Justice Act*. May 1998 to March 1999.

National Judicial Institute (Ottawa). Member of planning group for training program for youth court judges with respect to the *Youth Criminal Justice Act*. January, 2000-September 2002.

Legal Aid Ontario. Member, Criminal Law Advisory Committee, 2002- present.

Consultant to Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services, Ontario. Empirical aspects of assessing the effectiveness and efficiency of Ontario's justice system. August 2005-2006.

Consultant to Ministry of the Attorney General, Ontario. "Measuring the Effectiveness and Efficiency of Ontario's Justice System." May 2006- December 2008.

Changing Face of Corrections. Member of a four person task force established by the Provincial/ Territorial Ministers responsible for Justice. June-December 2008.

Fellow. Criminal Justice Studies Program. Institute for Legal Research. University of California, Berkeley, Law School, 2008-2012.

Member, Expert Advisory Committee for "Justice on Target" strategy. Established and chaired by the Attorney General, Ontario. July 2008-2013.

Member of an "Expert Panel on Sentencing Reform" – An advisory group appointed by the Minister of Justice, Canada, to advise on mandatory minimum penalties (July-October 2017). The panel's 33-page report was produced and submitted to the Minister.

Chair of the "Structured Intervention Unit – Implementation Advisory Panel" [Correctional Service Canada]. Appointed, June 2019, by the Minister of Public Safety and Emergency Preparedness, Canada.

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This is Exhibit "B" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Public Safety Canada
Sécurité publique Canada

Corrections and Conditional Release Statistical Overview

Canada

Ce rapport est disponible en français sous le titre : *Aperçu statistique : Le système correctionnel et la mise en liberté sous condition.*

This report is also available on the Public Safety Canada website: http://www.publicsafety.gc.ca

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Corrections and Conditional Release Statistical Overview

2018

This document was produced by the Public Safety Canada Portfolio Corrections Statistics Committee which is composed of representatives of Public Safety Canada, Correctional Service Canada, Parole Board of Canada, the Office of the Correctional Investigator and the Canadian Centre for Justice Statistics (Statistics Canada).

PREFACE

This document provides a statistical overview of corrections and conditional release within a context of trends in crime and criminal justice. A primary consideration in producing this overview was to present general statistical information in a "user friendly" way that will facilitate understanding by a broad audience. Accordingly, there are a number of features of this document that make it different from typical statistical reports.

- First, the visual representation of the statistics is simple and uncluttered, and under each chart there are a few key points that will assist the reader in extracting the information from the chart.

- Second, for each chart there is a table of numbers corresponding to the visual representation. In some instances, the table includes additional numbers, e.g., a five-year series, even though the chart depicts the data for the most recent year (e.g., Figure A2).

- Third, rather than using the conventional headings for statistics (e.g., "Police-reported crime rate by year by type of crime") the titles for each chart and table inform the reader about the matter at hand (e.g., "Police-reported crime rate has decreased since 1998").

- Fourth, notes have been kept to a minimum, that is, only where they were judged to be essential for the reader to understand the statistics.

- Finally, the source of the statistics is indicated under each chart so that the interested reader can easily access more information if desired.

The *Corrections and Conditional Release Statistical Overview* (CCRSO) has been published annually since 1998. Readers are advised that in some instances figures have been revised from earlier publications. Also, the total number of offenders will vary slightly depending on the characteristics of the data set.

It is hoped that this document will serve as a useful source of statistical information on corrections and conditional release and assist the public in gaining a better understanding of these important components of the criminal justice system.

PREFACE (CONTINUED)

Regarding police crime data from Statistics Canada, until the late 1980s, the *Uniform Crime Reporting* (UCR) survey provided aggregate counts of the number of incidents reported to police and the number of persons charged by type of offence. With the advent of microdata reporting, the UCR has become an "incident-based" survey (UCR2), collecting in-depth information about each criminal incident. The update to this new survey, as well as revisions to the definitions of violent crime, property crime, and other *Criminal Code* offences has resulted in data only being available from 1998 to the present. It is worth noting that the Total Crime Rates presented in the CCRSO differ from those reported by Statistics Canada in their publications. The Total Crime Rates reported in the CCRSO include offences (i.e., traffic offences in the Canadian *Criminal Code* and violations of federal statutes) that are excluded in the rates published by Statistics Canada.

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CONTRIBUTING PARTNERS

Public Safety Canada

Public Safety Canada is Canada's lead federal department for public safety, which includes emergency management, national security and community safety. Its many responsibilities include developing legislation and policies that govern corrections, implementing innovative approaches to community justice, and providing research expertise and resources to the corrections community.

Correctional Service Canada

The Correctional Service of Canada (CSC) is the federal government agency responsible for administering sentences of a term of two years or more, as imposed by the courts. CSC is responsible for managing institutions of various security levels and supervising offenders under conditional release in the community.

Parole Board of Canada

The Parole Board of Canada is an independent administrative tribunal responsible for making decisions about the timing and conditions of release of offenders into the community on various forms of conditional release. The Board also makes pardon decisions and recommendations respecting clemency through the Royal Prerogative of Mercy.

Office of the Correctional Investigator

The Office of the Correctional Investigator is an ombudsman for federal offenders. It conducts investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Correctional Service of Canada that affect offenders individually or as a group.

Canadian Centre for Justice Statistics (Statistics Canada)

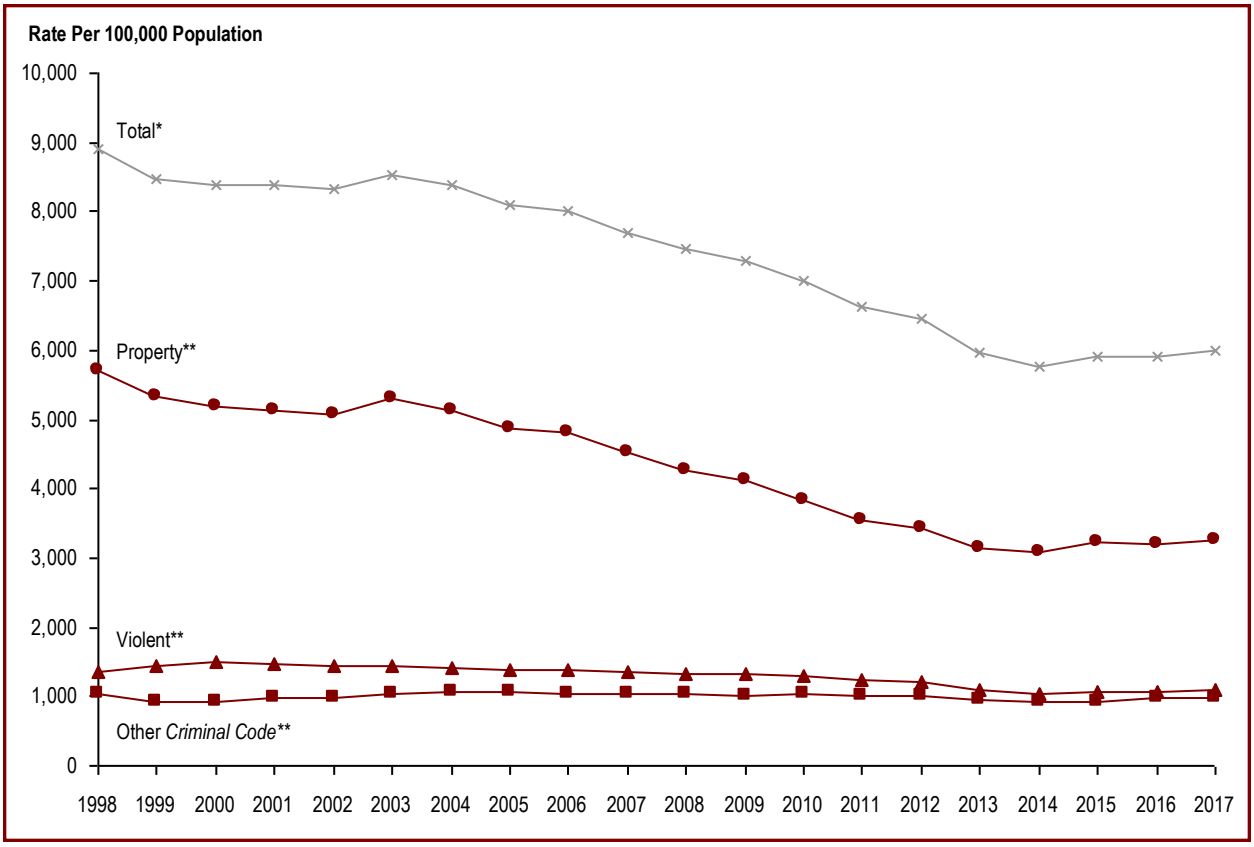
The Canadian Centre for Justice Statistics (CCJS) is a division of Statistics Canada. The CCJS is the focal point of a federal-provincial-territorial partnership, known as the National Justice Statistics Initiative, for the collection of information on the nature and extent of crime and the administration of civil and criminal justice in Canada.

SECTION A

CONTEXT - CRIME AND THE CRIMINAL JUSTICE SYSTEM

POLICE-REPORTED CRIME RATE HAS BEEN DECREASING SINCE 1998

Figure A1



Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- The overall crime rate has decreased 36.3% since 1998, from 8,915 per 100,000 to 6,006 in 2017.
- Over the same period, there was a 43.0% decrease in the property crime rate, from 5,696 per 100,000 to 3,245 in 2017. In contrast, the crime rate for drug offences has increased 5.1% since 1998, from 235 per 100,000 population to 247.
- The rate of violent crime has fluctuated over the last 19 years, peaking in 2000 at 1,494 per 100,000 population. Since 2000, the rate of violent crimes had decreased by 26.5% to 1,098 in 2017.
- In general, the crime rates for traffic offences and other *Criminal Code* offences have fluctuated since 1998.

Note:
*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada.
**The definitions for Violent, Property and Other *Criminal Code* offences have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.
These crime statistics are based on crimes that are reported to the police. Since not all crimes are reported to the police, these figures underestimate actual crime. See Figure F1 for rates based on victimization surveys (drawn from the *General Social Survey*), an alternative method of measuring crime.

POLICE-REPORTED CRIME RATE HAS BEEN DECREASING SINCE 1998

Table A1

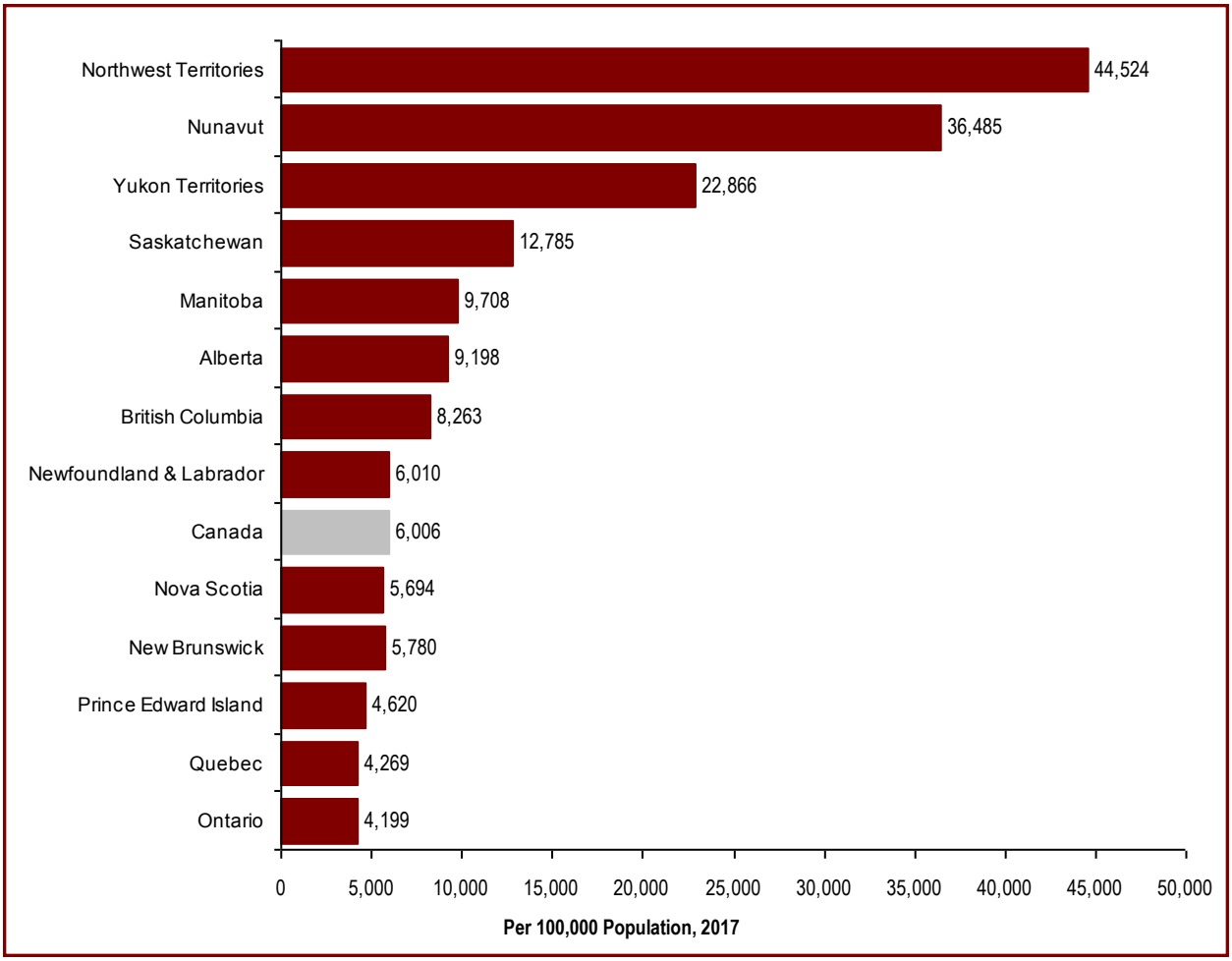
Year	Type of Offence						
	Violent**	Property**	Traffic	Other *CC***	Drugs	Total Other Fed. Stat-	**Total***
1998	1,345	5,696	496	1,051	235	40	**8,915**
1999	1,440	5,345	388	910	264	44	**8,474**
2000	1,494	5,189	370	924	287	43	**8,376**
2001	1,473	5,124	393	989	288	62	**8,390**
2002	1,441	5,080	379	991	296	55	**8,315**
2003	1,435	5,299	373	1,037	274	46	**8,532**
2004	1,404	5,123	379	1,072	306	50	**8,391**
2005	1,389	4,884	378	1,052	290	60	**8,090**
2006	1,387	4,809	376	1,050	295	57	**8,004**
2007	1,354	4,525	402	1,029	308	59	**7,707**
2008	1,334	4,258	437	1,039	308	67	**7,475**
2009	1,322	4,122	435	1,017	291	57	**7,281**
2010	1,292	3,838	420	1,029	321	62	**6,996**
2011	1,236	3,536	424	1,008	330	60	**6,627**
2012	1,198	3,435	406	1,000	317	67	**6,459**
2013	1,093	3,147	386	954	310	52	**5,971**
2014	1,041	3,090	364	915	294	49	**5,777**
2015	1,066	3,218	351	926	278	50	**5,913**
2016	1,052	3,207	345	965	263	59	**5,962**
2017	1,098	3,245	342	991	247	69	**6,006**

Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada.
**The definitions for Violent, Property, Other *Criminal Code* offences, and Total Other Federal Statutes have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.
Rates are based on incidents reported per 100,000 population.
Due to rounding, rates may not add up to totals.

CRIME RATES ARE HIGHER IN THE WEST AND HIGHEST IN THE NORTH

Figure A2



Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Crime rates are higher in the west and highest in the territories. This general pattern has been stable over time.
- The Canadian crime rate* slightly increased from 5,970 in 2013 to 6,006 in 2017.

Note:
*Rates are based on 100,000 population.
Unlike Statistics Canada, the Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Crime Rate reported here is higher than that reported by Statistics Canada. In addition, the definitions for Violent, Property and Other *Criminal Code* offences have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.

CRIME RATES ARE HIGHER IN THE WEST AND HIGHEST IN THE NORTH

Table A2

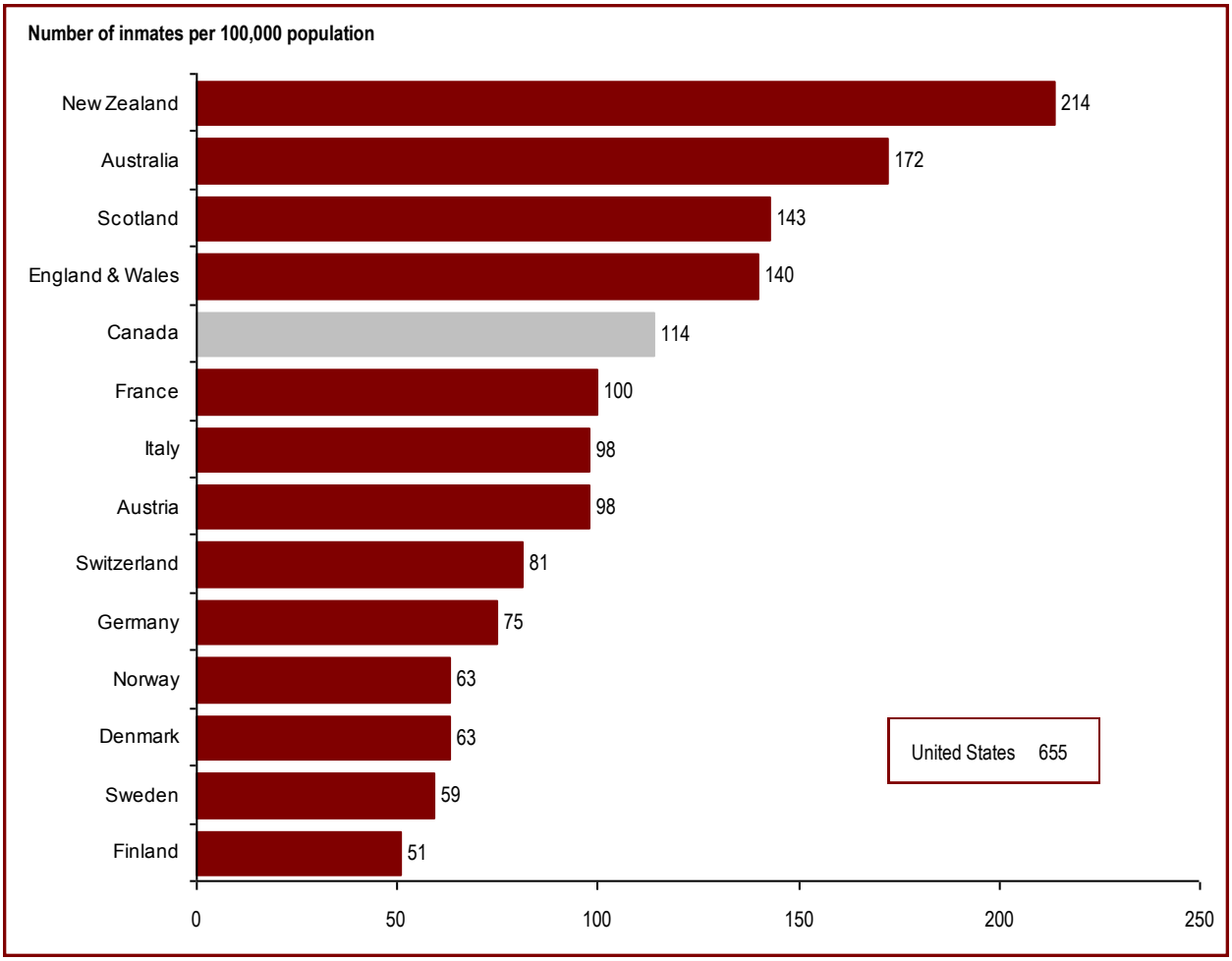
Province/Territory	Crime Rate*				
	2013	2014	2015	2016	2017
Newfoundland & Labrador	6,677	6,216	6,362	6,490	6,010
Prince Edward Island	6,541	5,304	4,677	4,929	4,620
Nova Scotia	6,414	6,229	5,697	5,555	5,694
New Brunswick	5,476	5,072	5,514	5,318	5,780
Quebec	4,701	4,317	4,212	4,184	4,269
Ontario	4,182	4,003	3,998	4,061	4,119
Manitoba	8,720	8,399	8,904	9,479	9,708
Saskatchewan	12,545	12,138	12,803	13,362	12,785
Alberta	7,962	7,986	8,846	8,940	9,198
British Columbia	8,535	8,602	8,758	8,670	8,263
Yukon Territories	26,150	26,430	26,072	23,828	22,866
Northwest Territories	48,550	46,677	47,254	43,351	44,524
Nunavut	34,650	32,628	34,370	35,740	36,485
Canada	**5,970**	**5,777**	**5,913**	**5,961**	**6,006**

Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
*Rates are based on 100,000 population.
Unlike Statistics Canada, the Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Crime Rate reported here is higher than that reported by Statistics Canada. In addition, the definitions for Violent, Property and Other *Criminal Code* offences have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.

CANADA'S INCARCERATION RATE RELATIVE TO OTHER WESTERN EUROPEAN COUNTRIES

Figure A3



Source: World Prison Population List online (retrieved February 12, 2019 at www.prisonstudies.org/highest-to-lowest/prison-population-total.

- Canada's incarceration rate is higher than the rates in most western European countries but much lower than the United States, where the most recent incarceration rate was 655 per 100,000 general population.
- Based on the most up-to-date information available from the International Centre for Prison Studies, Canada's incarceration rate was 114 per 100,000. When ranked from highest to lowest, Canada's prison population rate was ranked 138 of 223 countries.

Note:
The incarceration rate, in this figure, is a measure of the number of people (i.e., adults and youth) in custody per 100,000 people in the general population. Incarceration rates from the *World Prison Population List* are based on the most recently available data at the time the list was compiled. Due to variations in the availability of information, the 2006 and 2008 dates reported in Figure A3 refer to when the *World Prison Population Lists (Seventh and Eighth Editions* respectively) were published, but may not necessarily correspond to the date the data were obtained. For 2018, the data was retrieved online on February 12, 2019 from http://www.prisonstudies.org which contains the most up-to-date information available. These data reflect incarceration rates based on the country's population. Additionally, different practices and variations in measurement in different countries limit the comparability of these figures.

CANADA'S INCARCERATION RATE RELATIVE TO OTHER WESTERN EUROPEAN COUNTRIES

Table A3

	2006[1*]	2008[2*]	2011[3*]	2012[4*]	2013[5*]	2014[6*]	2015[7*]	2016[8*]	2017[9*]	2018[10*]
United States	738	756	743	730	716	707	698	693	666	655
New Zealand	186	185	199	194	192	190	190	203	214	214
England & Wales	148	153	155	154	148	149	148	147	146	140
Scotland	139	152	155	151	147	144	144	142	138	143
Australia	126	129	133	129	130	143	151	152	168	172
Canada	**107**	**116**	**117**	**114**	**118**	**118**	**106**	**114**	**114**	**114**
Italy	104	92	110	109	106	88	86	90	95	98
Austria	105	95	104	104	98	99	95	93	94	98
France	85	96	102	102	101	102	100	103	103	100
Germany	95	89	87	83	79	81	78	78	77	75
Switzerland	83	76	79	76	82	87	84	83	82	81
Sweden	82	74	78	70	67	57	60	53	57	59
Denmark	77	63	74	74	73	67	61	58	59	63
Norway	66	69	73	73	72	75	71	74	74	63
Finland	75	64	59	59	58	55	57	55	57	51

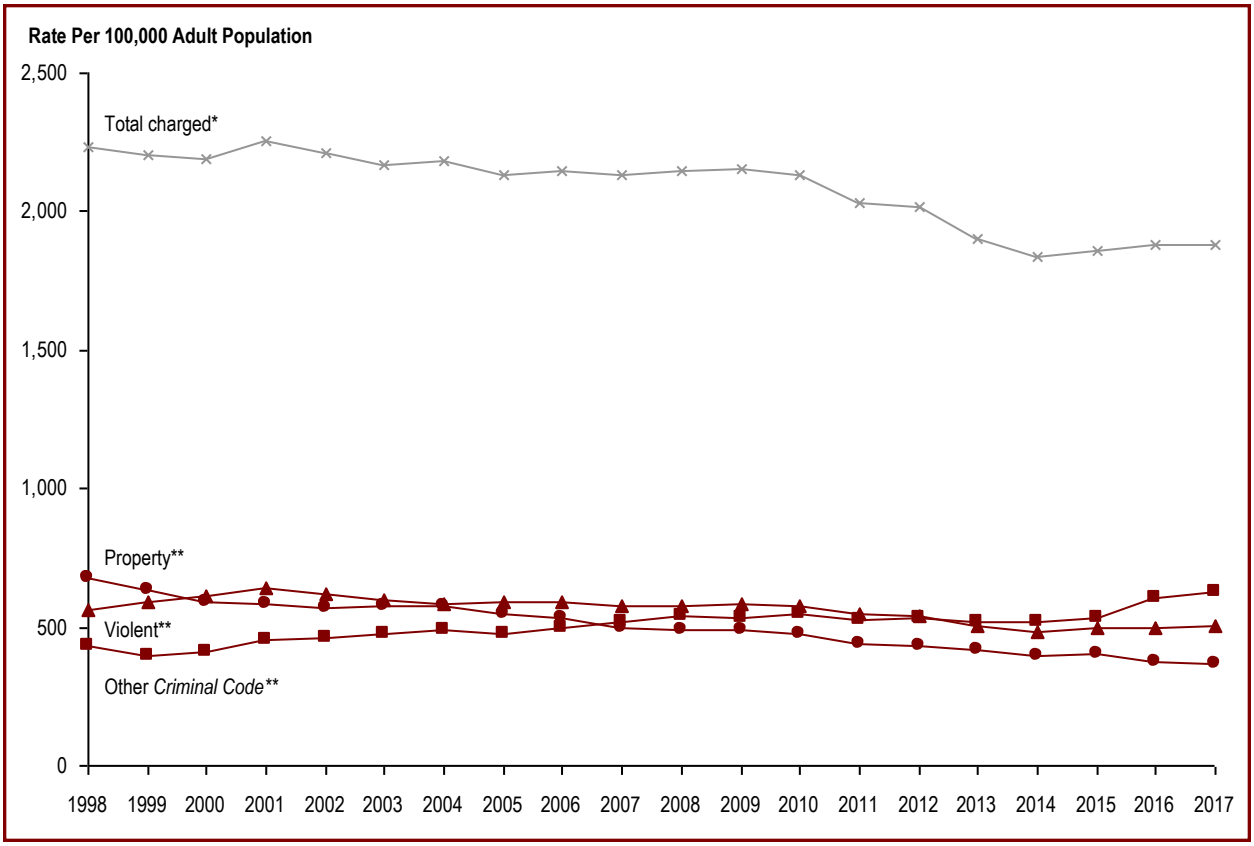
Source: International Centre for Prison Studies: [1]World Prison Population List (Seventh Edition); [2]World Prison Population List (Eighth Edition); [3]World Prison Population List online (retrieved October 7, 2011 at www.prisonstudies.org/info/worldbrief/index.php), [4]World Prison Population List online (retrieved October 15, 2012 at www.prisonstudies.org/info/worldbrief/index.php).[5]World Prison Population List online (retrieved November 20, 2013 at www.prisonstudies.org/info/worldbrief/index.php). [6]World Prison Population List online (retrieved December 8, 2014 at www.prisonstudies.org/world-prison-brief). [7]*World Prison Population List* (retrieved November 20, 2015 at www.prisonstudies.org/highest-to-lowest/prison-population-total). [8]World Prison Population List online (retrieved December 6, 2016 at www.prisonstudies.org/highest-to-lowest/prison-population-total). [9]World Prison Population List online (retrieved November 10, 2017 at www.prisonstudies.org/highest-to-lowest/prison-population-total). [10]World Prison Population List (Twelfth Edition) online (retrieved February 12, 2019 at www.prisonstudies.org/highest-to-lowest/prison-population-total).

Note:

*Incarceration rates from the *World Prison Population List* are based on the most recently available data at the time the list was compiled. Due to variations in the availability of information, the 2006 and 2008 dates reported in Table A3 refer to when the *World Prison Population Lists (Seventh and Eighth Editions* respectively) were published, but may not necessarily correspond to the date the data were obtained. For 2018, the data was retrieved online on February 12, 2019 at www.prisonstudies.org which contains the most up to date information available. Additionally, different practices and variations in measurement in different countries limit the comparability of these figures. Rates are based on 100,000 population.

THE RATE OF ADULTS CHARGED HAS DECLINED

Figure A4



Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Since 1998, the rate of adults charged has decreased from 2,236 adults per 100,000 to 1,881 in 2017, a decrease of 15.9%.
- Over the same period, the rate of adults charged with violent crimes decreased by 10.1%, such that in 2017, 506 adults were charged per 100,000, whereas the rate of adults charged for property offences decreased by 45.2% from 677 adults per 100,000 to 371 in 2017.

Note:
*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada.
**The definitions for Violent, Property and Other *Criminal Code* offences have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.
Violent crimes include homicide, attempted murder, assault, sexual offences, abduction, extortion, robbery, firearms, and other violent offences such as uttering threats and criminal harassment.
Property crimes include break and enter, motor vehicle thefts, other thefts, possession of stolen property, fraud, mischief and arson.

THE RATE OF ADULTS CHARGED HAS DECLINED

Table A4

Year	Type of Offence						
	Violent**	Property**	Traffic	Other *CCC***	Drugs	Total Other Fed. Stat-	**Total Charged***
1998	563	677	374	430	168	12	**2,236**
1999	590	632	371	396	185	18	**2,203**
2000	615	591	349	411	198	16	**2,190**
2001	641	584	349	451	202	18	**2,256**
2002	617	569	336	460	199	18	**2,211**
2003	598	573	326	476	172	15	**2,168**
2004	584	573	314	490	187	22	**2,180**
2005	589	550	299	479	185	22	**2,131**
2006	594	533	300	498	198	20	**2,150**
2007	577	499	298	521	208	20	**2,132**
2008	576	487	307	540	207	22	**2,149**
2009	585	490	311	532	201	20	**2,152**
2010	576	473	295	545	211	22	**2,132**
2011	548	441	271	527	213	23	**2,034**
2012	540	434	268	535	202	25	**2,016**
2013	504	415	242	518	200	18	**1,904**
2014	486	397	232	518	190	13	**1,840**
2015	498	401	228	531	180	15	**1,859**
2016	506	378	220	603	169	17	**1,900**
2017	506	371	206	636	155	12	**1,881**

Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:

*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada.

**The definitions for Violent, Property, Other *Criminal Code* offences, and Total Other Federal Statutes have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.

Rates are based on 100,000 population, 18 years of age and older.

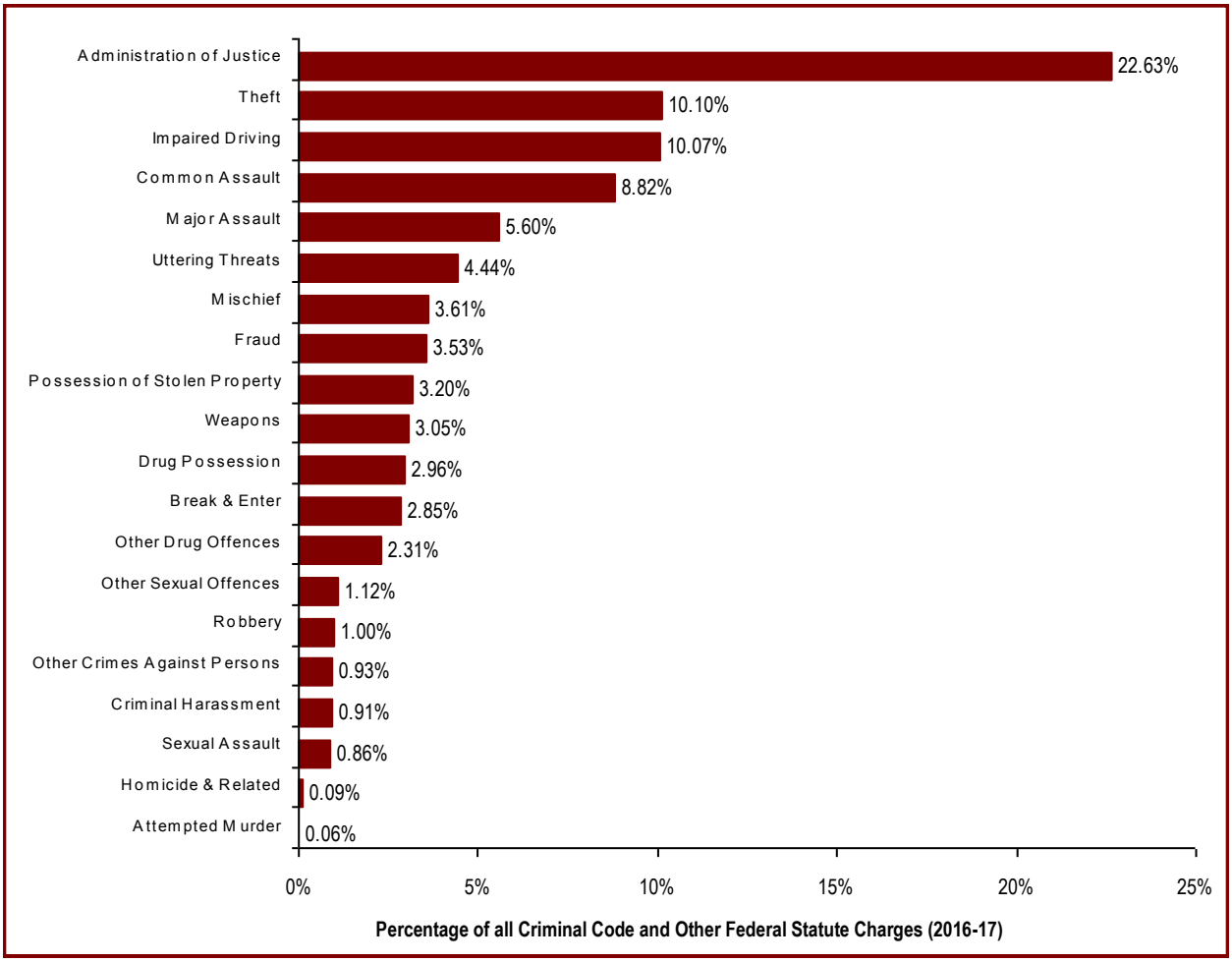
Due to rounding, rates may not add up to totals.

Violent crimes include homicide, attempted murder, assault, sexual offences, abduction, extortion, robbery, firearms, and other violent offences such as uttering threats and criminal harassment.

Property crimes include break and enter, motor vehicle theft, other theft, possession of stolen property, fraud, mischief and arson.

ADMINISTRATION OF JUSTICE CASES, CRIMES AGAINST THE PERSON CASES AND CRIMES AGAINST PROPERTY CASES EACH ACCOUNT FOR 23% OF CASES* IN ADULT COURTS

Figure A5



Source: Table 35-10-0027-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Administration of justice cases (offences related to case proceedings such as failure to appear in court, failure to comply with a court order, breach of probation, and unlawfully at large) account for more than one fifth of cases completed in adult criminal courts.
- Apart from administration of justice cases, theft and impaired driving are the most frequent cases in adult courts.

Note:
*Cases completed in adult criminal courts.
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007. A case is one or more charges against an accused person or corporation, processed by the courts at the same time, and where all of the charges in the case received a final disposition. Where a case has more than one charge, it is necessary to select a charge to represent the case. An offence is selected by applying two rules. First, the "most serious decision" rule is applied. In cases where two or more offences have the same decision, the "most serious offence" rule is applied. All charges are ranked according to an offence seriousness scale.
Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. In addition, information from Quebec's municipal courts is not collected.
The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates.
Due to rounding, percentages may not add up to 100 percent.

ADMINISTRATION OF JUSTICE CASES, CRIMES AGAINST THE PERSON CASES AND CRIMES AGAINST PROPERTY CASES EACH ACCOUNT FOR 23% OF CASES* IN ADULT COURTS

Table A5

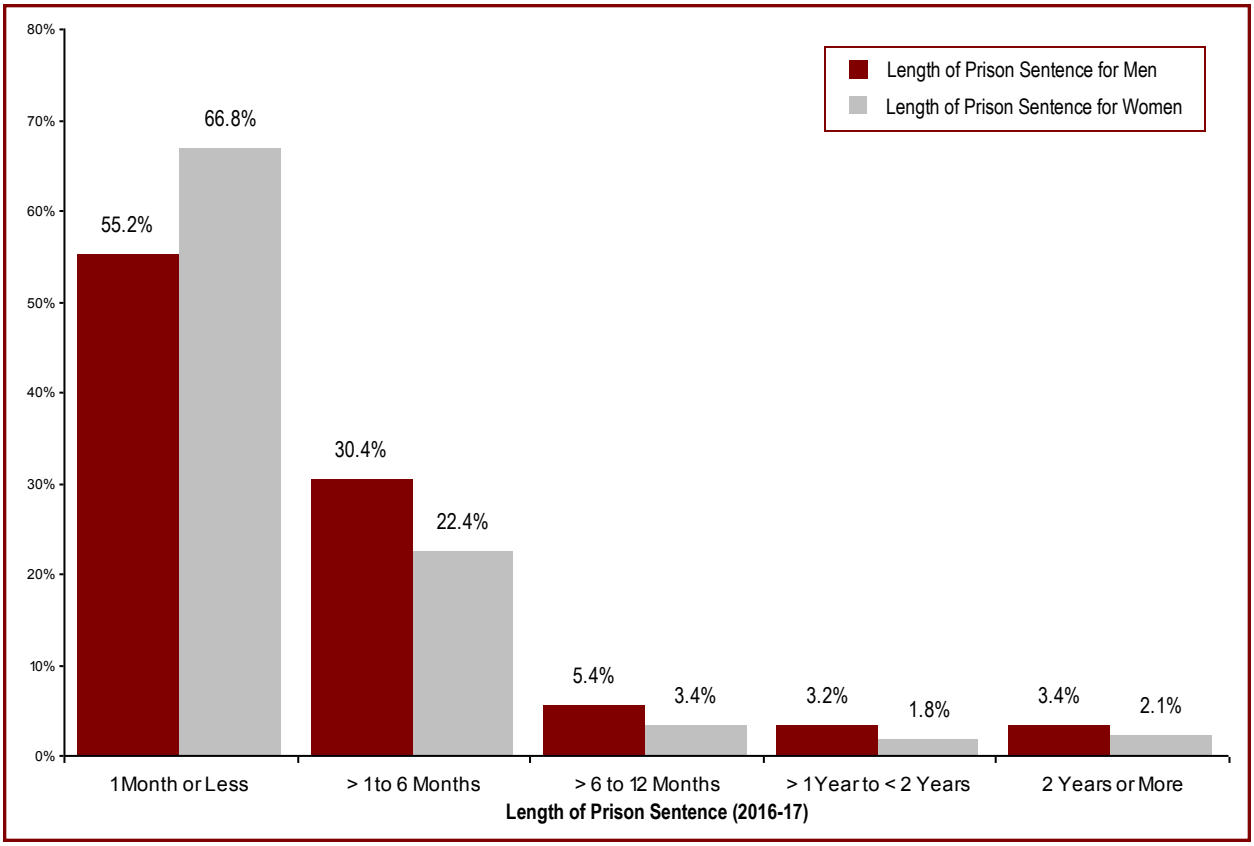
Type of Charge	*Criminal Code* and Other Federal Statute Charges					
	2014-15		2015-16		2016-17	
	#	%	#	%		
Crimes Against the Person	**80,994**	**23.01**	**82,387**	**23.47**	**85,270**	**23.84**
Homicide and Related	262	0.07	247	0.07	328	0.09
Attempted Murder	158	0.04	195	0.06	197	0.06
Robbery	3,318	0.94	3,512	1.00	3,594	1.00
Sexual Assault	2,753	0.78	2,925	0.83	3,086	0.86
Other Sexual Offences	3,564	1.01	3,823	1.09	4,015	1.12
Major Assault (Levels 2 & 3)	18,644	5.30	19,164	5.46	20,034	5.60
Common Assault (Level 1)	30,517	8.67	30,748	8.76	31,554	8.82
Uttering Threats	15,849	4.50	15,677	4.47	15,897	4.44
Criminal Harassment	3,006	0.85	3,114	0.89	3,251	0.91
Other Crimes Against Persons	2,923	0.83	2,982	0.85	3,314	0.93
Crimes Against Property	**80,467**	**22.86**	**81,959**	**23.35**	**85,125**	**23.80**
Theft	35,195	10.00	35,537	10.12	36,112	10.10
Break and Enter	9,458	2.69	9,830	2.80	10,207	2.85
Fraud	11,371	3.23	11,623	3.31	12,634	3.53
Mischief	12,418	3.53	12,471	3.55	12,921	3.61
Possession of Stolen Property	10,441	2.97	10,872	3.10	11,460	3.20
Other Property Crimes	1,584	0.45	1,626	0.46	1,791	0.50
Administration of Justice	**78,365**	**22.26**	**79,312**	**22.59**	**80,950**	**22.63**
Fail to Appear	3,892	1.11	4,111	1.17	4,305	1.20
Breach of Probation	30,716	8.73	31,047	8.84	31,337	8.76
Unlawfully at Large	2,616	0.74	2,607	0.74	2,734	0.76
Fail to Comply with Order	33,159	9.42	33,546	9.56	34,341	9.60
Other Admin. Justice	7,982	2.27	8,001	2.28	8,233	2.30
Other *Criminal Code*	**15,419**	**4.38**	**16,162**	**4.60**	**16,590**	**4.64**
Weapons	9,693	2.75	10,545	3.00	10,906	3.05
Prostitution	388	0.11	198	0.06	425	0.12
Disturbing the Peace	1,136	0.32	1,056	0.30	938	0.26
Residual *Criminal Code*	4,202	1.19	4,363	1.24	4,321	1.21
***Criminal Code* Traffic**	**49,346**	**14.02**	**46,728**	**13.31**	**45,812**	**12.81**
Impaired Driving	39,585	11.25	36,825	10.49	36,000	10.07
Other *CC* Traffic	9,761	2.77	9,903	2.82	9,812	2.74
Other Federal Statutes	**47,428**	**13.47**	**44,513**	**12.68**	**43,895**	**12.27**
Drug Possession	13,677	3.89	12,515	3.56	10,571	2.96
Other Drug Offences	9,228	2.62	8,547	2.43	8,273	2.31
Residual Federal Statutes	23,621	6.71	22,554	6.42	24,330	6.80
Total Offences	**352,019**	**100.00**	**351,061**	**100.00**	**357,642**	**100.00**

Source: Table 35-10-0027-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
*Cases completed in adult criminal courts.
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007. Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. In addition, information from Quebec's municipal courts is not collected. The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates. Due to rounding, percentages may not add up to 100 percent.

MOST ADULT CUSTODIAL SENTENCES ORDERED BY THE COURT ARE SHORT

Figure A6



Source: Table 35-10-0032-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Over half (52.6%) of all custodial sentences imposed by adult criminal courts are one month or less.
- Prison sentences for men tend to be longer than for women. About two-thirds (66.8%) of women and just over half of men (55.2%) who are incarcerated following a guilty* finding receive a sentence of one month or less, and 89.2% of women and 85.6% of men receive a sentence of six months or less.
- Of all guilty findings that result in custody, only 3.1% result in federal jurisdiction (i.e., a sentence of two years or more).

Note:
*The decision type "guilty" includes guilty of the offence, of an included offence, of an attempt of the offence, or of an attempt of an included offence. This category also includes cases where an absolute or conditional discharge has been imposed.
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007.
Excludes cases where length of prison sentence and/or sex was not known, data for Manitoba as information on sentence length was not available.
Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. In addition, information from Quebec's municipal courts is not collected.
The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates.
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MOST ADULT CUSTODIAL SENTENCES ORDERED BY THE COURT ARE SHORT

Table A6

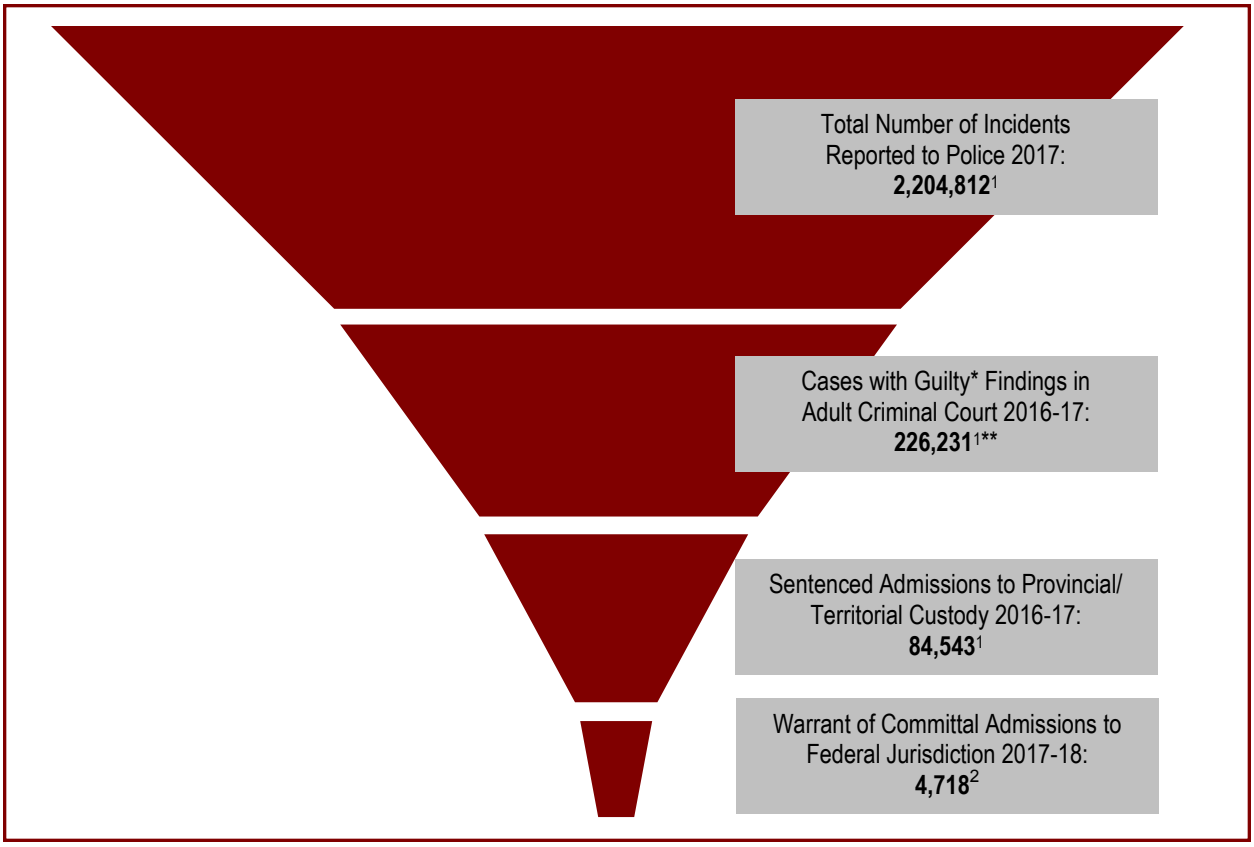
Length of Prison Sentence	2012-13	2013-14	2014-15	2015-16	2016-17
	%	%	%	%	%
1 Month or Less					
Women	67.1	65.4	65.4	66.6	66.8
Men	52.9	52.6	53.8	54.2	55.2
Total	**50.6**	**50.0**	**51.1**	**51.6**	**52.6**
More Than 1 Month up to 6 Months					
Women	23.9	24.9	24.1	25.0	22.4
Men	32.4	32.6	31.5	30.9	30.4
Total	**29.5**	**29.6**	**28.8**	**28.2**	**27.7**
More Than 6 Months up to 12 Months					
Women	4.2	4.1	4.0	4.0	3.4
Men	6.3	6.2	6.2	5.8	5.4
Total	**5.8**	**5.7**	**5.6**	**5.3**	**4.9**
More Than 1 Year up to Less Than 2 Years					
Women	2.0	2.2	2.1	2.1	1.8
Men	3.9	3.9	3.6	3.6	3.2
Total	**3.6**	**3.6**	**3.3**	**3.2**	**3.0**
2 Years or More					
Women	1.8	2.0	2.2	2.5	2.1
Men	3.8	3.9	3.6	3.7	3.4
Total	**3.4**	**3.4**	**3.2**	**3.3**	**3.1**

Source: Table 35-10-0032-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007.
Excludes cases where length of prison sentence and/or sex was not known, data for Manitoba as information on both sentence length was not available.
Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. In addition, information from Quebec's municipal courts is not collected.
The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates.
Due to rounding, totals may not add up to 100 percent.

RELATIVELY FEW CRIMES RESULT IN SENTENCES TO FEDERAL PENITENTIARIES

Figure A7



Source: [1]Table 35-10-0177-01, Uniform Crime Reporting Survey-2; Table 35-10-0027-01, Integrated Criminal Court Survey; and Table 35-10-0018-01, Adult Correctional Services Survey, all Canadian Centre for Justice Statistics, Statistics Canada; [2]Correctional Service Canada.

- There were about 2.2 million incidents reported to police in 2017.
- In 2017-18, there were 4,718 warrant of committal admissions for offenders sentenced to a federal institution or Healing Lodge.

Note:
*The decision type "guilty" includes guilty of the offence, of an included offence, of an attempt of the offence, or of an attempt of an included offence. This category also includes cases where an absolute or conditional discharge has been imposed.
**This figure only includes cases in provincial court and partial data from Superior Court. Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. Information from Quebec's municipal courts is not collected.
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007. A case is one or more charges against an accused person or corporation, processed by the courts at the same time, and where all of the charges in the case received a final disposition.
Police data are reported on a calendar year basis whereas court and prison data are reported on a fiscal year basis (April 1 through March 31).

RELATIVELY FEW CRIMES RESULT IN SENTENCES TO FEDERAL PENITENTIARIES

Table A7

	2013-14	2014-15	2015-16	2016-17	2017-18
Total Number of Incidents Reported to Police[1]	2,098,776	2,052,925	2,118,681	2,161,927	2,204,812
Cases With Guilty* Findings in Adult Criminal Court[1**]	244,742	227,031	227,279	226,231	Not available***
Sentenced Admissions to Provincial/ Territorial Custody[1]	64,604	62,279	62,771	84,543	Not available***
Warrant of Committal Admissions to Federal Facilities[2]	5,071	4,818	4,891	4,908	4,718

Source: [1]Table 35-10-0177-01, Uniform Crime Reporting Survey-2; Table 35-10-0027-01, Integrated Criminal Court Survey; and Table 35-10-0018-01, Adult Correctional Services Survey, all Canadian Centre for Justice Statistics, Statistics Canada; [2]Correctional Service Canada.

Note:

*The decision type "guilty" includes guilty of the offence, of an included offence, of an attempt of the offence, or of an attempt of an included offence. This category also includes cases where an absolute or conditional discharge has been imposed.

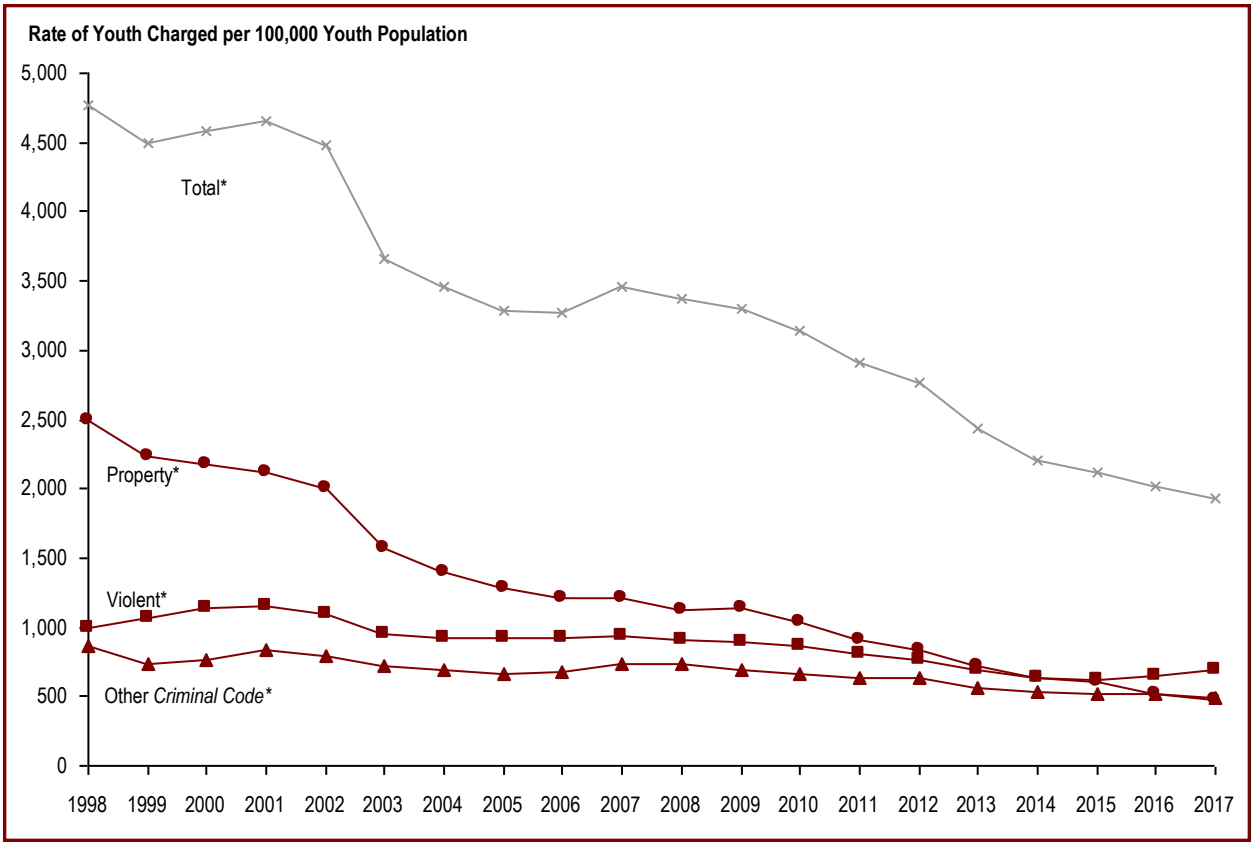
**This figure only includes cases convicted in provincial court and partial data from Superior Court. Superior Court data are not reported to the *Integrated Criminal Court Survey* for Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan. Information from Quebec's municipal courts is not collected. The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007. A case is one or more charges against an accused person or corporation, processed by the courts at the same time, and where all of the charges in the case received a final disposition.

Police data are reported on a calendar year basis whereas court and prison data are reported on a fiscal year basis (April 1 through March 31).

***Data from 2017-2018 were not yet released during the preparation of this report.

THE RATE OF YOUTH CHARGED HAS DECLINED OVER THE PAST TEN YEARS

Figure A8



Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- The rate of youth** charged has declined over the past ten years.
- In 2003, there was a notable decrease in all major crime categories, in part attributable to the implementation of the *Youth Criminal Justice Act* (YCJA) in April 2003, which places greater emphasis on diversion.
- The rate of youth charged with property crimes has decreased since 1998 by 81.0%, dropping from 2,500 per 100,000 youth to 474 in 2017.
- The rate of youth charged with violent crimes has decreased by 40.7% since reaching its peak in 2001, dropping from 1,157 per 100,000 youth to 686 in 2017.

Note:
*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada. In addition, the definitions for Violent, Property and Other *Criminal Code* offences have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.
**For criminal justice purposes, youth are defined under Canadian law as persons age 12 to 17.
Rates are based on 100,000 youth population (12 to 17 years old).
Violent crimes include homicide, attempted murder, assault, sexual offences, abduction, extortion, robbery, firearms, and other violent offences such as uttering threats and criminal harassment.
Property crimes include break and enter, motor vehicle theft, other theft, possession of stolen property, fraud, mischief and arson.

THE RATE OF YOUTH CHARGED HAS DECLINED OVER THE PAST TEN YEARS

Table A8

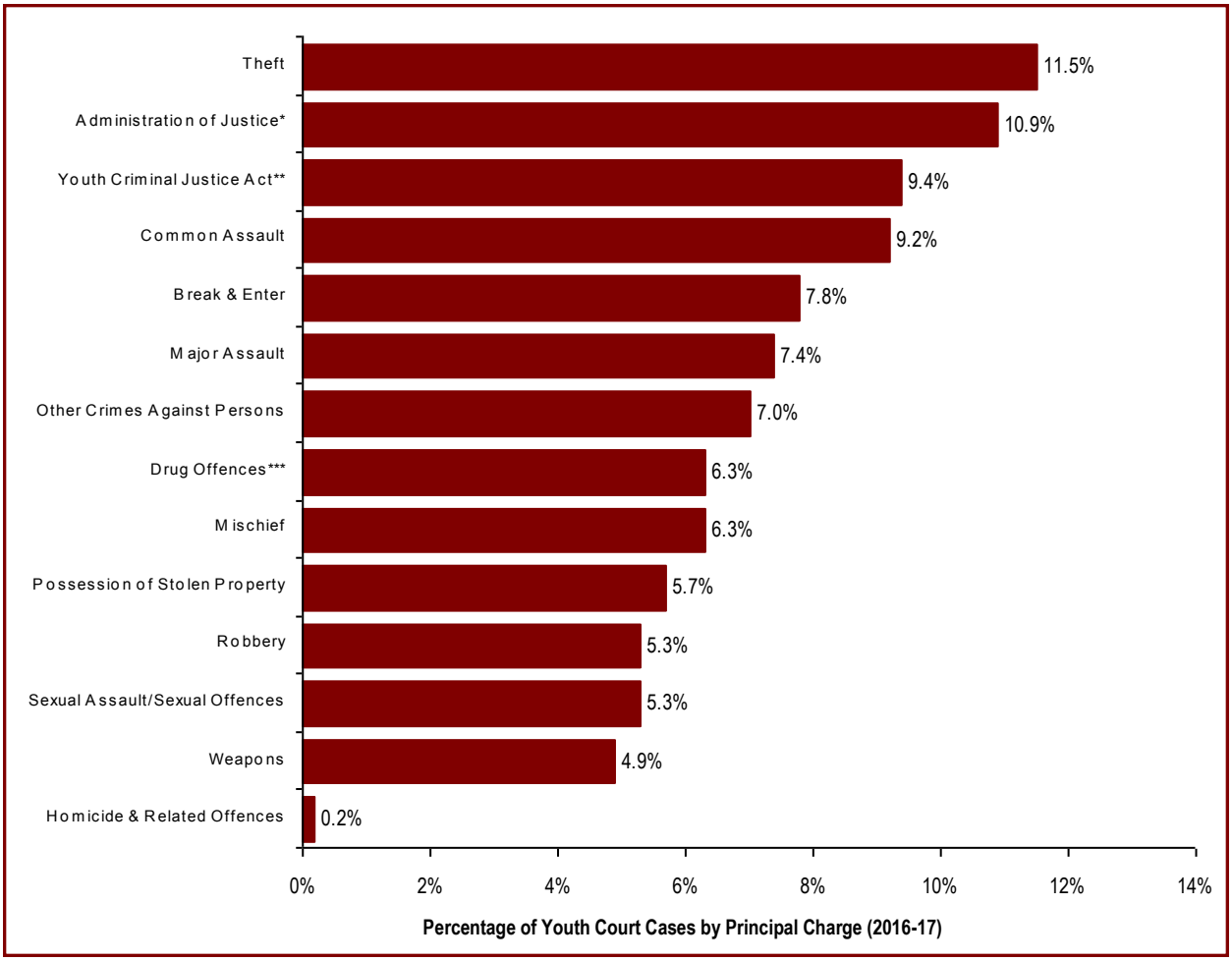
Year	Type of Offence						
	Violent*	Property*	Traffic**	Other *CCC**	Drugs	Total Other Fed. Stat-	**Total Charged***
1998	994	2,500	--	870	226	4	**4,775**
1999	1,060	2,237	--	728	266	2	**4,500**
2000	1,136	2,177	--	760	317	4	**4,589**
2001	1,157	2,119	--	840	343	6	**4,656**
2002	1,102	2,009	--	793	337	6	**4,476**
2003	953	1,570	--	726	208	5	**3,662**
2004	918	1,395	--	691	230	5	**3,457**
2005	924	1,276	--	660	214	10	**3,287**
2006	917	1,216	--	680	240	16	**3,269**
2007	943	1,211	75	732	260	17	**3,461**
2008	909	1,130	74	730	267	19	**3,369**
2009	888	1,143	68	698	238	30	**3,294**
2010	860	1,035	62	669	255	31	**3,147**
2011	805	903	58	635	263	31	**2,915**
2012	764	841	58	629	240	20	**2,768**
2013	692	723	45	555	229	10	**2,437**
2014	629	629	43	530	200	6	**2,199**
2015	623	612	44	525	161	10	**2,125**
2016	648	514	41	523	138	12	**2,003**
2017	686	474	37	492	121	6	**1,930**

Source: Table 35-10-0177-01, Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
*Unlike Statistics Canada, the Total Crime Rate in the *Corrections and Conditional Release Statistical Overview* **includes** traffic offences and violations of federal statutes to provide a measure of all criminal offences. As a result, the Total Crime Rate reported here is higher than that reported by Statistics Canada. In addition, the definitions for Violent, Property, Other *Criminal Code* offences, and Total Other Federal Statutes have been revised by Statistics Canada to better reflect definitions used by the policing community. As a result of these changes, comparable data are only available starting in 1998 and the data presented in this year's report are not comparable to the data reported in previous versions of the *Corrections and Conditional Release Statistical Overview*.
**Data for Youth Charged and Youth Not Charged for Impaired Driving are not available prior to 2007. As a result, comparisons to Total Charged and Other *CCC* (including traffic) over time should be made with caution.
For criminal justice purposes, youth are defined under Canadian law as persons age 12 to 17.
Rates are based on 100,000 youth population (12 to 17 years old).
Violent crimes include homicide, attempted murder, assault, sexual offences, abduction, extortion, robbery, firearms, and other violent offences such as uttering threats and criminal harassment.

THE MOST COMMON YOUTH COURT CASE IS THEFT

Figure A9



Source: Table 35-10-0038-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Following the enactment of the *Youth Criminal Justice Act* in 2003, fewer youth appear in court.
- Theft is the most common case in youth court.
- Homicides and related offences account for 0.2% of all youth cases.
- Females account for 20% of all cases, but they account for 33% of common assaults.

Note:

*"Administration of Justice" includes the offences failure to appear, failure to comply, and breach of recognizance.

***Youth Criminal Justice Act* offences include failure to comply with a disposition or undertaking, contempt against youth court, assisting a youth to leave a place of custody and harbouring a youth unlawfully at large. Also included are similar offences under the *Young Offenders Act*, which preceded the *Youth Criminal Justice Act*.

***"Drug Offences" includes possession and other drug offences.

The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007. A case is one or more charges against an accused person or corporation, processed by the courts at the same time, and where all of the charges in the case received a final disposition. Where a case has more than one charge, it is necessary to select a charge to represent the case. An offence is selected by applying two rules. First, the "most serious decision" rule is applied. In cases where two or more offences have the same decision, the "most serious offence" rule is applied. All charges are ranked according to an offence seriousness scale.

The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates.

THE MOST COMMON YOUTH COURT CASE IS THEFT

Table A9

Type of Case	Number of Youth Court Cases				
	2012-13	2013-14	2014-15	2015-16	2016-17
Crimes Against the Person	**12,792**	**11,883**	**9,959**	**9,635**	**9,709**
Homicide and Attempted Murder	52	53	49	55	54
Robbery	2,336	1,937	1,487	1,482	1,498
Sexual Assault/Other Sexual Offences	1,331	1,449	1,325	1,440	1,489
Major Assault	2,715	2,427	2,128	2,084	2,096
Common Assault	3,878	3,637	2,771	2,567	2,593
Other Crimes Against the Person*	2,480	2,380	2,199	2,007	1,979
Crimes Against Property	**15,723**	**13,526**	**11,014**	**10,654**	**9,482**
Theft	5,476	4,692	3,660	3,658	3,234
Break and Enter	3,606	3,153	2,603	2,419	2,200
Fraud	474	470	377	380	418
Mischief	2,948	2,514	2,155	2,087	1,788
Possession of Stolen Property	2,779	2,322	1,913	1,832	1,600
Other Crimes Against Property	440	375	306	278	242
Administration of Justice	**4,893**	**4,336**	**3,659**	**3,421**	**3,065**
Failure to Comply With Order	3,230	2,902	2,414	2,229	2,039
Other Administration of Justice**	1,357	1,172	1,028	983	822
Other *Criminal Code*	**2,424**	**2,193**	**2,078**	**1,933**	**1,834**
Weapons/Firearms	1,555	1,463	1,421	1,401	1,368
Prostitution	6	11	17	8	19
Disturbing the Peace	132	86	64	65	49
Residual *Criminal Code*	731	633	576	459	398
***Criminal Code* Traffic**	**828**	**656**	**569**	**570**	**550**
Other Federal Statutes	**8,781**	**7,780**	**6,395**	**5,505**	**4,532**
Drug Possession	1,840	1,571	1,784	1,551	1,122
Other Drug Offences	710	666	917	724	640
*Youth Criminal Justice Act****	4,542	3,870	3,524	3,096	2,648
Residual Federal Statutes	163	150	170	134	122
Total	**45,441**	**40,374**	**33,674**	**31,718**	**28,172**

Source: Table 35-10-0038-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:

*"Other Crimes Against the Person" includes the offences uttering threats and criminal harassment.

**"Other Administration of Justice" includes the offences failure to appear and breach of recognizance.

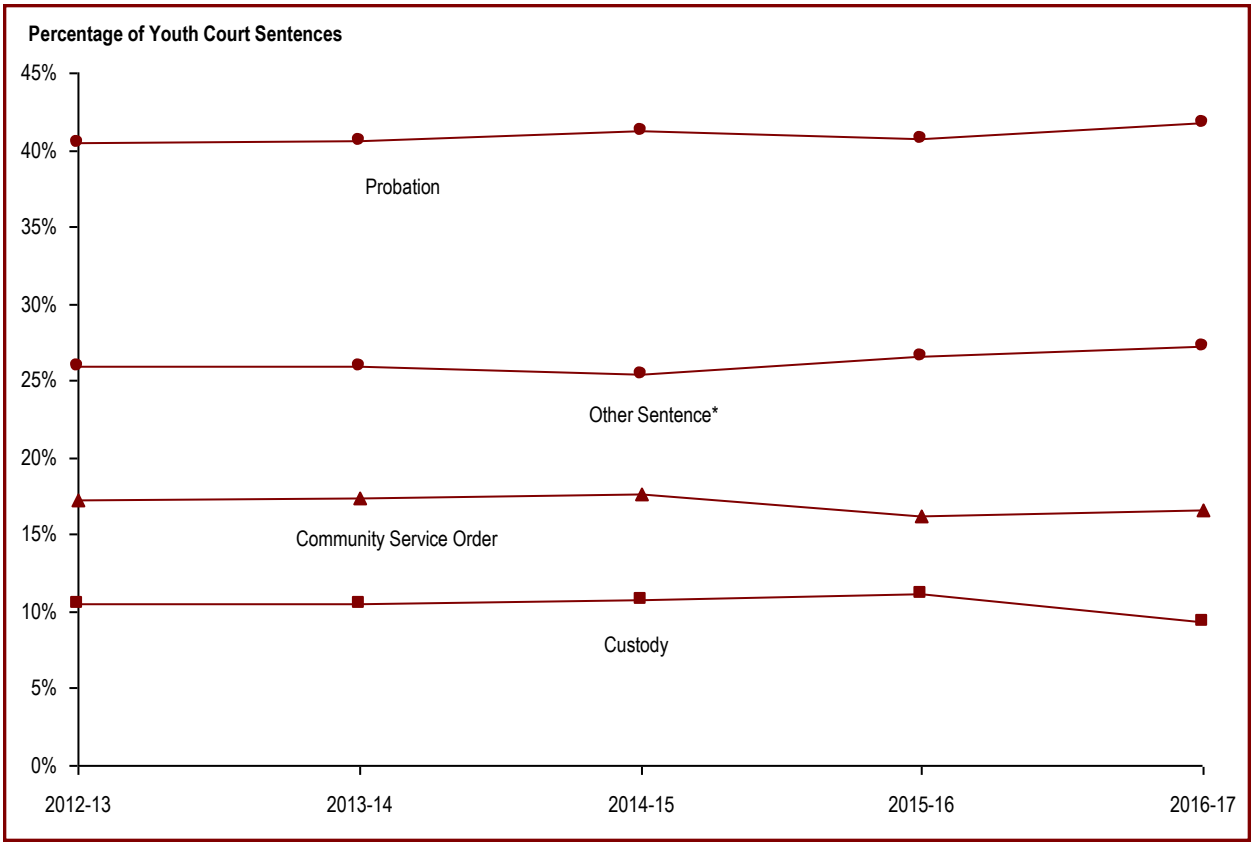
***_Youth Criminal Justice Act_ offences include failure to comply with a disposition or undertaking, contempt against youth court, assisting a youth to leave a place of custody and harbouring a youth unlawfully at large. Also included are similar offences under the _Young Offenders Act_, which preceded the _Youth Criminal Justice Act_.

The concept of a case has changed to more closely reflect court processing. Statistics from the _Integrated Criminal Court Survey_ used in this report should not be compared to editions of the _Corrections and Conditional Release Statistical Overview_ prior to 2007. A case is one or more charges against an accused person or corporation, processed by the courts at the same time, and where all of the charges in the case received a final disposition. Where a case has more than one charge, it is necessary to select a charge to represent the case. An offence is selected by applying two rules. First, the "most serious decision" rule is applied. In cases where two or more offences have the same decision, the "most serious offence" rule is applied. All charges are ranked according to an offence seriousness scale.

The Canadian Centre for Justice Statistics continues to make updates to the offence library used to classify offence data sent by the provinces and territories. These improvements have resulted in minor changes in the counts of charges and cases as well as the distributions by type of offence. Data presented have been revised to account for these updates.

THE MOST COMMON SENTENCE FOR YOUTH IS PROBATION

Figure A10



Source: Table 35-10-0041-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- Consistent with the objectives of the *YCJA*, fewer youth are sentenced to custody. In 2016-17, 12.9% of all guilty cases resulted in the youth being sentenced to custody.
- In 2016-17, 57.2% of youth found guilty were given probation as the most serious sentence. This rate has remained relatively stable since the implementation of the *YCJA* in April 2003.
- Of the new *YCJA* sentences, deferred custody and supervision orders were handed down least frequently. In 2016-17, 4.5% of all guilty cases received such an order as the most serious sentence.

Note:
*"Other Sentence" includes absolute discharge, restitution, prohibition, seizure, forfeiture, compensation, pay purchaser, essays, apologies, counselling programs and conditional discharge, conditional sentence, intensive support and supervision, attendance at non-residential program(s) and reprimand. This category also includes deferred custody and supervision, intensive support and supervision, attendance at non-residential program(s) and reprimand where sentencing data under the *Youth Criminal Justice Act* (YCJA) are not available.
Unlike previous years, this data represents the most serious sentence and therefore, sanctions are mutually exclusive. However, each case may receive more than one sentence.
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007.

THE MOST COMMON SENTENCE FOR YOUTH IS PROBATION

Table A10

Type of Sentence	Gender	Year				
		2012-13	2013-14	2014-15	2015-16	2016-17
		%	%	%	%	%
Probation	Female	41.9	41.4	41.1	41.2	42.6
	Male	39.2	39.4	40.1	40.0	40.9
	Total	40.4	40.6	41.2	40.7	41.7
Custody	Female	8.4	8.0	9.0	9.0	5.8
	Male	10.9	10.8	10.8	11.2	9.3
	Total	10.5	10.5	10.8	11.2	9.4
Community Service Order	Female	18.0	17.6	18.0	15.9	17.0
	Male	17.4	17.9	18.3	16.6	17.0
	Total	17.2	17.4	17.6	16.2	16.6
Fine	Female	2.0	2.0	2.2	2.2	1.9
	Male	2.7	2.2	1.9	2.0	1.8
	Total	2.6	2.2	2.0	2.1	1.8
Deferred Custody and Supervision	Female	3.0	3.3	2.5	3.0	2.6
	Male	3.3	3.2	2.9	3.2	3.3
	Total	3.3	3.3	3.0	3.2	3.3
Other Sentence*	Female	26.7	27.6	27.2	28.7	30.1
	Male	26.5	26.5	25.9	27.0	27.8
	Total	26.0	25.9	25.4	26.6	27.2

Source: Table 35-10-0041-01, Integrated Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:

*"Other Sentence" includes absolute discharge, restitution, prohibition, seizure, forfeiture, compensation, pay purchaser, essays, apologies, counselling programs and conditional discharge, conditional sentence, intensive support and supervision, attendance at non-residential program(s) and reprimand. This category also includes deferred custody and supervision, intensive support and supervision, attendance at non-residential program(s) and reprimand where sentencing data under the *Youth Criminal Justice Act* (YCJA) are not available.

Unlike previous years, this data represents the most serious sentence and therefore, sanctions are mutually exclusive. However, each case may receive more than one sentence.

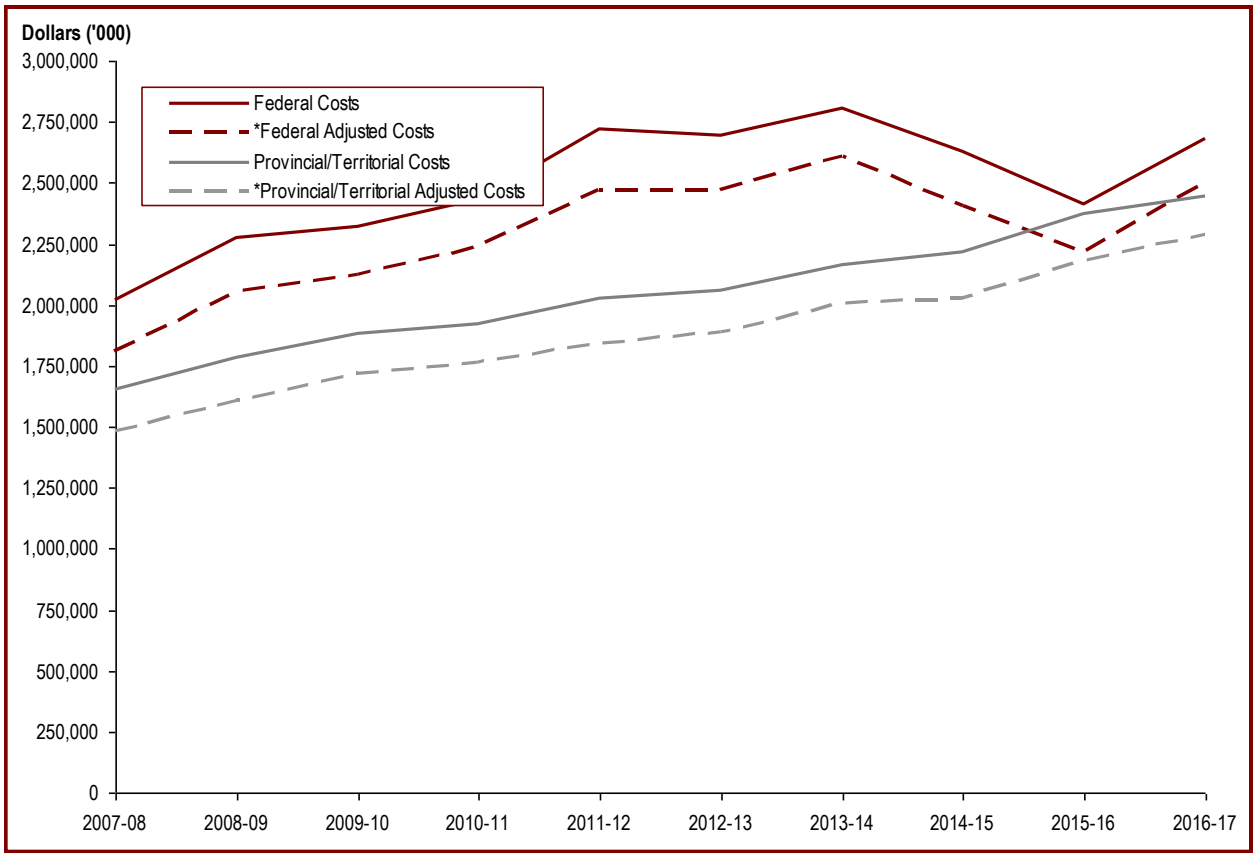
The concept of a case has changed to more closely reflect court processing. Statistics from the *Integrated Criminal Court Survey* used in this report should not be compared to editions of the *Corrections and Conditional Release Statistical Overview* prior to 2007.

SECTION B

CORRECTIONS ADMINISTRATION

EXPENDITURES ON CORRECTIONS

Figure B1



Source: Correctional Service Canada; Parole Board of Canada; Office of the Correctional Investigator; Statistics Canada Consumer Price Index. Provincial figures derived from the Adult Correctional Services Survey, Canadian Center for Justice Statistics, Statistics Canada.

- In 2016-17, expenditures on federal corrections in Canada totaled approximately $2.41 billion, an 0.2% increase from 2015-16.
- Provincial/territorial expenditures totaled about $2.45 billion in 2016-17, an increase of 3.2% from 2015-16.
- Since 2007-08, expenditures on federal corrections have increased by 19.8%, from $2.02 billion to $2.41 billion. In constant dollars, this represents an increase of 24.8%.
- Over the same time period, provincial/territorial expenditures increased by 48.5% from $1.65 billion to $2.45 billion. In constant dollars, this represents an increase of 54.6%.

Note:
*Adjusted costs are reported in constant dollars. Constant dollars (2002) represent dollar amounts calculated on a one-year base that adjusts for inflation, allowing the yearly amounts to be directly comparable. Changes in the Consumer Price Index were used to calculate constant dollars.
Federal expenditures on corrections include spending by Correctional Service Canada (CSC), the Parole Board of Canada (PBC), and the Office of the Correctional Investigator (OCI). Total expenditures represent gross expenditures and exclude revenues. Operating costs include Employee benefit Plan expenditures. CSC expenditures exclude CORCAN (a Special Operating Agency that conducts industrial operations within penitentiaries). Provincial/Territorial expenditures do not include capital costs.

EXPENDITURES ON CORRECTIONS

Table B1

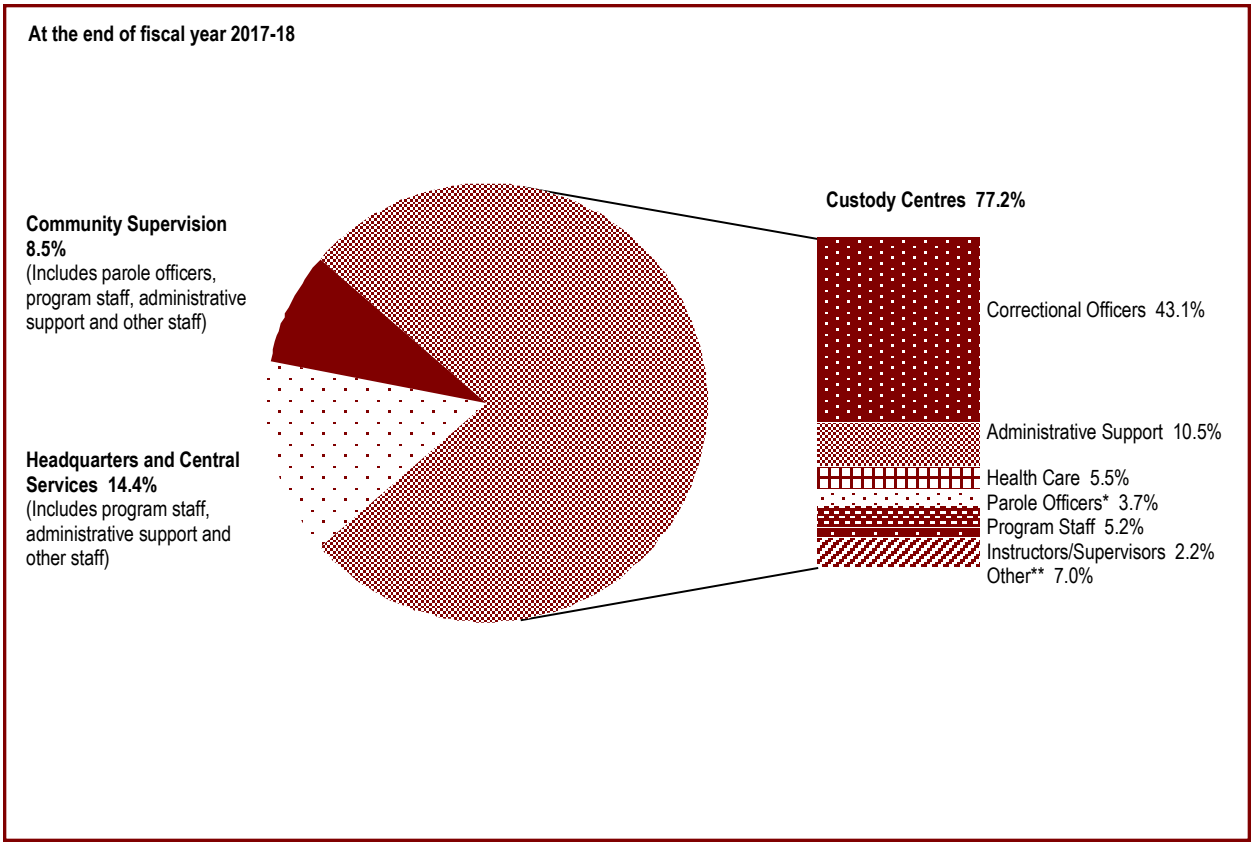
Year	Current Dollars				Constant 2002 Dollars			
	Operating	Capital	Total	Per capita	Operating	Capital	Total	Per capita
	$'000			$	$'000			$
2012-13								
CSC	2,204,005	437,736	2,641,742	76.01	2,019,281	401,048	2,420,331	69.64
PBC	46,500	- -	46,500	1.34	42,603	- -	42,603	1.23
OCI	4,801	- -	4,801	0.14	4,399	- -	4,399	0.13
Total	2,255,306	437,736	2,693,043	77.49	2,066,283	401,048	2,467,332	70.99
2013-14								
CSC	2,371,700	378,372	2,750,072	78.22	2,203,672	351,566	2,555,238	72.68
PBC	50,400	- -	50,400	1.43	46,829	- -	46,829	1.33
OCI	4,946	- -	4,946	0.14	4,596	- -	4,596	0.13
Total	2,427,046	378,372	2,805,418	79.79	2,255,097	351,566	2,606,663	74.14
2014-15								
CSC	2,373,604	200,606	2,574,210	72.42	2,168,852	183,301	2,352,154	66.17
PBC	50,100	- -	50,100	1.41	45,778	- -	45,778	1.29
OCI	4,659	- -	4,659	0.13	4,257	- -	4,257	0.12
Total	2,428,363	200,606	2,628,969	73.96	2,218,888	183,301	2,402,189	67.58
2015-16								
CSC	2,189,101	168,684	2,357,785	65.77	2,014,457	155,227	2,169,684	60.52
PBC	46,300	- -	46,300	1.29	42,606	- -	42,606	1.19
OCI	4,656	- -	4,656	0.13	4,285	- -	4,285	0.12
Total	2,240,057	168,684	2,408,741	67.19	2,061,348	155,227	2,216,574	61.83
2016-17								
CSC	2,209,048	153,757	2,362,804	65.12	2,062,810	143,578	2,206,388	60.80
PBC	46,800	- -	46,800	1.29	43,702	- -	43,702	1.20
OCI	4,693	- -	4,693	0.13	4,382	- -	4,382	0.12
Total	2,260,541	153,757	2,414,297	66.53	2,110,895	143,578	2,254,472	62.13

Source: Correctional Service Canada; Parole Board of Canada; Office of the Correctional Investigator; Statistics Canada Consumer Price Index.

Note:
Due to rounding, constant dollar amounts may not add up to "Total".
Per capita cost is calculated by dividing the total expenditures by the total Canadian population and thus represents the cost per Canadian for federal correctional services.
Constant dollars represent dollar amounts calculated on a one-year base (2002) that adjusts for inflation allowing the yearly amounts to be directly comparable. Changes in the Consumer Price Index were used to calculate constant dollars.

CSC EMPLOYEES ARE CONCENTRATED IN CUSTODY CENTRES

Figure B2



Source: Correctional Service Canada.

- Correctional Service Canada (CSC) has a total of 16,898 staff.***
- Approximately 77% of CSC staff work in institutions.
- Staff employed in community supervision account for 9% of the total.

Note:
Due to changes in policy, Correctional Officers no longer occupy positions in the community.
*These parole officers are situated within institutions, with the responsibility of preparing offenders for release.
** The "Other" category represents job classifications such as trades and food services.
***CSC has changed its definition of employee. Previously the total number of employees included casual employees, employees on leave without pay and suspended employees. These categories have been removed from the total as of 2005-06. These numbers represent Indeterminate and Term equal to, or more than 3 months substantive employment; and Employee Status of Active and Paid Leave current up to March 31, 2018.
Due to rounding, percentage may not add to 100.

CSC EMPLOYEES ARE CONCENTRATED IN CUSTODY CENTRES

Table B2

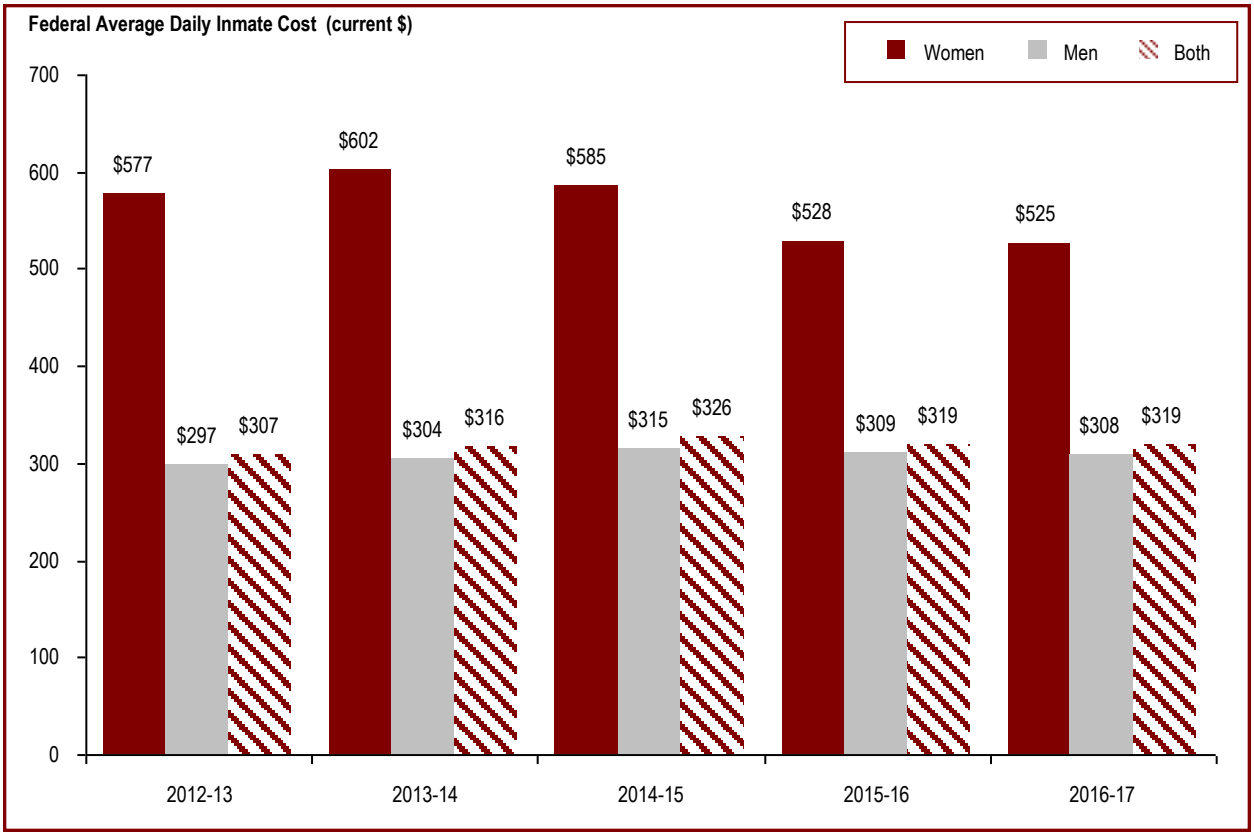
Service Area	March 31, 2006		March 31, 2018	
	#	%	#	%
Headquarters and Central Services	**2,087**	**14.5**	**2,427**	**14.4**
Administration	1,699	11.8	2,065	12.2
Health Care	111	0.8	80	0.5
Program Staff	120	0.8	62	0.4
Correctional Officers	28	0.2	39	0.2
Instructors/Supervisors	10	0.1	10	0.1
Parole Officers/Parole Supervisors			1	<0.1
Other**	119	0.8	170	1.0
Custody Centres	**11,229**	**77.8**	**13,039**	**77.2**
Correctional Officers	5,965	41.3	7,285	43.1
Administration	1,914	13.3	1,771	10.5
Health Care	779	5.4	921	5.5
Program Staff	534	3.7	875	5.2
Parole Officers/Parole Supervisors*	648	4.5	619	3.7
Instructors/Supervisors	387	2.7	377	2.2
Other**	1,002	6.9	1,191	7.0
Community Supervision	**1,125**	**7.8**	**1,432**	**8.5**
Parole Officers/Parole Supervisors	581	4.0	715	4.2
Administration	315	2.2	354	2.1
Program Staff	172	1.2	273	1.6
Health Care	34	0.2	87	0.5
Correctional Officers	22	0.2	0	0.0
Other**	1	<0.1	3	<0.1
Total* **	**14,441**	**100.0**	**16,898**	**100.0**

Source: Correctional Service Canada.

Note:
Due to changes in policy, Correctional Officers no longer occupy positions in the community.
*These parole officers are situated within institutions, with the responsibility of preparing offenders for release.
** The "Other" category represents job classifications such as trades and food services.
***CSC has changed its definition of employee. Previously the total number of employees included casual employees, employees on leave without pay and suspended employees. These categories have been removed from the total as of 2005-06. These numbers represent Indeterminate and Term equal to, or more than 3 months substantive employment; and Employee Status of Active and Paid Leave current up to March 31, 2018.
Due to rounding, percentage may not add to 100.

THE COST OF KEEPING AN INMATE INCARCERATED

Figure B3



Source: Correctional Service Canada.

- The federal average daily inmate cost has increased from $307 in 2012-13 to $319 in 2016-17.
- In 2016-17, the annual average cost of keeping an inmate incarcerated was $116,473 per year, an increase from $112,197 per year in 2012-13. In 2016-17, the annual average cost of keeping a man incarcerated was $112,640 per year, whereas the annual average cost for incarcerating a woman was $191,843.
- The cost associated with maintaining an offender in the community is 74% less than the costs of maintaining an offender in custody ($30,639 per year versus $116,473 per year).

Note:
The average daily inmate cost includes those costs associated with the operation of the institutions such as salaries and employee benefit plan contributions, but excludes capital expenditures and expenditures related to CORCAN (a Special Operating Agency that conducts industrial operations within federal institutions). Total incarcerated and community includes additional NHQ & RHQ administrative costs which are not part of the Institutional and/or Community calculations. Offenders in the Community includes: Offenders on conditional release, statutory release or with Long-Term Supervision Order, under CSC supervision. Figures may not add due to rounding.

THE COST OF KEEPING AN INMATE INCARCERATED

Table B3

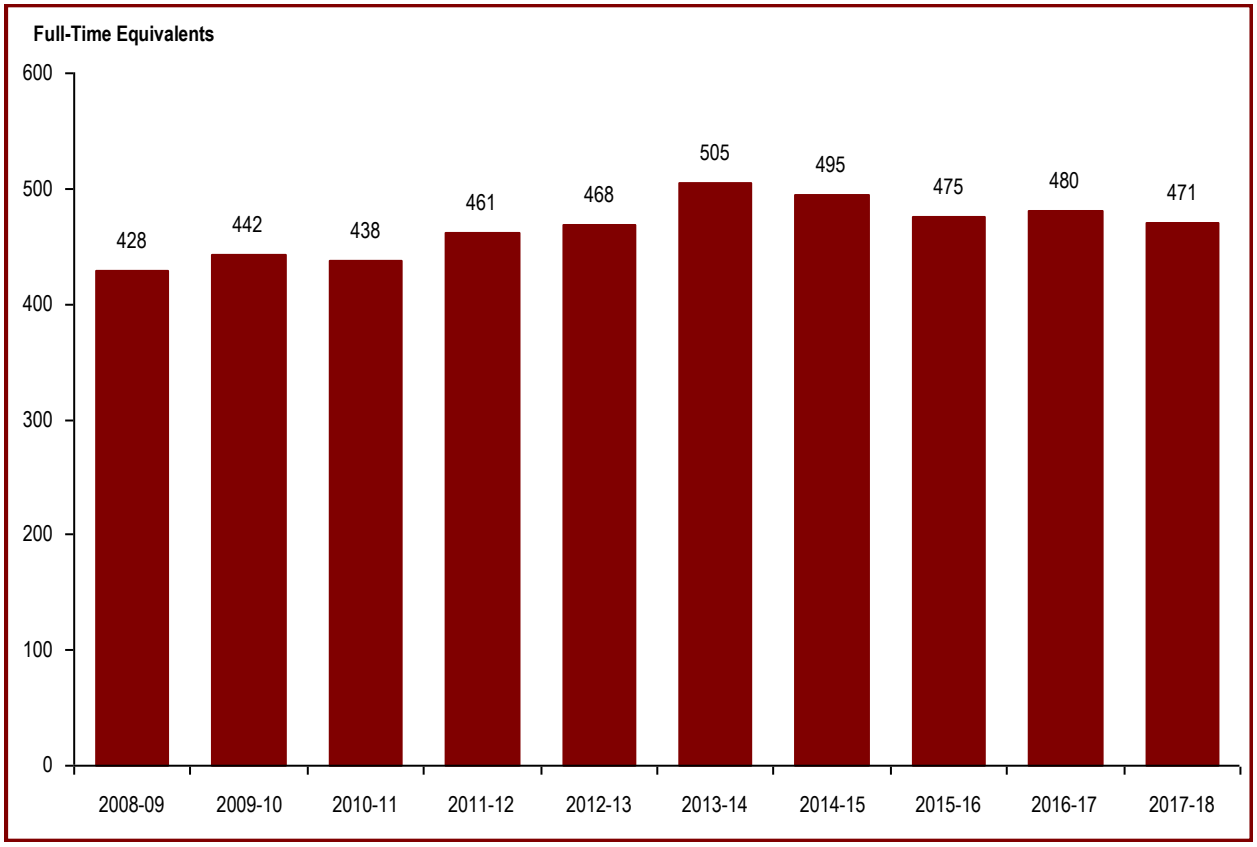
Categories	Annual Average Costs per Offender (current $)				
	2012-13	2013-14	2014-15	2015-16	2016-17
Incarcerated Offenders					
Maximum Security (men only)	148,330	156,768	160,094	155,848	158,113
Medium Security (men only)	99,207	101,583	105,750	106,868	105,349
Minimum Security (men only)	83,910	83,182	86,613	81,528	83,450
Women's Facilities	210,695	219,884	213,800	192,742	191,843
*Exchange of Services Agreements (both)	104,828	108,388	111,839	114,974	122,998
Incarcerated Average	**112,197**	**115,310**	**119,152**	**116,364**	**116,473**
Offenders in the Community	33,799	34,432	33,067	31,052	30,639
Total Incarcerated and Community	**95,504**	**99,923**	**99,982**	**94,545**	**95,654**

Source: Correctional Service Canada.

Note:
*The intent of an Exchange of Service Agreement is to detail the roles and responsibilities of each jurisdiction and include specific protocols regarding per diem rates, offender information sharing, and invoicing pertaining to the reciprocal exchange of offenders between jurisdictions.
The average daily inmate cost includes those costs associated with the operation of the institutions such as salaries and employee benefit plan contributions, but excludes capital expenditures and expenditures related to CORCAN (a Special Operating Agency that conducts industrial operations within federal institutions). Total incarcerated and community includes additional NHQ & RHQ administrative costs which are not part of the Institutional and/or Community calculations. Offenders in the Community includes: Offenders on conditional release, statutory release or with Long-Term Supervision Order, under CSC supervision. Figures may not add due to rounding.

THE NUMBER OF PAROLE BOARD OF CANADA EMPLOYEES

Figure B4



Source: Parole Board of Canada.

- The higher number of full-time equivalents used by the Parole Board of Canada in 2013-14 and 2014-15 were related to temporary human resources hired to work on clearing the Pardons backlog which accumulated prior to the application fee increase.

Note:
A full-time equivalent is a measure of the extent to which an employee represents a full person-year charge against a departmental budget. Section 103 of the *Corrections and Conditional Release Act* limits the Parole Board of Canada to 60 full-time members.

THE NUMBER OF PAROLE BOARD OF CANADA EMPLOYEES

Table B4

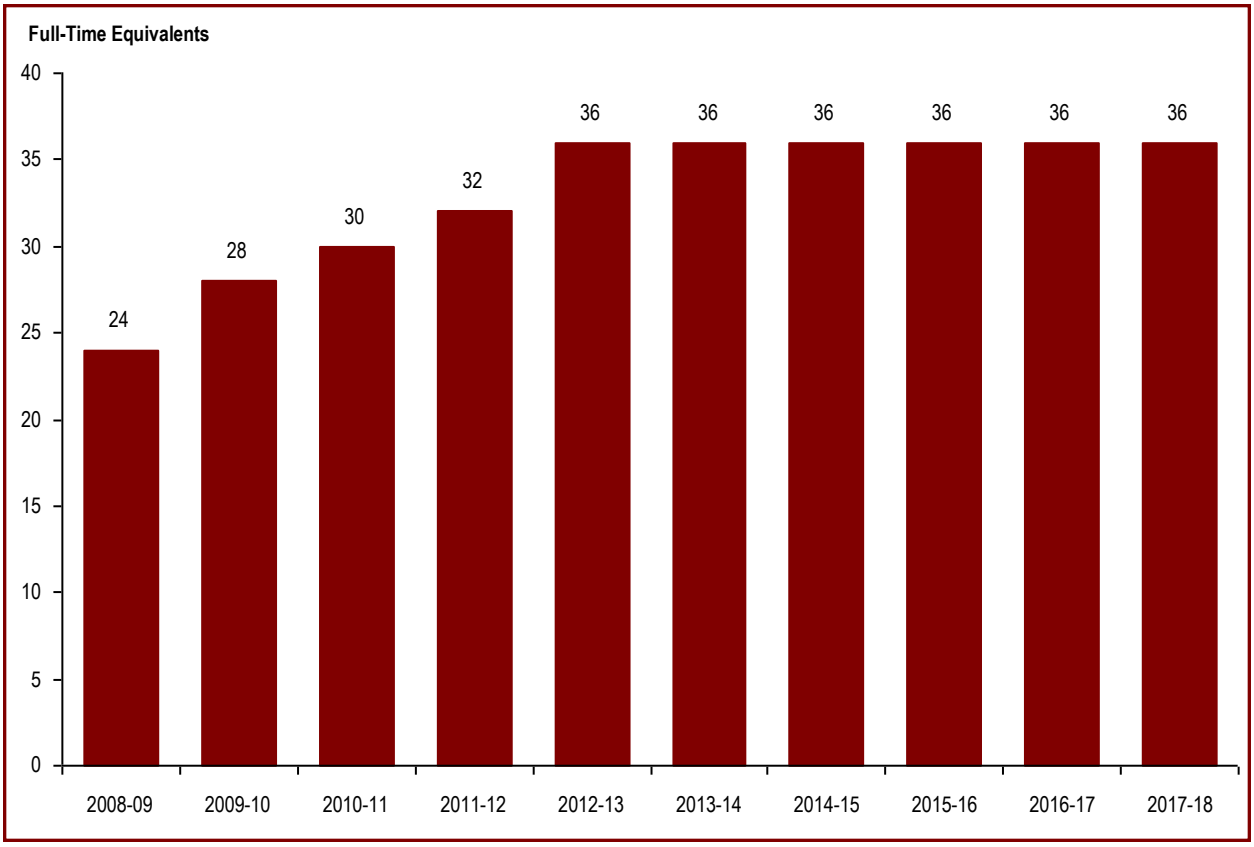
	Full-Time Equivalents				
	2013-14	2014-15	2015-16	2016-17	2017-18
Program Activity					
Conditional Release Decisions	325	325	322	321	317
Conditional Release Openness and Accountability	53	54	42	44	42
Record Suspension and Clemency Recommendations	79	69	52	59	48
Internal Services	48	47	59	56	64
Total	**505**	**495**	**475**	**480**	**471**
Types of Employees					
Full-time Board Members	42	42	41	39	38
Part-time Board Members	20	18	18	17	20
Staff	443	435	416	424	413
Total	**505**	**495**	**475**	**480**	**471**

Source: Parole Board of Canada.

Note:
A full-time equivalent is a measure of the extent to which an employee represents a full person-year charge against a departmental budget.
Section 103 of the *Corrections and Conditional Release Act* limits the Parole Board of Canada to 60 full-time members.

THE NUMBER OF EMPLOYEES IN THE OFFICE OF THE CORRECTIONAL INVESTIGATOR

Figure B5



Source: Office of the Correctional Investigator.

- The total number of full-time equivalents at the Office of the Correctional Investigator has been stable over the last six years.

Note:
*The Office of the Correctional Investigator (OCI) may commence an investigation on receipt of a complaint by or on behalf of an offender or on its own initiative. Complaints are made by telephone, letter and during interviews with the OCI's investigative staff at federal correctional facilities. The dispositions in response to complaints involve a combination of internal responses (where the information or assistance sought by the offender can generally be provided by the OCI's investigative staff) and investigations (where, further to a review/analysis of law, policies and documentation, OCI investigative staff make an inquiry or several interventions with Correctional Service Canada and submit recommendations to address the complaint). Investigations vary considerably in terms of scope, complexity, duration and resources required.

THE NUMBER OF EMPLOYEES IN THE OFFICE OF THE CORRECTIONAL INVESTIGATOR

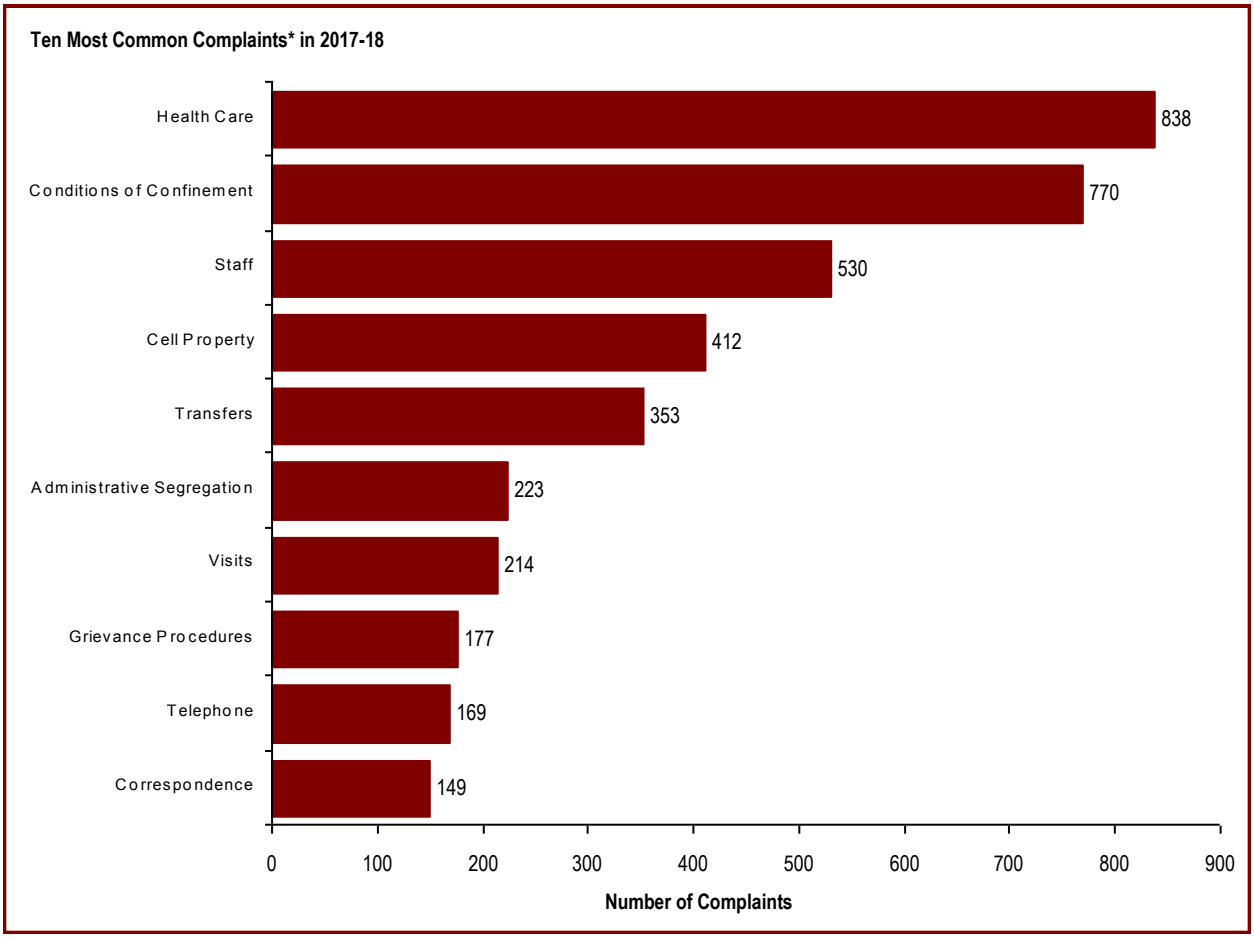
Table B5

	Full-Time Equivalents				
	2013-14	2014-15	2015-16	2016-17	2017-18
Type of Employees					
Correctional Investigator	1	1	1	1	1
Senior Management and Legal Counsel/Advisor	5	5	5	5	5
Investigative Services	25	25	25	26	26
Administrative Services	5	5	5	4	4
Total	**36**	**36**	**36**	**36**	**36**

Source: Office of the Correctional Investigator.

HEALTH CARE IS THE MOST COMMON AREA OF OFFENDER COMPLAINT RECEIVED BY THE OFFICE OF THE CORRECTIONAL INVESTIGATOR

Figure B6



Source: Office of the Correctional Investigator.

- There were 5,846 complaints/enquiries received at the Office of the Correctional Investigator (OCI) in 2017-18.
- Health care (14.3%), conditions of confinement (13.1%), staff (9.0%), and cell effects (7.0%), accounted for 43.5% of all complaints.

Note:
*Excludes complaints received on issues outside the OCIs jurisdiction.
The Office of the Correctional Investigator (OCI) may commence an investigation on receipt of a complaint by or on behalf of an offender or on its own initiative. Complaints are made by telephone, letter and during interviews with the OCI's investigative staff at federal correctional facilities. The dispositions in response to complaints involve a combination of internal responses (where the information or assistance sought by the offender can generally be provided by the OCI's investigative staff) and investigations (where, further to a review/analysis of law, policies and documentation, OCI investigative staff make an inquiry or several interventions with Correctional Service Canada and submit recommendations to address the complaint). Investigations vary considerably in terms of scope, complexity, duration and resources required.

HEALTH CARE IS THE MOST COMMON AREA OF OFFENDER COMPLAINT RECEIVED BY THE OFFICE OF THE CORRECTIONAL INVESTIGATOR

Table B6

Category of Complaint*	Number of Complaints				
	2013-14	2014-15	2015-16	2016-17	2017-18
Health Care	649	816	911	903	838
Conditions of Confinement	699	616	808	761	770
Staff	427	422	429	408	530
Cell Property	335	360	426	497	412
Transfers	409	474	370	439	353
Administrative Segregation	369	383	272	269	223
Visits	236	244	290	285	214
Outside OCI Jurisdiction	270	238	245	259	193
Telephone	245	278	224	187	169
Grievance Procedures	163	195	188	173	177
Request for Information	147	181	152	213	126
Financial Matters	139	143	197	208	127
Safety/Security of Offender(s)	98	180	199	170	107
Correspondence	88	149	165	167	149
Security Classification	100	104	49	35	31
Programs / Services	93	145	143	135	129
Decisions (General)	95	101	117	170	128
Case Preparation	75	137	102	115	55
Temporary Absence	90	98	100	93	74
Mental Health	51	77	133	122	76
Total of all Categories**	**5,557**	**6,382**	**6,651**	**6,844**	**5,846**

Source: Office of the Correctional Investigator.

Note:

*These top categories of complaints are based on the sum totals for the five reported fiscal years between 2013-14 and 2017-18. The remaining categories, in order of total complaints received between 2013-14 and 2017-18, are as follows: Employment, Release Procedures, Food Services, Search and Seizure, Harassment, UNCATEGORIZED, Use of Force, Discipline, Legal Counsel, Claims, Cell Placement, Diets, Other, Religious/spiritual, Community Programs/Supervision, Inmate Requests, Programmes/Services, Operation/Decisions of the OCI, Sentence Administration, Death or Serious Injury, Discrimination, and Conditional Release.

**These totals represent all complaint categories.

The Office of the Correctional Investigator (OCI) may commence an investigation on receipt of a complaint by or on behalf of an offender or on its own initiative. Complaints are made by telephone, letter and during interviews with the OCI's investigative staff at federal correctional facilities. The dispositions in response to complaints involve a combination of internal responses (where the information or assistance sought by the offender can generally be provided by the OCI's investigative staff) and investigations (where, further to a review/analysis of law, policies and documentation, OCI investigative staff make an inquiry or several interventions with Correctional Service Canada and submit recommendations to address the complaint). Investigations vary considerably in terms of scope, complexity, duration and resources required.

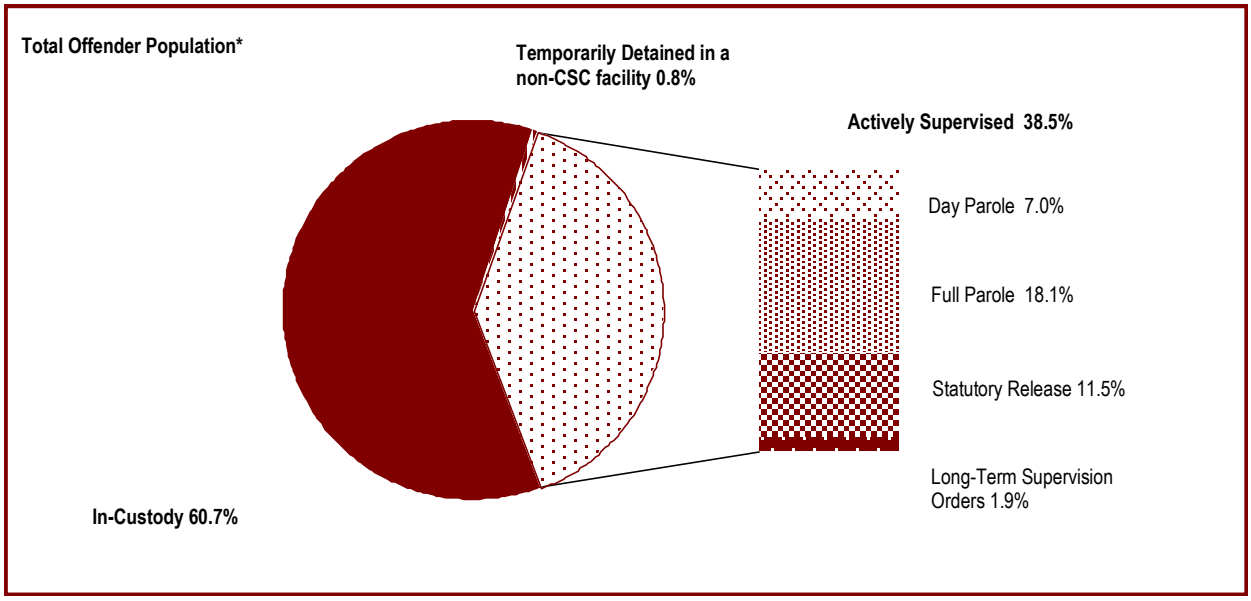
Due to ongoing efforts at the OCI to streamline our administrative database and ensure accuracy in reporting, the numbers in this table will not always match those of past *Corrections and Conditional Release Statistical Overviews,* or OCI Annual Reports.

SECTION C

OFFENDER POPULATION

OFFENDERS UNDER THE RESPONSIBILITY OF CORRECTIONAL SERVICE CANADA

Figure C1



Source: Correctional Service Canada.

Definitions:

CSC Facilities include all federal institutions, federally funded healing lodges, and healing lodges operated under Section 81 of the *Corrections and Conditional Release Act*.

Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised and offenders who are unlawfully at large for less than 90 days.

In-Custody includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.

Temporarily Detained includes offenders who are physically held in a CSC facility or a non-CSC facility after being suspended for a breach of a parole condition or to prevent a breach of parole conditions.

Actively Supervised includes all active offenders on day parole, full parole or statutory release, as well as those who are in the community on long-term supervision orders.

In Community Under Supervision includes all active offenders on day parole, full parole, or statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.

In addition to Total Offender Population, there are excluded groups such as:

Federal jurisdiction offenders incarcerated in a Community Correctional Centre or in a non-CSC facility. Federal jurisdiction offenders deported/extradited including offenders for whom a deportation order has been enforced by the Canada Border Services Agency. Federal offenders on bail which includes offenders on judicial interim release; they have appealed their conviction or sentence and have been released to await results of a new trial. Escaped includes offenders who have absconded from either a correctional facility or while on a temporary absence and whose whereabouts are unknown. Unlawfully at Large for 90 days or more. This includes offenders who have been released to the community on day parole, full parole, statutory release, or a long-term supervision order for whom a warrant of suspension has been issued at least 90 days ago but has not yet been executed.

Note:

*In addition to this total offender population, 224 offenders were on bail, 126 offenders had escaped, 230 offenders serving a federal sentence were in custody in a non-CSC facility, 336 offenders were unlawfully at large for 90 days or more, and 422 offenders were deported. The definition of "Offender Population" changed from previous editions of the Corrections and Conditional Release Statistical Overview (CCRSO). As such, comparisons to editions of the CCRSO prior to 2016 should be done with caution.

OFFENDERS UNDER THE RESPONSIBILITY OF CORRECTIONAL SERVICE CANADA

Table C1

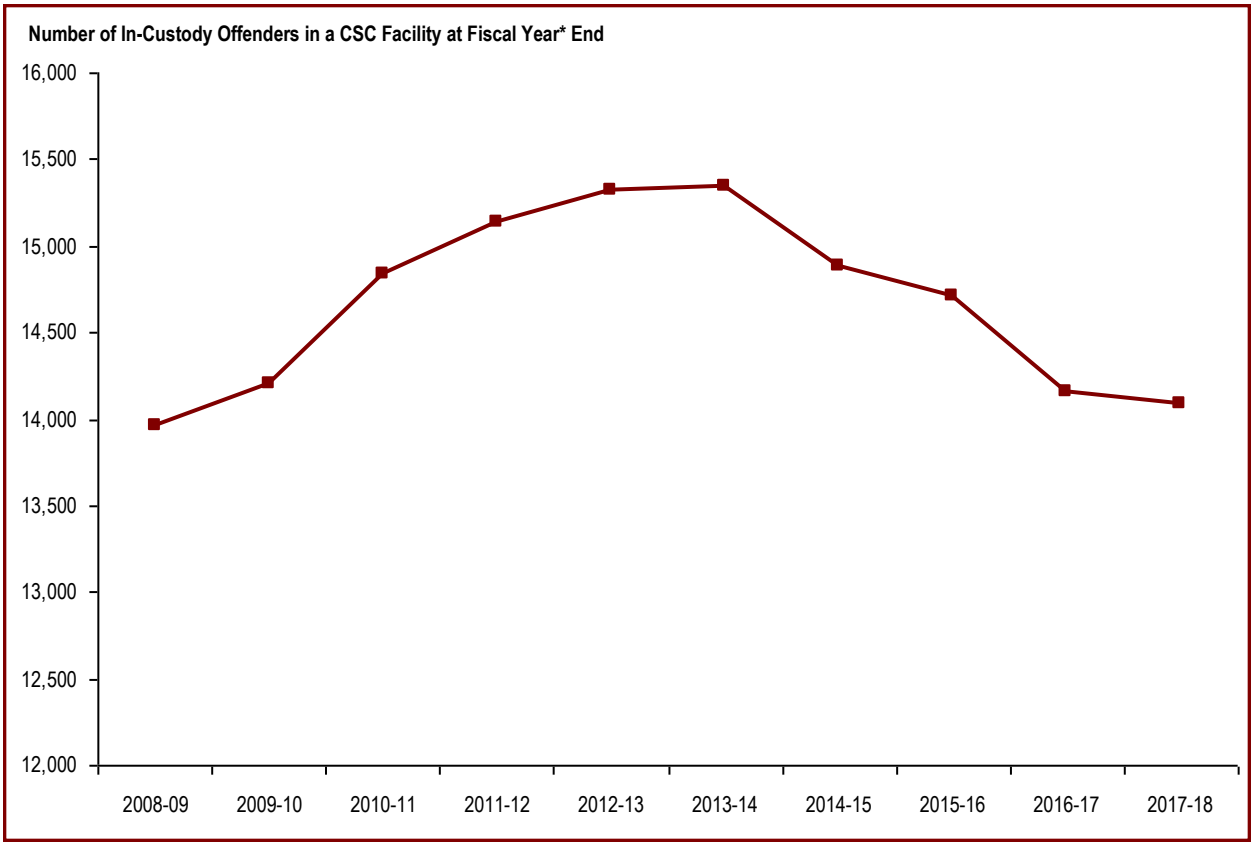
Status	Offenders under the responsibility of Correctional Service Canada					
	#	#	#	%	%	%
In-Custody Population (CSC Facility)	**14,092**					**60.7**
Incarcerated in CSC Facility		13,264			57.1	
Temporarily Detained in CSC Facility		828			3.6	
In Community under Supervision	**9,131**					**39.3**
Temporarily Detained in Non-CSC Facility		192			0.8	
Actively Supervised		8,939			38.5	
Day Parole			1,615	7.0		
Full Parole			4,209	18.1		
Statutory Release			2,672	11.5		
Long-Term Supervision Order			443	1.9		
Total	**23,223***					**100.0**

Source: Correctional Service Canada.

Note:
*In addition to this total offender population, 224 offenders were on bail, 126 offenders had escaped, 230 offenders serving a federal sentence were in custody in a non-CSC facility, 336 offenders were unlawfully at large for 90 days or more, and 422 offenders were deported. The definition of "Offender Population" changed from previous editions of the Corrections and Conditional Release Statistical Overview (CCRSO). As such, comparisons to editions of the CCRSO prior to 2016 should be done with caution.

THE NUMBER OF OFFENDERS IN CUSTODY IN A CSC FACILITY DECREASED IN THE LAST FOUR YEARS

Figure C2



Source: Correctional Service Canada.

- From 2008-2009 to 2013-2014, the in-custody population increased consistently but started to decline in 2014-2015 and has been declining since then.
- From 2013-14 to 2015-16, the average provincial/territorial in-custody offender population increased by 4.1% from 24,455 to 25,448. The remand population increased by 13.0%, from 13,650 to 15,417 during this period. Since 2006-07, the number of remanded inmates has exceeded the number of sentenced inmates in provincial/territorial custody.**

Note:
*The data reflect the number of offenders in custody at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
The term "In Custody in a CSC Facility" includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.
**Source: *Corrections Key Indicator Report for Adults and Youth,* Canadian Centre for Justice Statistics, Statistics Canada

THE NUMBER OF OFFENDERS IN CUSTODY IN A CSC FACILITY DECREASED IN THE LAST FOUR YEARS

Table C2

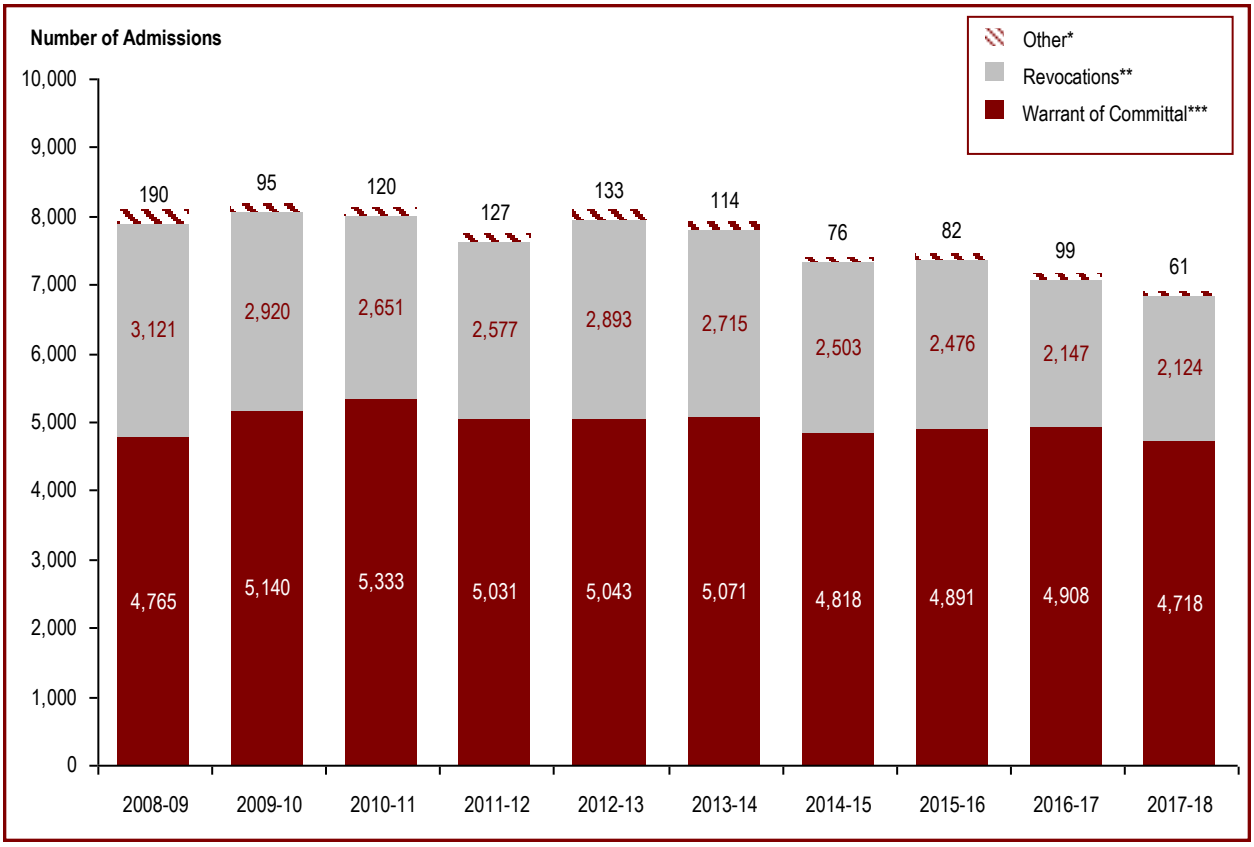
Year	In Custody Offenders					
		Provincial/Territorial[2]				
	In-Custody in a CSC Facility*[1]	Sentenced	Remand	Other/ Temporary Detention	Total	**Total**
2008-09	13,960	9,931	13,548	311	23,790	**37,750**
2009-10	14,197	10,045	13,739	308	24,092	**38,289**
2010-11	14,840	10,922	13,086	427	24,435	**39,275**
2011-12	15,131	11,138	13,369	308	24,814	**39,945**
2012-13	15,318	11,138	13,739	308	25,185	**40,503**
2013-14	15,342	9,888	11,494	322	21,704	**37,046**
2014-15	14,886	10,364	13,650	441	24,455	**39,341**
2015-16	14,712	10,091	14,899	415	25,405	**40,117**
2016-17	14,159	9,710	15,417	321	25,448	**39,607**
2017-18	14,092	--	--	--	--	--

Source: [1]Correctional Service Canada.; [2]Table 35-10-0154-01, Corrections Key Indicator Report for Adults and Youth, Canadian Centre for Justice Statistics, Statistics Canada

Note:
*The data reflect the number of offenders in custody at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
The term "In Custody in a CSC Facility" includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.
The figures for provincial and territorial offenders reflect annual average counts.
-- Data not available.

THE NUMBER OF ADMISSIONS TO FEDERAL JURISDICTION HAS DECREASED

Figure C3



Source: Correctional Service Canada.

- After peaking at 8,155 in 2009-10, the number of admissions has decreased by 15.4% to 6,903 in 2017-18.
- The number of warrant of committal admissions has fluctuated over the past decade but has declined by 11.5% compared to the highest point which occurred in fiscal year 2010-11.
- The number of women admitted to federal jurisdiction under warrants of committal increased 14.1% from 312 in 2013-14 to 356 in 2017-18.

Note:
*"Other" includes transfers from other jurisdictions (exchange of services), terminations, transfers from foreign countries, and admissions where a release is interrupted as a consequence of a new conviction.
These numbers refer to the total number of admissions to a federal institution or Healing Lodge during each fiscal year and may be greater than the actual number of offenders admitted, since an individual offender may be admitted more than once in a given year. A fiscal year runs from April 1 to March 31 of the following year.
**Revocation is when an offender is admitted to federal custody after conditional release and before reaching warrant expiry.
***Warrant of Committal is a new admission to federal jurisdiction from the courts.

THE NUMBER OF ADMISSIONS TO FEDERAL JURISDICTION HAS DECREASED

Table C3

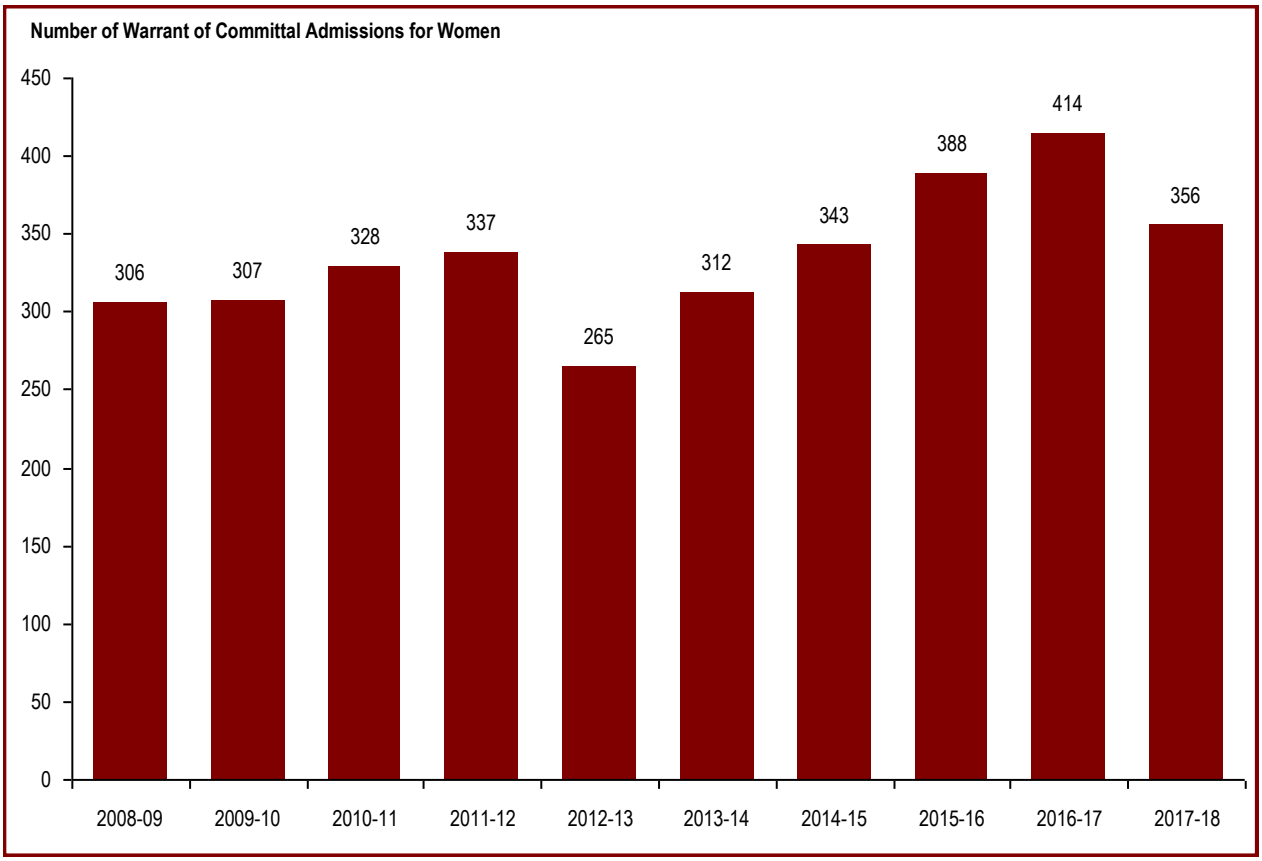
	2013-14		2014-15		2015-16		2016-17		2017-18	
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men
Warrant of Committal										
1st Federal Sentence	273	3,467	302	3,309	348	3,321	378	3,357	315	3,186
2nd or Subsequent Federal Sentence	38	1,269	41	1,153	39	1,176	36	1,130	41	1,172
Provincial Sentence	1	23	0	13	1	6	0	7	0	4
Subtotal	312	4,759	343	4,475	388	4,503	414	4,494	356	4,362
Total	5,071		4,818		4,891		4,908		4,718	
Revocations	111	2,604	124	2,379	149	2,327	132	2,015	148	1,976
Total	2,715		2,503		2,476		2,147		2,124	
Other*	6	108	5	71	4	78	3	96	7	54
Total	114		76		82		99		61	
	429	**7,471**	**472**	**6,925**	**541**	**6,908**	**549**	**6,605**	**511**	**6,392**
Total Admissions	**7,900**		**7,397**		**7,449**		**7,154**		**6,903**	

Source: Correctional Service Canada.

Note:
*"Other" includes transfers from other jurisdictions (exchange of services), terminations, transfers from foreign countries, and admissions where a release is interrupted as a consequence of a new conviction.
These numbers refer to the total number of admissions to a federal institution or Healing Lodge during each fiscal year and may be greater than the actual number of offenders admitted, since an individual offender may be admitted more than once in a given year. A fiscal year runs from April 1 to March 31 of the following year.

THE NUMBER OF WOMEN ADMITTED FROM THE COURTS TO FEDERAL JURISDICTION DECREASED

Figure C4



Source: Correctional Service Canada.

- In the last ten years, the number of women admitted to federal jurisdiction on a warrant of committal increased 16.3% from 306 in 2008-09 to 356 in 2017-18. During the same time period, there was a small decrease in the number of men admitted to federal jurisdiction on a warrant of committal from 4,459 in 2008-09 to 4,362 in 2017-18.
- Overall, women continue to represent a small proportion of the total number of warrant of committal admissions (i.e., 7.5% in 2017-18).
- At the end of fiscal year 2017-18, there were 676 women in custody within Correctional Service Canada facilities.

Note:
A warrant of committal is a new admission to federal jurisdiction from the courts.

THE NUMBER OF WOMEN ADMITTED FROM THE COURTS TO FEDERAL JURISDICTION DECREASED

Table C4

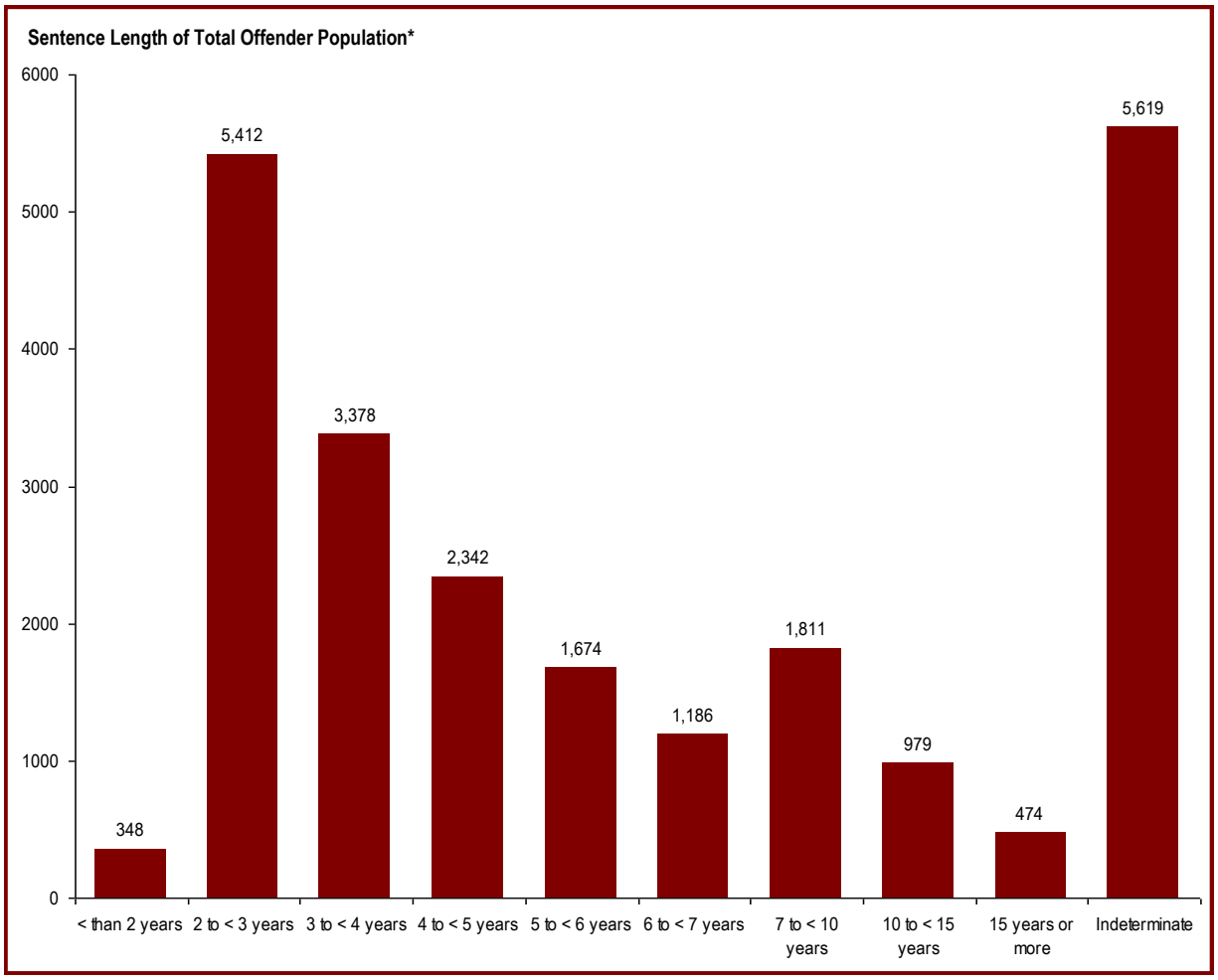
Year	Warrant of Committal Admissions				**Total**
	Women		Men		
	#	%	#	%	
2008-09	306	6.4	4,459	93.6	**4,765**
2009-10	307	6.0	4,833	94.0	**5,140**
2010-11	328	6.2	5,005	93.8	**5,333**
2011-12	337	6.7	4,694	93.3	**5,031**
2012-13	265	5.3	4,778	94.7	**5,043**
2013-14	312	6.2	4,759	93.8	**5,071**
2014-15	343	7.1	4,475	92.9	**4,818**
2015-16	388	7.9	4,503	92.1	**4,891**
2016-17	414	8.4	4,494	91.6	**4,908**
2017-18	356	7.5	4,362	92.5	**4,718**

Source: Correctional Service Canada.

Note:
A warrant of committal is a new admission to federal jurisdiction from the courts.

ABOUT HALF OF THE TOTAL OFFENDER POPULATION IN CSC FACILITIES IS SERVING A SENTENCE OF LESS THAN FIVE YEARS

Figure C5



Source: Correctional Service Canada.

- In 2017-18, almost half (49.4%) of the total offender population was serving a sentence of less than 5 years with 23.3% serving a sentence between two years and less than three years.
- Almost one quarter (24.2%) of the total offender population was serving an indeterminate sentence. The total number of offenders with indeterminate sentences** has increased 7.0% since 2013-14 from 5,253 to 5,619 in 2017-18.

Note:
**Total Offender Population* includes all active offenders who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
Offenders serving a sentence less than two years includes offenders transferred from foreign countries or offenders under a long-term supervision order who received a new sentence of less than two years.
** Indeterminate means that the offender's term of imprisonment does not have an end date. The Parole Board of Canada reviews the case after seven years and every two years after that.

ABOUT HALF OF THE TOTAL OFFENDER POPULATION IN CSC FACILITIES IS SERVING A SENTENCE OF LESS THAN FIVE YEARS

Table C5

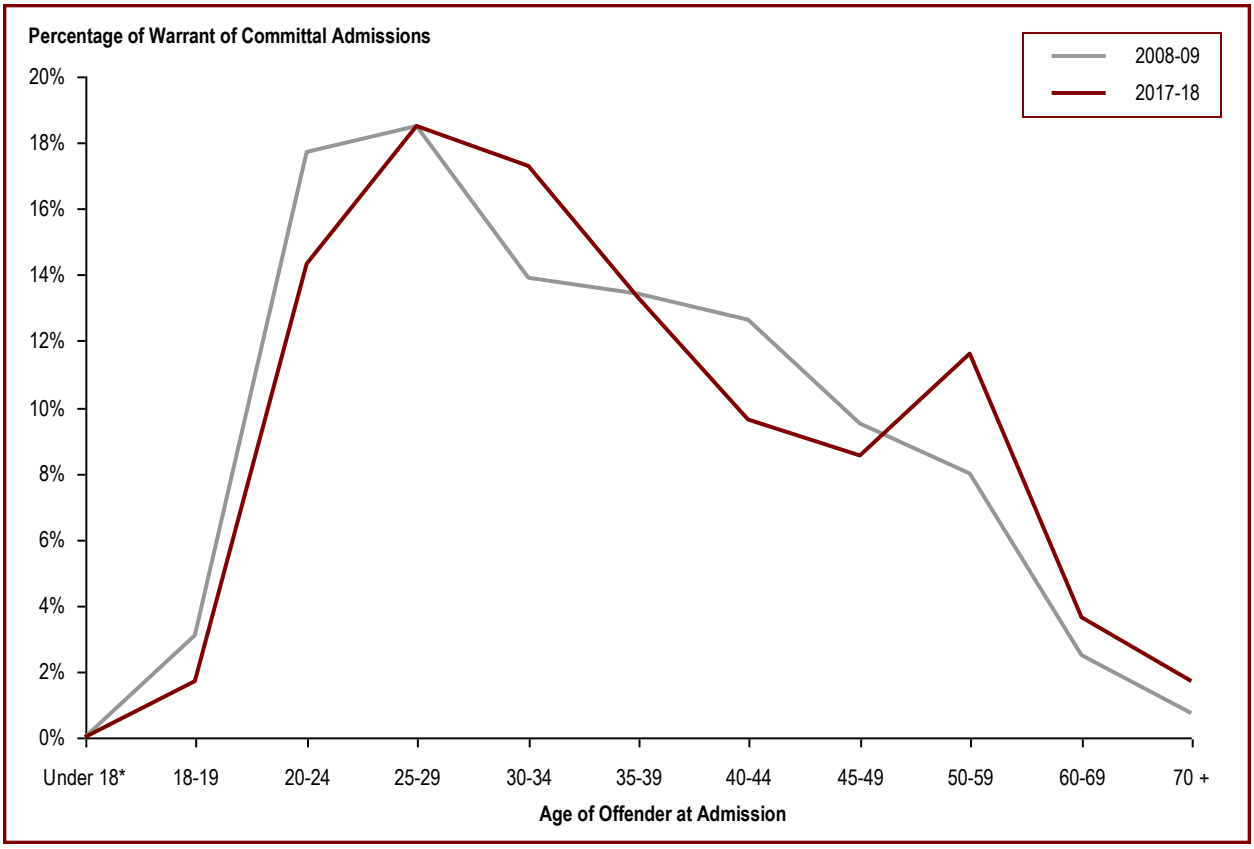
Sentence Length	2013-14		2014-15		2015-16		2016-17		2017-18	
	#	%	#	%	#	%	#	%	#	%
< than 2 years	291	1.3	287	1.2	306	1.3	307	1.3	348	1.5
2 years to < 3 years	5,296	22.9	5,241	22.8	5,367	23.3	5,391	23.4	5,412	23.3
3 years to < 4 years	3,771	16.3	3,631	15.8	3,503	15.2	3,377	14.7	3,378	14.5
4 years to < 5 years	2,447	10.6	2,422	10.5	2,393	10.4	2,382	10.3	2,342	10.1
5 years to < 6 years	1,638	7.1	1,672	7.3	1,692	7.3	1,691	7.3	1,674	7.2
6 years to < 7 years	1,100	4.8	1,104	4.8	1,136	4.9	1,143	5.0	1,186	5.1
7 years to < 10 years	1,793	7.7	1,788	7.8	1,805	7.8	1,810	7.9	1,811	7.8
10 years to < 15 years	954	4.1	936	4.1	940	4.1	951	4.1	979	4.2
15 years or more	612	2.6	564	2.5	522	2.3	501	2.2	474	2.0
Indeterminate	5,253	22.7	5,316	23.2	5,393	23.4	5,492	23.8	5,619	24.2
Total	**23,155**	**100**	**22,961**	**100**	**23,057**	**100**	**23,045**	**100**	**23,223**	**100**

Source: Correctional Service Canada.

Note:
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
The group of offenders serving a sentence less than 2 years includes offenders transferred from foreign countries or offenders under a long-term supervision order who received a new sentence of less than 2 years.

ADMISSION OF OLDER OFFENDERS TO FEDERAL JURISDICTION IS INCREASING

Figure C6



Source: Correctional Service Canada.

- In 2017-18, 32.8% of offenders admitted on a warrant of committal to federal jurisdiction were between the ages of 20 and 29, and 30.6% were between 30 and 39 years of age.
- The distribution of age upon admission is similar for both men and women.
- The median age of the population upon admission in 2017-18 was 34, compared to a median age of 33 in 2008-09.
- The number of offenders between the ages of 40 and 49 at admission decreased from 1,055 in 2008-09 to 850 in 2017-18, representing a 19.4% decrease.
- The number of offenders between the ages of 50 and 59 at admission increased from 382 in 2008-09 to 548 in 2017-18 representing a 43.5% increase.

Note:
*This offender was admitted to a youth correctional centre.
A warrant of committal is a new admission to federal jurisdiction from the courts.
Due to rounding, percentages may not add up to 100 percent.

ADMISSION OF OLDER OFFENDERS TO FEDERAL JURISDICTION IS INCREASING

Table C6

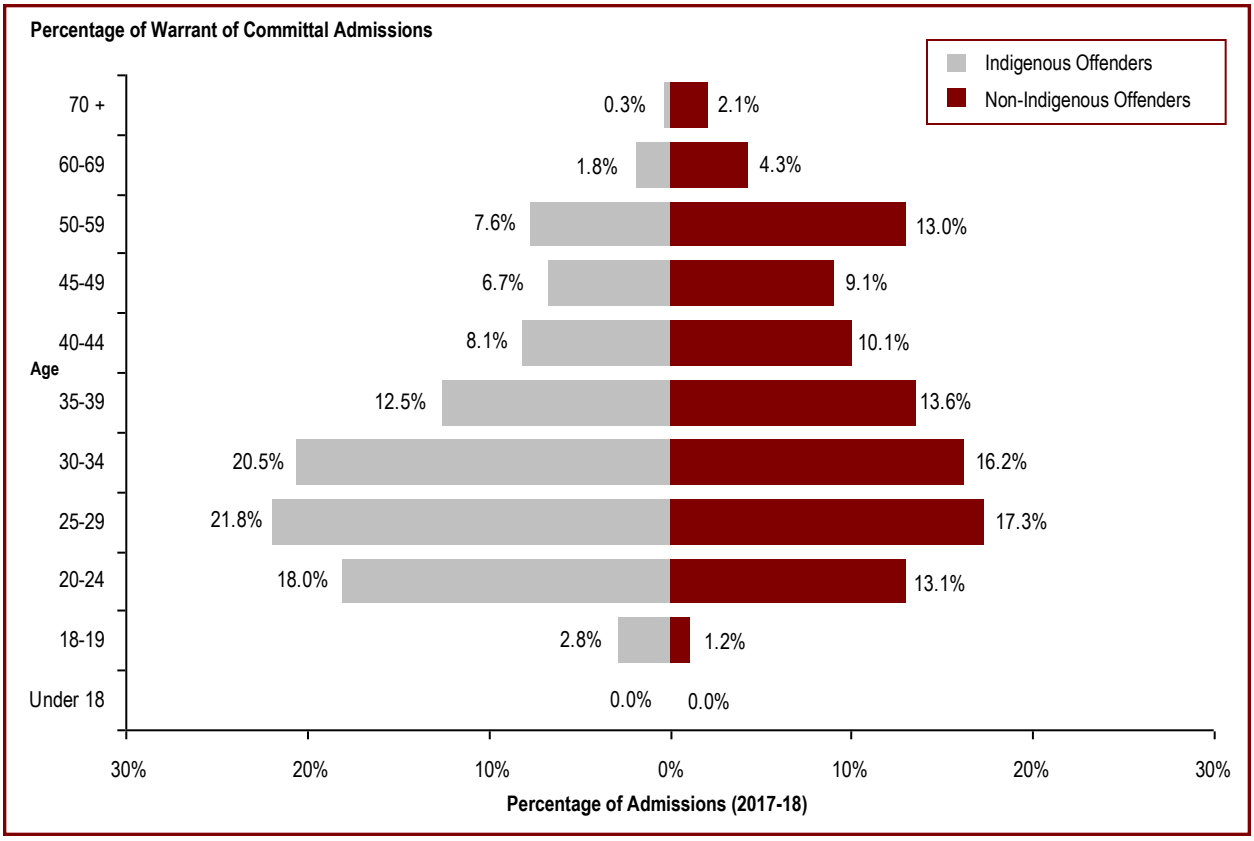
Age at Admission	2008-09						2017-18					
	Women		Men		Total		Women		Men		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Under 18	0	0.0	1*	0.0	1*	0.0	0	0.0	0	0.0	0	0.0
18 and 19	10	3.3	139	3.1	149	3.1	4	1.1	74	1.7	78	1.7
20 to 24	39	12.7	804	18.0	843	17.7	49	13.8	628	14.4	677	14.3
25 to 29	47	15.4	834	18.7	881	18.5	76	21.3	795	18.2	871	18.5
30 to 34	60	19.6	602	13.5	662	13.9	68	19.1	750	17.2	818	17.3
35 to 39	42	13.7	598	13.4	640	13.4	50	14.0	576	13.2	626	13.3
40 to 44	51	16.7	551	12.4	602	12.6	38	10.7	413	9.5	451	9.6
45 to 49	27	8.8	426	9.6	453	9.5	26	7.3	373	8.6	399	8.5
50 to 59	26	8.5	356	8.0	382	8.0	35	9.8	513	11.8	548	11.6
60 to 69	4	1.3	115	2.6	119	2.5	9	2.5	163	3.7	172	3.6
70 and over	0	0.0	33	0.7	33	0.7	1	0.3	77	1.8	78	1.7
Total	**306**		**4,459**		**4,765**		**356**		**4,362**		**4,718**	

Source: Correctional Service Canada.

Note:
*This offender was admitted to a youth correctional centre.
A warrant of committal is a new admission to federal jurisdiction from the courts.
Due to rounding, percentages may not add to 100 percent.

THE AVERAGE AGE AT ADMISSION IS LOWER FOR INDIGENOUS OFFENDERS THAN FOR NON-INDIGENOUS OFFENDERS

Figure C7



Source: Correctional Service Canada.

- Of those offenders admitted on a warrant of committal to federal jurisdiction in 2017-18, 42.6% of Indigenous offenders were under the age of 30, compared to 31.6% of non-Indigenous offenders.
- The median age of Indigenous offenders at admission was 31, compared to a median age of 35 for non-Indigenous offenders.
- The median age of Indigenous women offenders at admission was 30, compared to a median age of 35 for non-Indigenous women offenders.

Note:
A warrant of committal is a new admission to federal jurisdiction from the courts.
Due to rounding, percentages may not add to 100 percent.

THE AVERAGE AGE AT ADMISSION IS LOWER FOR INDIGENOUS OFFENDERS THAN FOR NON-INDIGENOUS OFFENDERS

Table C7

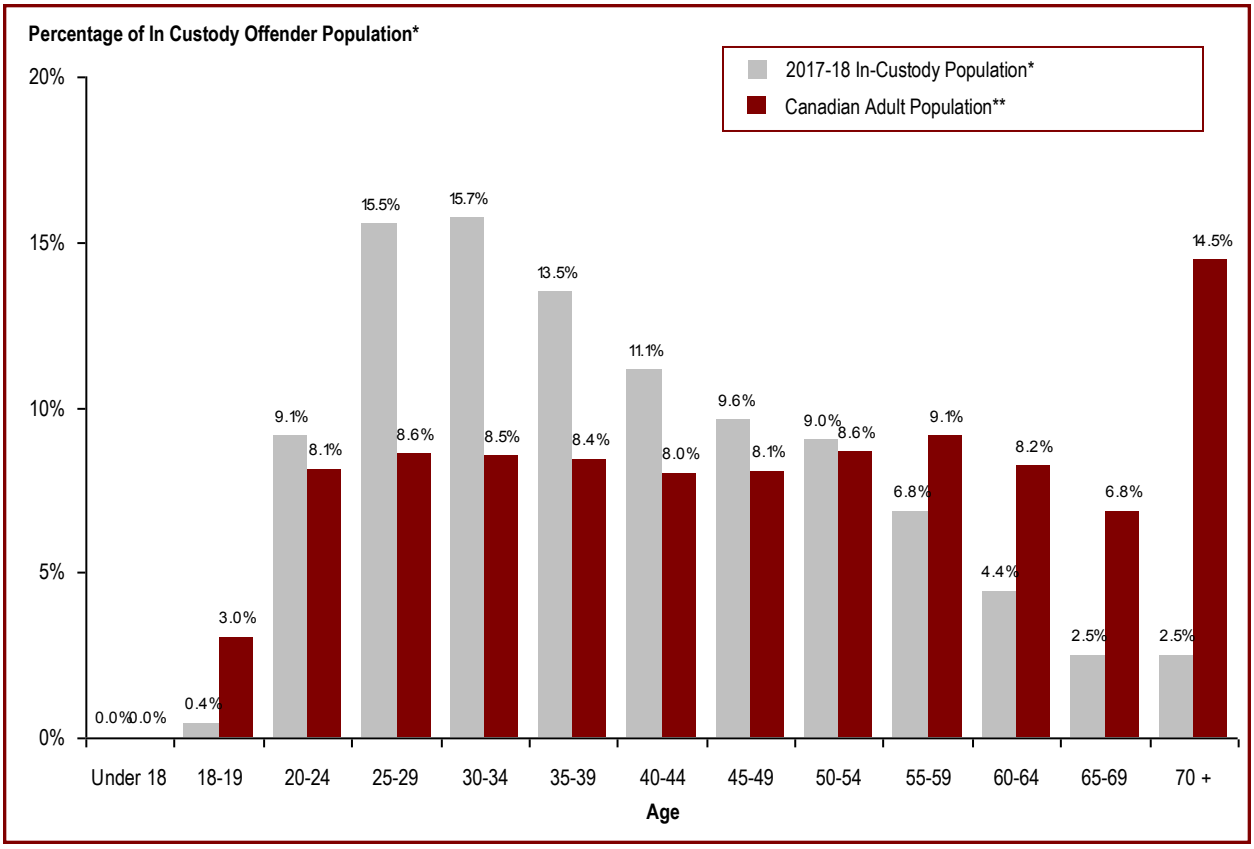
Age at Admission	2008-09						2017-18					
	Indigenous		Non-Indigenous		Total		Indigenous		Non-Indigenous		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Under 18	1*	0.1	0	0.0	1*	0.0	0	0.0	0	0.0	0	0.0
18 and 19	43	4.5	106	2.8	149	3.1	35	2.8	43	1.2	78	1.7
20 to 24	199	20.7	644	16.9	843	17.7	223	18.0	454	13.1	677	14.3
25 to 29	187	19.4	694	18.3	881	18.5	271	21.8	600	17.3	871	18.5
30 to 34	164	17.0	498	13.1	662	13.9	254	20.5	564	16.2	818	17.3
35 to 39	124	12.9	516	13.6	640	13.4	155	12.5	471	13.6	626	13.3
40 to 44	113	11.7	489	12.9	602	12.6	100	8.1	351	10.1	451	9.6
45 to 49	78	8.1	375	9.9	453	9.5	83	6.7	316	9.1	399	8.5
50 to 59	47	4.9	335	8.8	382	8.0	95	7.6	453	13.0	548	11.6
60 to 69	6	0.6	113	3.0	119	2.5	22	1.8	150	4.3	172	3.6
70 and over	1	0.1	32	0.8	33	0.7	4	0.3	74	2.1	78	1.7
Total	**963**		**3,802**		**4,765**		**1,242**		**3,476**		**4,718**	

Source: Correctional Service Canada.

Note:
*This offender was admitted to a youth correctional centre.
A warrant of committal is a new admission to federal jurisdiction from the courts.
Due to rounding, percentages may not add to 100 percent.

25% OF THE IN-CUSTODY OFFENDER POPULATION IS AGE 50 OR OVER

Figure C8



Source: Correctional Service Canada; Statistics Canada.

- In 2017-18, 54.1% of in-custody offenders were under the age of 40.
- In 2017-18, 25.2% of the in-custody offender population was age 50 and over.
- ***The community offender population was older than the in-custody population; 38.0% of offenders in the community were age 50 and over, compared to 25.2% of the in-custody offenders in this age group.

Note:
*In-custody population includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility, and offenders on remand in a CSC facility.
**2014 Postcensal Estimates, Demography Division, and Statistics Canada include only those age 18 and older.
***In community under supervision includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
Due to rounding, percentage may not add up to 100 percent.

25% OF THE IN-CUSTODY OFFENDER POPULATION IS AGE 50 OR OVER

Table C8

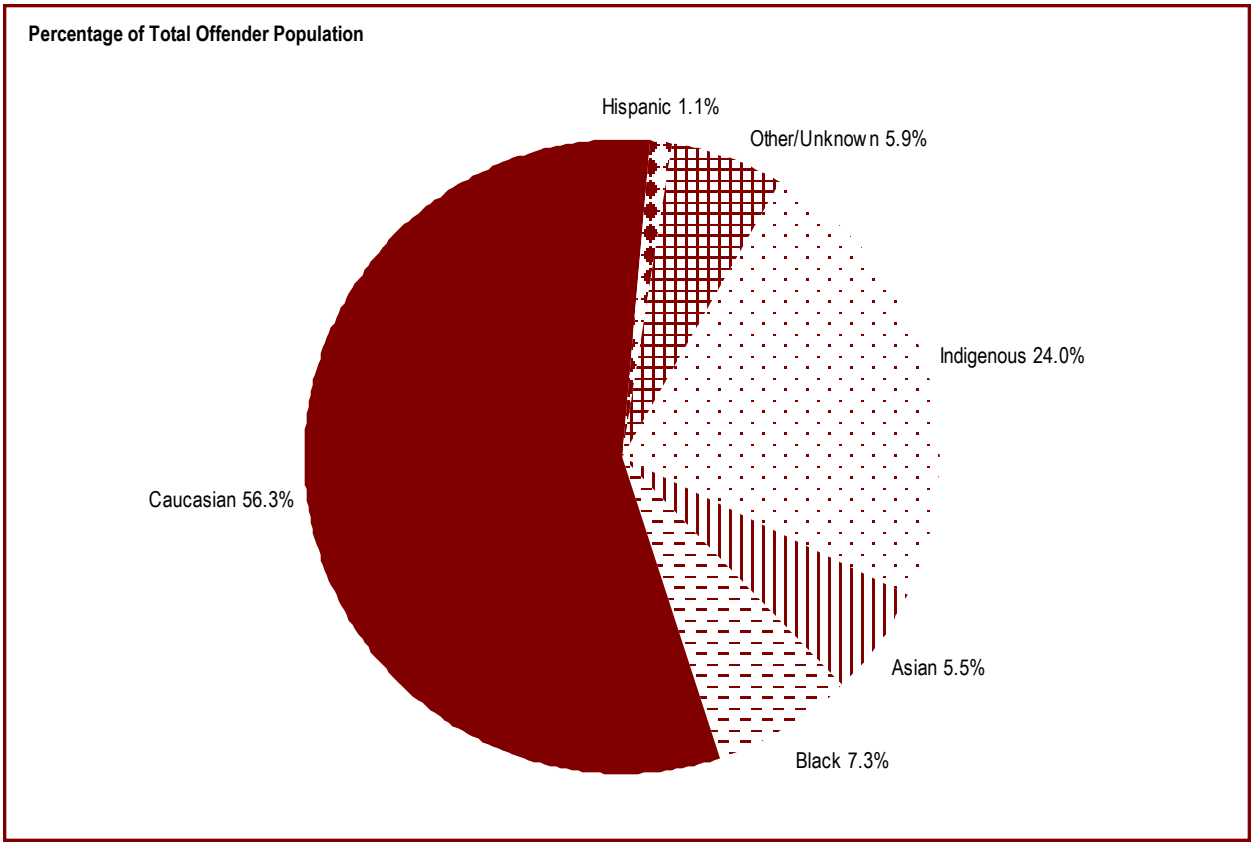
Age	In-Custody*		In Community Under Supervision**		Total		% of Canadian Adult Population***
	#	%	#	%	#	%	%
Under 18	0	0.0	0	0.0	0	0.0	0.0
18 and 19	55	0.4	5	0.1	60	0.3	3.0
20 to 24	1,282	9.1	462	5.1	1,744	7.5	8.1
25 to 29	2,179	15.5	1,030	11.3	3,209	13.8	8.6
30 to 34	2,211	15.7	1,156	12.7	3,367	14.5	8.5
35 to 39	1,900	13.5	1,145	12.5	3,045	13.1	8.4
40 to 44	1,560	11.1	930	10.2	2,490	10.7	8.0
45 to 49	1,357	9.6	935	10.2	2,292	9.9	8.1
50 to 54	1,275	9.0	900	9.9	2,175	9.4	8.6
55 to 59	961	6.8	810	8.9	1,771	7.6	9.1
60 to 64	615	4.4	646	7.1	1,261	5.4	8.2
65 to 69	349	2.5	472	5.2	821	3.5	6.8
70 and over	348	2.5	640	7.0	988	4.3	14.5
Total	**14,092**	**100.0**	**9,131**	**100.0**	**23,223**	**100.0**	**100.0**

Source: Correctional Service Canada; Statistics Canada.

Note:
*In-custody population includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility, and offenders on remand in a CSC facility.
**In community under supervision includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on re-mand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
Due to rounding, percentage may not add up to 100 percent.
***2014 Postcensal Estimates, Demography Division, and Statistics Canada include only those age 18 and older.

56% OF OFFENDERS ARE CAUCASIAN

Figure C9



Source: Correctional Service Canada.

- The federal offender population is becoming more diverse, as evidenced by the decrease in the proportion of Caucasian offenders (from 60.8% in 2013-14 to 56.3% in 2017-18).
- Between 2013-14 and 2017-18, the Indigenous population has increased by 14.7% (from 4,856 to 5,572).
- Indigenous offenders represented 24.0% of the 2017-18 total federal offender population and 26.3% of 2017-18 warrant of committal admissions to federal jurisdiction.

Note:
The offenders themselves identify to which race they belong. The list of categories may not fully account for all races and the race groupings information has changed starting in 2012-13; therefore, the comparisons before and after 2012-13 should be done with caution.
According to Correctional Service of Canada, "Indigenous" includes offenders who are Inuit, Innu, Métis and North American Indian. "Asian" includes offenders who are Arab, Arab/West Asian, Asian-East and Southeast, Asian-South, Asian West, Asiatic, Chinese, East Indian, Filipino, Japanese, Korean, South Asian, South East Asian. "Asiatic" includes offenders who are Asian-East and Southeast, Asian-South, Asian West, and Asiatic. "Hispanic" includes offenders who are Hispanic and Latin American. "Black" includes offenders who are Black. "Other/Unknown" includes offenders who are European French, European-Eastern, European-Northern, European-Southern, European-Western, Multiracial/Ethnic, Oceania, British Isles, Caribbean, Sub-Sahara African, offenders unable to identify to one race, other and unknown.
The data reflect all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
Due to rounding, percentages may not add up to 100 percent.

56% OF OFFENDERS ARE CAUCASIAN

Table C9

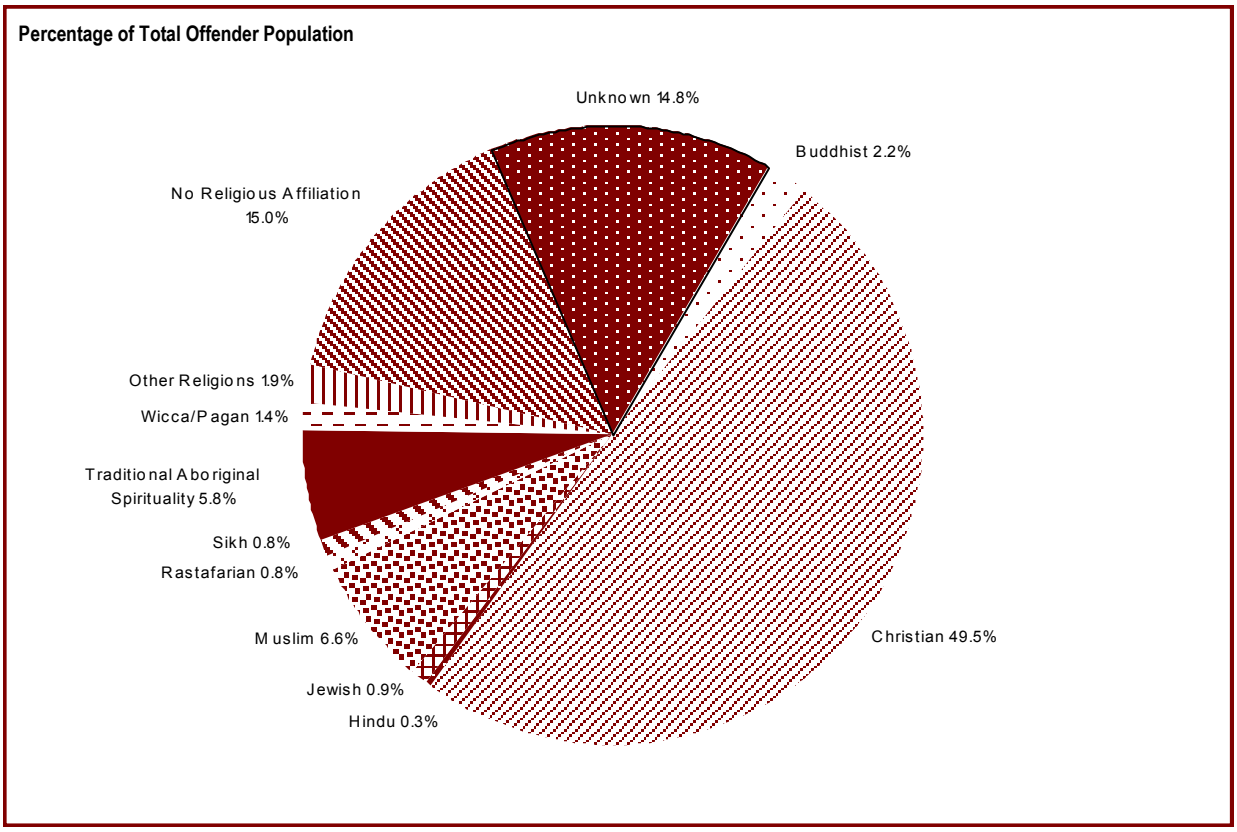
	Total Offender Population			
	2013-14		2017-18	
	#	%	#	%
Indigenous	**4,856**	**21.0**	**5,572**	**24.0**
Inuit	218	0.9	203	0.9
Métis	1,317	5.7	1,619	7.0
North American Indian	3,321	14.3	3,750	16.1
Asian	**1,349**	**5.8**	**1,268**	**5.5**
Arab/West Asian	352	1.5	360	1.6
Asiatic*	197	0.9	377	1.6
Chinese	143	0.6	97	0.4
East Indian	15	0.1	13	0.1
Filipino	66	0.3	75	0.3
Japanese	6	0.0	8	0.0
Korean	19	0.1	16	0.1
South East Asian	326	1.4	196	0.8
South Asian	225	1.0	126	0.5
Black	**1,904**	**8.2**	**1,700**	**7.3**
Caucasian	**14,084**	**60.8**	**13,072**	**56.3**
Hispanic	**249**	**1.1**	**245**	**1.1**
Hispanic	7	0.0	7	0.0
Latin American	242	1.0	238	1.0
Other/Unknown	**713**	**3.1**	**1,366**	**5.9**
Total	**23,155**	**100.0**	**23,223**	**100.0**

Source: Correctional Service Canada.

Note:
*Total for Asiatic includes Asian-East and Southeast, Asian South, Asian West, and Asiatic.
The offenders themselves identify to which race they belong. The list of categories may not fully account for all races and the race groupings information has changed starting in 2012 -13; therefore, the comparisons before and after 2012-13 should be done with caution.
"Indigenous" includes offenders who are Inuit, Innu, Métis and North American Indian. "Asian" includes offenders who are Arab, Arab/West Asian, Asian-East and Southeast, Asian-South, Asian West, Asiatic, Chinese, East Indian, Filipino, Japanese, Korean, South Asian, South East Asian. "Asiatic" includes offenders who are Asian-East and Southeast, Asian-South, Asian West, and Asiatic. "Hispanic" includes offenders who are Hispanic and Latin American. "Black" includes offenders who are Black. "Other/Unknown" includes offenders who are European French, European-Eastern, European-Northern, European-Southern, European-Western, Multiracial/Ethnic, Oceania, British Isles, Caribbean, Sub-Sahara African, offenders unable to identify to one race, other and unknown.
The data reflect all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
Due to rounding, percentages may not add up to 100 percent.

THE RELIGIOUS IDENTIFICATION OF THE OFFENDER POPULATION IS DIVERSE

Figure C10



Source: Correctional Service Canada.

- The religious identification of the Offender population is diverse. While the proportion of offenders who identified as Christian still represented the majority, their proportions decreased from 56.1% in 2013-2014 to 49.5% in 2017-2018.
- Religious identification was unknown for 14.8% of offenders, and 15.0% stated they had no religion.
- Religion groupings have changed from previous publication to reflect the same groupings as Statistics Canada.

Note:
Religious identification is self-declared by offenders while they are incarcerated, and the categories are not comprehensive; therefore, the reader should interpret these data with caution. Buddhist includes offenders who are Buddhist, Mahayana Buddhist, Theravadan Buddhist and Vajrayana Buddhist. Christian includes offenders who are Amish, Anglican (Episcopal Church of England), Antiochian Orthodox, Apostolic Christian Church, Armenian Orthodox/Apostolic, Associated Gospel, Assyrian Chaldean Catholic, Baptist, Brethren In Christ, Bulgarian Orthodox, Canadian Reformed Church, Catholic- Greek, Catholic-Roman, Catholic-Ukranian, Catholic Non-Specific, Churches of Christ/Christian Churches, Charismatic, Christadelphian, Christian & Missionary Alliance, Christian Congregational, Christian Non Specific, Christian Or Plymouth Brethren, Christian Orthodox, Christian Reformed, Christian Reformed Church, Christian Science, Church of Christ Scientist, Church of God, Church of Jesus Christ of Latter-Day Saint, Community of Christ, Coptic Orthodox, Doukhobor, Dutch Reformed Church, Ethiopian Orthodox, Evangelical, Evangelical Free Church , Evangelical Missionary Church, Free Methodist, Free Reformed Church, Grace Communion International, Greek Orthodox, Hutterite, Iglesia Ni Cristo, Jehovah's Witnesses, Lutheran, Macedonian Orthodox, Maronite, Melkite, Mennonite, Methodist Christian, Metropolitan Community Church, Mission de l'Esprit Saint, Moravian, Mormon (Latter Day Saints), Nazarene Christian, Netherlands Reformed, New Apostolic, Pentecostal (4-Square), Pentecostal Assembly of God, Pentecôtiste, Philadelphia Church of God, Presbyterian, Protestant Non-Specific, Quaker (Society of Friends), Reformed Christian, Romanian Orthodox, Russian Orthodox, Salvation Army, Serbian Orthodox, Seventh Day Adventist, Shaker, Swedenborgian (New Church), Syrian/Syriac Orthodox, Ukrainian Catholic, Ukrainian Orthodox, United Church, United Reformed Church, Vineyard Christian Fellowship, Wesleyan Christian and Worldwide Church of God. Hindu includes offenders who are Hindu and Siddha Yoga. Jewish includes offenders who are Jewish Orthodox, Jewish Reformed and Judaism. Muslim includes offenders who are Muslim and Sufism. Rastafarian includes offenders who are Rastafarian. Sikh includes offenders who are Sikh. Traditional Aboriginal Spirituality includes offenders who are Aboriginal Spirituality Catholic, Aboriginal Spirituality Protestant, Native Spirituality, Catholic - Native Spirituality, Native Spirituality Protestant and Aboriginal Spirituality. Wiccan/Pagan includes offenders who are Asatru Paganism, Druidry Paganism, Pagan and Wicca. Other Religion includes offenders who are Baha'i, Eckankar, Gnostic, Independent Spirituality, Jain, Krishna, New Age, New Thought-Unity-Religious Science, Other, Pantheist, Rosicrucian, Satanist, Scientology, Shintoïste, Spiritualist, Taoism, Transcendental Meditation, Unification Church, Unitarian, Visnabha and Zoroastrian. No religion Affiliation includes offenders who are Agnostic, Atheist, Humanist and offenders who have no religion affiliation. The data reflect all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days. The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
Due to rounding, percentages may not add to 100 percent.

THE RELIGIOUS IDENTIFICATION OF THE OFFENDER POPULATION IS DIVERSE

Table C10

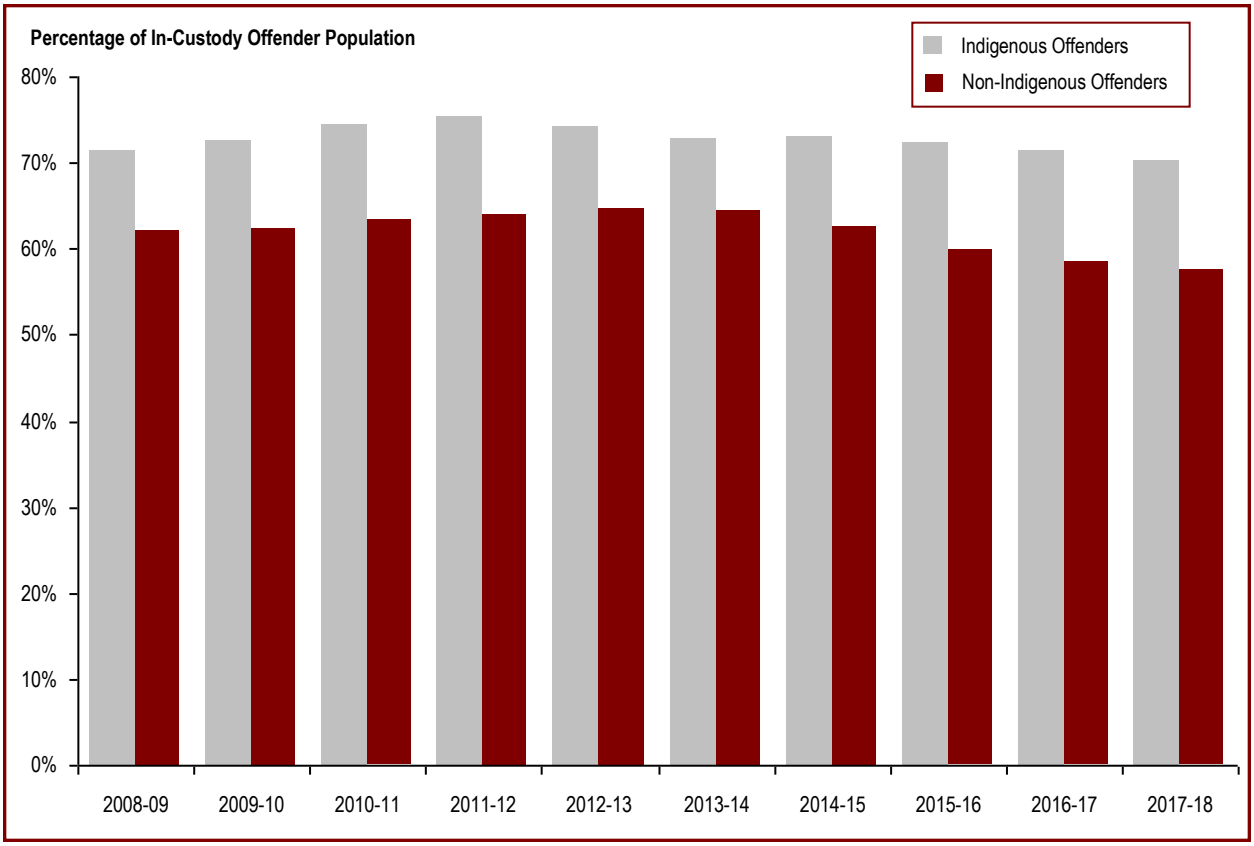
	Total Offender Population			
	2013-14		2017-18	
	#	%	#	%
Buddhist	477	2.1	508	2.2
Christian	12,986	56.1	11,503	49.5
Hindu	47	0.2	63	0.3
Jewish	177	0.8	220	0.9
Muslim	1,264	5.5	1,539	6.6
Rastafarian	171	0.7	178	0.8
Sikh	180	0.8	188	0.8
Traditional Aboriginal Spirituality	1,305	5.6	1,338	5.8
Wicca/Pagan	138	0.6	318	1.4
Other Religions	521	2.3	442	1.9
No Religion Affiliation	3,816	16.5	3,480	15.0
Unknown	2,073	9.0	3,446	14.8
Total	**23,155**	**100.0**	**23,223**	**100.0**

Source: Correctional Service Canada.

Note:
Religious identification is self-declared by offenders while they are incarcerated, and the categories are not comprehensive; therefore, the reader should interpret these data with caution. Buddhist includes offenders who are Buddhist, Mahayana Buddhist, Theravadan Buddhist and Vajrayana Buddhist. Christian includes offenders who are Amish, Anglican (Episcopal Church of England), Antiochian Orthodox, Apostolic Christian Church, Armenian Orthodox/Apostolic, Associated Gospel, Assyrian Chaldean Catholic, Baptist, Brethren In Christ, Bulgarian Orthodox, Canadian Reformed Church, Catholic- Greek, Catholic-Roman, Catholic-Ukranian, Catholic Non-Specific, Churches of Christ/Christian Churches, Charismatic, Christadelphian, Christian & Missionary Alliance, Christian Congregational, Christian Non Specific, Christian Or Plymouth Brethren, Christian Orthodox, Christian Reformed, Christian Reformed Church, Christian Science, Church of Christ Scientist, Church of God, Church of Jesus Christ of Latter-Day Saint, Community of Christ, Coptic Orthodox, Doukhobor, Dutch Reformed Church, Ethiopian Orthodox, Evangelical, Evangelical Free Church , Evangelical Missionary Church, Free Methodist, Free Reformed Church, Grace Communion International, Greek Orthodox, Hutterite, Iglesia Ni Cristo, Jehovah's Witnesses, Lutheran, Macedonian Orthodox, Maronite, Melkite, Mennonite, Methodist Christian, Metropolitan Community Church, Mission de l'Esprit Saint, Moravian, Mormon (Latter Day Saints), Nazarene Christian, Netherlands Reformed, New Apostolic, Pentecostal (4-Square), Pentecostal Assembly of God, Pentecôtiste, Philadelphia Church of God, Presbyterian, Protestant Non-Specific, Quaker (Society of Friends), Reformed Christian, Romanian Orthodox, Russian Orthodox, Salvation Army, Serbian Orthodox, Seventh Day Adventist, Shaker, Swedenborgian (New Church), Syrian/Syriac Orthodox, Ukrainian Catholic, Ukrainian Orthodox, United Church, United Reformed Church, Vineyard Christian Fellowship, Wesleyan Christian and Worldwide Church of God. Hindu includes offenders who are Hindu and Siddha Yoga. Jewish includes offenders who are Jewish Orthodox, Jewish Reformed and Judaism. Muslim includes offenders who are Muslim and Sufism. Rastafarian includes offenders who are Rastafarian. Sikh includes offenders who are Sikh. Traditional Aboriginal Spirituality includes offenders who are Aboriginal Spirituality Catholic, Aboriginal Spirituality Protestant, Native Spirituality, Catholic - Native Spirituality, Native Spirituality Protestant and Aboriginal Spirituality. Wiccan/Pagan includes offenders who are Asatru Paganism, Druidry Paganism, Pagan and Wicca. Other Religion includes offenders who are Baha'i, Eckankar, Gnostic, Independent Spirituality, Jain, Krishna, New Age, New Thought-Unity-Religious Science, Other, Pantheist, Rosicrucian, Satanist, Scientology, Shintoïste, Spiritualist, Taoism, Transcendental Meditation, Unification Church, Unitarian, Visnabha and Zoroastrian. No religion Affiliation includes offenders who are Agnostic, Atheist, Humanist and offenders who have no religion affiliation. The data reflect all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days. The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.
Due to rounding, percentages may not add to 100 percent.

THE PROPORTION OF INDIGENOUS OFFENDERS IN CUSTODY IS HIGHER THAN FOR NON-INDIGENOUS OFFENDERS

Figure C11



Source: Correctional Service Canada.

- At the end of fiscal year 2017-18, the proportion of offenders in custody was about 12.7% greater for Indigenous offenders (70.3%) than for non-Indigenous offenders (57.6%).
- Indigenous women in custody represent 39.9% of all in-custody women while Indigenous men who were in custody represented 27.2% of all men in custody.
- In 2017-18, Indigenous offenders represented 24.0% of the total offender population.
- Indigenous offenders accounted for 27.8% of the in-custody population and 18.1% of the community population in 2017-18.

Note:
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
In Custody includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.
In Community Under Supervision includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.

THE PROPORTION OF INDIGENOUS OFFENDERS IN CUSTODY IS HIGHER THAN FOR NON-INDIGENOUS OFFENDERS

Table C11

		In-Custody Population		In Community Under Supervision		**Total**
		#	%	#	%	
Men						
2014-15	Indigenous	3,417	73.4	1,238	26.6	**4,655**
	Non-Indigenous	10,788	63.0	6,327	37.0	**17,115**
	Total	14,205	65.3	7,565	34.7	**21,770**
2015-16	Indigenous	3,532	73.2	1,293	26.8	**4,825**
	Non-Indigenous	10,485	61.8	6,468	38.2	**16,953**
	Total	14,017	64.4	7,761	35.6	**21,778**
2016-17	Indigenous	3,545	72.2	1,362	27.8	**4,907**
	Non-Indigenous	9,922	59.0	6,885	41.0	**16,807**
	Total	13,467	62.0	8,247	38.0	**21,714**
2017-18	Indigenous	3,647	71.4	1,464	28.6	**5,111**
	Non-Indigenous	9,769	58.4	6,946	41.6	**16,715**
	Total	13,416	61.5	8,410	38.5	**21,826**
Women						
2014-15	Indigenous	240	67.8	114	32.2	**354**
	Non-Indigenous	441	52.7	396	47.3	**837**
	Total	681	57.2	510	42.8	**1,191**
2015-16	Indigenous	251	62.4	151	37.6	**402**
	Non-Indigenous	444	50.6	433	49.4	**877**
	Total	695	54.3	584	45.7	**1,279**
2016-17	Indigenous	253	61.0	162	39.0	**415**
	Non-Indigenous	439	47.9	477	52.1	**916**
	Total	692	52.0	639	48.0	**1,331**
2017-18	Indigenous	270	58.6	191	41.4	**461**
	Non-Indigenous	406	43.4	530	56.6	**936**
	Total	676	48.4	721	51.6	**1,397**

Source: Correctional Service Canada.

Note:

Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.

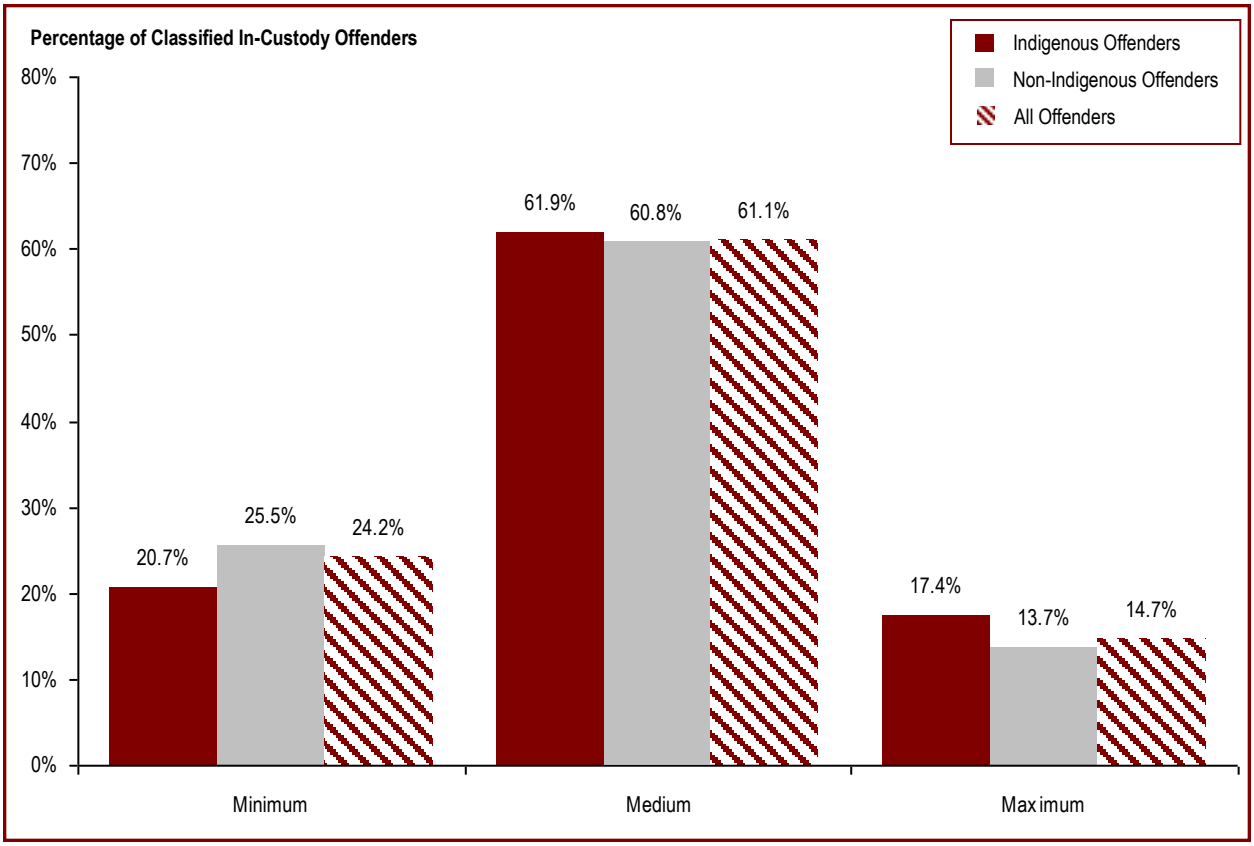
In Custody includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.

In Community Under Supervision includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.

The data reflect the number of offenders active at the end of each fiscal year. A fiscal year runs from April 1 to March 31 of the following year.

THE MAJORITY OF IN-CUSTODY OFFENDERS ARE CLASSIFIED AS MEDIUM SECURITY RISK

Figure C12



Source: Correctional Service Canada.

- Approximately two-thirds (61.1%) of offenders were classified as medium security risk.
- Indigenous offenders were more likely to be classified to a medium or maximum security risk compared to non-Indigenous.
- Compared to non-Indigenous offenders, a lower percentage of Indigenous offenders were classified as minimum security risk (20.7% vs. 25.5%) and a higher percentage were classified as medium (61.9% vs. 60.8%) and maximum (17.4% vs. 13.7%) security risk.

Note:
The data represent the offender security level decision as of end of fiscal year 2017-2018.
In Custody includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility.

THE MAJORITY OF IN-CUSTODY OFFENDERS ARE CLASSIFIED AS MEDIUM SECURITY RISK

Table C12

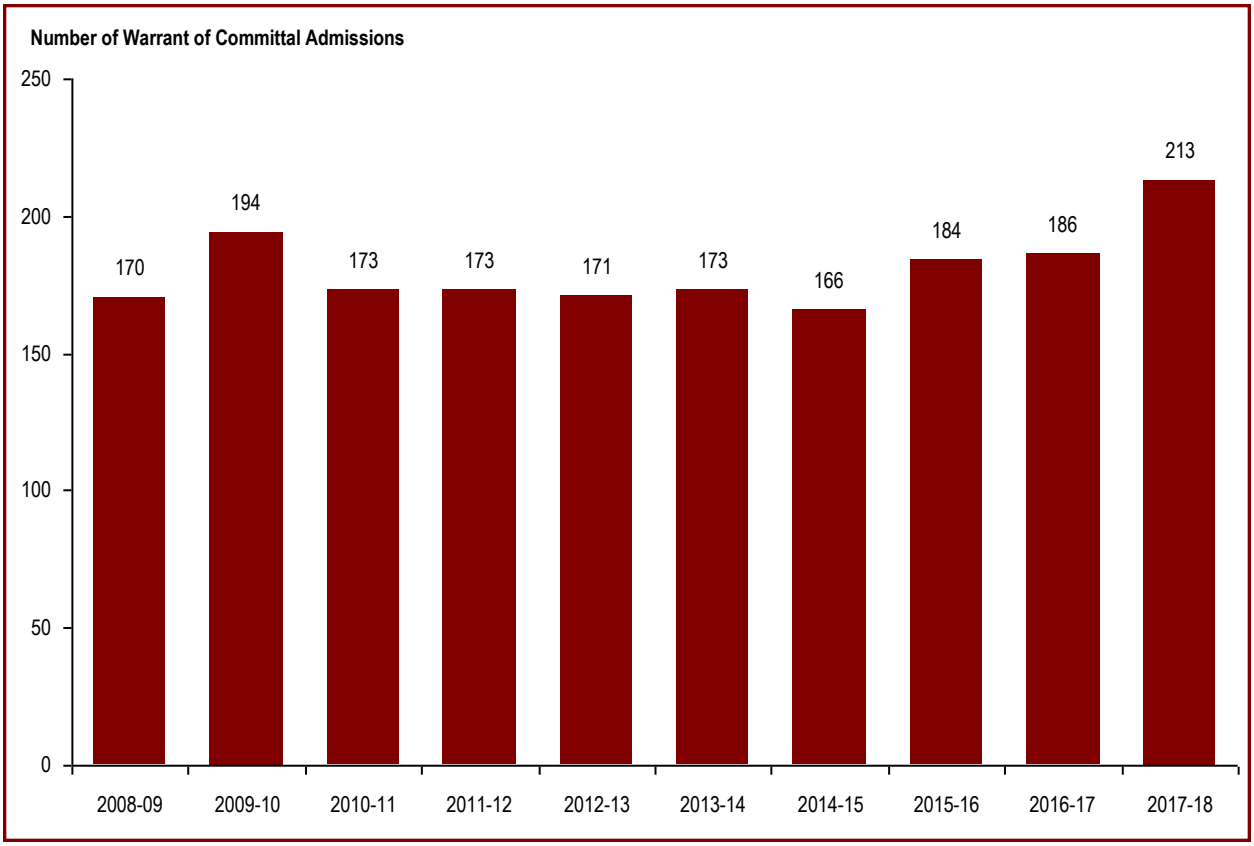
Security Risk Level	Indigenous		Non-Indigenous		Total	
	#	%	#	%	#	%
Minimum	742	20.7	2,328	25.5	3,070	24.2
Medium	2,224	61.9	5,546	60.8	7,770	61.1
Maximum	625	17.4	1,245	13.7	1,870	14.7
Total	**3,591**	**100.0**	**9,119**	**100.0**	**12,710**	**100.0**
Not Yet Determined*	326		1,056		1,382	
Total	**3,917**		**10,175**		**14,092**	

Source: Correctional Service Canada.

Note:
The data represent the offender security level decision as of end of fiscal year 2017-2018.
The "Not yet determined" category includes offenders who have not yet been classified.

ADMISSIONS WITH A LIFE OR INDETERMINATE SENTENCE ARE INCREASING

Figure C13



Source: Correctional Service Canada.

- From 2008-09 to 2017-18, there was an increase of 25.3% in the number of warrant of committal admissions to federal jurisdiction with a life/indeterminate* sentence from 170 to 213.
- At the end of fiscal year 2017-18, there were a total of 3,672 offenders in custody with a life/indeterminate sentence. Of these, 3,539 (96.4%) were men and 133 (3.6%) were women; 972 (26.5%) were Indigenous and 2,700 (73.5%) were non-Indigenous.
- At the end of fiscal year 2017-18, 24.2% of the total population was serving a life/indeterminate sentence. Of these offenders, 65.3% were in custody and 34.7% were in the community under supervision.

Note:
*Although *life sentences* and *indeterminate sentences* both may result in imprisonment for life, they are different. A *life sentence* is a sentence of life imprisonment, imposed by a judge at the time of sentence, for example for murder. An *indeterminate sentence* is a result of a designation, where an application is made to the court to declare an offender a Dangerous Offender, and the consequence of this designation is imprisonment for an indeterminate period.
A warrant of committal is a new admission to federal jurisdiction from the courts.
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.
This table combines offenders serving life sentences and offenders serving indeterminate sentences.

ADMISSIONS WITH A LIFE OR INDETERMINATE SENTENCE ARE INCREASING

Table C13

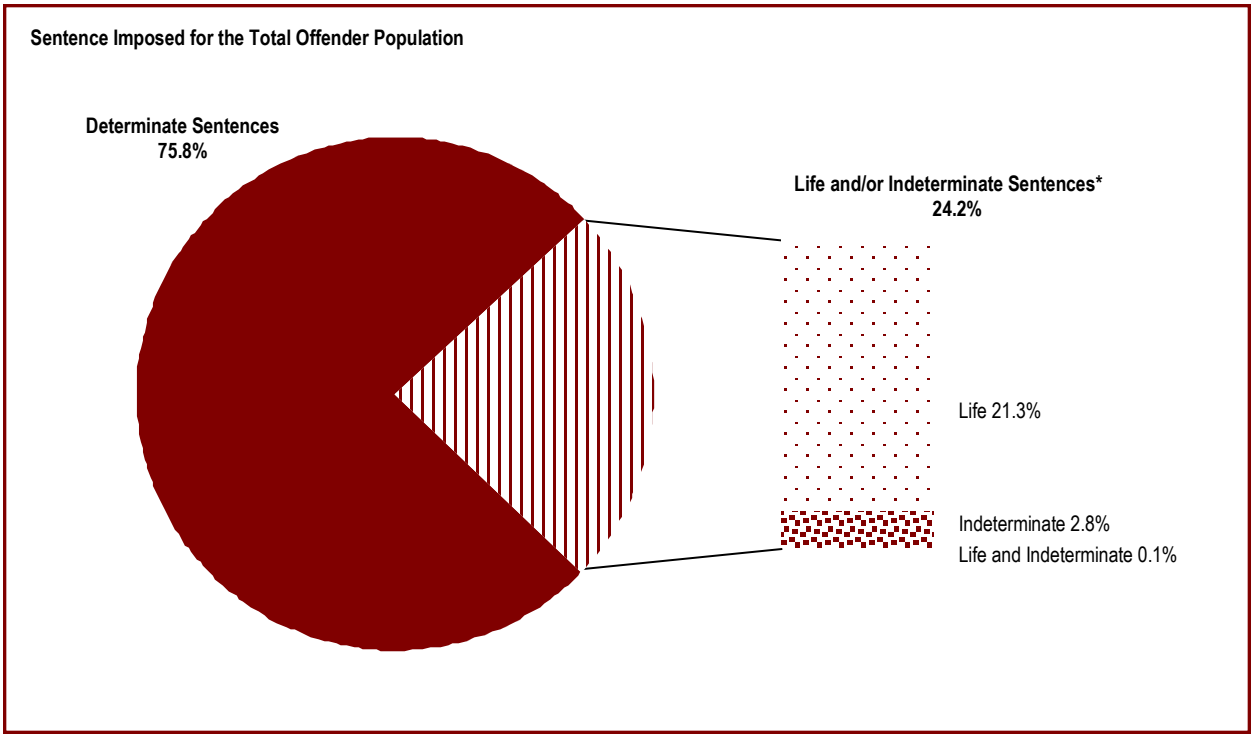
Year	Indigenous Offenders			Non-Indigenous Offenders			Total		
	Women	Men	Total	Women	Men	Total	Women	Men	Total
2008-09	3	36	39	2	129	131	5	165	170
2009-10	5	48	53	8	133	141	13	181	194
2010-11	3	35	38	6	129	135	9	164	173
2011-12	6	46	52	11	110	121	17	156	173
2012-13	6	46	52	2	117	119	8	163	171
2013-14	7	40	47	7	119	126	14	159	173
2014-15	1	37	38	8	120	128	9	157	166
2015-16	5	50	55	6	123	129	11	173	184
2016-17	1	40	41	11	134	145	12	174	186
2017-18	5	66	71	10	132	142	15	198	213

Source: Correctional Service Canada.

Note:
This table combines offenders serving life sentences and offenders serving indeterminate sentences.
*Although *life sentences* and *indeterminate sentences* both may result in imprisonment for life, they are different. A *life sentence* is a sentence of life imprisonment, imposed by a judge at the time of sentence, for example for murder. An *indeterminate sentence* is a result of a designation, where an application is made to the court to declare an offender a Dangerous Offender, and the consequence of this designation is imprisonment for an indeterminate period.
A warrant of committal is a new admission to federal jurisdiction from the courts.
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.

OFFENDERS WITH LIFE OR INDETERMINATE SENTENCES REPRESENT 24% OF THE TOTAL OFFENDER POPULATION

Figure C14



Source: Correctional Service Canada.

- At the end of fiscal year 2017-18, there were 5,619 offenders serving a life sentence and/or an indeterminate sentence. This represents 24.2% of the total offender population. The majority (65.3%) of these offenders were in custody. Of the 1,947 offenders who were in the community under supervision, the majority (80.9%) were serving a life sentence for 2nd Degree Murder.
- There were 21 offenders who were serving both a life sentence and an indeterminate sentence*.
- There were 641 offenders who were serving an indeterminate sentence as a result of a special designation. The remaining 4,957 offenders did not receive a special designation, but were serving a life sentence.
- 95.5% of the 623 Dangerous Offenders with indeterminate sentences were in custody and 4.5% were in the community under supervision.
- In contrast, 50.0% of the 16 Dangerous Sexual Offenders were in custody and all (2) of the offenders with an Habitual Offender designation were in the community under supervision (in this table there is one offender with an Habitual Offender designation included in the Designation and Life grouping, this offender was in the community under supervision as well).

Note:
*Although *life sentences* and *indeterminate sentences* may both result in imprisonment for life, they are different. A *life sentence* is a sentence of life imprisonment, imposed by a judge at the time of sentence, for example, for murder. An *indeterminate sentence* is a result of a designation, where an application is made to the court to declare an offender a Dangerous Offender, and the consequence of this designation is imprisonment for an indeterminate period. The Dangerous Sexual Offender and Habitual Offender designations were replaced with Dangerous Offender Legislation in 1977.
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days. In Custody includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility. In Community Under Supervision includes all active offenders on day parole, full parole, statutory release, in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.

OFFENDERS WITH LIFE OR INDETERMINATE SENTENCES REPRESENT 24% OF THE TOTAL OFFENDER POPULATION

Table C14

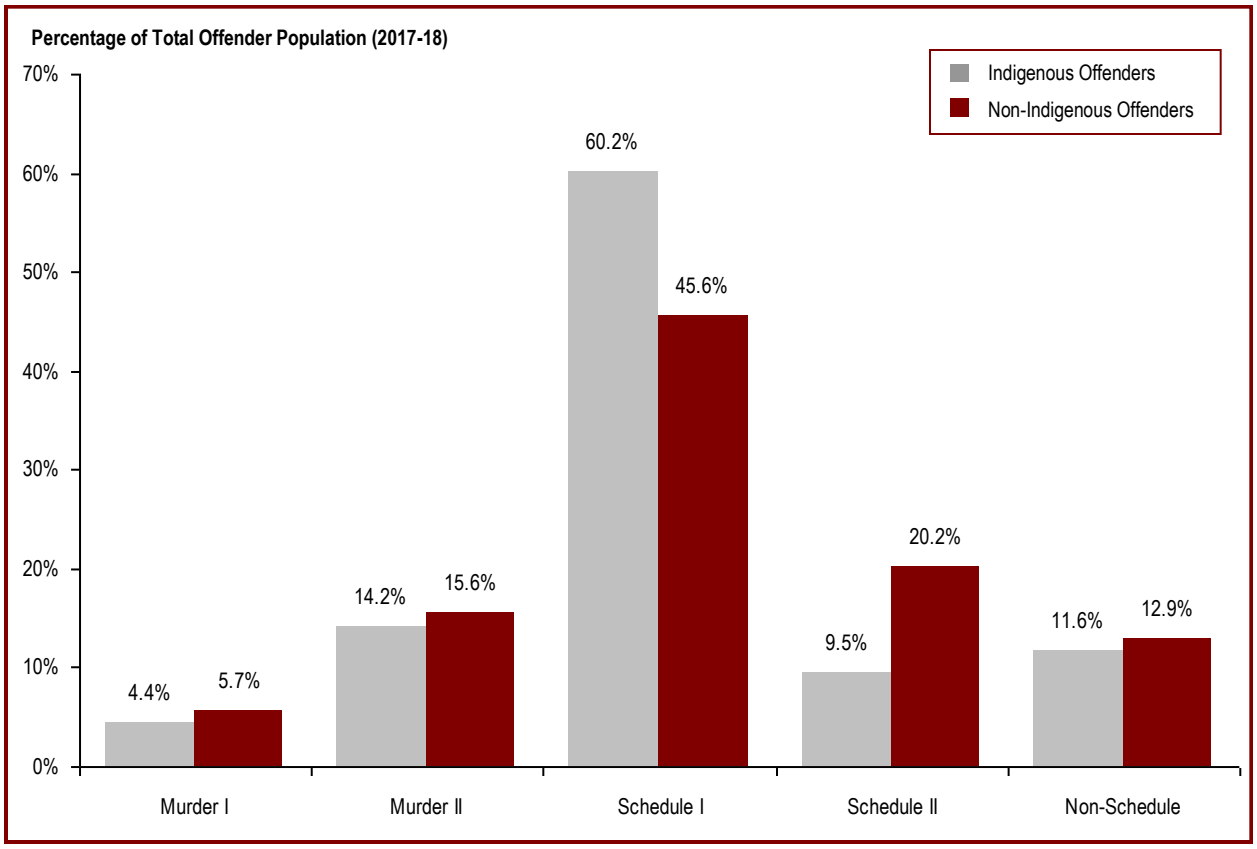
	Total Offender Population		Current Status			
			In Custody in a CSC Facility	In Community Under Supervision		
			Incarcerated	Day Parole	Full Parole	Other***
	#	%				
Offenders with a life sentence for:						
1st Degree Murder	1,234	5.3	989	52	193	0
2nd Degree Murder	3,525	15.2	1,950	222	1,353	0
Other Offences*	198	0.9	111	12	75	0
Total	**4,957**	**21.3**	**3,050**	**286**	**1,621**	**0**
Offenders with indeterminate sentences resulting from the special designation of:						
Dangerous Offender	623	2.7	595	14	14	0
Dangerous Sexual Offender	16	0.1	8	2	6	0
Habitual Offender	2	0.0	0	0	2	0
Total	**641**	**2.8**	**603**	**16**	**22**	**0**
Offenders serving an indeterminate sentence (due to a special designation) and a life sentence (due to an offence)	21	0.1	19	0	2	0
Total offenders with Life and/or Indeterminate sentence	**5,619**	**24.2**	**3,672**	**302**	**1,645**	**0**
Offenders Serving Determinate sentences**	17,604	75.8	10,420	1,357	2,588	3,239
Total	**23,223**	**100.0**	**14,092**	**1,659**	**4,233**	**3,239**

Source: Correctional Service Canada.

Note:
*"Other offences" include Schedule I Schedule II and Non-Schedule types of offences.
**This includes 148 offenders designated as Dangerous Offenders who were serving determinate sentences.
***"Other" in the Community Under Supervision includes offenders on statutory release or on a long-term supervision order.
Among the 21 offenders serving an indeterminate sentence (due to a special designation) and a life sentence (due to an offence), there was one offender with an Habitual Offender designation.
Although life sentences and indeterminate sentences both may result in imprisonment for life, they are different. A life sentence is a sentence of life imprisonment, imposed by a judge at the time of sentence, for example for murder. An indeterminate sentence is a result of a designation, where an application is made to the court to declare an offender a Dangerous Offender, and the consequence of this designation is imprisonment for an indeterminate period. The Dangerous Sexual Offender and Habitual Offender designations were replaced with Dangerous Offender legislation in 1977.
Total Offender Population includes all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days. *In Custody* includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility and offenders on remand in a CSC facility. *In Community Under Supervision* includes all active offenders on day parole, full parole, statutory release, in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.

69.7% OF OFFENDERS ARE SERVING A SENTENCE FOR A VIOLENT OFFENCE*

Figure C15



Source: Correctional Service Canada.

- At the end fiscal year 2017-18, Indigenous offenders were more likely to be serving a sentence for a violent offence (78.8% for Indigenous versus 66.9% for non-Indigenous offenders).
- 68.5% of Indigenous women offenders were serving a sentence for a violent offence compared to 44.3% of non-Indigenous women offenders.
- Of those offenders serving a sentence for Murder, 4.9% were women and 21.7% were Indigenous.
- A greater proportion of Indigenous offenders than non-Indigenous offenders were serving a sentence for a Schedule I offence (60.2% versus 45.6%, respectively).
- 9.5% of Indigenous offenders were serving a sentence for a Schedule II offence compared to 20.2% of non-Indigenous offenders.
- 29.7% of women were serving a sentence for a Schedule II offence compared to 16.9% of men.

Note:
*Violent offences include Murder I, Murder II and Schedule I offences.
Schedule I is comprised of sexual offences and other violent crimes excluding 1st and 2nd degree murder (see the *Corrections and Conditional Release Act*).
Schedule II is comprised of serious drug offences or conspiracy to commit serious drug offences (see the *Corrections and Conditional Release Act*).
In cases where the offender is serving a sentence for more than one offence, the data reflect the most serious offence.
The data reflect all active offenders who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.

69.7% OF OFFENDERS ARE SERVING A SENTENCE FOR A VIOLENT OFFENCE*

Table C15

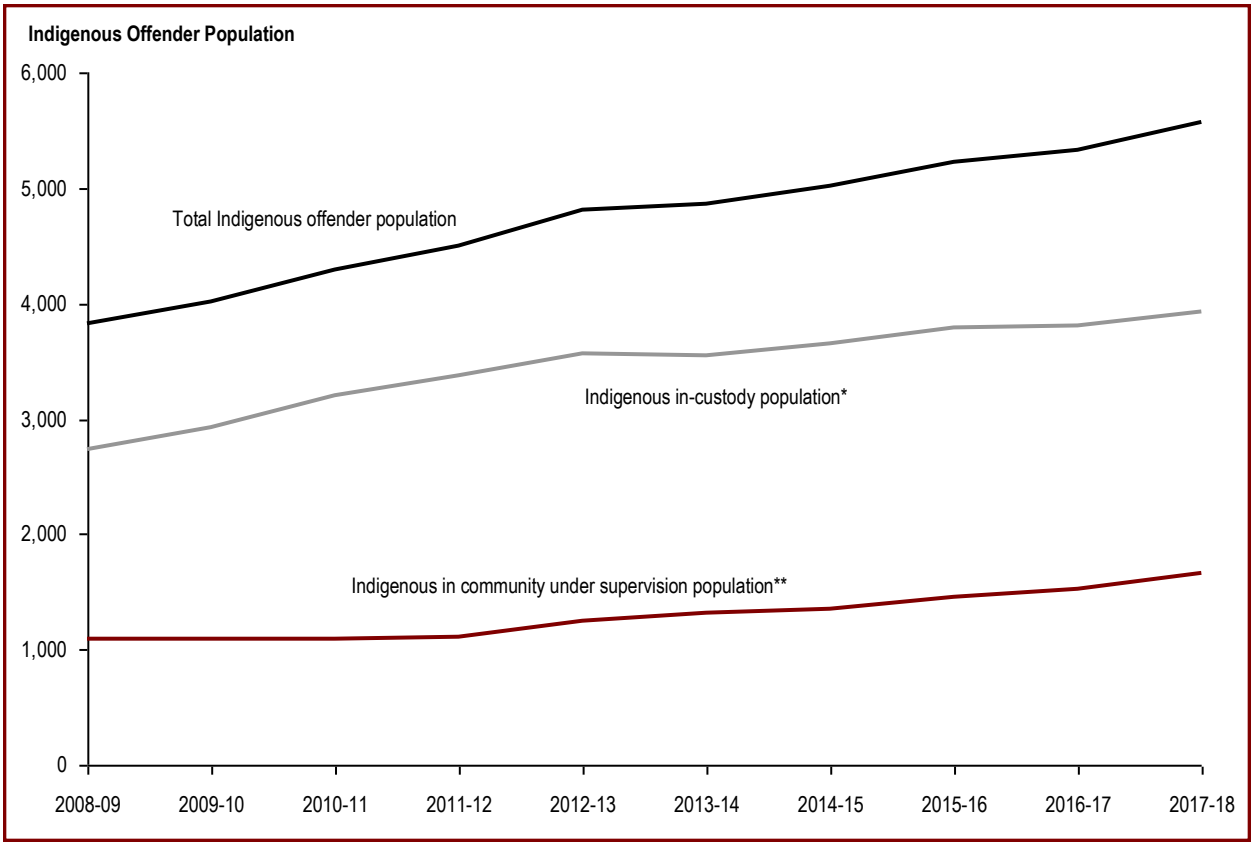
Offence Category	Indigenous			Non-Indigenous			Total		
	Women	Men	Total	Women	Men	Total	Women	Men	Total
Murder I	8	237	245	47	959	1,006	55	1,196	1,251
%	1.7	4.6	4.4	5.0	5.7	5.7	3.9	5.5	5.4
Murder II	60	734	794	119	2,635	2,754	179	3,369	3,548
%	13.0	14.4	14.2	12.7	15.8	15.6	12.8	15.4	15.3
Schedule I	248	3,105	3,353	249	7,792	8,041	497	10,897	11,394
%	53.8	60.8	60.2	26.6	46.6	45.6	35.6	49.9	49.1
Schedule II	82	449	531	333	3,233	3,566	415	3,682	4,097
%	17.8	8.8	9.5	35.6	19.3	20.2	29.7	16.9	17.6
Non-Schedule	63	586	649	188	2,096	2,284	251	2,682	2,933
%	13.7	11.5	11.6	20.1	12.5	12.9	18.0	12.3	12.6
	461	**5,111**		**936**	**16,715**		**1,397**	**21,826**	
Total	**5,572**			**17,651**			**23,223**		

Source: Correctional Service Canada.

Note:
*Violent offences include Murder I, Murder II and Schedule I offences.
Schedule I is comprised of sexual offences and other violent crimes excluding first and second degree murder (see the Corrections and Conditional Release Act).
Schedule II is comprised of serious drug offences or conspiracy to commit serious drug offences (see the Corrections and Conditional Release Act).
In cases where the offender is serving a sentence for more than one offence, the data reflect the most serious offence.
The data reflect all active offenders, who are incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained, offenders who are actively supervised, and offenders who are unlawfully at large for less than 90 days.

THE NUMBER OF INDIGENOUS OFFENDERS HAS INCREASED

Figure C16



Source: Correctional Service Canada.

- From 2008-09 to 2017-18, the in-custody Indigenous offender population increased by 43.3%, while the total Indigenous offender population increased by 45.7% over the same time period.
- The number of in-custody Indigenous women offenders increased steadily from 168 in 2008-09 to 270 in 2017-18, for an increase of 60.7% in the last ten years. The increase for in-custody Indigenous men offenders was 42.2% for the same period, increasing from 2,565 to 3,647.
- From 2008-09 to 2017-18, the number of Indigenous offenders on community supervision increased by 51.6%, from 1,092 to 1,655. The Indigenous community population accounted for 18.1% of the total community population in 2017-18.

Note:
**In-Custody Population* includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility, and offenders on remand in a CSC facility.
***In Community Under Supervision Population* includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long-term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
Regional statistics for Correctional Service Canada account for data relating to the northern territories in the following manner: data for Nunavut are reported in the Ontario Region, data for the Northwest Territories are reported in the Prairies Region, and data for Yukon are reported in the Pacific Region.

THE NUMBER OF INDIGENOUS OFFENDERS HAS INCREASED

Table C16

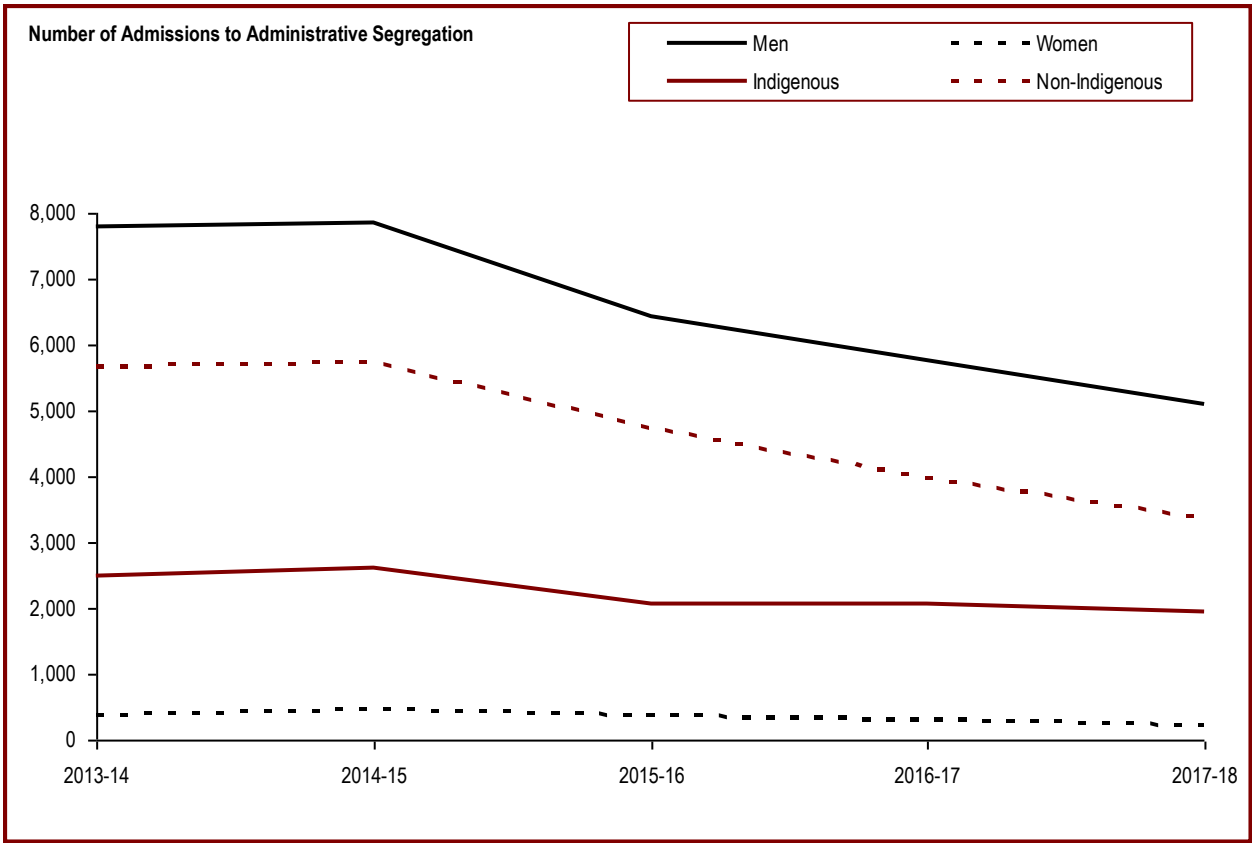
Indigenous Offenders		Fiscal Year				
		2013-14	2014-15	2015-16	2016-17	2017-18
In-Custody						
Atlantic Region	Men	181	174	157	175	184
	Women	14	11	12	8	14
Quebec Region	Men	422	443	425	384	392
	Women	15	19	24	14	11
Ontario Region	Men	440	441	453	487	534
	Women	36	34	39	37	43
Prairie Region	Men	1,686	1,757	1,868	1,861	1,879
	Women	110	139	133	155	163
Pacific Region	Men	600	602	629	638	658
	Women	38	37	43	39	39
National Total	Men	3,329	3,417	3,532	3,545	3,647
	Women	213	240	251	253	270
	Total	**3,542**	**3,657**	**3,783**	**3,798**	**3,917**
In Community Under Supervision						
Atlantic Region	Men	50	60	68	71	88
	Women	11	12	10	11	9
Quebec Region	Men	134	158	185	185	181
	Women	7	12	18	10	6
Ontario Region	Men	180	178	204	201	231
	Women	20	21	24	31	29
Prairie Region	Men	582	574	560	604	645
	Women	63	52	77	78	111
Pacific Region	Men	250	268	276	301	319
	Women	17	17	22	32	36
National Total	Men	1,196	1,238	1,293	1,362	1,464
	Women	118	114	151	162	191
	Total	**1,314**	**1,352**	**1,444**	**1,524**	**1,655**
Total In-Custody & In Community Under Supervision		**4,856**	**5,009**	**5,227**	**5,322**	**5,572**

Source: Correctional Service Canada.

Note:
In-Custody Population includes all active offenders incarcerated in a CSC facility, offenders on temporary absence from a CSC facility, offenders who are temporarily detained in a CSC facility, and offenders on remand in a CSC facility.
In Community Under Supervision Population includes all active offenders on day parole, full parole, statutory release, or in the community supervised on a long -term supervision order, offenders who are temporarily detained in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, offenders on remand in a non-CSC facility, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
Regional statistics for Correctional Service Canada account for data relating to the northern territories in the following manner: data for Nunavut are reported in the Ontario Region, data for the Northwest Territories are reported in the Prairies Region, and data for Yukon are reported in the Pacific Region.

THE TOTAL NUMBER OF ADMISSIONS TO ADMINISTRATIVE SEGREGATION HAS DECREASED

Figure C17



Source: Correctional Service Canada.

- In 2017-18, the total admissions to administrative segregation decreased by 12.3% from 6,037 in 2016-17 to 5,295 in 2017-18.
- In 2017-18, 96.2% of the total admissions were men, and admissions of Indigenous offenders accounted for 36.5%.
- At the end of fiscal year 2017-18, there were 310 offenders in administrative segregation. Of these, 305 were men and five were women. A total of 136 Indigenous offenders were in administrative segregation.

Note:
These reports count admissions, not offenders. Offenders admitted multiple times to segregation are counted once for each admission. Offenders segregated under paragraph (f), subsection 44(1) of the *Corrections and Conditional Release Act* (Disciplinary Segregation) are not included.
Administrative segregation is the separation, when specific legal requirements are met, of an inmate from the general population, other than pursuant to a disciplinary decision. As per subsection 31(3) of the *Corrections and Conditional Release Act*: The institutional head may order that an inmate be confined in administrative segregation if the institutional head is satisfied that there is no reasonable alternative to administrative segregation and he or she believes on reasonable grounds that (a) the inmate has acted, has attempted to act or intends to act in a manner that jeopardizes the security of the penitentiary or the safety of any person and allowing the inmate to associate with other inmates would jeopardize the security of the penitentiary or the safety of any person; (b) allowing the inmate to associate with other inmates would interfere with an investigation that could lead to a criminal charge or a charge under subsection 41(2) of a serious disciplinary offence; or (c) allowing the inmate to associate with other inmates would jeopardize the inmate's safety.

THE TOTAL NUMBER OF ADMISSIONS TO ADMINISTRATIVE SEGREGATION HAS DECREASED

Table C17

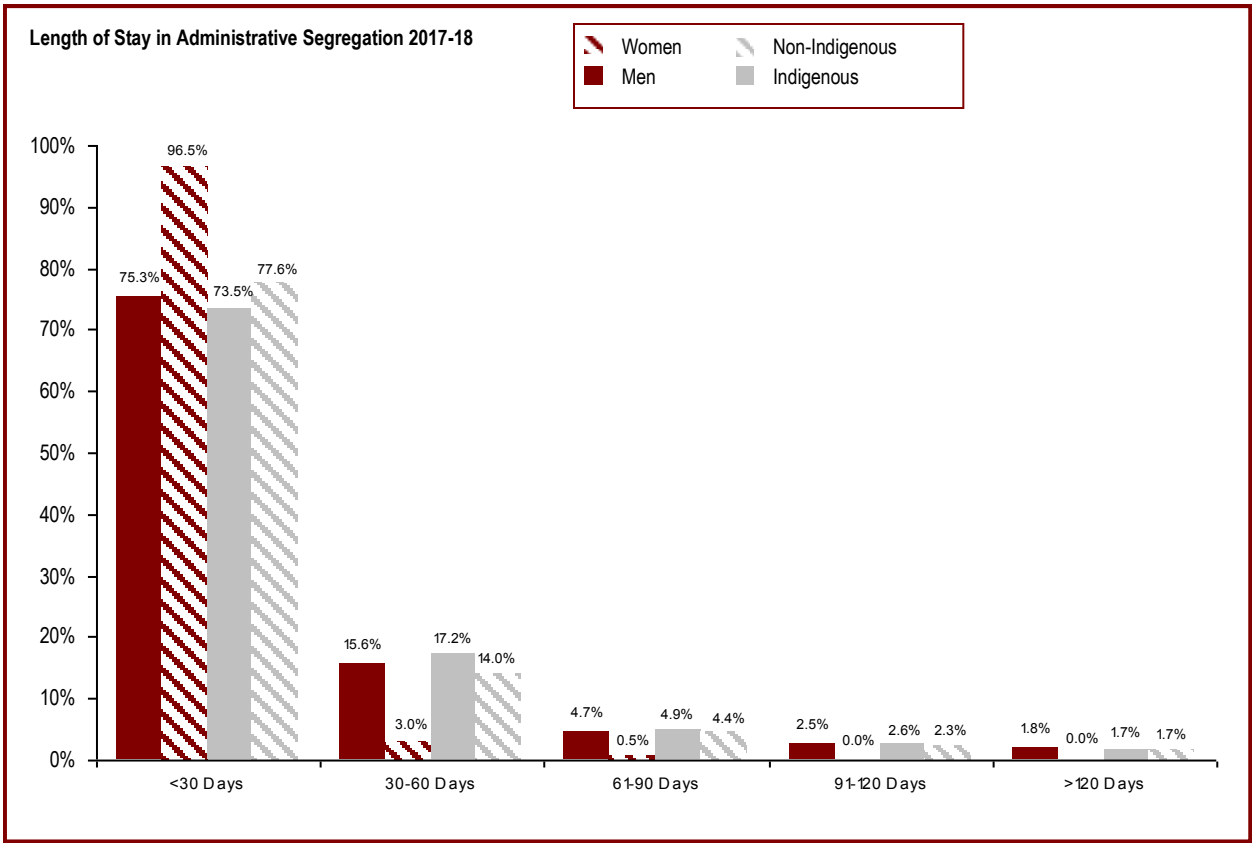
Year and Type of Administrative Segregation	By Gender			By Race		
	Women	Men	Total	Indigenous	Non-Indigenous	Total
2013-14						
CCRA 31(3-A)*	315	5,196	5,511	1,602	3,909	5,511
CCRA 31(3-B)*	5	320	325	95	230	325
CCRA 31(3-C)*	28	2,272	2,300	806	1,494	2,300
Total	**348**	**7,788**	**8,136**	**2,482**	**5,654**	**8,136**
2014-15						
CCRA 31(3-A)	426	5,289	5,715	1,723	3,992	5,715
CCRA 31(3-B)	7	329	336	109	227	335
CCRA 31(3-C)	27	2,242	2,269	793	1,476	2,269
Total	**460**	**7,860**	**8,320**	**2,595**	**5,724**	**8,320**
2015-16						
CCRA 31(3-A)	342	4,200	4,542	1,345	3,197	4,542
CCRA 31(3-B)	2	235	237	91	146	237
CCRA 31(3-C)	33	1,976	2,009	645	1,364	2,009
Total	**377**	**6,411**	**6,788**	**2,056**	**4,732**	**6,788**
2016-17						
CCRA 31(3-A)	270	3,826	4,096	1,370	2,726	4,096
CCRA 31(3-B)	3	273	276	74	202	276
CCRA 31(3-C)	16	1,649	1,665	635	1,030	1,665
Total	**289**	**5,748**	**6,037**	**2,058**	**3,979**	**6,037**
2017-18						
CCRA 31(3-A)	180	3,167	3,347	1,171	2,176	3,347
CCRA 31(3-B)	9	229	238	75	163	238
CCRA 31(3-C)	13	1,697	1,710	687	1,023	1,710
Total	**202**	**5,093**	**5,295**	**1,933**	**3,362**	**5,295**

Source: Correctional Service Canada.

Note:
These reports count admissions, not offenders. Offenders admitted multiple times to segregation are counted once for each admission. Offenders segregated under paragraph (f), subsection 44(1) of the *Corrections and Conditional Release Act* (Disciplinary Segregation) are not included.
*Administrative segregation is the separation, when specific legal requirements are met, of an inmate from the general population, other than pursuant to a disciplinary decision. As per subsection 31(3) of the *Corrections and Conditional Release Act*: The institutional head may order that an inmate be confined in administrative segregation if the institutional head is satisfied that there is no reasonable alternative to administrative segregation and he or she believes on reasonable grounds that (a) the inmate has acted, has attempted to act or intends to act in a manner that jeopardizes the security of the penitentiary or the safety of any person and allowing the inmate to associate with other inmates would jeopardize the security of the penitentiary or the safety of any person; (b) allowing the inmate to associate with other inmates would interfere with an investigation that could lead to a criminal charge or a charge under subsection 41(2) of a serious disciplinary offence; or (c) allowing the inmate to associate with other inmates would jeopardize the inmate's safety.

76% OF ADMISSIONS TO ADMINISTRATIVE SEGREGATION STAY FOR LESS THAN 30 DAYS

Figure C18



Source: Correctional Service Canada.

- Most (76.1%) placements in administrative segregation ended in less than 30 days, and 15.2% lasted between 30 and 60 days. 1.7% of placements in administrative segregation ended after more than 120 days.
- 96.5% of placements of women in administrative segregation ended in less than 30 days.
- The number of admissions to administrative segregation that resulted in placements lasting more than 120 days was the same for Indigenous offenders and non-Indigenous offenders (1.7%).

Note:
These reports count admissions, not offenders. Offenders admitted multiple times to segregation are counted once for each admission. Offenders segregated under paragraph (f), subsection 44(1) of the *Corrections and Conditional Release Act* (Disciplinary Segregation) are not included.
Administrative segregation is the involuntary or voluntary separation, when specific legal requirements are met, of an inmate from the general population, other than pursuant to a disciplinary decision. As per subsection 31(3) of the *Corrections and Conditional Release Act*: The institutional head may order that an inmate be confined in administrative segregation if the institutional head is satisfied that there is no reasonable alternative to administrative segregation and he or she believes on reasonable grounds that (a) the inmate has acted, has attempted to act or intends to act in a manner that jeopardizes the security of the penitentiary or the safety of any person and allowing the inmate to associate with other inmates would jeopardize the security of the penitentiary or the safety of any person; (b) allowing the inmate to associate with other inmates would interfere with an investigation that could lead to a criminal charge or a charge under subsection 41(2) of a serious disciplinary offence; or (c) allowing the inmate to associate with other inmates would jeopardize the inmate's safety.

76% OF ADMISSIONS TO ADMINISTRATIVE SEGREGATION STAY FOR LESS THAN 30 DAYS

Table C18

Length of Stay in Administrative Segregation	By Gender				By Race					
	Women		Men		Indigenous		Non-Indigenous		Total	
	#	%	#	%	#	%	#	%	#	%
2017-18										
< 30 days	193	96.5	3,910	75.3	1,432	73.5	2,671	76.1	4,103	76.1
30-60 days	6	3.0	812	15.6	336	17.2	482	15.2	818	15.2
61-90 days	1	0.5	246	4.7	96	4.9	151	4.6	247	4.6
91-120 days	0	0.0	130	2.5	51	2.6	79	2.4	130	2.4
> 120 days	0	0.0	92	1.8	34	1.7	58	1.7	92	1.7
Total	**200**	**100.0**	**5,190**	**100.0**	**1,949**	**100.0**	**3,441**	**100.0**	**5,390**	**100.0**

Source: Correctional Service Canada.

Note:
These reports count admissions, not offenders. Offenders admitted multiple times to segregation are counted once for each admission. Offenders segregated under paragraph (f), subsection 44(1) of the *Corrections and Conditional Release Act* (Disciplinary Segregation) are not included.
Administrative segregation is the involuntary or voluntary separation, when specific legal requirements are met, of an inmate from the general population, other than pursuant to a disciplinary decision. As per subsection 31(3) of the *Corrections and Conditional Release Act*:
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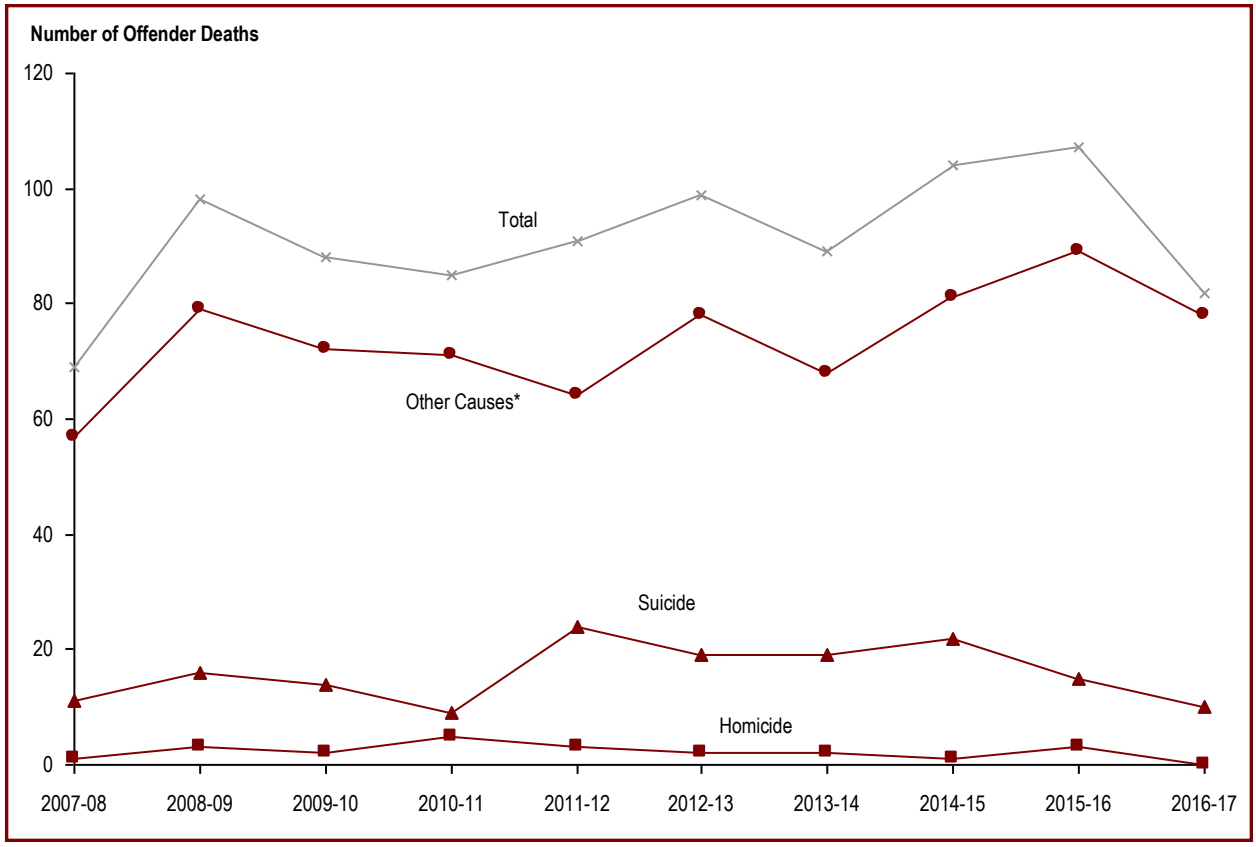
(b) allowing the inmate to associate with other inmates would interfere with an investigation that could lead to a criminal charge or a charge under subsection 41(2) of a serious disciplinary offence; or
(c) allowing the inmate to associate with other inmates would jeopardize the inmate's safety.

THE NUMBER OF OFFENDER DEATHS WHILE IN CUSTODY

Figure C19



Source: Adult Correctional Services Survey, Canadian Centre for Justice Statistics, Statistics Canada

- In the ten-year period from 2006-07 to 2016-17, a total of 539 federal offenders and 379 provincial offenders died while in custody.
- During this time period, suicides accounted for 14.8% of federal offender deaths and 20.8% of provincial offender deaths. The suicide rate was approximately 56 per 100,000 for incarcerated federal offenders, and approximately 33 per 100,000 for incarcerated provincial offenders.** These rates are significantly higher than the 2009 rate of 11.5 suicides per 100,000 people in Canada.
- Between 2007-08 and 2016-17, 3.3% of federal offender deaths and 1.1% of provincial offender deaths were due to homicide. The homicide rate for incarcerated federal offenders was approximately 12.7 per 100,000 and 1.7 per 100,000 for incarcerated provincial offenders**. The federal rate is significantly higher than the national homicide rate of 1.8 per 100,000 people in 2017.

Note:
*Other causes of death include: natural causes, accidental deaths, death as a result of a legal intervention, other causes of death and where cause of death was unknown. Data for Alberta for 2013-14 and onward are now available.
**For the calculation of rates, the total actual in-count numbers between 2006-07 and 2016-17 was used as the denominator.
The data on cause of death are subject to change following an official review or investigation, and should be used/interpreted with caution. The data presented were provided by the Canadian Centre for Justice Statistics at Statistics Canada, and may not reflect the outcome of recent reviews or investigations on cause of death.

THE NUMBER OF OFFENDER DEATHS WHILE IN CUSTODY

Table C19

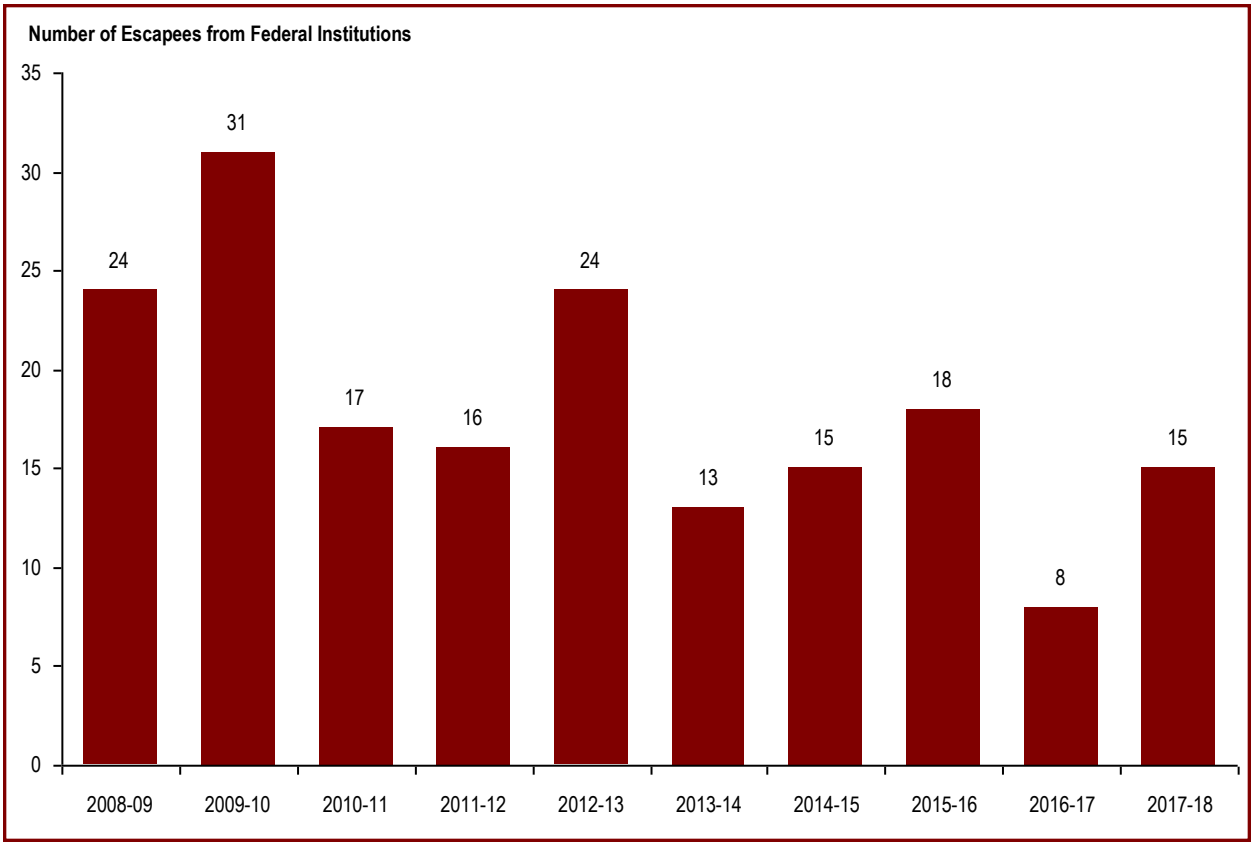
Year	Type of Death						
	Homicide		Suicide		Other*		Total
	#	%	#	%	#	%	#
Federal							
2007-08	1	2.5	5	12.5	34	85.0	40
2008-09	2	3.1	9	13.8	54	83.1	65
2009-10	1	2.0	9	18.4	39	79.6	49
2010-11	5	10.0	4	8.0	41	82.0	50
2011-12	3	5.7	8	15.1	42	79.2	53
2012-13	1	1.8	11	20.0	43	78.2	55
2013-14	1	2.1	9	18.8	38	79.2	48
2014-15	1	1.5	13	19.4	53	79.1	67
2015-16	3	4.6	9	13.8	53	81.5	65
2016-17	0	0.0	3	6.4	44	9.4	47
Total	**18**	3.3	**80**	14.8	**441**	81.8	**539**
Provincial							
2007-08	0	0.0	6	20.7	23	79.3	29
2008-09	1	3.0	7	21.2	25	75.8	33
2009-10	1	2.6	5	12.8	33	84.6	39
2010-11	0	0.0	5	14.3	30	85.7	35
2011-12	0	0.0	16	42.1	22	57.9	38
2012-13	1	2.3	8	18.2	35	79.5	44
2013-14	1	2.4	10	24.4	30	73.2	41
2014-15	0	0.0	9	24.3	28	73.2	37
2015-16	0	0.0	6	14.3	36	85.7	42
2016-17	0	0.0	7	17.1	34	83.0	41
Total	**4**	1.1	**79**	20.8	**296**	78.1	**379**
Total Federal and Provincial Offender Deaths	**22**	**2.4**	**159**	**17.3**	**737**	**80.3**	**918**

Source: Adult Correctional Services Survey, Canadian Centre for Justice Statistics, Statistics Canada

Note:
*Other causes of death include: natural causes, accidental deaths, death as a result of a legal intervention, other causes of death and where cause of death was unknown.
Data for Alberta for 2013-14 and onward are now available.
The data on cause of death are subject to change following an official review or investigation, and should be used/interpreted with caution. The data presented were provided by the Canadian Centre for Justice Statistics at Statistics Canada, and may not reflect the outcome of recent reviews or investigations on cause of death.

THE NUMBER OF ESCAPEES HAS REMAINED STABLE SINCE 2013-2014

Figure C20



Source: Security, Correctional Service Canada.

- In 2017-18, there were 11 escape incidents involving a total of 15 offenders. All of the 15 offenders were recaptured.
- Offenders who escaped from federal institutions in 2017-18 represented 0.1% of the in-custody population.

Note:
The data represents the number of escape incidents from federal facilities during each fiscal year. An escape can involve more than one offender.
A fiscal year runs from April 1 to March 31 of the following year.

THE NUMBER OF ESCAPEES HAS REMAINED STABLE SINCE 2013-2014

Table C20

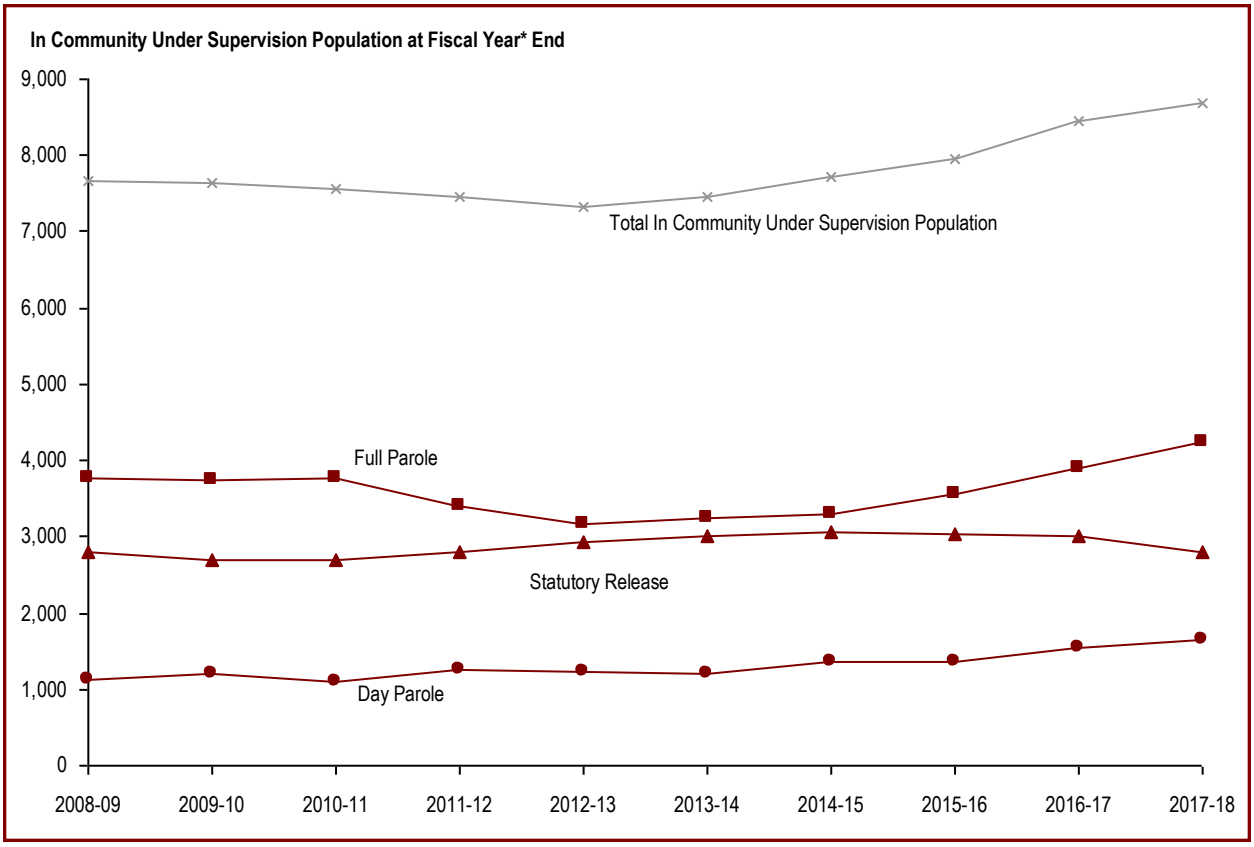
Escapes	2013-14	2014-15	2015-16	2016-17	2017-18
Total Number of Escape Incidents	11	14	15	8	11
Total Number of Escapees	13	15	18	8	15

Source: Security, Correctional Service Canada.

Note:
The data represents the number of escape incidents from federal facilities during each fiscal year. An escape can involve more than one offender.
A fiscal year runs from April 1 to March 31 of the following year.

THE POPULATION OF OFFENDERS IN THE COMMUNITY UNDER SUPERVISION HAS INCREASED IN THE PAST FIVE YEARS

Figure C21



Source: Correctional Service Canada.

- Over the past five years, the total offender population supervised in the community increased by 16.3%. For the same period, the total number of offenders on full parole increased by 30.6% while the proportion of offenders on statutory release decreased by 7.4%.
- At the end of fiscal year 2017-18, there were 7,970 men and 711 women on active community supervision.

Note:
*These cases reflect the number of offenders on active supervision at fiscal year end. A fiscal year runs from April 1 to March 31 of the following year.
The data reflect the offender population in the community under supervision which includes all active offenders on day parole, full parole, statutory release, offenders who are temporarily detained in a non-CSC facility, offenders on remand in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
The data presented above do not include offenders who were on long-term supervision orders (see Figure/Table E4).
Day parole is a type of conditional release granted by the Parole Board of Canada whereby offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Full parole is a type of conditional release granted by the Parole Board of Canada whereby the remainder of the sentence is served under supervision in the community. Statutory release refers to a conditional release that is subject to supervision after the offender has served two-thirds of the sentence.

THE POPULATION OF OFFENDERS IN THE COMMUNITY UNDER SUPERVISION HAS INCREASED IN THE PAST FIVE YEARS

Table C21

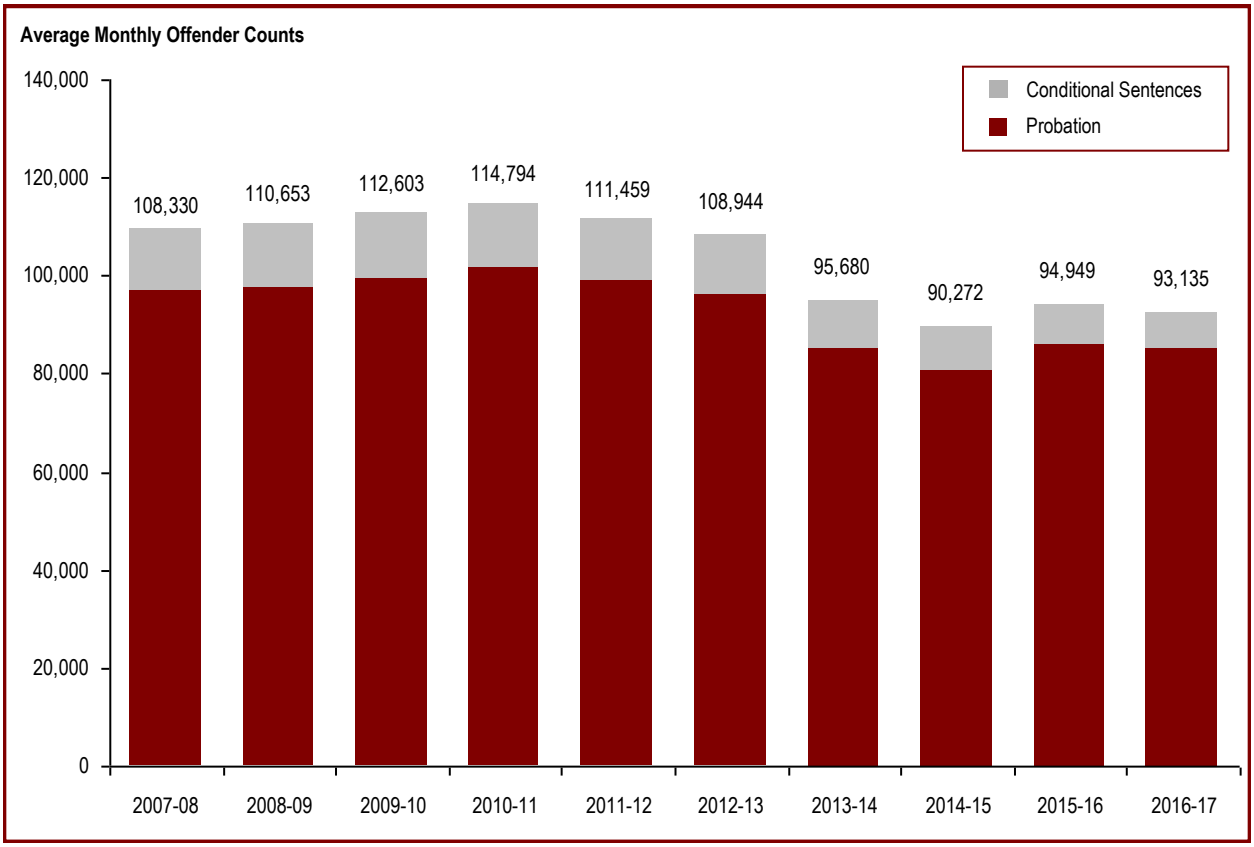
Year	Supervision Type of Offenders									
	Day Parole		Full Parole		Statutory Release		Totals			% change*
	Women	Men	Women	Men	Women	Men	Women	Men	Both	Both
2008-09	106	1,017	344	3,419	113	2,675	563	7,111	7,674	
2009-10	108	1,083	328	3,418	93	2,602	529	7,103	7,632	-0.5
2010-11	79	1,017	314	3,441	109	2,598	502	7,056	7,558	-1.0
2011-12	123	1,123	257	3,154	127	2,661	507	6,938	7,445	-1.5
2012-13	116	1,106	225	2,932	136	2,801	477	6,839	7,316	-1.7
2013-14	106	1,104	225	3,017	153	2,858	484	6,979	7,463	2.0
2014-15	115	1,236	239	3,065	150	2,909	504	7,210	7,714	3.4
2015-16	124	1,248	273	3,276	177	2,849	574	7,373	7,947	3.0
2016-17	158	1,392	316	3,587	154	2,856	628	7,835	8,463	6.5
2017-18	197	1,462	369	3,864	145	2,644	711	7,970	8,681	2.6

Source: Correctional Service Canada.

Note:
These cases reflect the number of offenders on active supervision at fiscal year end. A fiscal year runs from April 1 to March 31 of the following year.
The data reflect the offender population in the community under supervision which includes all active offenders on day parole, full parole, statutory release, offenders who are temporarily detained in a non-CSC facility, offenders on remand in a non-CSC facility, offenders who are unlawfully at large for less than 90 days, and offenders supervised and subject to an immigration hold by the Canada Border Services Agency.
The data presented above do not include offenders who were on long-term supervision orders (see Figure/Table E4).
Day parole is a type of conditional release granted by the Parole Board of Canada whereby offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Full parole is a type of conditional release granted by the Parole Board of Canada whereby the remainder of the sentence is served under supervision in the community. Statutory release refers to a conditional release that is subject to supervision after the offender has served two-thirds of the sentence.
*Percent change is measured from the previous year.

PROVINCIAL/TERRITORIAL COMMUNITY CORRECTIONS POPULATION DECREASED

Figure C22



Source: Table 35-10-0154-01, Corrections Key Indicator Report for Adults and Youth, Canadian Centre for Justice Statistics, Statistics Canada.

- The provincial/territorial community corrections population decreased 1.9% in 2016-17, from 94,949 in 2015-16 to 93,135 in 2016-17.
- There has been a gradual decline in the number of offenders on conditional sentence orders over the past decade. It has decreased 42.2% from 12,535 in 2007-08 to 7,249 in 2016-17.

Note:
A conditional sentence is a disposition of the court where the offender serves a term of imprisonment in the community under specified conditions. This type of sentence can only be imposed in cases where the term of imprisonment would be less than two years. Conditional sentences have been a provincial and territorial sentencing option since September 1996.

PROVINCIAL/TERRITORIAL COMMUNITY CORRECTIONS POPULATION DECREASED

Table C22

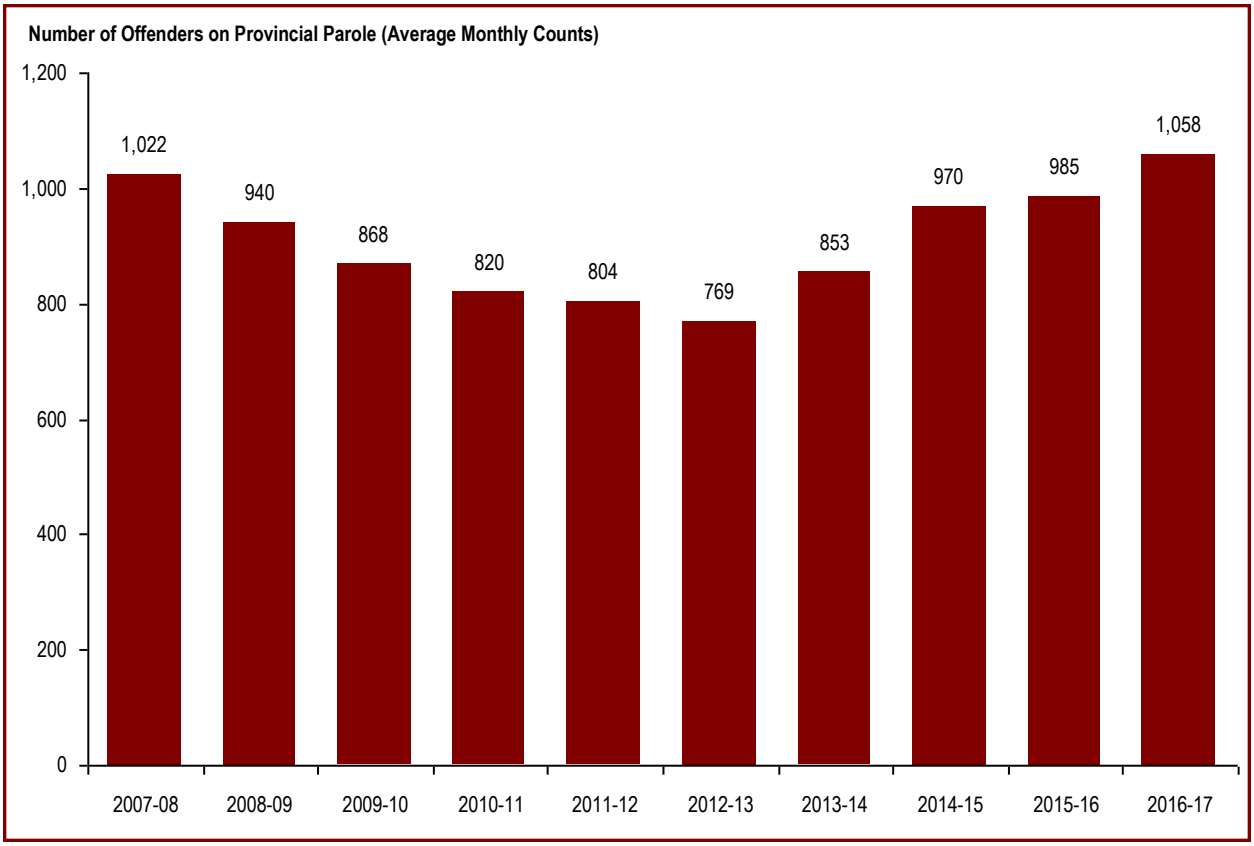
Year	Average Monthly Offender Counts on Probation	Average Monthly Offender Counts on Conditional Sentence	Total
2007-08	96,795	12,535	108,330
2008-09	97,529	13,124	110,653
2009-10	99,498	13,105	112,603
2010-11	101,825	12,969	114,794
2011-12	98,843	12,616	111,459
2012-13	96,116	12,202	108,944
2013-14	84,905	10,077	95,680
2014-15	80,705	8,746	90,272
2015-16	85,845	8,259	94,949
2016-17	84,978	7,249	93,135

Source: Table 35-10-0154-01, Corrections Key Indicator Report for Adults and Youth, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
A conditional sentence is a disposition of the court where the offender serves a term of imprisonment in the community under specified conditions. This type of sentence can only be imposed in cases where the term of imprisonment would be less than two years. Conditional sentences have been a provincial and territorial sentencing option since September 1996.

THE NUMBER OF OFFENDERS ON PROVINCIAL PAROLE INCREASED

Figure C23



Source: Table 35-10-0154-01, Corrections Key Indicator Report for Adults and Youth, Canadian Centre for Justice Statistics, Statistics Canada

- The number of offenders on provincial parole increased by 7.4% from 985 offenders in 2015-16 to 1,058 in 2016-17.
- Since 2013-14, there has been a 24.0% increase in the number of offenders on provincial parole, up from 853 in 2013-14 to 1,058 in 2016-17.

Note:
Provincial parole boards operate in Quebec and Ontario. On April 1, 2007, the Parole Board of Canada assumed responsibility for parole decisions relating to offenders serving sentences in British Columbia's provincial correctional facilities. The Parole Board of Canada has jurisdiction over granting parole to provincial offenders in the Atlantic and Prairie provinces, British Columbia, and to territorial offenders in Yukon, Nunavut and the Northwest Territories.

THE NUMBER OF OFFENDERS ON PROVINCIAL PAROLE INCREASED

Table C23

Year	Average Monthly Counts on Provincial Parole						
	Provincial Boards				Parole Board of Canada**	**Total**	Percent Change
	Quebec	Ontario	British Columbia*	Total			
2007-08	581	205	n/a	785	237	**1,022**	
2008-09	533	217	n/a	750	190	**940**	-8.0
2009-10	506	194	n/a	700	168	**868**	-7.7
2010-11	482	171	n/a	653	167	**820**	-5.6
2011-12	481	179	n/a	660	144	**804**	-2.0
2012-13	462	164	n/a	626	143	**769**	-4.4
2013-14	527	172	n/a	699	154	**853**	11.0
2014-15	612	207	n/a	821	151	**970**	13.7
2015-16	639	207	n/a	846	139	**985**	1.5
2016-17	701	205	n/a	907	151	**1,058**	7.4

Source: Table 35-10-0154-01, Corrections Key Indicator Report for Adults and Youth, Canadian Centre for Justice Statistics, Statistics Canada.

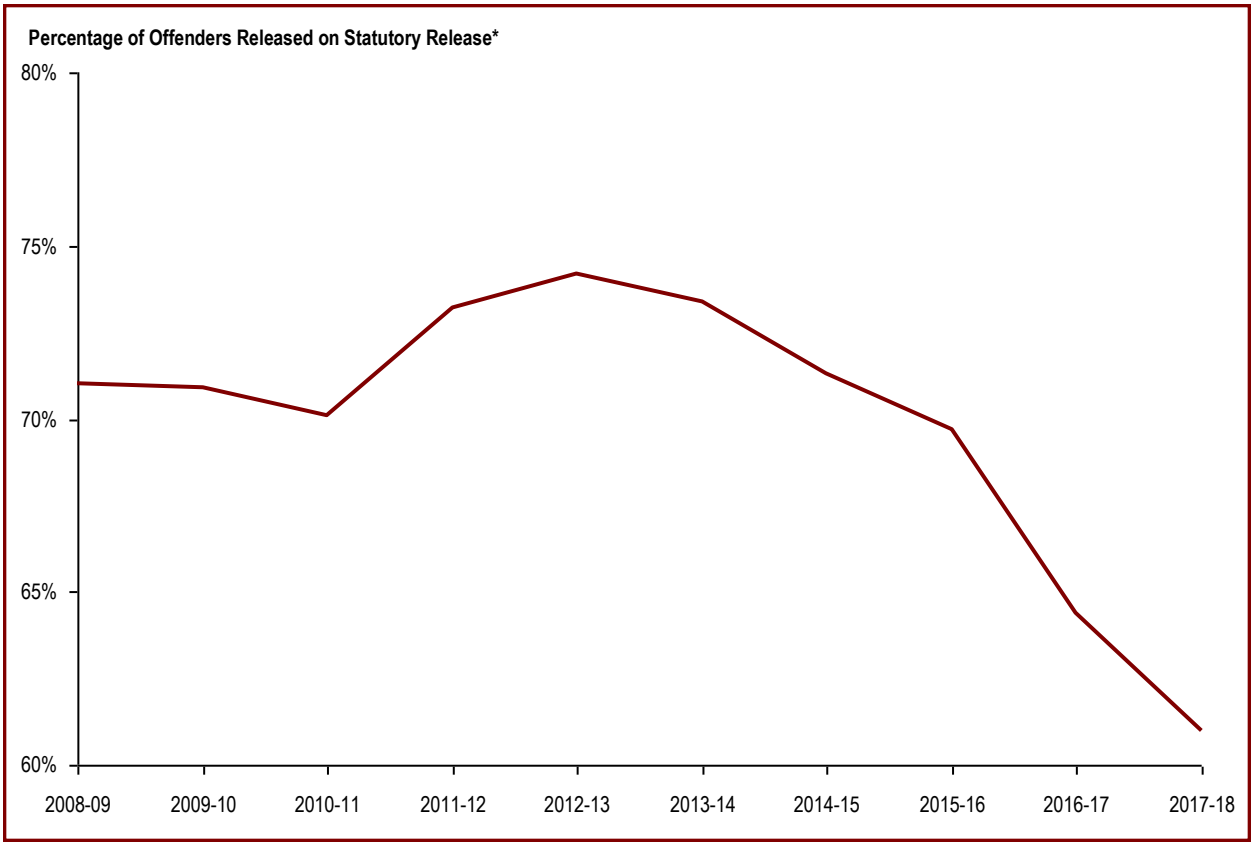
Note:
*On April 1, 2007, the Parole Board of Canada assumed responsibility for parole decisions relating to offenders serving sentences in British Columbia's provincial correctional facilities.
**The data represent the number of provincial offenders who are released from custody on the authority of the Parole Board of Canada and supervised by the Correctional Service of Canada.
Provincial parole boards operate in Quebec and Ontario. The Parole Board of Canada has jurisdiction over granting parole to provincial offenders in the Atlantic and Prairie provinces, British Columbia, and to territorial offenders in Yukon, Nunavut and the Northwest Territories.

SECTION D

CONDITIONAL RELEASE

THE PERCENTAGE OF OFFENDERS RELEASED FROM FEDERAL PENITENTIARIES AT STATUTORY RELEASE DECREASED IN THE PAST FIVE YEARS

Figure D1



Source: Correctional Service Canada.

- In fiscal year 2017-18, 61.0% of all releases from federal institutions were at statutory release.
- In fiscal year 2017-18, 74.4% of releases for Indigenous offenders were at statutory release compared to 55.8% of releases for non-Indigenous offenders.
- Over the past ten years, the percentage of releases at statutory release has decreased from 71.0% to 61.0%.

Note:
*Percentage is calculated based on the number of statutory releases compared to the total releases for each offender group.
The data includes all releases from a federal institution or Healing Lodge in a given fiscal year excluding offenders with quashed sentences, offenders who died in custody, LTSO (Long-Term Supervision Orders) releases, offenders released at warrant expiry and offenders transferred to foreign countries. An offender may be released more than once a year in cases where a previous release was subject to revocation, suspension, temporary detention, or interruption.
Statutory release refers to a conditional release that is subject to supervision after the offender has served two-thirds of the sentence.
A fiscal year runs from April 1 to March 31 of the following year.

THE PERCENTAGE OF OFFENDERS RELEASED FROM FEDERAL PENITENTIARIES AT STATUTORY RELEASE DECREASED IN THE PAST FIVE YEARS

Table D1

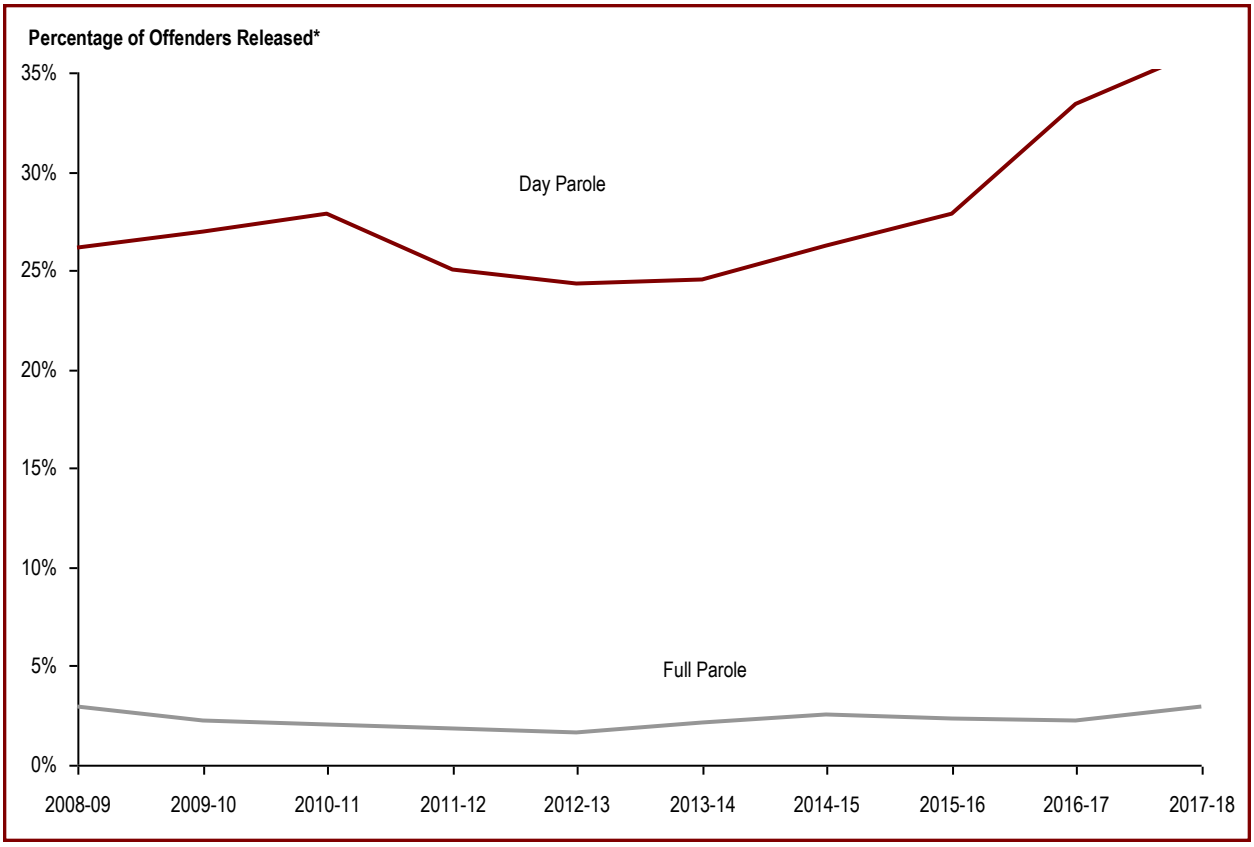
	Indigenous			Non-Indigenous			Total Offender Population		
Year	Statutory Release	Total Releases	%*	Statutory Release	Total Releases	%*	Statutory Release	Total Releases	%*
2008-09	1,437	1,719	83.6	4,278	6,331	67.6	5,715	8,050	71.0
2009-10	1,417	1,725	82.1	4,121	6,081	67.8	5,538	7,806	70.9
2010-11	1,327	1,589	83.5	3,753	5,657	66.3	5,080	7,246	70.1
2011-12	1,457	1,754	83.1	3,844	5,486	70.1	5,301	7,240	73.2
2012-13	1,603	1,923	83.4	3,985	5,610	71.0	5,588	7,533	74.2
2013-14	1,698	1,996	85.1	3,938	5,685	69.3	5,636	7,681	73.4
2014-15	1,712	2,029	84.4	3,661	5,504	66.5	5,373	7,533	71.3
2015-16	1,659	2,010	82.5	3,650	5,607	65.1	5,309	7,617	69.7
2016-17	1,569	2,017	77.8	3,315	5,560	59.6	4,884	7,577	64.5
2017-18	1,518	2,040	74.4	2,909	5,216	55.8	4,427	7,256	61.0

Source: Correctional Service Canada.

Note:
*Percentage is calculated based on the number of statutory releases compared to the total releases for each offender group.
The data includes all releases from a federal institution or Healing Lodge in a given fiscal year excluding offenders with quashed sentences, offenders who died in custody, LTSO releases, offenders released at warrant expiry and offenders transferred to foreign countries. An offender may be released more than once a year in cases where a previous release was subject to revocation, suspension, temporary detention, or interruption.
Statutory release refers to a conditional release that is subject to supervision after the offender has served two-thirds of the sentence.
A fiscal year runs from April 1 to March 31 of the following year.

THE PERCENTAGE OF OFFENDERS RELEASED FROM FEDERAL PENITENTIARIES ON DAY PAROLE INCREASED IN THE PAST SIX YEARS

Figure D2



Source: Correctional Service Canada.

- In fiscal year 2017-18, 36.1% of all releases from federal institutions were on day parole and 2.9% were on full parole.
- In fiscal year 2017-18, 24.4% of releases for Indigenous offenders were on day parole and 1.2% were on full parole compared to 40.7% and 3.5%, respectively for non-Indigenous offenders.
- Over the past ten years, the percentage of releases on day parole has increased from 26.1% to 36.1% and the percentage of releases on full parole was the same at 2.9%.

Note:
*Percentage is calculated based on the number of day and full paroles compared to the total releases for each offender group.
The data includes all releases from federal penitentiaries in a given fiscal year excluding offenders with quashed sentences, offenders who died in custody, LTSO releases, offenders released at warrant expiry and offenders transferred to foreign countries. An offender may be released more than once a year in cases where a previous release was subject to revocation, suspension, temporary detention, or interruption.
Day parole is a type of conditional release granted by the Parole Board of Canada whereby offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada.
Full parole is a type of conditional release granted by the Parole Board of Canada whereby the remainder of the sentence is served under supervision in the community.
A fiscal year runs from April 1 to March 31 of the following year.

THE PERCENTAGE OF OFFENDERS RELEASED FROM FEDERAL PENITENTIARIES ON DAY PAROLE INCREASED IN THE PAST SIX YEARS

Table D2

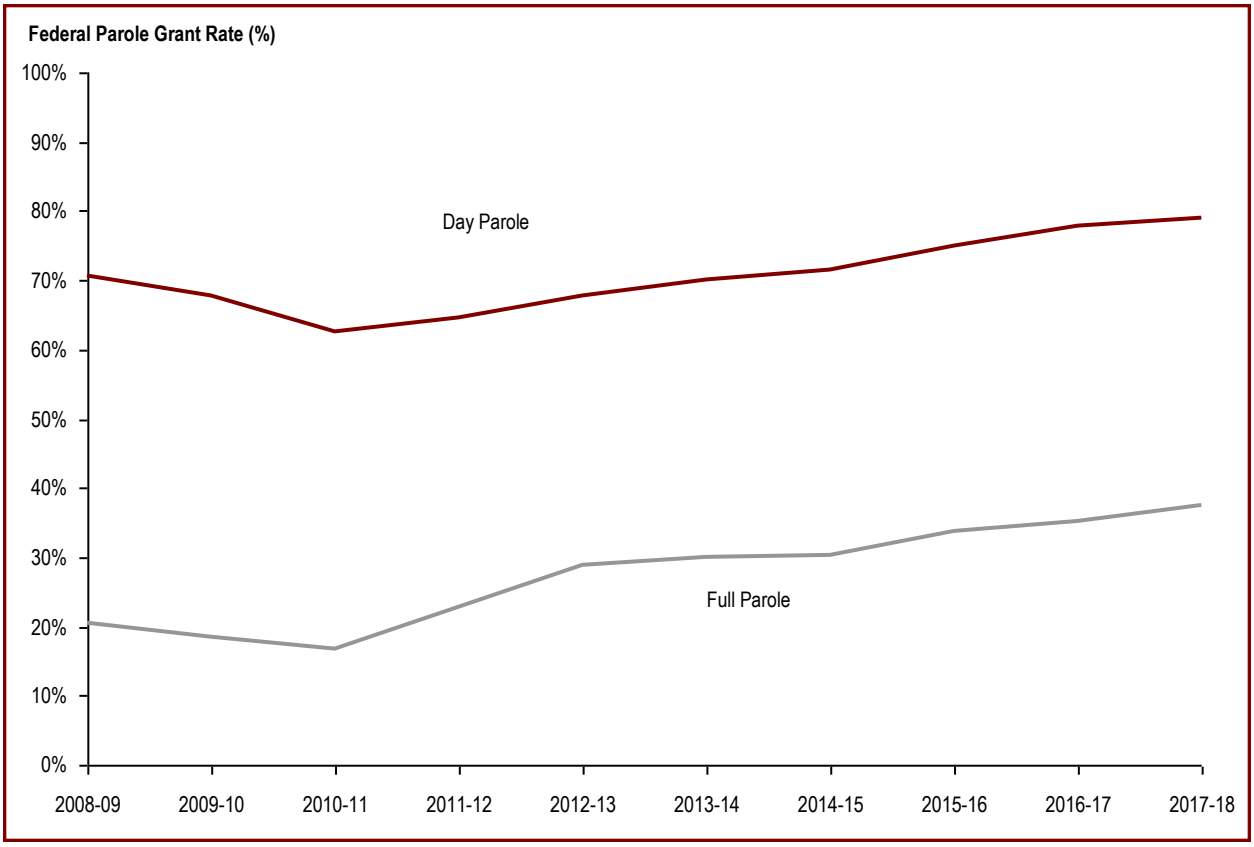
		Indigenous			Non-Indigenous			Total Offender Population		
Year		Day Parole	Full Parole	Total Releases	Day Parole	Full Parole	Total Releases	Day Parole	Full Parole	Total Releases
2008-09	#	266	16	1,719	1,839	214	6,331	2,105	230	8,050
	%	15.5	0.9		29.0	3.4		26.1	2.9	
2009-10	#	296	12	1,725	1,800	160	6,081	2,096	172	7,806
	%	17.2	0.7		29.6	2.6		26.9	2.2	
2010-11	#	251	11	1,589	1,767	137	5,657	2,018	148	7,246
	%	15.8	0.7		31.2	2.4		27.8	2.0	
2011-12	#	285	12	1,754	1,526	116	5,486	1,811	128	7,240
	%	16.2	0.7		27.8	2.1		25.0	1.8	
2012-13	#	313	7	1,923	1,515	110	5,610	1,828	117	7,533
	%	16.3	0.4		27.0	2.0		24.3	1.6	
2013-14	#	280	18	1,996	1,602	145	5,685	1,882	163	7,681
	%	14.0	0.9		28.2	2.6		24.5	2.1	
2014-15	#	307	10	2,029	1,668	175	5,504	1,975	185	7,533
	%	15.1	0.5		30.3	3.2		26.2	2.5	
2015-16	#	337	14	2,010	1,793	164	5,607	2,130	178	7,617
	%	16.8	0.7		32.0	2.9		28.0	2.3	
2016-17	#	435	13	2,017	2,092	153	5,560	2,527	166	7,577
	%	21.6	0.6		37.6	2.8		33.4	2.2	
2017-18	#	497	25	2,040	2,124	183	5,216	2,621	208	7,256
	%	24.4	1.2		40.7	3.5		36.1	2.9	

Source: Correctional Service Canada.

Note:
The data includes all releases from a federal institution or Healing Lodge in a given fiscal year excluding offenders with quashed sentences, offenders who died in custody, LTSO releases, offenders released at warrant expiry and offenders transferred to foreign countries. An offender may be released more than once a year in cases where a previous release was subject to revocation, suspension, temporary detention, or interruption.
Day parole is a type of conditional release granted by the Parole Board of Canada whereby offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada.
Full parole is a type of conditional release granted by the Parole Board of Canada whereby the remainder of the sentence is served under supervision in the community.
A fiscal year runs from April 1 to March 31 of the following year.
Percentage is calculated based on the number of day and full paroles compared to the total releases for each offender group.
Due to rounding, percentages may not add up to 100 percent.

FEDERAL DAY AND FULL PAROLE GRANT RATES INCREASED

Figure D3



Source: Parole Board of Canada.

- In 2017-18, the federal day parole grant rate increased 1.2 percentage points to 79.1% compared to the previous year.
- In 2017-18, the federal full parole grant rate increased 2.3 percentage points to 37.5% compared to the previous year.
- Over the last 10 years, female offenders had a much higher grant rate for federal day parole (84.7%) and federal full parole (41.2%) than male offenders (70.1% and 27.5% respectfully).

Note:
The grant rate represents the percentage of pre-release reviews resulting in a grant by the Parole Board of Canada.
Day parole is a type of conditional release granted by the Parole Board of Canada in which offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Not all offenders apply for day parole, and some apply more than once before being granted day parole.
Full parole is a type of conditional release granted by the Parole Board of Canada in which the remainder of the sentence is served under supervision in the community. The Parole Board of Canada must review the cases of all offenders for full parole at the time prescribed by legislation, unless the offender advises the Parole Board of Canada in writing that he/she does not wish to be considered for full parole.
On March 28, 2011, Bill C-59 (Abolition of Early Parole Act) eliminated the accelerated parole review (APR) process, affecting first-time non-violent offenders serving sentences for Schedule II and non-Schedule offences, who in 2011-12 were no longer eligible for an APR review. These offenders are now assessed on general reoffending as compared to the APR risk assessment, which considered the risk of committing a violent offence only. To better illustrate historical trends, APR decisions were excluded.
Even though comparisons were made between federal regular day parole and full parole grant rates only, they nevertheless contain an APR residual effect between 2011-12 and 2015-16 as a sufficiently large proportion of the APR-affected population was granted regular federal day parole and full parole, perhaps inflating the grant rates.

FEDERAL DAY AND FULL PAROLE GRANT RATES INCREASED

Table D3

Type of Release	Year	Granted		Denied		Grant Rate (%)			*APR**	
		Women	Men	Women	Men	Women	Men	Total	*Directed*	*Total*
Day Parole	2008-09	136	1,907	25	824	84.5	69.8	70.6	1,000	1,525
	2009-10	153	1,957	40	967	79.3	66.9	67.7	947	1,491
	2010-11	136	1,854	42	1,149	76.4	61.7	62.6	970	1,591
	2011-12	249	2,491	65	1,442	79.3	63.3	64.5	0	0
	2012-13	289	2,821	72	1,416	80.1	66.6	67.6	14	21
	2013-14	248	2,824	52	1,273	82.7	68.9	69.9	39	47
	2014-15	298	3,023	51	1,282	85.4	70.2	71.4	38	45
	2015-16	291	3,093	52	1,077	84.8	74.2	75.0	86	90
	2016-17	399	3,445	47	1,042	89.5	76.8	77.9	80	83
	2017-18	436	3,612	30	1,039	93.6	77.7	79.1	100	106
Full Parole	2008-09	44	495	62	2,016	41.5	19.7	20.6	1,097	1,100
	2009-10	32	461	89	2,080	26.4	18.1	18.5	1,004	1,010
	2010-11	20	436	87	2,205	18.7	16.5	16.6	1,046	1,059
	2011-12	77	644	126	2,317	37.9	21.7	22.8	0	0
	2012-13	90	914	142	2,328	38.8	28.2	28.9	26	26
	2013-14	84	904	103	2,201	44.9	29.1	30.0	126	142
	2014-15	87	969	106	2,307	45.1	29.6	30.4	119	137
	2015-16	96	1,063	127	2,153	43.0	33.1	33.7	166	185
	2016-17	138	1,237	157	2,384	46.8	34.2	35.1	122	126
	2017-18	153	1,363	175	2,357	46.6	36.6	37.5	161	165

Source: Parole Board of Canada.

Note:

The grant rate represents the percentage of pre-release reviews resulting in a grant by the Parole Board of Canada.

Day parole is a type of conditional release granted by the Parole Board of Canada in which offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Not all offenders apply for day parole, and some apply more than once before being granted day parole.

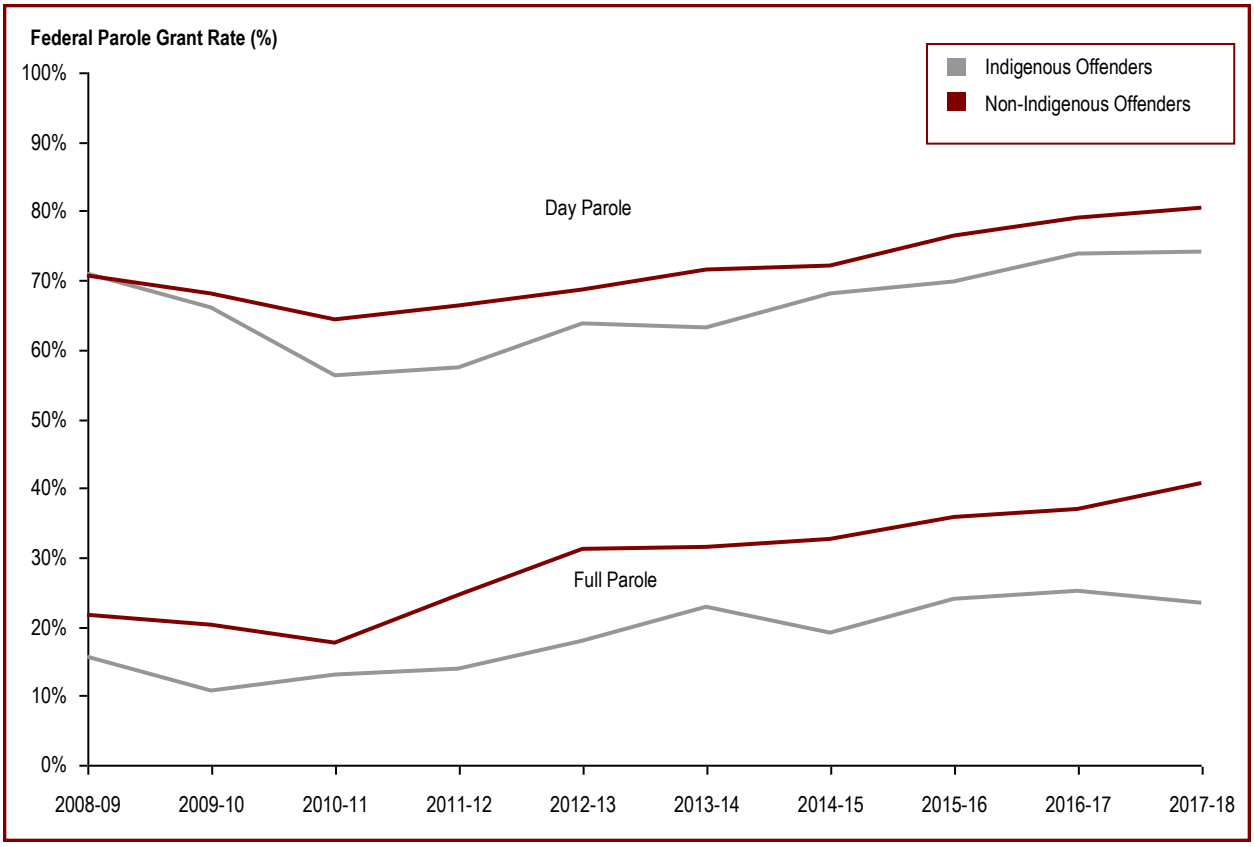
Full parole is a type of conditional release granted by the Parole Board of Canada in which the remainder of the sentence is served under supervision in the community. The Parole Board of Canada must review the cases of all offenders for full parole at the time prescribed by legislation, unless the offender advises the Parole Board of Canada in writing that he/she does not wish to be considered for full parole. Grant rates should be read with caution.

*On March 28, 2011, Bill C-59 (*Abolition of Early Parole Act*) eliminated the accelerated parole review (APR) process, affecting first-time non-violent offenders serving sentences for Schedule II and non-Schedule offences, who in 2011-12 were no longer eligible for an APR review. These offenders are now assessed on general reoffending as compared to the APR risk assessment, which considered the risk of committing a violent offence only. To better illustrate historical trends, APR decisions were excluded. However, the information on APR (the number of paroles directed and the total number of APR decisions) is presented in a separate section of the table. Grant rates should be read with caution. Even though comparisons were made between federal regular day parole and full parole grant rates only, they nevertheless contain an APR residual effect between 2011-12 and 2015-16 as a sufficiently large proportion of the APR-affected population were granted regular federal day parole and full parole, perhaps inflating the grant rates.

*As a result of court challenges, the Pacific Region (in 2012) and the Quebec Region (in 2013) have been processing active APR cases for offenders sentenced or convicted prior to the abolition of APR. Following the *Canada (Attorney General) v. Whaling* decision on March 20, 2014, the accelerated parole review process was reinstated across all regions for offenders sentenced prior to the abolition of APR.

FEDERAL DAY AND FULL PAROLE GRANT RATES FOR INDIGENOUS OFFENDERS INCREASED

Figure D4



Source: Parole Board of Canada.

- In 2017-18, the federal day parole grant rate increased slightly for Indigenous offenders (to 74.0%; +0.2%) and increased by 1.6% for non-Indigenous offenders to 80.5% compared to 2016-17.
- In 2017-18, the federal full parole grant decreased for Indigenous offenders (to 23.2%; -2.0%) and increased for non-Indigenous offenders (to 40.7%; +3.7%) compared to 2016-17.
- Over the last 10 years, lower federal day and full parole grant rates were reported for Indigenous offenders (66.7%; 18.9%) than for non-Indigenous offenders (72.3%; 30.3%).

Note:

The grant rate represents the percentage of pre-release reviews resulting in a grant by the Parole Board of Canada.

Day parole is a type of conditional release granted by the Parole Board of Canada in which offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Not all offenders apply for day parole, and some apply more than once before being granted day parole.

Full parole is a type of conditional release granted by the Parole Board of Canada in which the remainder of the sentence is served under supervision in the community. The Parole Board of Canada must review the cases of all offenders for full parole at the time prescribed by legislation, unless the offender advises the Parole Board of Canada in writing that he/she does not wish to be considered for full parole.

On March 28, 2011, Bill C-59 (*Abolition of Early Parole Act*) eliminated the accelerated parole review (APR) process, affecting first-time non-violent offenders serving sentences for schedule II and non-scheduled offences, who in 2011-12 were no longer eligible for an APR review. These offenders are now assessed on general reoffending as compared to the APR risk assessment, which considered the risk of committing a violent offence only. To better illustrate historical trends, APR were excluded. Grant rates should be read with caution. Even though comparisons were made between federal regular day parole and full parole grant rates only, they nevertheless contain an APR residual effect between 2011-12 and 2015-16 as a sufficiently large proportion of the APR-affected population were granted regular federal day parole and full parole, perhaps inflating the grant rates.

FEDERAL DAY AND FULL PAROLE GRANT RATES FOR INDIGENOUS OFFENDERS INCREASED

Table D4

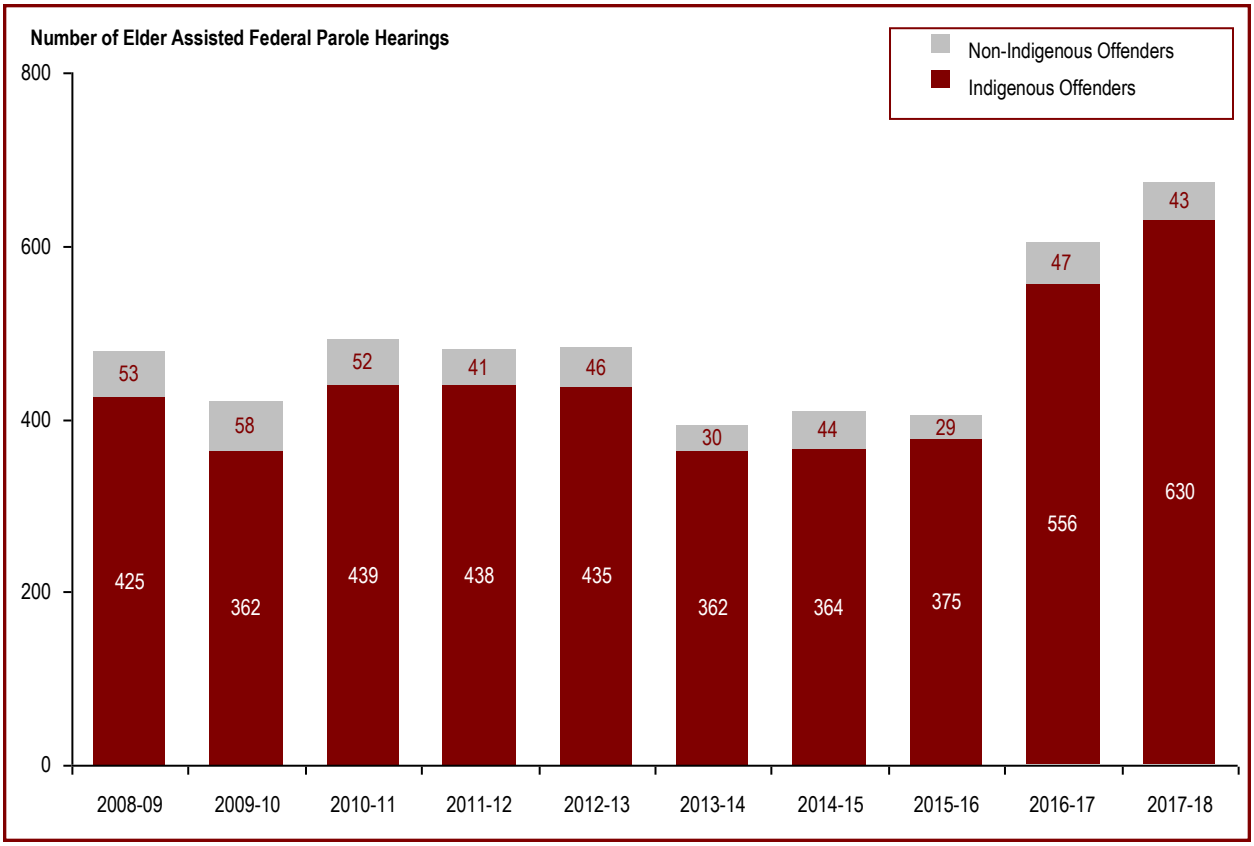
Type of Release	Year	Granted		Denied		Grant Rate (%)		
		Indigenous	Non-Ind.	Indigenous	Non-Ind.	Indigenous	Non-Ind.	Total
Day Parole	2008-09	390	1,653	159	690	71.0	70.6	2,892
	2009-10	407	1,703	211	796	65.9	68.1	3,117
	2010-11	373	1,617	289	902	56.3	64.2	3,181
	2011-12	466	2,274	347	1,160	57.3	66.2	4,247
	2012-13	556	2,554	318	1,170	63.6	68.6	4,598
	2013-14	520	2,552	303	1,022	63.2	71.4	4,397
	2014-15	563	2,758	266	1,067	67.9	72.1	4,654
	2015-16	605	2,779	264	865	69.6	76.3	4,513
	2016-17	714	3,130	253	836	73.8	78.9	4,933
	2017-18	819	3,229	288	781	74.0	80.5	5,117
Full Parole	2008-09	73	466	395	1,683	15.6	21.7	2,617
	2009-10	50	443	413	1,756	10.8	20.1	2,662
	2010-11	71	385	480	1,812	12.9	17.5	2,748
	2011-12	75	646	467	1,976	13.8	24.6	3,164
	2012-13	102	904	472	1,998	17.8	31.1	3,474
	2013-14	124	864	421	1,883	22.8	31.5	3,292
	2014-15	106	950	450	1,963	19.1	32.6	3,469
	2015-16	136	1,023	436	1,844	23.8	35.7	3,439
	2016-17	156	1,219	463	2,078	25.2	37.0	3,916
	2017-18	173	1,343	573	1,959	23.2	40.7	4,048

Source: Parole Board of Canada.

Note:
The grant rate represents the percentage of pre-release reviews resulting in a grant by the Parole Board of Canada.
Day parole is a type of conditional release granted by the Parole Board of Canada in which offenders are permitted to participate in community-based activities in preparation for full parole or statutory release. The conditions require offenders to return nightly to an institution or half-way house unless otherwise authorized by the Parole Board of Canada. Not all offenders apply for day parole, and some apply more than once before being granted day parole.
Full parole is a type of conditional release granted by the Parole Board of Canada in which the remainder of the sentence is served under supervision in the community. The Parole Board of Canada must review the cases of all offenders for full parole at the time prescribed by legislation, unless the offender advises the Parole Board of Canada in writing that he/she does not wish to be considered for full parole.
On March 28, 2011, Bill C-59 (*Abolition of Early Parole Act*) eliminated the accelerated parole review (APR) process, affecting first-time non-violent offenders serving sentences for Schedule II and non-Schedule offences, who in 2011-12 were no longer eligible for an APR review. These offenders are now assessed on general reoffending as compared to the APR risk assessment, which considered the risk of committing a violent offence only. To better illustrate historical trends, APR were excluded. Grant rates should be read with caution. Even though comparisons were made between federal regular day parole and full parole grant rates only, they nevertheless contain an APR residual effect between 2011-12 and 2015-16 as a sufficiently large proportion of the APR-affected population were granted regular federal day parole and full parole, perhaps inflating the grant rates.

THE NUMBER OF FEDERAL PAROLE HEARINGS INVOLVING AN INDIGENOUS CULTURAL ADVISOR INCREASED

Figure D5



Source: Parole Board of Canada.

- The number of Elder Assisted federal parole hearings increased by 11.6% in 2017-18, following a 49.3% increase in 2016-17 (from 404 in 2015-16 to 603 in 2016-17, to 673 in 2017-18). The increase is associated with the in-reach conducted by the Board with Indigenous offenders.
- In 2017-18, 41.1% (630) of all federal hearings with Indigenous offenders, and 0.9% (43) of all federal parole hearings for offenders who did not self-identify as Indigenous were Elder Assisted Hearings.

Note:
The presence of an Indigenous Cultural Advisor is an alternative approach to the traditional parole hearing, and was introduced by the Parole Board of Canada to ensure that conditional release hearings are sensitive to Indigenous cultural values and traditions. This type of hearing is available to both Indigenous and non-Indigenous offenders.

THE NUMBER OF FEDERAL PAROLE HEARINGS INVOLVING AN INDIGENOUS CULTURAL ADVISOR INCREASED

Table D5

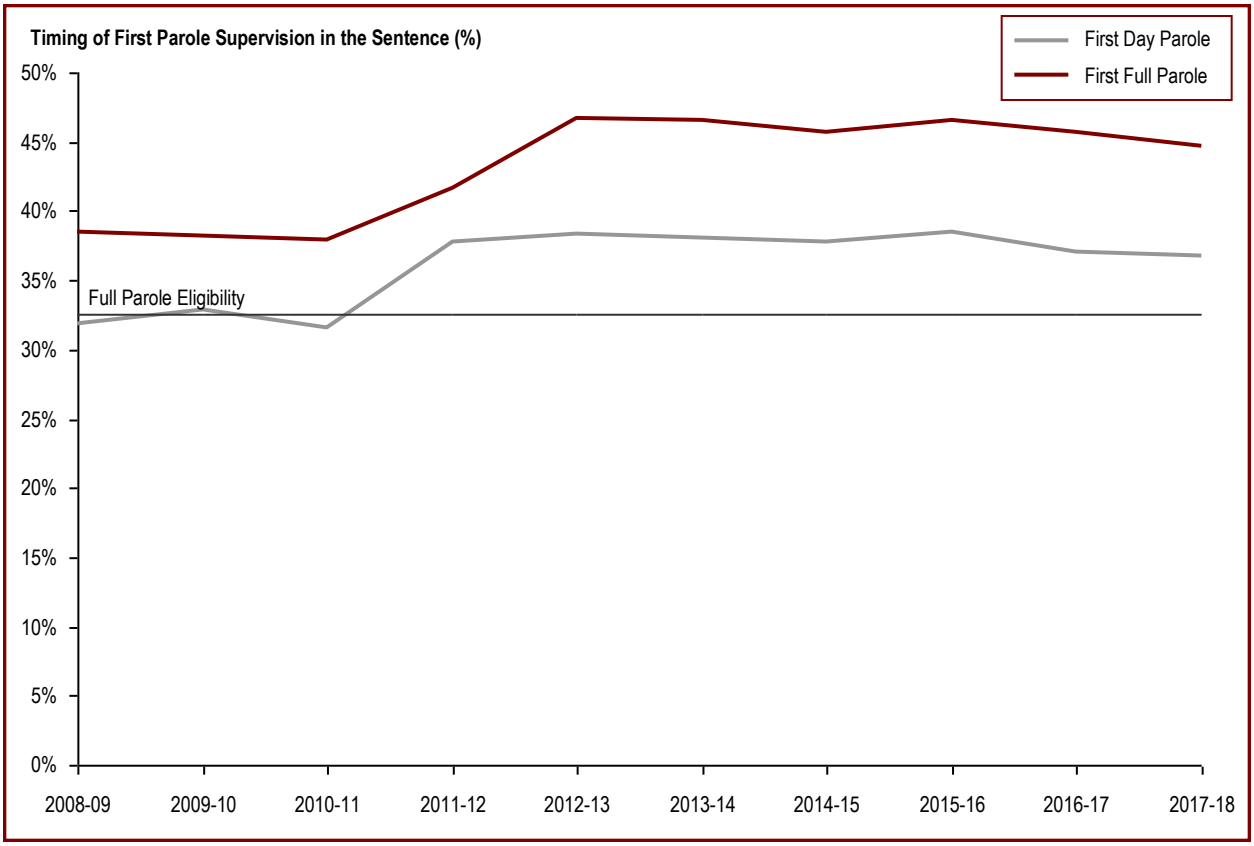
Year	Elder Assisted Hearings								
	Indigenous Offenders			Non-Indigenous Offenders			All Offenders		
	Total Hearings	With Cultural Advisor		Total Hearings	With Cultural Advisor		Total Hearings	With Cultural Advisor	
	#	#	%	#	#	%	#	#	%
2008-09	1,250	425	34.0	4,370	53	1.2	5,620	478	8.5
2009-10	1,209	362	29.9	4,471	58	1.3	5,680	420	7.4
2010-11	1,237	439	35.5	4,343	52	1.2	5,580	491	8.8
2011-12	1,266	438	34.6	4,645	41	0.9	5,911	479	8.1
2012-13	1,305	435	33.3	4,660	46	1.0	5,965	481	8.1
2013-14	922	362	39.3	3,678	30	0.8	4,600	392	8.5
2014-15	881	364	41.3	3,835	44	1.1	4,716	408	8.7
2015-16	957	375	39.2	3,972	29	0.7	4,929	404	8.2
2016-17	1,295	556	42.9	4,498	47	1.0	5,793	603	10.4
2017-18	1,534	630	41.1	4,855	43	0.9	6,389	673	10.5

Source: Parole Board of Canada.

Note:
The presence of an Indigenous Cultural Advisor is an alternative approach to the traditional parole hearing, and was introduced by the Parole Board of Canada to ensure that conditional release hearings are sensitive to Indigenous cultural values and traditions. This type of hearing is available to both Indigenous and non-Indigenous offenders.

PROPORTION OF SENTENCE SERVED PRIOR TO BEING RELEASED ON PAROLE DECREASED

Figure D6



Source: Parole Board of Canada.

- In 2017-18, the average proportion of sentence served before the first federal day parole release for offenders serving determinate sentences decreased negligibly 0.3 of a percentage point (to 36.7%) from the previous year.
- The average proportion of sentence served before the first federal full parole release for offenders serving determinate sentences decreased 1 percentage point in 2017-18 (to 44.6%) when compared to the previous year.
- In 2017-18, male offenders served higher proportions of their sentences before being released on their first federal day parole and full parole (37.2%; 44.9%) then female offenders (33.4%; 42.4%).
- In 2017-18, female offenders and male offenders served an average of 5.2 and 4.8 percentage points more of their sentences before the first federal day parole release, and 5.9 and 6.2 percentage points more of their sentences before the first federal full parole release compared to 2008-09.

Note:
Timing of parole in the sentence refers to the percentage of the sentence served at the time the first day parole or full parole starts during the sentence. In most cases a full parole is preceded by a day parole. These calculations are based on sentences under federal jurisdiction, excluding life sentences and indeterminate sentences. Offenders (other than those serving life or indeterminate sentences or subject to judicial determination) normally become eligible for full parole after serving 1/3 of their sentence or seven years, whichever is less. Eligibility for day parole is normally at six months before full parole eligibility.
The increases in the average proportion of time served after 2010-11 are in part due to the effect of Bill C-59 and were driven primarily by offenders serving sentences for Schedule II and non-Schedule offences (some of whom were former APR-eligible offenders).

PROPORTION OF SENTENCE SERVED PRIOR TO BEING RELEASED ON PAROLE DECREASED

Table D6

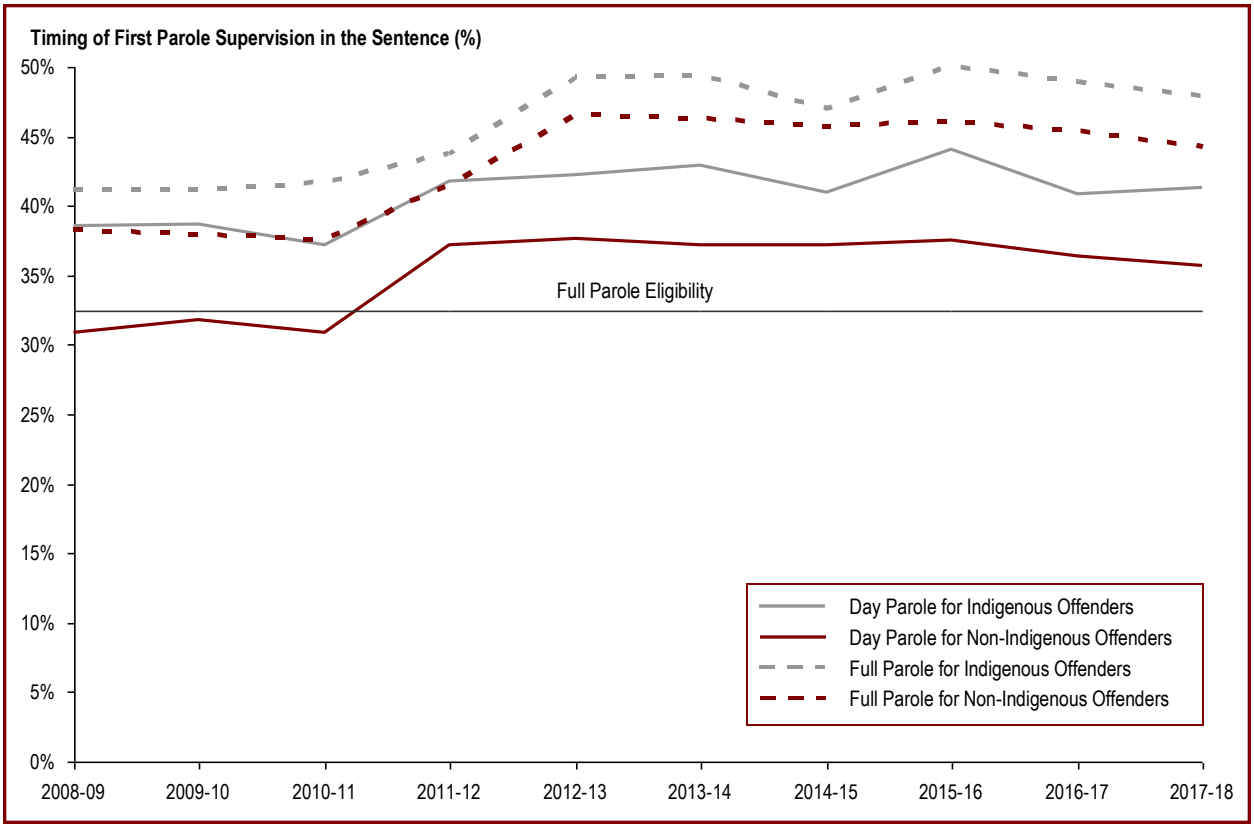
Year	Type of Supervision					
	First Federal Day Parole			First Federal Full Parole		
	Women	Men	**Total**	Women	Men	**Total**
	Percentage of Sentence Incarcerated					
2008-09	28.2	32.4	**31.9**	36.6	38.7	**38.5**
2009-10	29.5	33.2	**32.8**	36.1	38.5	**38.2**
2010-11	29.2	31.8	**31.6**	36.6	38.1	**37.9**
2011-12	35.0	38.1	**37.8**	40.3	41.7	**41.6**
2012-13	38.9	38.3	**38.4**	45.6	46.9	**46.7**
2013-14	34.9	38.3	**38.0**	44.2	46.8	**46.6**
2014-15	35.3	37.9	**37.7**	44.9	45.8	**45.7**
2015-16	36.9	38.7	**38.5**	45.2	46.6	**46.5**
2016-17	33.6	37.5	**37.0**	43.5	46.0	**45.7**
2017-18	33.4	37.2	**36.7**	42.4	44.9	**44.6**

Source: Parole Board of Canada.

Note:
Timing of parole in the sentence refers to the percentage of the sentence served at the time the first day parole or full parole starts during the sentence. In most cases a full parole is preceded by a day parole.
These calculations are based on sentences under federal jurisdiction, excluding life sentences and indeterminate sentences.
Offenders (other than those serving life or indeterminate sentences or subject to judicial determination) normally become eligible for full parole after serving 1/3 of their sentence or seven years, whichever is less. Eligibility for day parole is normally at six months before full parole eligibility.
The increases in the average proportion of time served after 2010-11 are in part due to the effect of Bill C-59 and were driven primarily by offenders serving sentences for Schedule II and non-Schedule offences (some of whom were former APR-eligible offenders).

INDIGENOUS OFFENDERS SERVE A HIGHER PROPORTION OF THEIR SENTENCES BEFORE BEING RELEASED ON PAROLE

Figure D7



Source: Parole Board of Canada.

- In 2017-18, Indigenous offenders served higher proportions of their sentences before being released on their first federal day parole (41.3%) and full parole (47.8%, a decrease of one percentage point compared 2016-17), than non-Indigenous offenders (35.7%; 44.2%).
- Over the last ten years, Indigenous offenders served higher proportions of their sentences before their first federal day parole and full parole release (41.0%; 46.2%), than non-Indigenous offenders (35.1%; 42.6%).

Note:
Timing of parole in the sentence refers to the percentage of the sentence served at the time the first day parole or full parole starts during the sentence. In most cases a full parole is preceded by a day parole.
These calculations are based on sentences under federal jurisdiction, excluding life sentences and indeterminate sentences.
Offenders (other than those serving life or indeterminate sentences or subject to judicial determination) normally become eligible for full parole after serving 1/3 of their sentence or seven years, whichever is less. Eligibility for day parole is normally at six months before full parole eligibility.
The increases in the average proportion of time served after 2010-11 are in part due to the effect of Bill C-59 and were driven primarily by offenders serving sentences for Schedule II and non-Schedule offences (some of whom were former APR-eligible offenders).

INDIGENOUS OFFENDERS SERVE A HIGHER PROPORTION OF THEIR SENTENCES BEFORE BEING RELEASED ON PAROLE

Table D7

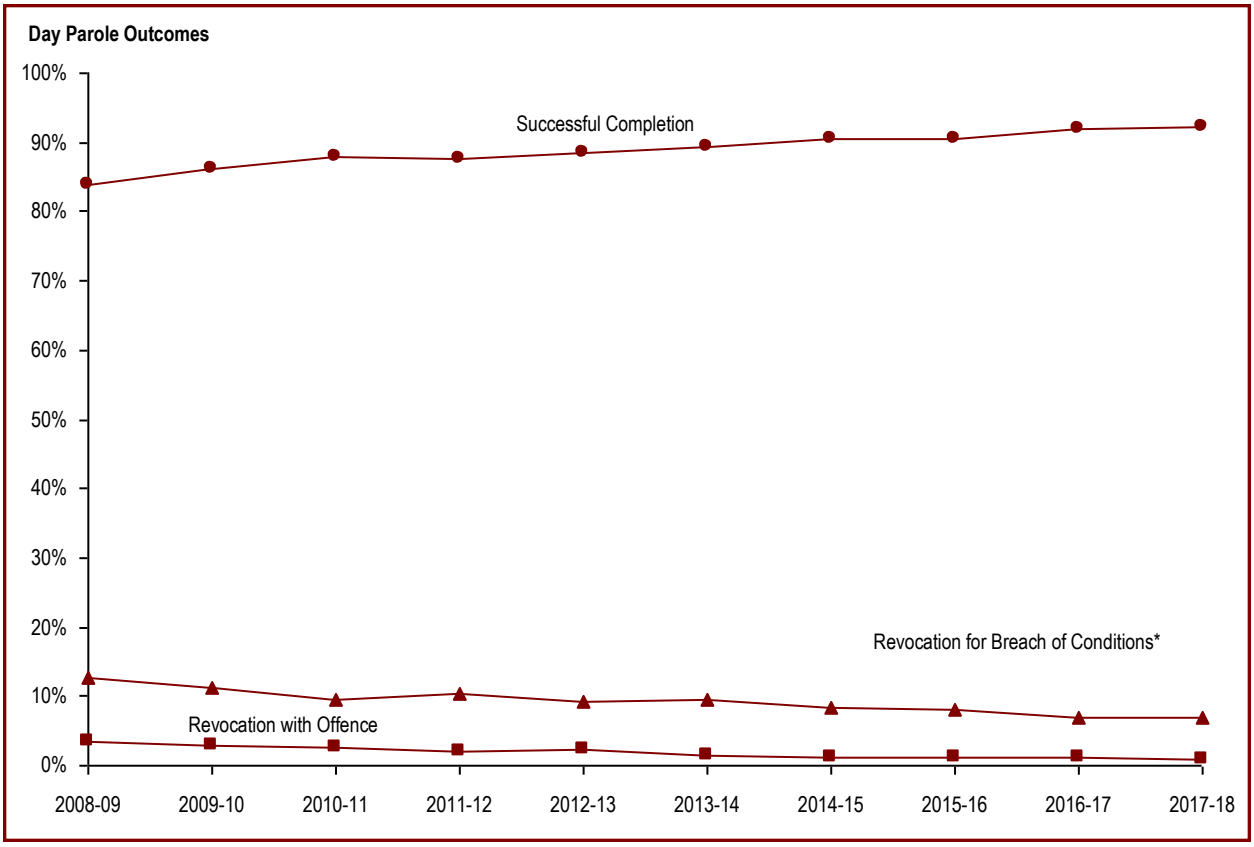
Year	Type of Supervision					
	First Federal Day Parole			First Federal Full Parole		
	Indigenous	Non-Indigenous	**Total**	Indigenous	Non-Indigenous	**Total**
	Percentage of Sentence Incarcerated					
2008-09	38.5	30.9	**31.9**	41.0	38.2	**38.5**
2009-10	38.7	31.8	**32.8**	41.0	37.9	**38.2**
2010-11	37.2	30.8	**31.6**	41.6	37.5	**37.9**
2011-12	41.7	37.1	**37.8**	43.7	41.4	**41.6**
2012-13	42.2	37.6	**38.4**	49.2	46.5	**46.7**
2013-14	42.9	37.1	**38.0**	49.3	46.2	**46.6**
2014-15	40.9	37.1	**37.7**	46.9	45.6	**45.7**
2015-16	44.0	37.5	**38.5**	50.8	46.0	**46.5**
2016-17	40.8	36.3	**37.0**	48.9	45.3	**45.7**
2017-18	41.3	35.7	**36.7**	47.8	44.2	**44.6**

Source: Parole Board of Canada.

Note:
Timing of parole in the sentence refers to the percentage of the sentence served at the time the first day parole or full parole starts during the sentence. In most cases a full parole is preceded by a day parole.
These calculations are based on sentences under federal jurisdiction, excluding life sentences and indeterminate sentences.
Offenders (other than those serving life or indeterminate sentences or subject to judicial determination) normally become eligible for full parole after serving 1/3 of their sentence or seven years, whichever is less. Eligibility for day parole is normally at six months before full parole eligibility.
The increases in the average proportion of time served after 2010-11 are in part due to the effect of Bill C-59 and were driven primarily by offenders serving sentences for Schedule II and non-Schedule offences (some of whom were former APR-eligible offenders).

THE SUCCESSFUL COMPLETION OF FEDERAL DAY PAROLE INCREASED

Figure D8



Source: Parole Board of Canada.

- In nine of the last ten years, the successful completion rate of federal day parole was over 85%.
- In 2017-18, the successful completion rate of federal day parole increased 0.4 of a percentage point to 92.2% compared to 2016-17.
- During the five-year period (between 2013-14 and 2017-18), the successful completion rate on federal day parole was on average 6.3 percentage points lower than the rate for federal APR day parole (90.8% and 97.1%, respectively).
- The rate of violent reoffending on federal day parole has been very low in the last five years, averaging 0.1%.

Note:
*Revocation for Breach of Conditions includes revocation with outstanding charges.
A day parole is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.

THE SUCCESSFUL COMPLETION OF FEDERAL DAY PAROLE INCREASED

Table D8

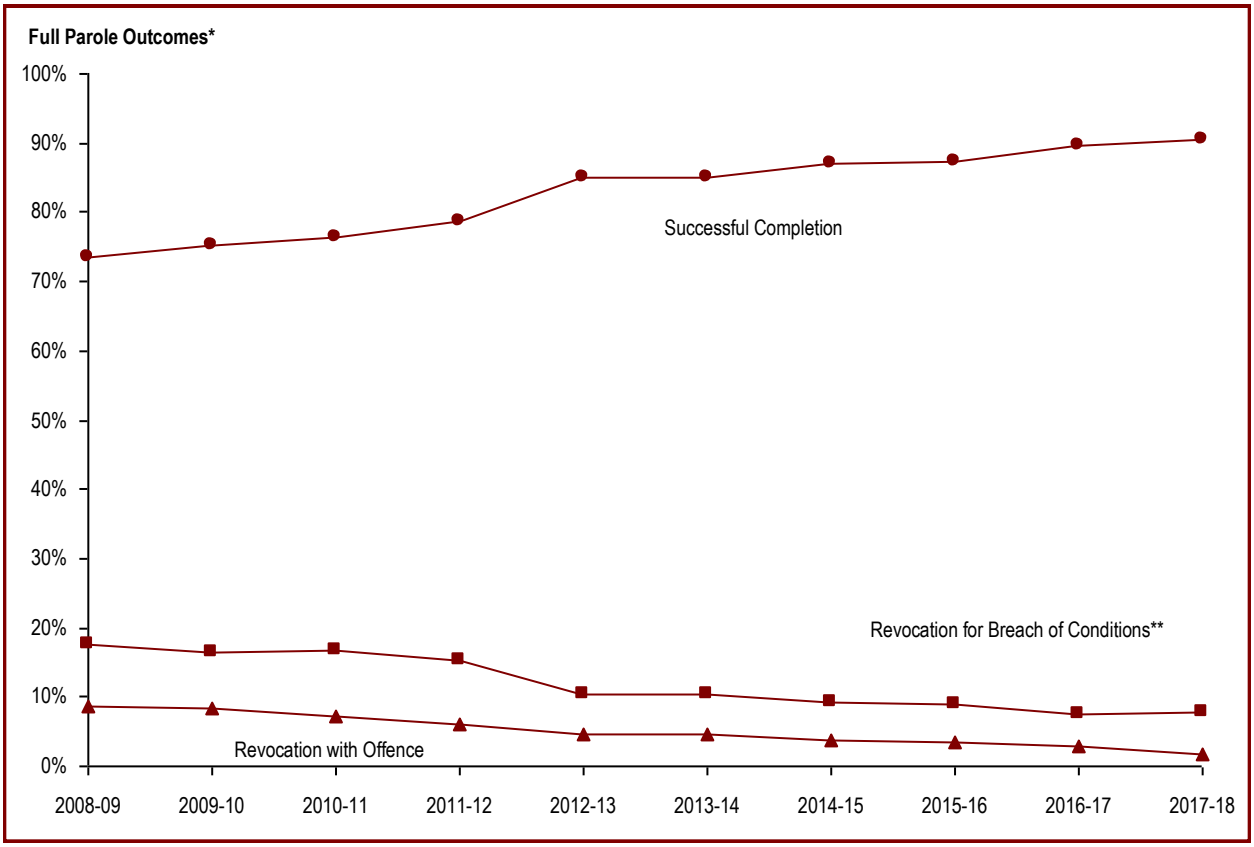
Federal Day Parole Outcomes	2013-14		2014-15		2015-16		2016-17		2017-18	
	#	%	#	%	#	%	#	%	#	%
Successful Completion										
Regular	2,766	89.2	2,784	90.4	2,981	90.5	3,171	91.6	3,452	92.2
Accelerated	27	100.0	36	100.0	38	100.0	86	97.7	84	93.3
Total	2,793	89.3	2,820	90.5	3,019	90.6	3,257	91.8	3,536	92.2
Revocation for Breach of Conditions*										
Regular	293	9.4	260	8.4	273	8.3	248	7.2	261	7.0
Accelerated	0	0.0	0	0.0	0	0.0	2	2.3	6	6.7
Total	293	9.4	260	8.3	273	8.2	250	7.0	267	7.0
Revocation with Non-Violent Offence										
Regular	36	1.2	35	1.1	32	1.0	35	1.0	31	0.8
Accelerated	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Total	36	1.2	35	1.1	32	1.0	35	1.0	31	0.8
Revocation with Violent Offence**										
Regular	6	0.2	1	<0.01	8	0.2	7	0.2	2	0.1
Accelerated	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Total	6	0.2	1	<0.01	8	0.2	7	0.2	2	0.1
Total										
Regular	3,102	99.1	3,080	98.8	3,294	98.9	3,461	97.5	3,746	97.7
Accelerated	27	0.9	36	1.2	38	1.1	88	2.5	90	2.3
Total	**3,129**	**100.0**	**3,116**	**100.0**	**3,332**	**100.0**	**3,549**	**100.0**	**3,836**	**100.0**

Source: Parole Board of Canada.

Note:
*Revocation for Breach of Conditions includes revocation with outstanding charges.
**Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.
A day parole is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.

THE SUCCESSFUL COMPLETION OF FEDERAL FULL PAROLE INCREASED

Figure D9



Source: Parole Board of Canada.

- In 2017-18, the successful completion rate on federal full parole for offenders serving determinate sentences increased 0.9 of a percentage point (to 90.5%) compared to 2016-17.
- While the average successful completion rate over the last five years (between 2013-14 and 2017-18) on federal full parole was 2.1 percentage points higher for offenders released on APR full parole than for offenders released on regular full parole (89.7%; 87.8%), the successful completion rate over the last three years has been higher for offenders released on regular full parole.
- The rate of violent reoffending on federal full parole has been decreasing in the last five years, averaging 0.5%.

Note:
*Excludes offenders serving indeterminate sentences because they do not have a warrant expiry date and can only successfully complete full parole upon [their] death.
**Revocation for Breach of Conditions includes revocation with outstanding charges.
A full parole is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.

THE SUCCESSFUL COMPLETION OF FEDERAL FULL PAROLE INCREASED

Table D9

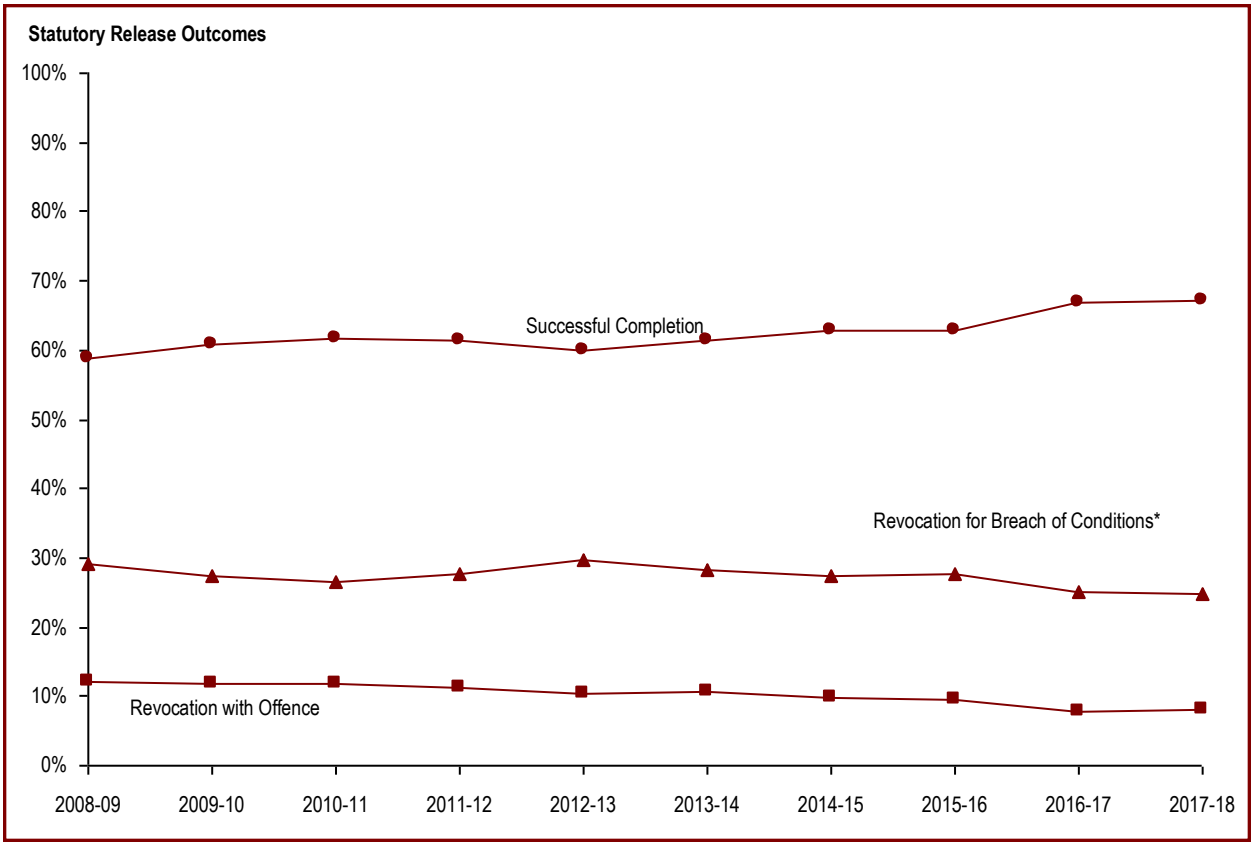
Federal Full Parole Outcomes*	2013-14		2014-15		2015-16		2016-17		2017-18	
	#	%	#	%	#	%	#	%	#	%
Successful Completion										
Regular	579	81.9	734	86.9	757	87.5	847	89.8	961	90.7
Accelerated	246	93.2	97	87.4	95	86.4	89	88.1	101	88.6
Total	825	85.0	831	86.9	852	87.4	936	89.7	1,062	90.5
Revocation for Breach of Conditions**										
Regular	90	12.7	78	9.2	76	8.8	67	7.1	81	7.6
Accelerated	12	4.5	12	9.9	12	10.9	10	9.9	10	8.8
Total	102	10.5	89	9.3	88	9.0	77	7.4	91	7.8
Revocation with Non-Violent Offence										
Regular	30	4.2	32	3.8	25	2.9	25	2.7	14	1.3
Accelerated	5	1.9	3	2.7	3	2.7	1	1.0	3	2.6
Total	35	3.6	35	3.7	28	2.9	26	2.5	17	1.4
Revocation with Violent Offence***										
Regular	8	1.1	1	0.1	7	0.8	4	0.4	3	0.3
Accelerated	1	0.4	0	0.0	0	0.0	1	1.0	0	0.0
Total	9	0.9	1	0.1	7	0.7	5	0.5	3	0.3
Total										
Regular	707	72.8	845	88.4	865	88.7	943	90.3	1,059	90.3
Accelerated	264	27.2	111	11.6	110	11.3	101	9.7	114	9.7
Total	**971**	**100.0**	**956**	**100.0**	**975**	**100.0**	**1,044**	**100.0**	**1,173**	**100.0**

Source: Parole Board of Canada.

Note:
*Excludes offenders serving indeterminate sentences because they do not have a warrant expiry date and can only successfully complete full parole upon [their] death.
**Revocation for Breach of Conditions includes revocation with outstanding charges.
***Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.
A full parole is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.

THE SUCCESSFUL COMPLETION OF STATUTORY RELEASE INCREASED

Figure D10



Source: Parole Board of Canada.

- In 2017-18, the successful completion rate of statutory release increased negligibly (+0.1%) to 67.1% compared to 2016-17.
- Over the last five years, the revocation with violent offence rates were, on average, ten times higher for offenders on statutory release than for offenders on federal day parole and three times higher than for offenders on federal full parole.
- The rate of revocation with a violent offence for statutory release has been declining in the last five years, averaging 1.5%.

Note:
*Revocation for Breach of Conditions includes revocation with outstanding charges.
A statutory release is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.
An offender serving a determinate sentence, if he/she is not detained, will be subject to statutory release after serving 2/3 of his/her sentence if he/she is not on full parole at that time. On statutory release, an offender is subject to supervision until the end of his/her sentence.

THE SUCCESSFUL COMPLETION OF STATUTORY RELEASE INCREASED

Table D10

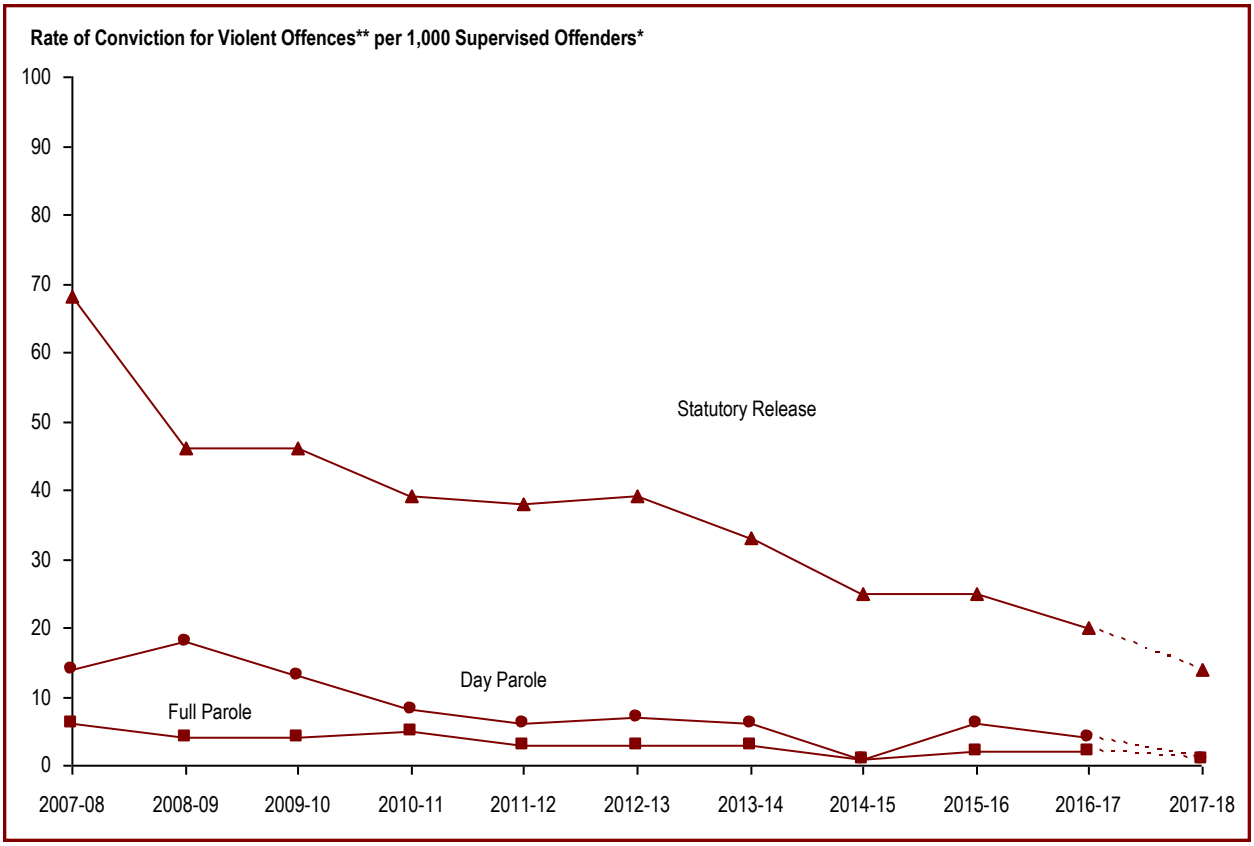
Statutory Release Outcomes	2013-14		2014-15		2015-16		2016-17		2017-78	
	#	%	#	%	#	%	#	%	#	%
Successful Completion	3,805	61.4	3,759	62.8	3,780	62.8	3,789	67.0	3,545	67.1
Revocation for Breach of Conditions*	1,740	28.1	1,648	27.5	1,668	27.7	1,417	25.1	1,307	24.7
Revocation with Non-Violent Offence	536	8.6	489	8.2	481	8.0	374	6.6	384	7.3
Revocation with Violent Offence**	118	1.9	89	1.5	91	1.5	75	1.3	50	0.9
Total	**6,199**	**100.0**	**5,985**	**100.0**	**6,020**	**100.0**	**5,655**	**100.0**	**5,286**	**100.0**

Source: Parole Board of Canada.

Note:
*Revocation for Breach of Conditions includes revocation with outstanding charges.
**Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.
A statutory release is considered successful if it was completed without a return to prison for a breach of conditions or for a new offence.
An offender serving a determinate sentence, if he/she is not detained, will be subject to statutory release after serving 2/3 of his/her sentence if he/she is not on full parole at that time. On statutory release, an offender is subject to supervision until the end of his/her sentence.

OVER THE PAST DECADE, THE RATE OF VIOLENT CONVICTIONS FOR OFFENDERS WHILE UNDER SUPERVISION HAS DECLINED

Figure D11



Source: Parole Board of Canada.

- Over the last ten years (between 2007-08 and 2016-17), the number of convictions for a violent offence decreased 65% for offenders on federal conditional release (from 255 in 2007-08 to 90 in 2016-17). Day parolees averaged 11 convictions for violent offences annually and full parolees, 13 convictions, compared to 129 by offenders on statutory release.
- Over the last ten years (between 2007-08 and 2016-17), convictions for violent offences on statutory release accounted for 85% of all convictions by offenders on federal conditional release.
- When comparing the rates of conviction for violent offences per 1,000 supervised offenders (between 2007-08 and 2016-17), offenders on statutory release were 11 and a half times more likely to commit a violent offence during their supervision periods than offenders on full parole, and 4 and a half times more likely to commit a violent offence than offenders on day parole.

Note:
*Supervised offenders include offenders who are on parole, statutory release, those temporarily detained in federal institutions, and those who are unlawfully at large.
**Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.
Day and full parole include those offenders serving determinate and indeterminate sentences.
The dotted line between 2016-17 and 2017-18 is intended to signify that due to delays in the court process, these numbers under-represent the actual number of convictions, as verdicts may have not been reached by year-end.

OVER THE PAST DECADE, THE RATE OF VIOLENT CONVICTIONS FOR OFFENDERS WHILE UNDER SUPERVISION HAS DECLINED

Table D11

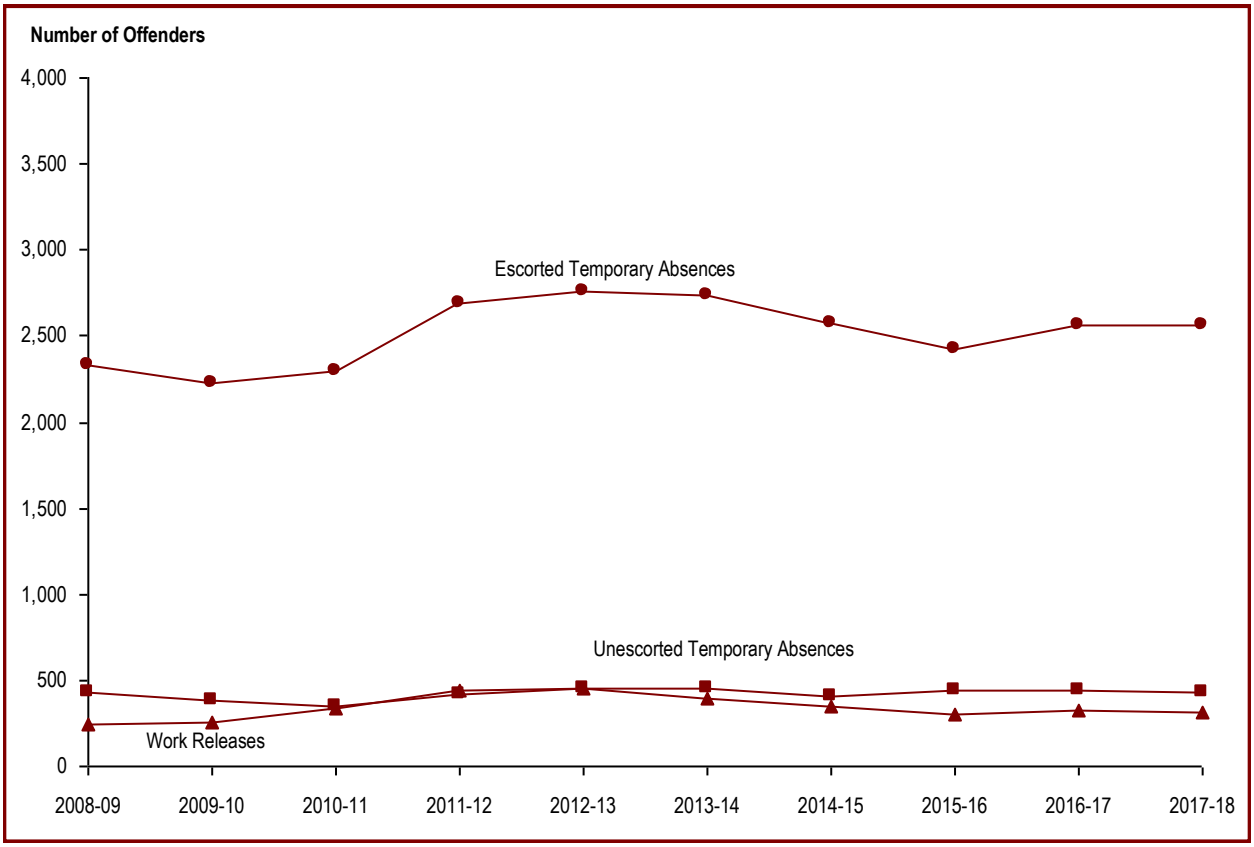
Year	# of Offenders Convicted for Violent Offences***				Rate per 1,000 Supervised Offenders*		
	Day Parole	Full Parole	Statutory Release	Total	Day Parole	Full Parole	Statutory Release
2007-08	18	23	214	255	14	6	68
2008-09	22	17	153	192	18	4	46
2009-10	17	16	149	182	13	4	46
2010-11	10	19	128	157	8	5	39
2011-12	8	10	135	153	6	3	38
2012-13	9	11	136	156	7	3	39
2013-14	7	10	118	135	6	3	33
2014-15	1	4	89	94	1	1	25
2015-16	8	9	91	108	6	2	25
2016-17	7	8	75	90	4	2	20
2017-18**	2	3	50	55	1	1	14

Source: Parole Board of Canada.

Note:
*Supervised offenders include offenders who are on parole, statutory release, those temporarily detained in federal institutions, and those who are unlawfully at large.
**Due to delays in the court processes, the numbers under-represent the actual number of convictions, as verdicts may not have been reached by year-end. Day and full parole include those offenders serving determinate and indeterminate sentences.
***Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.

THE NUMBER OF OFFENDERS GRANTED TEMPORARY ABSENCES

Figure D12



Source: Correctional Service Canada.

- There was a small increase in the number of offenders receiving escorted temporary absences, from 2,546 in 2016-17 to 2,567 in 2017-18. There was a small decrease in the number of offenders receiving unescorted temporary absences, from 443 in 2016-17 to 428 in 2017-18.
- The number of offenders receiving work releases has decreased by 3.7%, from 324 in 2016-17 to 312 in 2017-18.
- For the past 10 years, the average successful completion rates for escorted temporary absences was 99.5%, 98.8% for unescorted temporary absences and 94.6% for work releases.

Note:
A *temporary absence* is permission given to an eligible offender to be away from the normal place of confinement for medical, administrative, community service, family contact, personal development for rehabilitative purposes, or compassionate reasons, including parental responsibilities.
A *work release* is a structure program of release of specified duration for work or community service outside the penitentiary, under the supervision of a staff member or other authorized person or organization.
These numbers depict the number of offenders who received at least one temporary absence permit (excluding those for medical purposes) or at least one work release. An offender may be granted more than one temporary absence permit or work release over a period of time.

THE NUMBER OF OFFENDERS GRANTED TEMPORARY ABSENCES

Table D12

Year	Temporary Absences				Work Releases	
	Escorted		Unescorted			
	# of Offenders	# of Permits	# of Offenders	# of Permits	# of Offenders	# of Permits
2008-09	2,336	36,137	432	3,659	243	663
2009-10	2,222	35,816	388	3,295	254	1,063
2010-11	2,301	40,074	353	3,117	339	1,343
2011-12	2,685	44,399	418	3,891	435	875
2012-13	2,753	47,815	448	3,709	455	815
2013-14	2,740	49,502	447	4,004	400	643
2014-15	2,574	49,633	411	3,563	346	490
2015-16	2,428	47,084	445	4,078	304	418
2016-17	2,546	48,590	443	3,798	324	482
2017-18	2,567	50,711	428	3,190	312	445

Source: Correctional Service Canada.

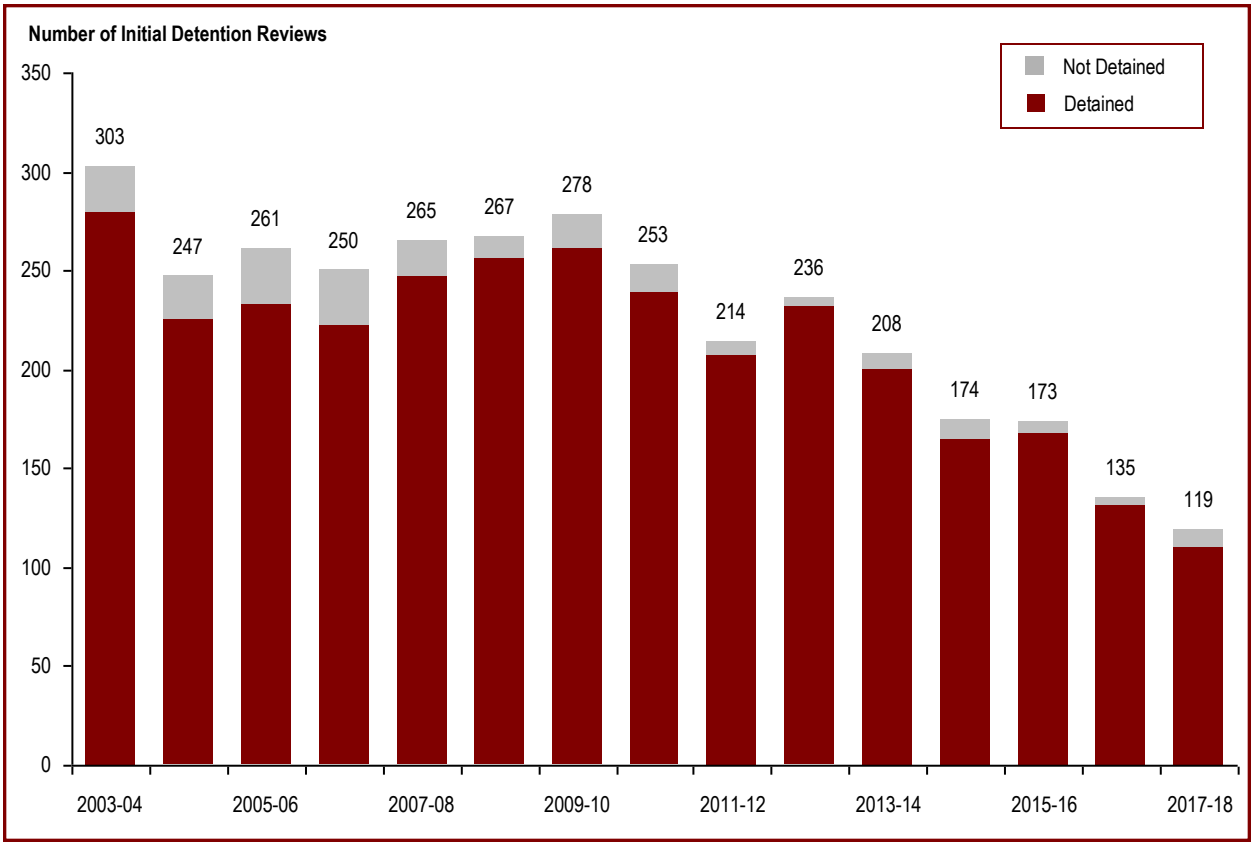
Note:
A *temporary absence* is permission given to an eligible offender to be away from the normal place of confinement for medical, administrative, community service, family contact, personal development for rehabilitative purposes, or compassionate reasons, including parental responsibilities.
A *work release* is a structured program of release of specified duration for work or community service outside the penitentiary, under the supervision of a staff member or other authorized person or organization.
These numbers depict the number of offenders who received at least one temporary absence permit (excluding those for medical purposes) or at least one work release. An offender may be granted more than one temporary absence permit or work release over a period of time.

SECTION E

STATISTICS ON SPECIAL APPLICATIONS OF CRIMINAL JUSTICE

THE NUMBER OF INITIAL DETENTION REVIEWS DECREASED

Figure E1



Source: Parole Board of Canada.

- In 2017-18, the number of referrals for detention decreased by 12% to 119 (from 135) when compared to 2016-17.
- The numbers of offenders detained as a result of a detention review decreased to 110 (-16%) compared to the previous year, while the proportion decreased to 92.4%. Nine offenders were released on statutory release following a detention review in 2017-18.
- Averaged over the last five years, the detention rate for Indigenous offenders was 94.6% compared to 96.1% for non-Indigenous offenders. Nineteen Indigenous offenders and eighteen non-Indigenous offenders were released on statutory release in the last five years.
- In 2017-18, Indigenous offenders accounted for 27.7% of federal incarcerated offenders serving determinate sentences while they accounted for 47.9% of offenders referred for detention and 42.9% of offenders detained.

Note:
According to the *Corrections and Conditional Release Act*, an offender entitled to statutory release after serving two-thirds of the sentence may be held in custody until warrant expiry if it is established that the offender is likely to commit, before the expiry of his/her sentence, an offence causing death or serious harm, a serious drug offence or a sex offence involving a child.

THE NUMBER OF INITIAL DETENTION REVIEWS DECREASED

Table E1

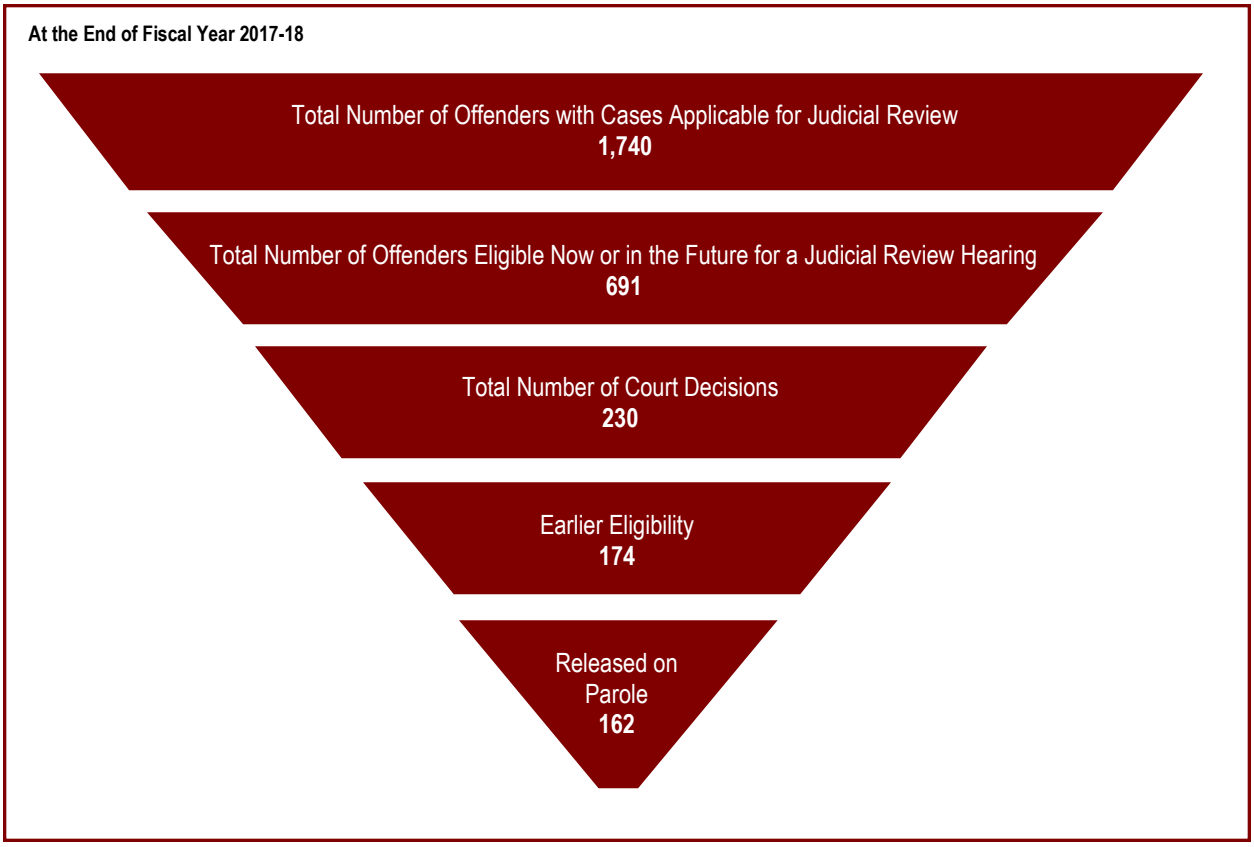
Year	Outcome of Initial Detention Reviews										Total
	Detained				Statutory Release				Total		
	Ind.	Non - Ind.	Total	%	Ind.	Non - Ind.	Total	%	Ind.	Non - Ind.	
2003-04	76	203	279	92.1	8	16	24	7.9	84	219	**303**
2004-05	71	154	225	91.1	6	16	22	8.9	77	170	**247**
2005-06	75	158	233	89.3	11	17	28	10.7	86	175	**261**
2006-07	65	157	222	88.8	4	24	28	11.2	69	181	**250**
2007-08	91	156	247	93.2	7	11	18	6.8	98	167	**265**
2008-09	107	149	256	95.9	5	6	11	4.1	112	155	**267**
2009-10	99	162	261	93.9	2	15	17	6.1	101	177	**278**
2010-11	113	126	239	94.5	5	9	14	5.5	118	135	**253**
2011-12	88	119	207	96.7	3	4	7	3.3	91	123	**214**
2012-13	92	140	232	98.3	4	0	4	1.7	96	140	**236**
2013-14	85	115	200	96.2	4	4	8	3.8	89	119	**208**
2014-15	67	97	164	94.3	5	5	10	5.7	72	102	**174**
2015-16	73	94	167	96.5	2	4	6	3.5	75	98	**173**
2016-17	56	75	131	97.0	2	2	4	3.0	58	77	**135**
2017-18	51	59	110	92.4	6	3	9	7.6	57	62	**119**
Total	**1,209**	**1,964**	**3,173**	**93.8**	**74**	**136**	**210**	**6.2**	**1,283**	**2,100**	**3,383**

Source: Parole Board of Canada.

Note:
According to the *Corrections and Conditional Release Act*, an offender entitled to statutory release after serving two-thirds of the sentence may be held in custody until warrant expiry if it is established that the offender is likely to commit, before the expiry of his/her sentence, an offence causing death or serious harm, a serious drug offence or a sex offence involving a child.

76% OF JUDICIAL REVIEW HEARINGS RESULT IN EARLIER PAROLE ELIGIBILITY

Figure E2



Source: Correctional Service Canada.

- Since the first judicial review hearing in 1987, there have been a total of 230 court decisions.
- Of these cases, 75.7% of the court decisions resulted in a reduction of the period that must be served before parole eligibility.
- Of the 691 offenders eligible to apply for a judicial review, 275 had already served 15 years of their sentence, whereas 416 had not.
- Of the 174 offenders who had their parole eligibility date moved closer, 171 had reached their revised Day Parole eligibility date. Of these offenders, 162 were released on parole, and 113 were being actively supervised in the community*.
- A higher percentage of second degree (83.3%) than first degree (74.8%) murder cases have resulted in a reduction of the period required to be served before parole eligibility.

Note:
*Of the 49 offenders no longer under active supervision, 7 were in custody, 34 were deceased, 6 were deported, and 2 were temporarily detained.
Judicial review is an application to the court for a reduction in the time required to be served before being eligible for parole. Judicial review procedures apply to offenders who committed the offences prior to December 2, 2011 and have been sentenced to imprisonment for life without eligibility for parole for 15 years or more. Judicial reviews exclude offenders convicted of more than one murder. Eligible offenders can apply for a reduction in parole ineligibility when they have served at least 15 years of their sentence.
Judicial reviews are conducted in the province where the conviction took place.

76% OF JUDICIAL REVIEW HEARINGS RESULT IN EARLIER PAROLE ELIGIBILITY

Table E2

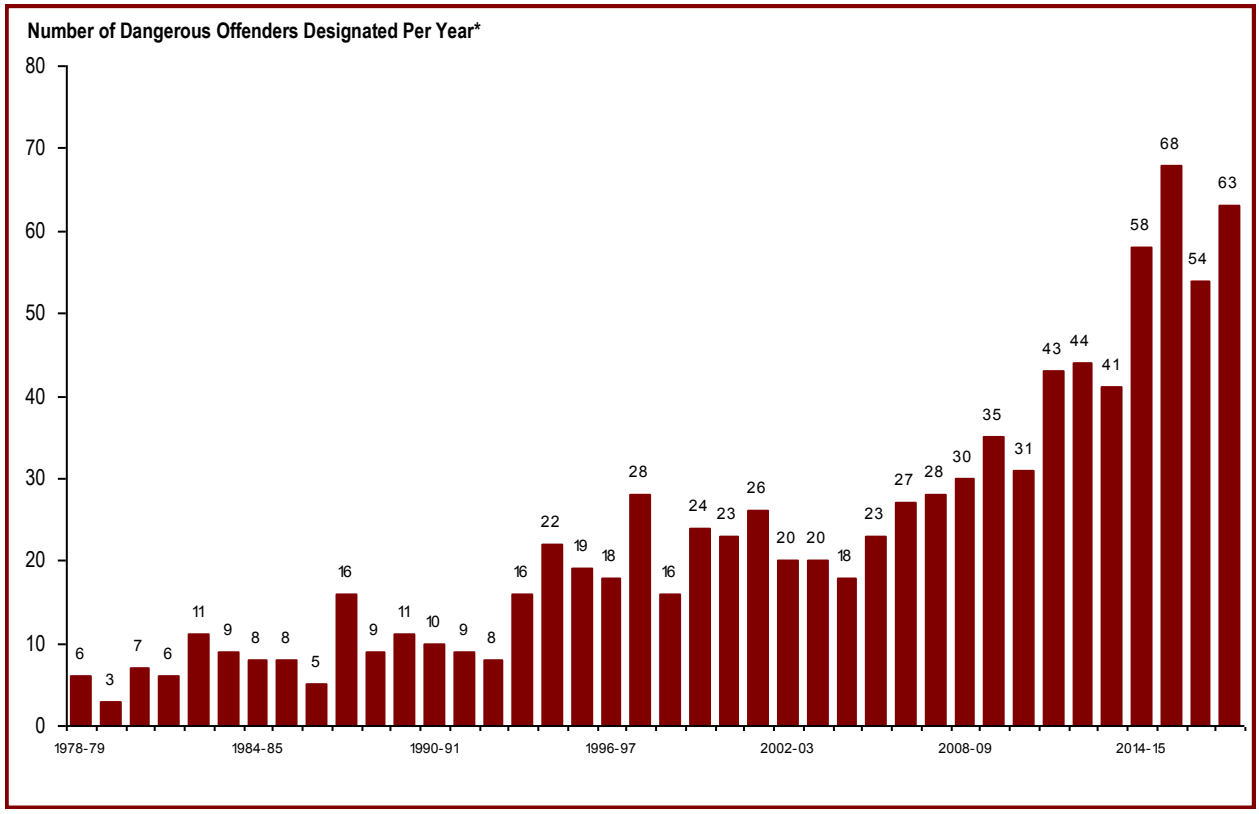
Province/Territory of Judicial Review	Parole Ineligibility Reduced by Court		Reduction Denied by Court		Total	
	1st Degree Murder	2nd Degree Murder	1st Degree Murder	2nd Degree Murder	1st Degree Murder	2nd Degree murder
Northwest Territories	0	0	0	0	0	0
Nunavut	0	0	0	0	0	0
Yukon Territories	0	0	0	0	0	0
Newfoundland & Labrador	0	0	0	0	0	0
Prince Edward Island	0	0	0	0	0	0
Nova Scotia	1	1	1	0	2	1
New Brunswick	1	0	0	0	1	0
Quebec	73	15	6	2	79	17
Ontario	23	0	28	1	51	1
Manitoba	8	3	1	0	9	3
Saskatchewan	7	0	3	0	10	0
Alberta	19	0	7	1	26	1
British Columbia	22	1	6	0	28	1
Sub-total	**154**	**20**	**52**	**4**	**206**	**24**
Total	**174**		**56**		**230**	

Source: Correctional Service Canada.

Note:
These numbers represent total decisions at the end of fiscal year 2017-18.
Judicial reviews are conducted in the province where the conviction took place.

THE NUMBER OF DANGEROUS OFFENDER DESIGNATIONS

Figure E3



Source: Correctional Service Canada.

- At the end of fiscal year 2017-18, there have been 921 offenders designated as Dangerous Offenders (DOs) since 1978. Of these, 67.9% had at least one current conviction for a sexual offence.
- At the end of fiscal year 2017-18, there were 792 DOs under the responsibility of Correctional Service Canada, and of those, 81.3% had indeterminate sentences.
- Of these 792 DOs, 712 were in custody (representing 5.1% of the In-Custody Population) and 80 were in the community under supervision.
- There were eight women with a Dangerous Offender designation.
- Indigenous offenders accounted for 35.5% of DOs and 24.0% of the total offender population.

Note:
The number of Dangerous Offenders designated per year does not include overturned decisions.
Offenders who have died since receiving designations are no longer classified as "active"; however, they are still represented in the above graph, which depicts the total number of offenders '"designated". Dangerous Offender legislation came into effect in Canada on October 15, 1977, replacing the Habitual Offender and Dangerous Sexual Offender provisions that were abolished. A Dangerous Offender (DO) is an individual given an indeterminate or *determinate sentence on the basis of a particularly violent crime or pattern of serious violent offences where it is judged that the offender's behaviour is unlikely to be inhibited by normal standards of behavioural restraint (see section 753 of the *Criminal Code of Canada*).
In addition to the DOs, there were 15 Dangerous Sexual Offenders and 3 Habitual Offenders under the responsibility of CSC at the end of fiscal year 2017-18.
*Determinate sentences for Dangerous Offenders must be a minimum punishment of imprisonment for a term of two years and have an order that the offender be subject to a long-term supervision period that does not exceed 10 years.

THE NUMBER OF DANGEROUS OFFENDER DESIGNATIONS

Table E3

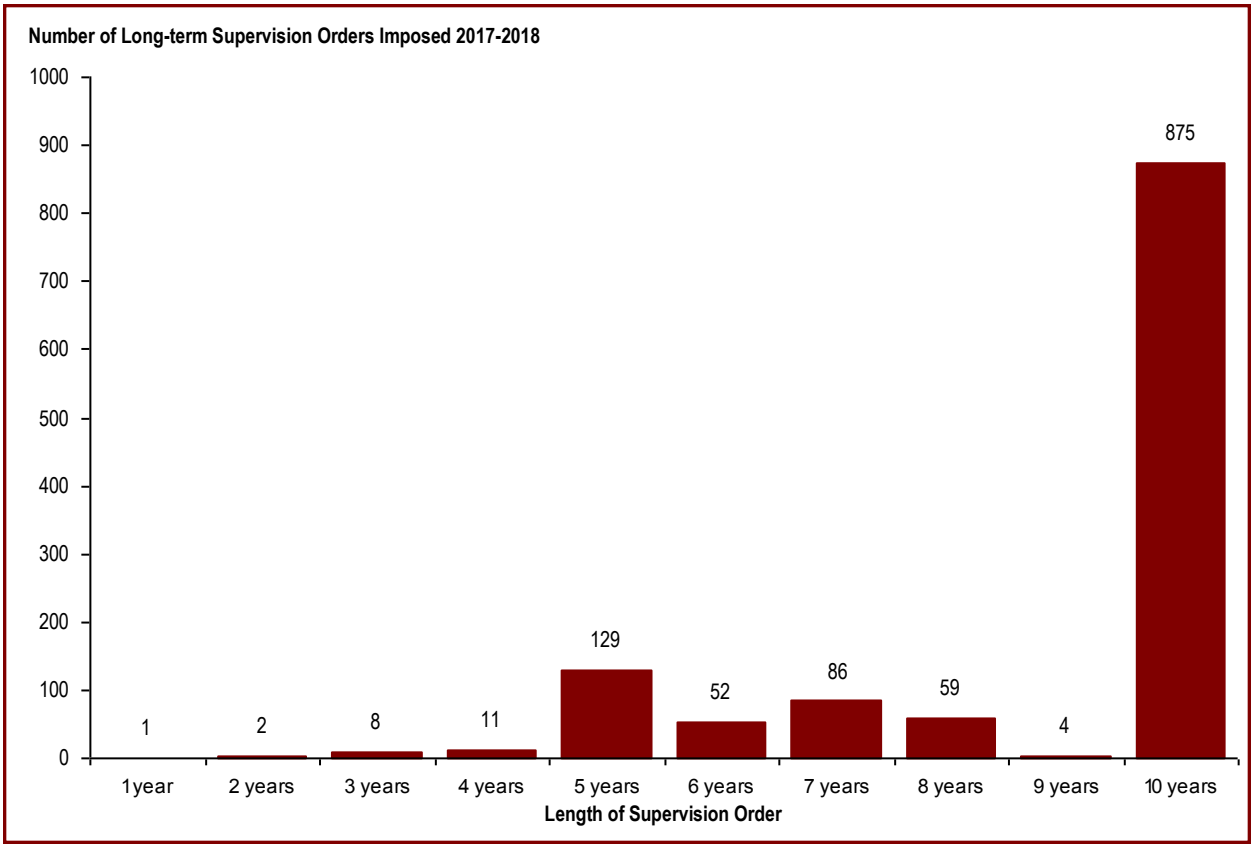
Province/Territory of Designation	All Designations (# Designated Since 1978)	Active Dangerous Offenders		
		# of Indeterminate Offenders	# of Determinate Offenders	Total
Newfoundland & Labrador	13	8	1	9
Nova Scotia	25	19	2	21
Prince Edward Island	0	0	0	0
New Brunswick	8	4	0	4
Quebec	116	91	16	107
Ontario	391	263	72	335
Manitoba	29	26	2	28
Saskatchewan	98	56	33	89
Alberta	65	52	3	55
British Columbia	156	111	13	124
Yukon Territories	7	2	5	7
Northwest Territories	11	11	0	11
Nunavut	2	1	1	2
Total	**921**	**644**	**148**	**792**

Source: Correctional Service Canada.

Note:
Numbers presented are as of end of fiscal year 2017-18.
The number of Dangerous Offenders declared per year does not include overturned decisions.
Offenders who have died since receiving designations are no longer classified as “active”; however, they are still represented in the total number of offenders “designated”.

MOST LONG-TERM SUPERVISION ORDERS ARE FOR A 10-YEAR PERIOD

Figure E4



Source: Correctional Service Canada.

- At the end of fiscal year 2017-18, the courts had imposed 1,227 long-term supervision orders. Of these, 71.3% were for a period of 10 years.
- At the end of fiscal year 2017-18, there were 880 offenders with long-term supervision orders under the responsibility of Correctional Services Canada, and of these, 565 (64.2%) had at least one current conviction for a sexual offence.
- There were 17 women with long-term supervision orders.
- There were 450 offenders being supervised in the community on their long-term supervision orders at the end of fiscal year 2017-18. Of these, 396 offenders were supervised in the community, seven offenders were temporarily detained, 42 offenders were on remand, four offenders were unlawfully at large for less than 90 days and one offender was supervised and subject to an immigration hold by Canada Border Services Agency.

Note:
Long-term Supervision Order (LTSO) legislation, which came into effect in Canada on August 1, 1997, allows the court to impose a sentence of two years or more for the predicate offence and order that the offender be supervised in the community for a further period not exceeding 10 years.
Seventy five offenders under these provisions have died, and 210 offenders have completed their long-term supervision period.
Remand is the temporary detention of a person while awaiting trial, sentencing or the commencement of a custodial disposition.

MOST LONG-TERM SUPERVISION ORDERS ARE FOR A 10-YEAR PERIOD

Table E4

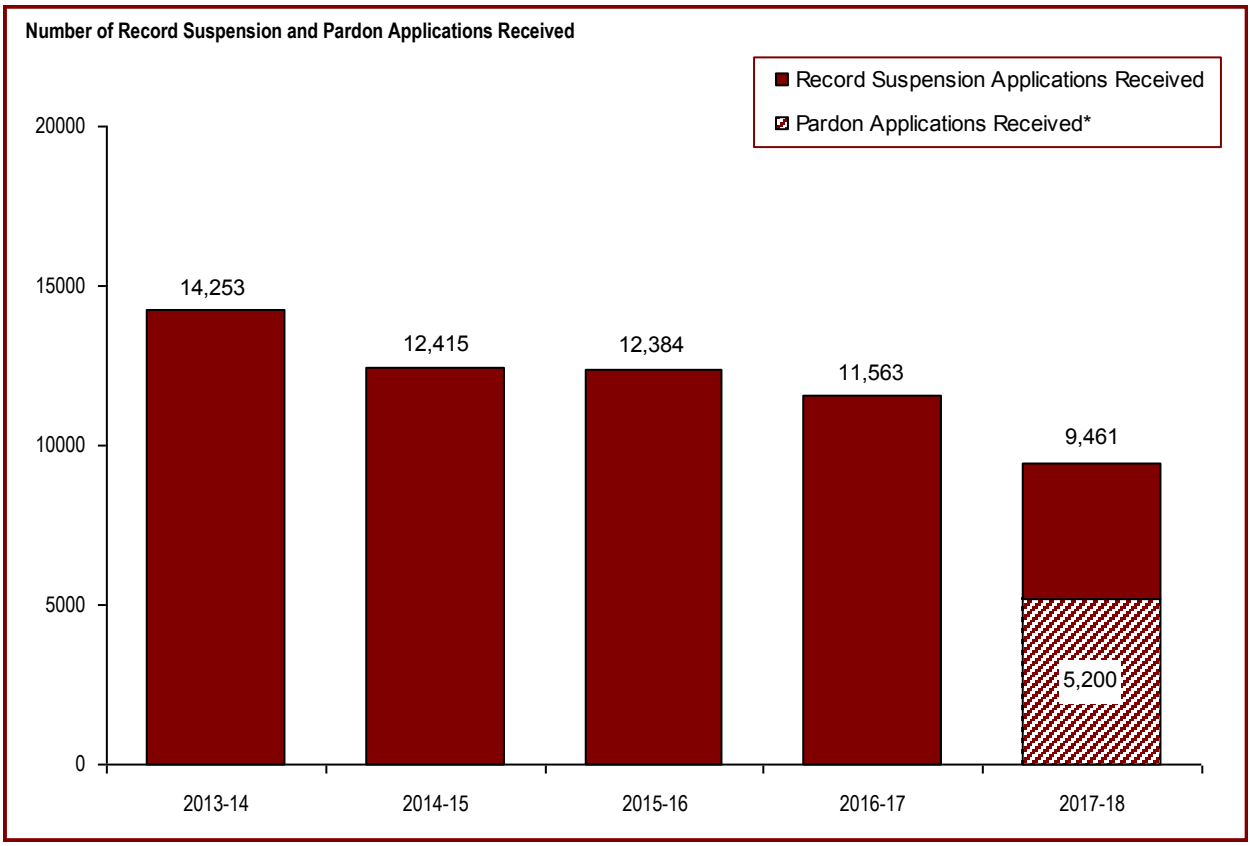
Province or Territory of Order	Length of Supervision Order (Years)											Current Status 2017-2018				
	1	2	3	4	5	6	7	8	9	10	Total	Incarcerated	DP, FP or SR*	LTSO period	LTSO** interrupted	**Total**
Newfoundland & Labrador	0	0	0	0	0	0	0	1	0	10	11	3	0	6	0	**9**
Nova Scotia	0	0	0	0	5	0	1	2	0	13	21	3	1	10	0	**14**
Prince Edward Island	0	0	0	0	1	0	0	0	0	1	2	0	0	0	0	**0**
New Brunswick	0	0	1	0	2	0	0	1	0	8	12	2	1	2	2	**7**
Quebec	1	1	7	2	63	18	40	12	2	258	404	108	19	143	22	**292**
Ontario	0	0	0	6	20	15	21	23	0	275	360	73	14	152	27	**266**
Manitoba	0	0	0	0	1	2	3	1	0	37	44	6	0	12	7	**25**
Saskatchewan	0	1	0	1	11	9	13	11	2	70	118	48	3	30	14	**95**
Alberta	0	0	0	0	8	1	0	1	0	67	77	13	3	27	6	**49**
British Columbia	0	0	0	2	14	5	5	6	0	116	148	35	4	56	6	**101**
Yukon Territories	0	0	0	0	1	0	3	0	0	15	19	8	0	7	0	**15**
Northwest Territories	0	0	0	0	1	1	0	0	0	2	4	1	0	1	0	**2**
Nunavut	0	0	0	0	2	1	0	1	0	3	7	0	0	4	1	**5**
Total	**1**	**2**	**8**	**11**	**129**	**52**	**86**	**59**	**4**	**875**	**1,227**	**300**	**45**	**450**	**85**	**880**

Source: Correctional Service Canada.

Note:
* This category includes offenders whose current status is either supervised on day parole (DP), full parole (FP) or statutory release (SR).
** This category includes offenders convicted of a new offence while on the supervision portion of an LTSO. When this occurs, the LTSO supervision period is interrupted until the offender has served the new sentence to its warrant expiry date. At that time, the LTSO supervision period resumes where it left off. From the 85, 69 offenders were in custody, 15 were supervised in the community on statutory release and 1 offender was on remand.
Long-term Supervision Order (LTSO) legislation, which came into effect in Canada on August 1, 1997, allows the court to impose a sentence of two years or more for the predicate offence and order that the offender be supervised in the community for a further period not exceeding 10 years.
75 offenders under these provisions have died, and 210 offenders have completed their long-term supervision period.
Remand is the temporary detention of a person while awaiting trial, sentencing or the commencement of a custodial disposition.

THE NUMBER OF RECORD SUSPENSION APPLICATIONS RECEIVED HAS DECREASED

Figure E5



Source: Parole Board of Canada.

- In 2017-18, the Parole Board received 9,461 record suspension applications and accepted 6,529 applications for processing as record suspensions and 638, as pardons (Ontario and British Columbia cases). The Board also received 5,200 pardon applications and accepted 4,429 pardon applications for processing. The acceptance rate was 79.1%.
- In 2017-18, the Board rendered 2,089 pardon decisions, granting a pardon in 93.6% of cases and denying a pardon in 6.4% of cases.
- In 2017-18, the Board made 7,180 record suspension decisions; 98% of record suspensions were ordered and 2% were refused.
- Since 1970, when the pardon/record suspension process began, 525,187 pardons/record suspensions have been granted/issued and ordered.

Note:
*Refers to pardon applications processed for residents of Ontario and British Columbia following the reversal of the amendments to the CRA (Canada Revenue Agency) by Supreme Court decisions in those provinces.
On March 13, 2012, Bill C-10 amended the *CRA* by replacing the term "pardon" with the term "record suspension". The Record Suspension and Clemency program involves the review of record suspension applications, the ordering of record suspensions and the making of clemency recommendations. The amendments to the *CRA* increased the waiting periods for a record suspension to five years for all summary convictions and to ten years for all indictable offences. Individuals convicted of sexual offences against minors (with certain exceptions) and those who have been convicted of more than three indictable offences, each with a sentence of two or more years, became ineligible for a record suspension.

THE NUMBER OF RECORD SUSPENSION APPLICATIONS RECEIVED HAS DECREASED

Table E5

Record Suspension Applications Processed	2013-14	2014-15	2015-16	2016-17	2017-18
Applications Received	14,253	12,415	12,384	11,563	9,461
Applications Accepted	9,624	9,071	8,917	8,191	7,167[1]
% Accepted	67.5	73.1	72.0	70.8	75.8
Record Suspensions					
Ordered	8,511	8,422	8,428	8,340	7,038
Refused	772	726	525	439	142
Total Ordered/Refused	9,283	9,148	8,953	8,779	7,180
% Ordered	91.7	92.1	94.1	95.0	98.0
Pardon Applications Processed					
Applications Received	- -	- -	- -	- -	5,200[2]
Applications Accepted	- -	- -	- -	- -	4,429[2]
% Accepted	- -	- -	- -	- -	85.2
Pardons					
Granted	8,265	5,625	1,628	3,740	222
Issued	- -	- -	- -	- -	1,734
Denied	581	681	349	125	133
Total Granted/Issued/Denied	8,846[3]	6,306[3]	1,977[3]	3,865[3]	2,089[2]
% Granted	93.4	89.2	82.3	96.8	93.6
Pardon/Record Suspension Revocations/Cessations					
Revocations[4]	669	438	670	501	85
Cessations	589	578	636	776	692
Total Revocations/Cessations	1,258	1,016	1,306	1,277	777
Cumulative Granted/Issued and Ordered[5]	480,010	494,057	504,113	516,193	525,187
Cumulative Revocations/Cessations[5]	22,321	23,337	24,643	25,920	26,697

Source: Parole Board of Canada.

Note:

[1] Includes 638 record suspension applications that were discontinued and reclassified as pardon applications for residents of Ontario and British Columbia following the reversal of amendments to the CRA by Supreme Court decisions in those provinces.

[2] Refers to pardon applications processed for residents of Ontario and British Columbia following the reversal of the amendments to the CRA by Supreme Court decisions in those provinces.

[3] Refers to pardon applications received on or before March 12, 2012 (C-10).

[4] Revocations fluctuate due to resource re-allocation to deal with backlogs.

[5] Cumulative data reflects activity since 1970, when the pardon process was established under the *Criminal Records Act.*

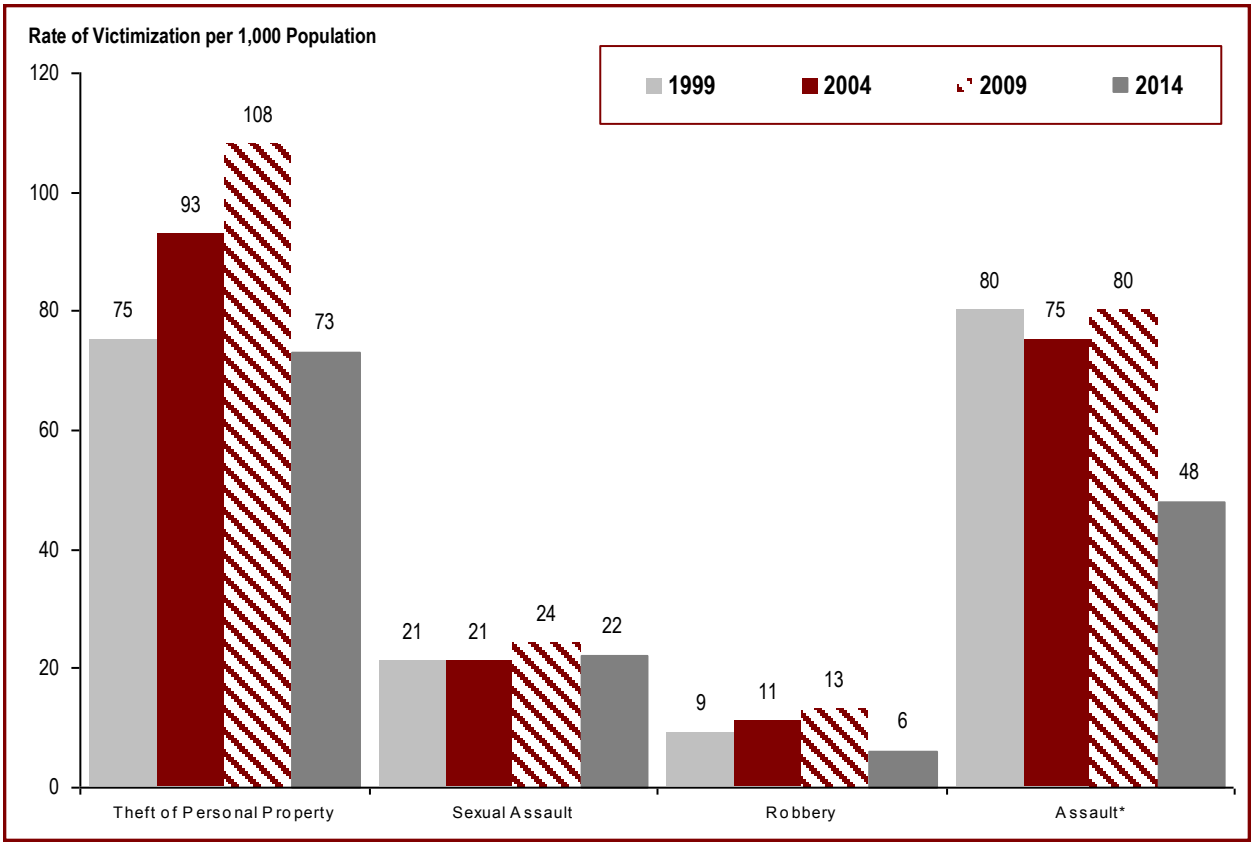
On June 29, 2010, Bill C-23A amended the *CRA* by extending the ineligibility periods for certain applications for pardon. Additionally, the bill resulted in significant changes to program operations. The process was modified to include additional inquiries and new, more exhaustive investigations by staff for some applications and required additional review time by Board members. New concepts of merit and disrepute to the administration of justice form part of the statute. As a result of these new changes, application processing time increased. On March 13, 2012, Bill C-10 amended the *CRA* by replacing the term "pardon" with the term "record suspension". The Record Suspension and Clemency program involves the review of record suspension applications, the ordering of record suspensions and the making of clemency recommendations. The amendments to the *CRA* increased the waiting periods for a record suspension to five years for all summary convictions and to ten years for all indictable offences. Individuals convicted of sexual offences against minors (with certain exceptions) and those who have been convicted of more than three indictable offences, each with a sentence of two or more years, became ineligible for a record suspension.

SECTION F

VICTIMS OF CRIME

VICTIMIZATION RATES FOR THEFT OF PERSONAL PROPERTY AND ASSAULT DECREASED IN 2014

Figure F1



Source: General Social Survey, Statistics Canada, 1999, 2004, 2009 and 2014.

- Victimization rates for theft of personal property were lower in 2014 than in previous years.
- Victimization rates for assault were lower in 2014 than in previous years.
- Since 1999, the rates of victimization for sexual assault have remained stable.

Note:
The General Social Survey is administered every five years by Statistics Canada. Updated data were not available during the preparation of this report. It is anticipated that updated data will be available in 2020.
*Assault data includes incidents of spousal violence. In previous editions of this document, the victimization data excluded incidents of spousal violence.
Rates are based on 1,000 population, 15 years of age and older, across the 10 provinces.

VICTIMIZATION RATES FOR THEFT OF PERSONAL PROPERTY AND ASSAULT DECREASED IN 2014

Table F1

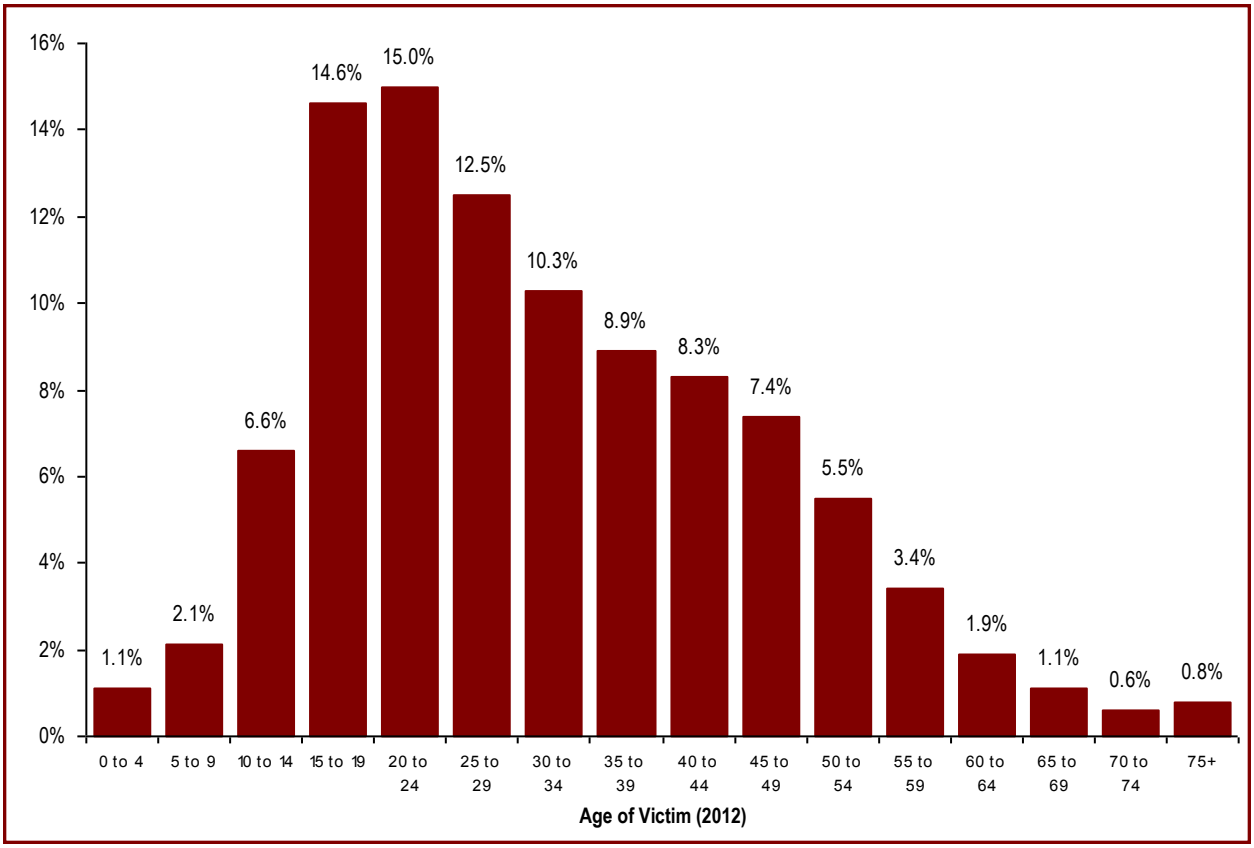
Type of Incident	Year			
	1999	2004	2009	2014
Theft of Personal Property	75	93	108	73
Sexual Assault	21	21	24	22
Robbery	9	11	13	6
Assault*	80	75	80	48

Source: General Social Survey, Statistics Canada, 1999, 2004, 2009 and 2014.

Note:
The General Social Survey is administered every five years by Statistics Canada. Updated data were not available during the preparation of this report. It is anticipated that updated data will be available in 2020.
*Assault data includes incidents of spousal violence. In previous editions of this document, the victimization data excluded incidents of spousal violence. Rates are based on 1,000 population, 15 years of age and older, across the 10 provinces.

THE MAJORITY OF VICTIMS OF VIOLENT CRIME ARE UNDER AGE 30

Figure F2



Source: Incident-based Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

- More than half (51.9%) of all victims of violent crime reported in 2012 were under the age of 30, whereas 36.9% of the Canadian population is under the age of 30*.
- Women aged 15 to 39 were more likely than men of that age to be victims of crime.
- Canadians aged 65 and older, who account for 14.1% of the general population*, represent 2.4% of victims of crime.

Note:
Updated data were not available during the preparation of this report.
*Population estimates are as of July 1, 2010.
The data excludes traffic violations, victims whose age is above 89, victims whose age is unknown and victims whose gender is unknown.
Due to rounding, totals may not add up to 100 percent.

THE MAJORITY OF VICTIMS OF VIOLENT CRIME ARE UNDER AGE 30

Table F2 (2012)

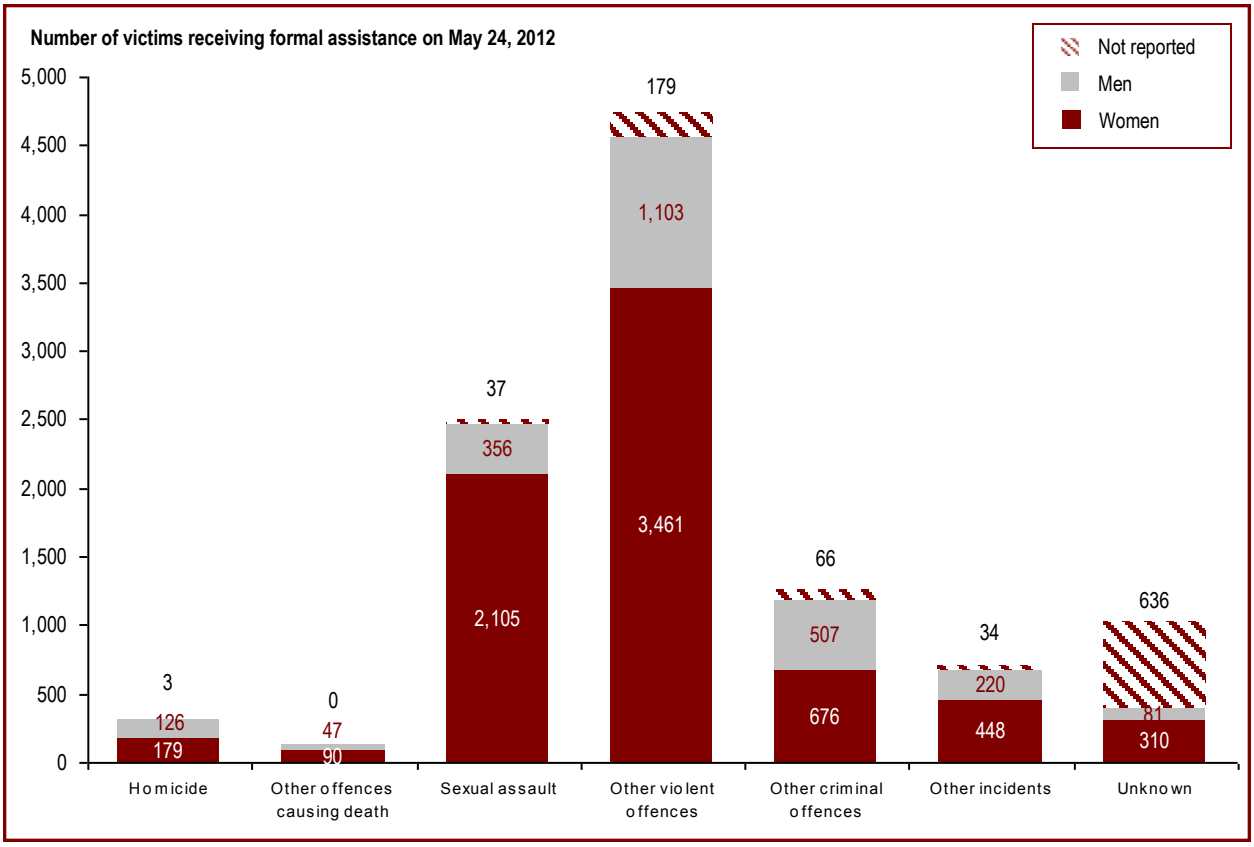
Age of Victim	Men		Women		Total	
	#	%	#	%	#	%
0 to 4 years	1,761	1.0	2,053	1.1	3,814	1.1
5 to 9 years	3,803	2.2	3,724	2.0	7,527	2.1
10 to 14 years	11,716	6.7	12,109	6.5	23,825	6.6
15 to 19 years	25,294	14.4	27,674	14.9	52,968	14.6
20 to 24 years	24,712	14.1	29,380	15.8	54,092	15.0
25 to 29 years	21,477	12.2	23,897	12.9	45,374	12.5
30 to 34 years	17,282	9.8	20,001	10.8	37,283	10.3
35 to 39 years	14,829	8.4	17,403	9.4	32,232	8.9
40 to 44 years	14,607	8.3	15,456	8.3	30,063	8.3
45 to 49 years	13,568	7.7	13,038	7.0	26,606	7.4
50 to 54 years	10,965	6.2	9,051	4.9	20,016	5.5
55 to 59 years	6,983	4.0	5,149	2.8	12,132	3.4
60 to 64 years	4,081	2.3	2,792	1.5	6,873	1.9
65 to 69 years	2,321	1.3	1,605	0.9	3,926	1.1
70 to 74 years	1,128	0.6	977	0.5	2,105	0.6
75 and over	1,228	0.7	1,507	0.8	2,735	0.8
Total	**175,755**	**100.0**	**185,816**	**100.0**	**361,571**	**100.0**

Source: Incident-based Uniform Crime Reporting Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Note:
Updated data were not available during the preparation of this report.
The data excludes traffic violations, victims whose age is above 89, victims whose age is unknown and victims whose gender is unknown.
Due to rounding, totals may not add up to 100 percent.

THE MAJORITY OF VICTIMS RECEIVING SERVICES ARE VICTIMS OF VIOLENT CRIME

Figure F3



Source: Victim Services in Canada, 2011/2012; Canadian Centre for Justice Statistics, Statistics Canada.

- On May 24, 2012, the *Victim Services Survey* snapshot day, 10,664 victims received formal assistance from a victim service office. This represents an increase of 12.7% from 9,462 on May 27, 2010. Of the 9,637 where the crime was known, the majority, 79.8% were victims of a violent crime.
- Of the 9,709 cases in which gender of the victim was noted, women accounted for 74.9% of the victims who received formal assistance from a victim service office, and men represented 25.1%.
- Of the 6,959 women who received formal assistance where the type of crime was known, 83.8% were victims of violent crime. A total of 2,105 women (30.2%) were victims of sexual assault.
- Of the 2,359 men who received formal assistance where the type of crime was known, 69.2% were victims of violent crime. A total of 356 men (15.1%) were victims of sexual assault.

Note:
Updated data were not available during the preparation of this report.
Victim services are defined as agencies that provide direct services to primary or secondary victims of crime, and that are funded in whole or in part by a ministry responsible for justice matters. Survey respondents included 684 victim service providers.

THE MAJORITY OF VICTIMS RECEIVING SERVICES ARE VICTIMS OF VIOLENT CRIME

Table F3

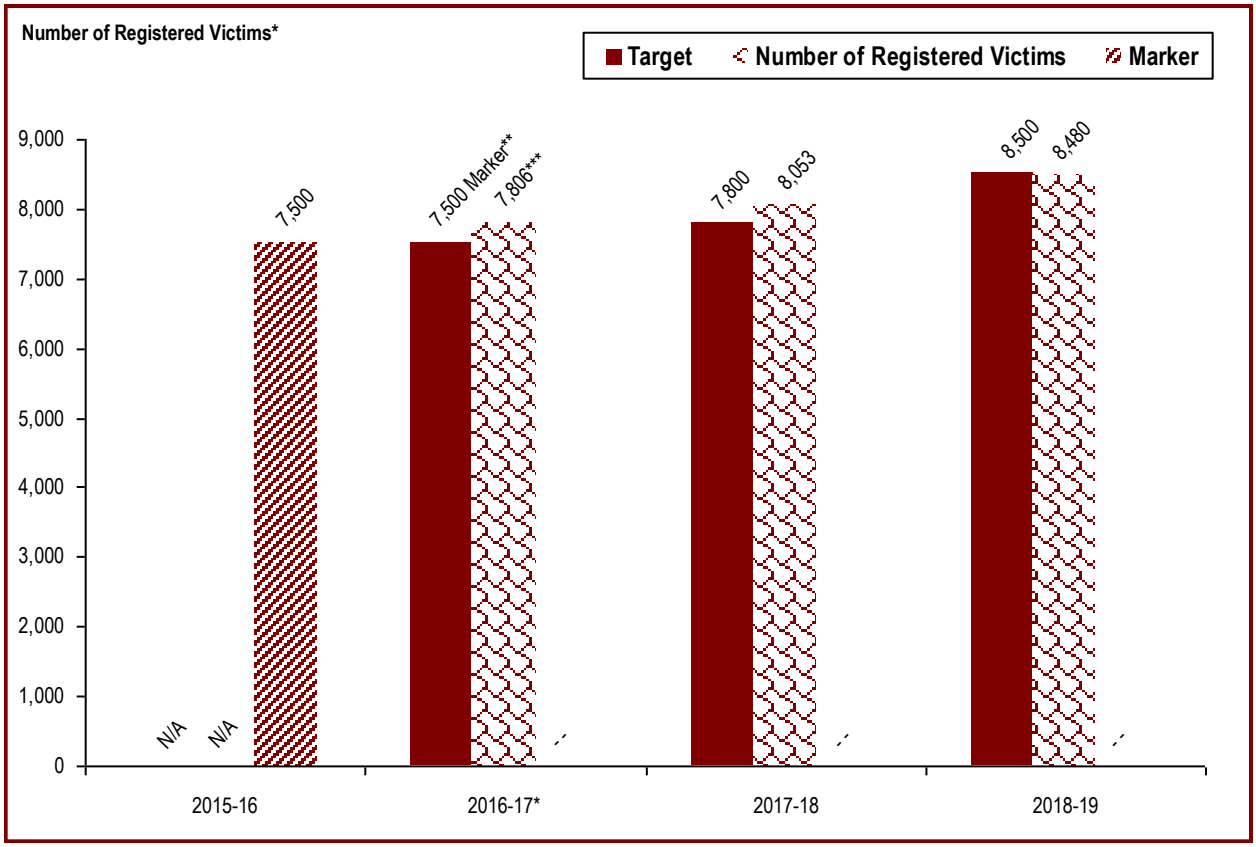
Type of Crime	Gender of Victim							
	Women		Men		Not Reported		Total	
Snapshot on May 27, 2010	#	%	#	%	#	%	#	%
Homicide	154	2.4	70	3.3	3	0.5	227	2.5
Other offences causing death	95	1.5	77	3.7	8	1.4	180	2.0
Sexual assault	1,922	30.0	379	18.1	160	28.3	2,461	27.1
Other violent offences	3,323	51.8	917	43.8	262	46.4	4,502	49.6
Other criminal offences*	496	7.7	357	17.0	73	12.9	926	10.2
Other incidents**	421	6.6	295	14.1	59	10.4	775	8.5
Total without unknown	**6,411**	**100.0**	**2,095**	**100.0**	**565**	**100.0**	**9,071**	**100.0**
Unknown type of crime	197	—	81	—	113	—	391	—
Total	**6,608**		**2,176**		**678**		**9,462**	
Snapshot on May 24, 2012								
Homicide	179	2.6	126	5.3	3	0.9	308	3.2
Other offences causing death	90	1.3	47	2.0	0	0.0	137	1.4
Sexual assault	2,105	30.2	356	15.1	37	11.6	2,498	25.9
Other violent offences	3,461	49.7	1,103	46.8	179	56.1	4,743	49.2
Other criminal offences*	676	9.7	507	21.5	66	20.7	1,249	13.0
Other incidents**	448	6.4	220	9.3	34	10.7	702	7.3
Total without unknown	**6,959**	**100.0**	**2,359**	**100.0**	**319**	**100.0**	**9,637**	**100.0**
Unknown type of crime	310	—	81	—	636	—	1,027	—
Total	**7,269**		**2,440**		**955**		**10,664**	

Source: Victim Services in Canada, 2009/2010; Victim Services in Canada 2011/2012; Canadian Centre for Justice Statistics, Statistics Canada.

Note:
Updated data were not available during the preparation of this report.
*Other criminal offences include arson, property crimes, traffic offences, and other *Criminal Code* offences.
**Other incidents include those of a non-criminal nature as well as those that are still under investigation to determine if they are criminal offences.
Victim services are defined as agencies that provide direct services to primary or secondary victims of crime, and that are funded in whole or in part by a ministry responsible for justice matters. Survey respondents included 684 victim service providers.

THE NUMBER OF VICTIMS REGISTERED WITH THE FEDERAL CORRECTIONAL SYSTEM HAS INCREASED

Figure F4



Source: Correctional Service Canada.

Note:

*Indicator new as of the 2016-17 reporting cycle; therefore, data not available from 2013-14 to 2015-16.

**A 'marker' was set for the new 2016-17 indicator, estimating the number of registered victims. This was done because CSC was changing from management of victim files within OMS, offender file based, to the newly built Victims Application Module (VAM), victim file based and no data was available until year end due to data migration.

***When Victim Services used OMS as their database, the prior indicator counted the number of offenders with registered victims. Over the last three years, CSC has used a new indicator reflective of the VAM; counting number of registered victims. This provides the true number of registered victims. For example, in the old system (OMS) = one offender could have six victims, but only one offender with registered victims was counted. In the new system (VAM) = six registered victims as each victim has their own electronic file and is counted separately.

THE NUMBER OF VICTIMS REGISTERED WITH THE FEDERAL CORRECTIONAL SYSTEM HAS INCREASED

Table F4

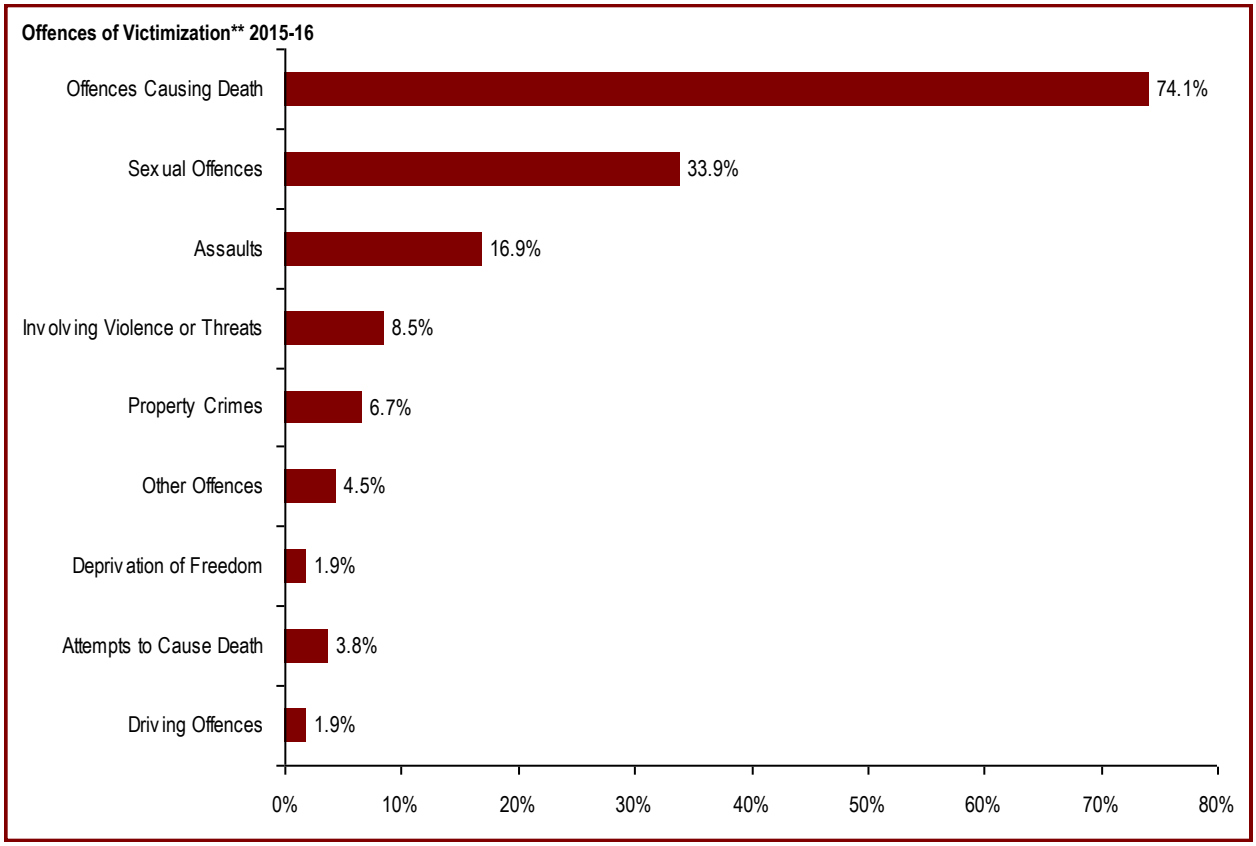
Year	Target	Number of Registered Victims	Marker
2015-16	N/A	N/A	7,500
2016-17*	7,500 Marker**	7,806***	- -
2017-18	7,800	8,053	- -
2018-19	8,500	8,480	- -

Source: Correctional Service Canada.

Note:
*Indicator new as of the 2016-17 reporting cycle; therefore, data not available from 2013-14 to 2015-16.
**A 'marker' was set for the new 2016-17 indicator, estimating the number of registered victims. This was done because CSC Services was changing from management of victim files within OMS, offender file based, to the newly built Victims Application Module (VAM), victim file based and no data was available until year end due to data migration.
***When Victim Services used OMS as their database, the prior indicator counted the number of offenders with registered victims. Over the last three years, CSC has used a new indicator reflective of the VAM; counting number of registered victims. This provides the true number of registered victims. For example, in the old system (OMS) = one offender could have six victims, but only one offender with registered victims was counted. In the new system (VAM) = six registered victims as each victim has their own electronic file and is counted separately.

OFFENCES CAUSING DEATH ARE THE MOST COMMON TYPE OF OFFENCE** THAT HARMED THE VICTIMS REGISTERED* WITH THE FEDERAL CORRECTIONAL SYSTEM

Figure F5



Source: Correctional Service Canada.

- Of the 8,303 registered victims, 74.1% (6,151) were victims of an offence that caused death.
- Victims of sexual offences (2,817) accounted for 33.9% of the registered victims.
- Victims of assault (1,401) and victims of offences involving violence or threats (706) accounted for 16.9% and 8.5% of the registered victims.

Note:
In 2016, CSC implemented the new Victims Application Module (VAM). Following some implementation and development challenges, CSC has worked towards greater stabilization of the VAM system. This caused a delay in the creation of a new reporting mechanism. For this reason, CSC is unable to report beyond the number of registered victims and is working to develop a new reporting mechanism for VAM.
*In order to register to receive information under sections 26 and 142 of the *Corrections and Conditional Release Act*, a person must meet the definition of a victim that appears in section 2, or subsections 26(3) or 142(3) of the Act. Victims can register with the Correctional Service of Canada or the Parole Board of Canada by completing a *Victims Request for Information* form, though a signed letter of request can be considered as meeting this requirement.
**Some victims were harmed by more than one offence; therefore the number of Offences of Victimization are higher than the actual number of Registered Victims. The percentages represent the number of registered victims who were harmed by that offence.

OFFENCES CAUSING DEATH ARE THE MOST COMMON TYPE OF OFFENCE THAT HARMED THE VICTIMS REGISTERED* WITH THE FEDERAL CORRECTIONAL SYSTEM

Table F5

Type of Offence** That Harmed Victim*	2011-12		2012-13		2013-14		2014-15		2015-16	
	#	%	#	%	#	%	#	%	#	%
Offences Causing Death	4,056	55.4	4,292	56.6	4,533	57.8	5,432	68.5	6,151	74.1
Sexual Offences	2,114	28.9	2,169	28.6	2,237	28.5	2,493	31.4	2,817	33.9
Assaults	998	13.6	965	12.7	941	12.0	1,178	14.9	1,401	16.9
Involving Violence or Threats	707	9.7	710	9.4	720	9.2	849	10.7	706	8.5
Property Crimes	534	7.3	551	7.3	541	6.9	617	7.8	558	6.7
Other Offences	452	6.2	441	5.8	475	6.1	583	7.4	377	4.5
Deprivation of Freedom	272	3.7	281	3.7	249	3.2	330	4.2	157	1.9
Attempts to Cause Death	241	3.3	246	3.2	283	3.6	299	3.8	318	3.8
Driving Offences	125	1.7	152	2.0	153	2.0	163	2.1	157	1.9
Offence Not Recorded	6	0.1	4	0.1	9	0.1	85	1.1	0	0
Total Number of Victims**	**7,322**		**7,585**		**7,838**		**7,929**		**8,303**	

Source: Correctional Service Canada.

Note:
In 2016, CSC implemented the new Victims Application Module (VAM). Following some implementation and development challenges, CSC has worked towards greater stabilization of the VAM system. This caused a delay in the creation of a new reporting mechanism. For this reason, CSC is unable to report beyond the number of registered victims and is working to develop a new reporting mechanism for VAM.
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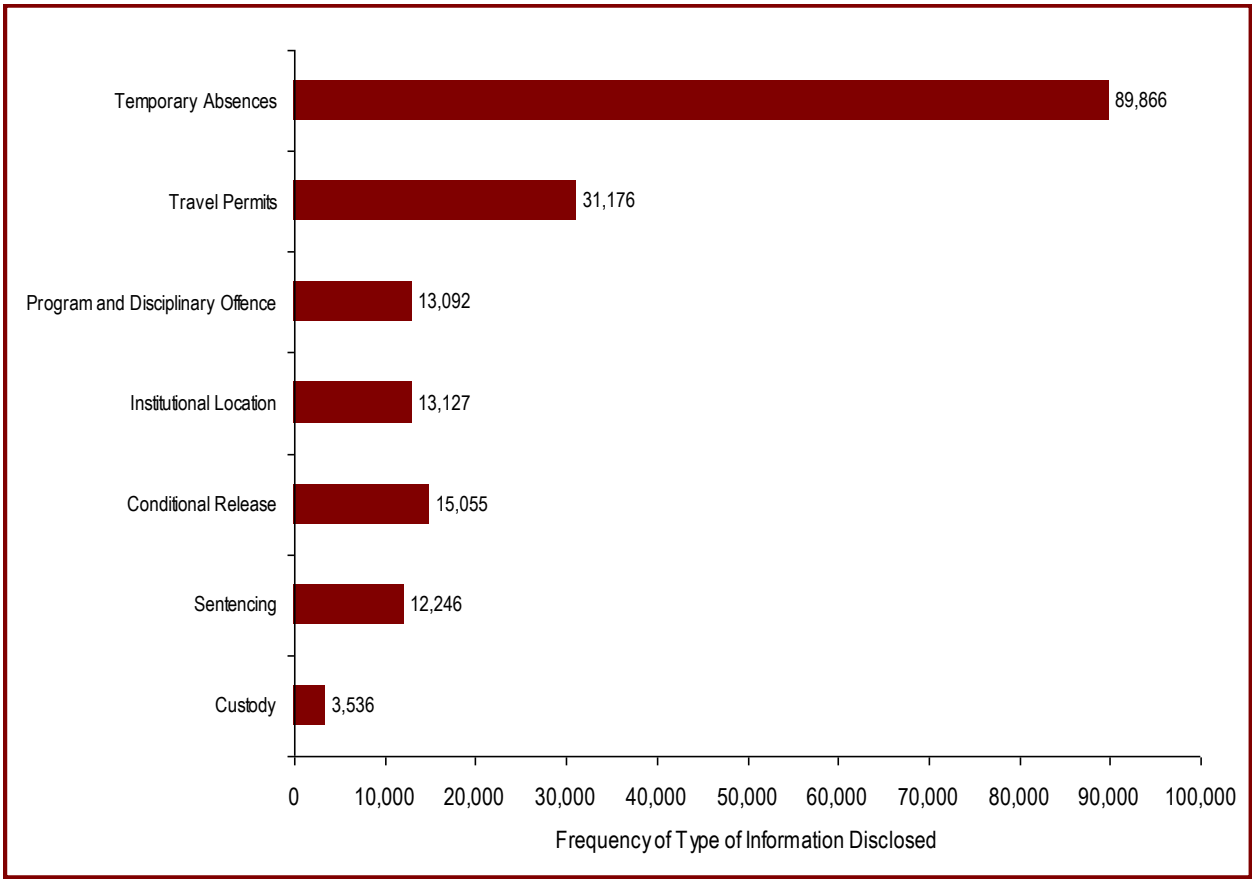
**Some victims were harmed by more than one offence, therefore the number of Offences of Victimization are higher than the number of Registered Victims. The percentages in the table represent the number of registered victims who were harmed by that offence and do not add up to 100%.

TEMPORARY ABSENCE INFORMATION IS THE MOST COMMON TYPE OF INFORMATION PROVIDED DURING A NOTIFICATION TO REGISTERED VICTIMS* WITH CORRECTIONAL SERVICE CANADA

Figure F6



Source: Correctional Service Canada.

- In 2015-16, information on Temporary Absences (41.2%) and Travel Permits (17.5%) were the most frequent pieces of information about offenders that were provided during a notification to registered victims*.
- There has been a 44.6% increase in the number of pieces of information provided to registered victims* during notifications from 123,136 in 2011-12 to 178,098 in 2015-16.

Note:
In 2016, CSC implemented the new Victims Application Module (VAM). Following some implementation and development challenges, CSC has worked towards greater stabilization of the VAM system. This caused a delay in the creation of a new reporting mechanism. For this reason, CSC is unable to report beyond the number of registered victims and is working to develop a new reporting mechanism for VAM.
Temporary Absence information includes information on unescorted and escorted temporary absences and work release. Conditional Release information includes information regarding day and full parole, statutory release, suspensions, detention, and long-term supervision orders. Sentencing information includes information on the offender's sentence, offender information, warrant expiry date, judicial review, and public domain.
Disclosure means a type of information identified in section 26 of the *CCRA* that has been disclosed to a registered victim during a notification.
As of December 2, 2011 as per Bill S6, Correctional Service Canada now provides information to some victims who are not registered which requires providing information to family members of murdered victims where the offender is still eligible to apply for Judicial Review including when the offender does not apply for a Judicial Review within the allotted time period, as well as the next date the offender can apply. Notification to unregistered victims are excluded for the data.
*In order to register to receive information under section 26 and 142 of the *Corrections and Conditional Release Act*, a person must meet the definition of a victim that appears in section 2 or subsection 26(3) or 142(3) of the Act. Victims can register with the Correctional Service of Canada or the Parole Board of Canada by completing a Victims Request for Information form, though a signed letter of request can be considered as meeting this requirement.

TEMPORARY ABSENCE INFORMATION IS THE MOST COMMON TYPE OF INFORMATION PROVIDED DURING A NOTIFICATION TO REGISTERED VICTIMS* WITH CORRECTIONAL SERVICE CANADA

Table F6

Information	2011-12	2012-13	2013-14	2014-15	2015-16
Temporary Absences	75,848	93,609	100,934	96,131	89,866
Travel Permits	10,877	28,763	34,294	34,501	31,176
Institutional Location	6,859	14,434	17,495	16,242	13,127
Program & Disciplinary Offence Information		11,208	14,826	16,790	13,092
Conditional Release	10,870	11,803	12,318	13,253	15,055
Sentencing Information	16,268	12,813	10,333	10,792	12,246
Custody	2,414	2,569	2,476	2,423	3,536
TOTAL	**123,136**	**175,199**	**192,676**	**190,132**	**178,098**

Source: Correctional Service Canada.

Note:
In 2016, CSC implemented the new Victims Application Module (VAM). Following some implementation and development challenges, CSC has worked towards greater stabilization of the VAM system. This caused a delay in the creation of a new reporting mechanism. For this reason, CSC is unable to report beyond the number of registered victims and is working to develop a new reporting mechanism for VAM.
Temporary Absence information includes information on unescorted and escorted temporary absences and work release. Conditional Release information includes information regarding day and full parole, statutory release, suspensions, detention, and long-term supervision orders. Sentencing information includes information on the offender's sentence, offender information, warrant expiry date, judicial review, and public domain.
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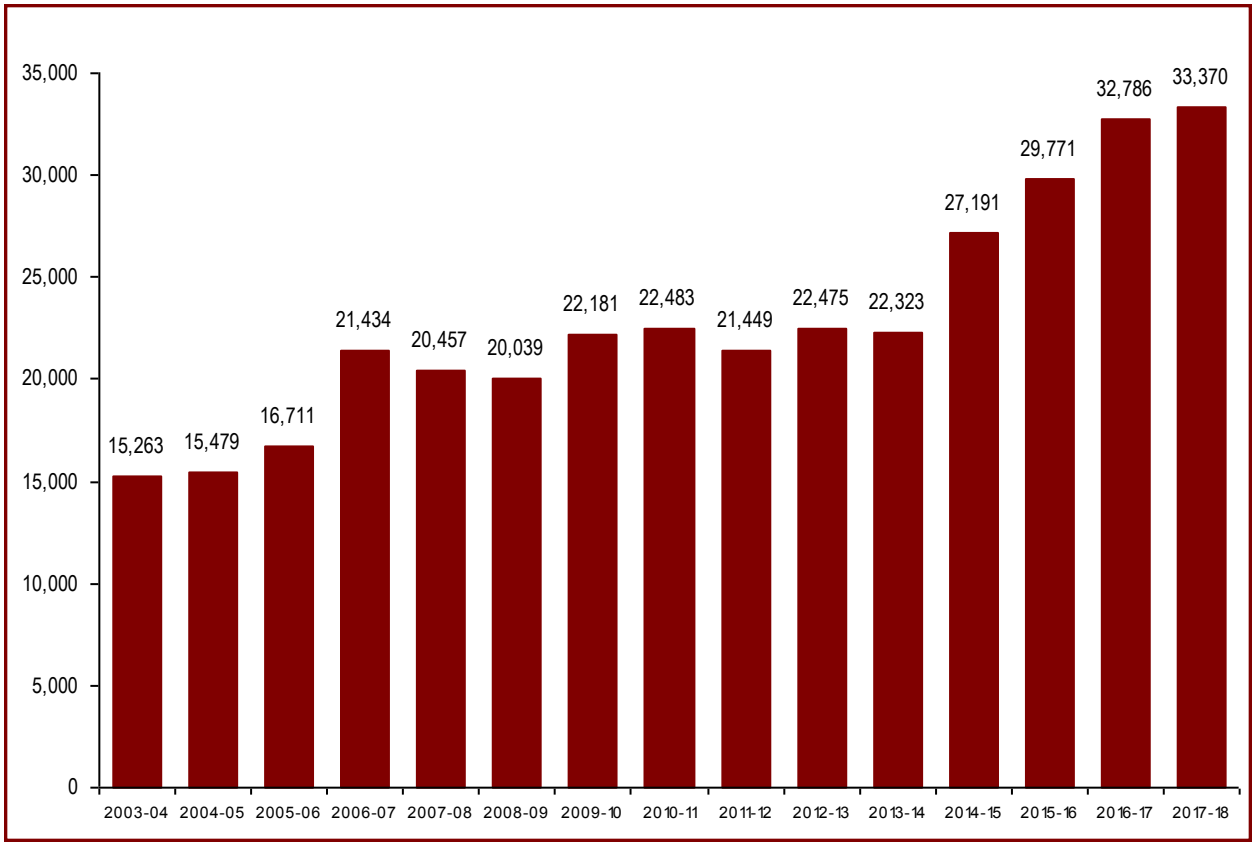
*In order to register to receive information under section 26 and 142 of the *Corrections and Conditional Release Act*, a person must meet the definition of a victim that appears in section 2 or subsection 26(3) or 142(3) of the Act. Victims can register with the Correctional Service of Canada or the Parole Board of Canada by completing a Victims Request for Information form, though a signed letter of request can be considered as meeting this requirement.

PAROLE BOARD OF CANADA CONTACT WITH VICTIMS HAS INCREASED

Figure F7



Source: Parole Board of Canada.

- In 2017-18, PBC reported 33,370 contacts* with victims, an increase of 2% from the previous year.
- Compared to 2003-04, the number of PBC contacts with victims has increased by 119% (18,107 more contacts).

Note:
*A victim contact refers to each time the Parole Board of Canada has contact with a victim by mail, fax, or by telephone.

PAROLE BOARD OF CANADA CONTACT WITH VICTIMS HAS INCREASED

Table F7

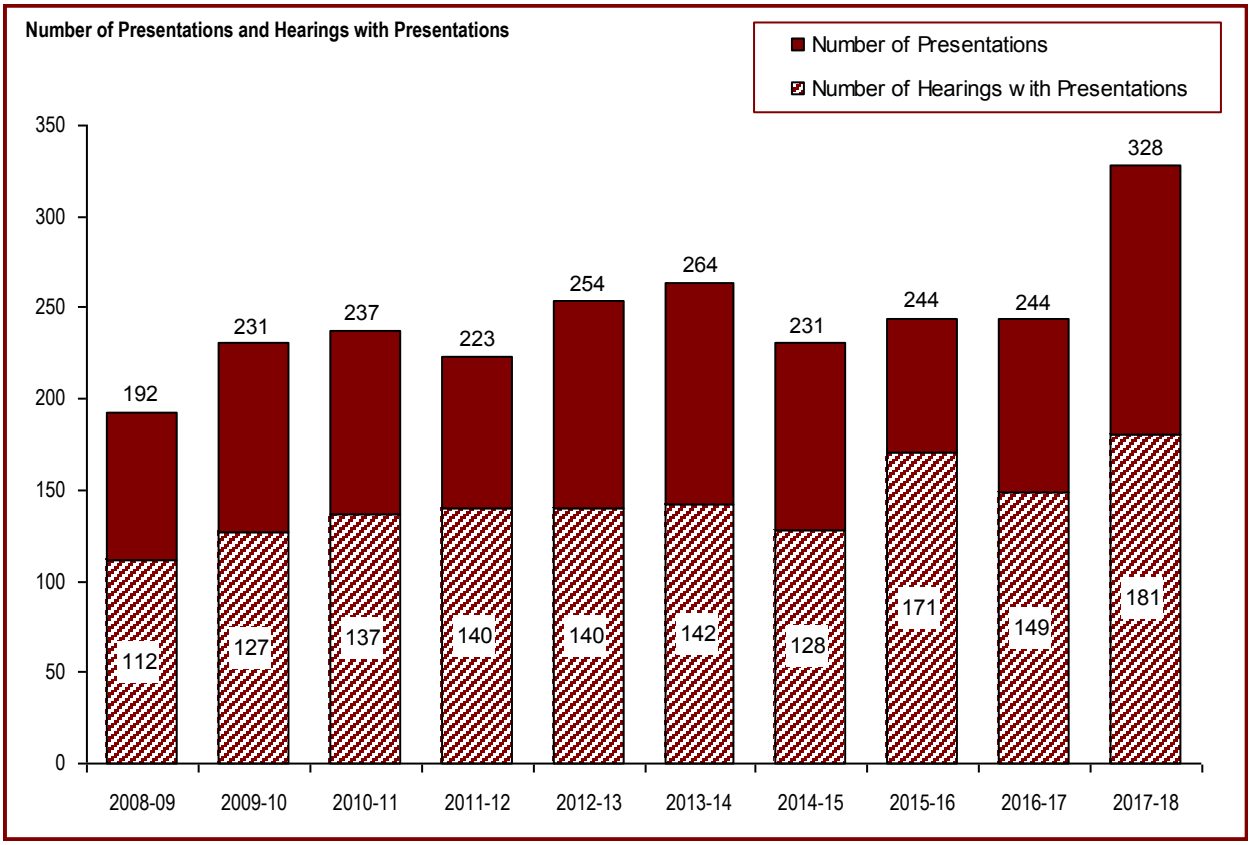
Year	Total Number of Contacts*
2003-04	**15,263**
2004-05	**15,479**
2005-06	**16,711**
2006-07	**21,434**
2007-08	**20,457**
2008-09	**20,039**
2009-10	**22,181**
2010-11	**22,483**
2011-12	**21,449**
2012-13	**22,475**
2013-14	**22,323**
2014-15	**27,191**
2015-16	**29,771**
2016-17	**32,786**
2017-18	**33,370**

Source: Parole Board of Canada.

Note:
*A victim contact refers to each time the Parole Board of Canada has contact with a victim by mail, fax, or by telephone.

VICTIMS PRESENTING A STATEMENT AT PAROLE BOARD OF CANADA HEARINGS

Figure F8



Source: Parole Board of Canada.

- In 2017-18, victims made 328 presentations at 181 hearings. By comparison, victims made 244 presentations at 149 hearings the previous year.
- When compared to 2008-09, the number of victims who present a statement at hearings increased by 71% in 2017-18.
- Between 2008-09 and 2017-18, the majority of presentations were done in person (89%) followed by presentations via video conferencing or tele conferencing (7%) and pre-recorded presentations (audiotape or videotape/DVD) (4%).
- The major offence of victimization for victims making presentations in 2017-18 was most likely to have been murder (31%), sexual assault (18%), and manslaughter (17%).

VICTIMS PRESENTING A STATEMENT AT PAROLE BOARD OF CANADA HEARINGS

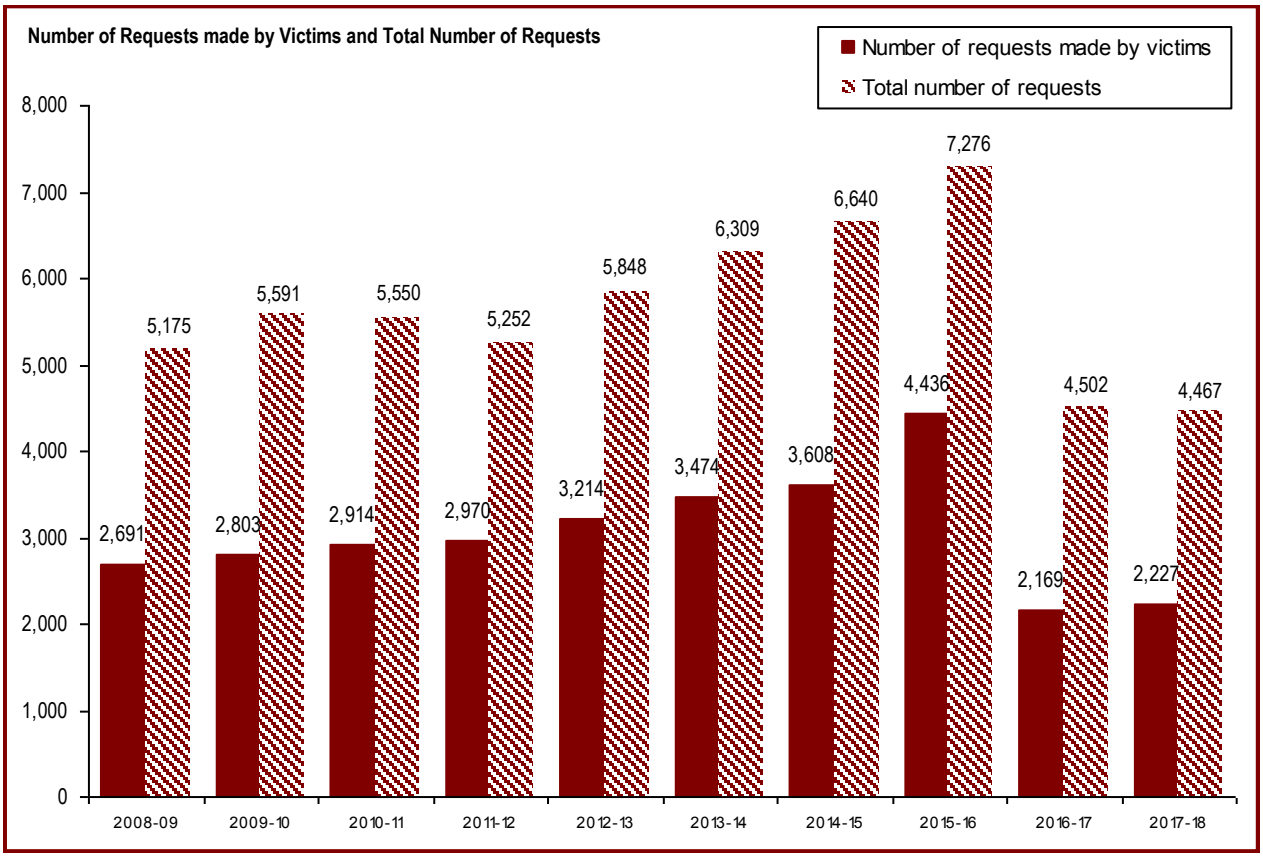
Table F8

Year	Number of Hearings with Presentations	Number of Presentations
2008-09	112	192
2009-10	127	231
2010-11	137	237
2011-12	140	223
2012-13	140	254
2013-14	142	264
2014-15	128	231
2015-16	171	244
2016-17	149	244
2017-18	181	328

Source: Parole Board of Canada.

VICTIMS REQUESTING ACCESS TO THE DECISION REGISTRY

Figure F9



Source: Parole Board of Canada.

- In 2017-18, the number of request for access to the decision registry* made by victims increased to 2,227 (+2.7%) compared to 2016-17, and decreased by 49.8% compared to 2015-16 after reaching a peak (4,436) in the last decade.
- When averaged over the last ten years (between 2008-09 and 2017-18), 53.9% of request for access to the decision registry were made by victims.

Note:
Victims also include victims' agents and victims' organizations.
*Since November 1, 1992, the Corrections and Conditional Release Act (CCRA) requires the Parole Board of Canada (PBC) to maintain a registry of its decisions along with the reasons for those decisions. Anyone may request, in writing, a copy of these decisions.

VICTIMS REQUESTING ACCESS TO THE DECISION REGISTRY

Table F9

Year	Request made by victims*		Total number of requests
	#	%	
2008-09	2,691	52.0	5,175
2009-10	2,803	50.1	5,591
2010-11	2,914	52.5	5,550
2011-12	2,970	56.5	5,252
2012-13	3,214	55.0	5,848
2013-14	3,474	55.1	6,309
2014-15	3,608	54.3	6,640
2015-16	4,436	61.0	7,276
2016-17	2,169	48.2	4,502
2017-18	2,227	49.9	4,467

Source: Parole Board of Canada.

Note:
*Also include victims' agents and victims' organizations.

QUESTIONNAIRE

In order to improve the *Corrections and Conditional Release Statistical Overview*, we are asking our readers to complete the following voluntary questionnaire.

1. Where did you obtain this copy of the *Corrections and Conditional Release Statistical Overview*?

2. How did you become aware of it?

3. Did you experience any difficulties in obtaining or accessing the document? ❒ Yes ❒ No
   Please elaborate.

4. Have you found the *Corrections and Conditional Release Statistical Overview* to be a useful document? ❒ Yes ❒ No Please elaborate.

5. Are there any tables, figures, bullets or notes that are not clear?

6. Are there any topics you would like to see addressed in future publications of the *Corrections and Conditional Release Statistical Overview* that are not currently included?

7. Any additional comments?

(See over for return address)

Please return completed questionnaires to:

Portfolio Corrections Statistics Committee
Public Safety Canada
340 Laurier Avenue West, 12th Floor
Ottawa, Ontario
K1A 0P8

Telephone: 613-946-9994
Fax: 613-990-8295
E-mail: ps.csccbresearch-recherchsscrc.sp@canada.ca

For further information, please visit:

Correctional Service Canada: www.csc-scc.gc.ca

Canadian Centre for Justice Statistics, Statistics Canada: www.statcan.gc.ca

Parole Board of Canada: www.pbc-clcc.gc.ca

Office of the Correctional Investigator: www.oci-bec.gc.ca

Public Safety Canada: www.publicsafety.gc.ca

This is Exhibit "C" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Data Sources (Affidavit of Anthony N. Doob) – 10 June 2020

Data for the time periods covered in this affidavit come from a number of different sources. Prior to about the beginning of this century, most data were available only in printed reports (typically from Statistics Canada for Canada) which are relatively easy to reference. During this century, data quickly became available only from online sources (i.e, from online data delivery programs and/or spreadsheets online).

The online sources themselves vary. The Statistics Canada website that I use is a 'data retrieval' website where one can choose certain dimensions (e.g., geography, offence, etc.) and retrieve data for particular types of cases/people/etc.

The exception, of course, is the *Corrections and Conditional Release Statistical Overview* which, even now, is published as a PDF that, for all practical purposes, is a book. It makes a serious attempt to have comparable data (across years) presented in an understandable, consistent, format. It also has the advantage of being easy to access and to cite explicitly. It also does not change after it is released.

Early data (i.e., much of the data prior to about 2000) used in this affidavit, therefore, typically came from such sources as the following (traditional paper) Canadian reports:

- Canadian Centre for Justice Statistics (1996) Canadian Crime Statistics, 1995. Catalogue no. 85-205-XPE. Ottawa: Statistics Canada. And other reports in this series, both before and after this date.

- Adult Correctional Services in Canada, FFF (1997) 1995–1996. Catalogue no. 85-211-XPB. Ottawa: Statistics Canada and other reports in this series, both before and after this date.

Sometimes these reports would have (some) data from previous years. Sometimes they wouldn't.

More recently (in this century) in Canada, data are available using online software that allows for certain (but not all) combinations of available variables to produce the data series of interest to individual researchers.

I access the Statistics Canada CANSIM data through the University of Toronto's website. When these data were first routinely made available to me, I believe that they were not generally available to everyone without cost. University researchers, through their own University websites (where one had to sign in), had free access. In the past few months, however, the access location at the University of Toronto apparently changed: I got error messages, recently, when I accessed the site I had used for years. I searched (within the "protected" part of the University's site) and found the CANSIM data site for the dimensions that are used in this affidavit. The site is this: http://dc.chass.utoronto.ca.myaccess.library.utoronto.ca/cgi-bin/cansimdim/c2_subjects.pl

It should be noted, however, that some specific data on this website (even if one does get access to it) have been discontinued for various reasons. In addition, some of the prior years' data are included in the online CANSIM data; some are not.

Early data on US criminal justice matters was typically summarized in one easy-to-access printed (annually released) report put out, with US federal government support, by the State University of New York at Albany. The title of this (paper) publication did not change, but the year (and edition number) did:

- Pastore, Ann L., and Kathleen Maguire. 2004. *Sourcebook of Criminal Justice Statistics*. 31st ed, available online Sourcebook of Criminal Justice Statistics (2004) This seems to be available at http://www.albany.edu/

This used to be an annual (paper) report. Then later it disappeared as a printed book and, I believe now is not produced in the same format. In any case, in recent years, I have not used it, but I did use it for data from the earlier years in figures used in this affidavit.

Later data for the US appears to be most easily accessed through the US Bureau of Justice Statistics https://www.bjs.gov/index.cfm?ty=kfa or, for some things, https://www.bjs.gov/index.cfm?ty=tp&tid=3.

These, too, appear to change in format over time.

The data I have used, therefore, are from a changing set of sources. For the past 20 years or so, I have been collecting data on 'crime' and 'imprisonment' from time to time. I check the data for comparability and combine them with data going back to a time when there was no such thing as the internet and personal computers. The data go into Excel files for the variables I'm interested in. What is important – and can be seen in the figures that present data across time – is that there are no surprising discontinuities in the data.

Reliability or consistency of information. There are sometimes minor discrepancies in a given piece of data (e.g., the average number of prisoners) from report to report as some of the figures are updated or corrected. In my experience, these are minor and are not visible in the figure (e.g., the difference in a homicide rate of 1.76 and 1.78 is not going to be visible in a graph).

Another source of error is easy to understand: Canada carries out a national population census only every 5 years. In the years after a census year, population size is estimated based on pre-existing trends. Then, at the time of the next census, the previous 5 years estimates are revised based on a new census data. Since "rates" (of crime or imprisonment) typically use population estimates as their denominators, that means the rates will necessarily change as population estimates are revised. Again, this does not, in my experience, create any substantive problems. But it does mean that the same 'rate' accessed or calculated at two points in time may vary – not because of changes (only) in the numerator but because of changes in the denominator. Or the numerator (e.g., the number of people in prison on an average day in a particular year) might not change, but the denominator (number of residents of Canada) will change because of the population estimate has been revised.

Finally, there is another trivial, but annoying problem (at least to some). When one sees a given year – 2014, for example – does that refer to the calendar year 2014 or the (Canada's) fiscal year 2014-2015. Sometimes it is clear, sometimes it is not. Sometimes one publication will have one definition (not necessarily consistently) and another will have a different definition. Nine of the 12 months will be the same, 3 will differ.

It is easy to suggest that there should be consistency on this and other data matters. The problem is that crime and justice data are gathered by 14 different governments in Canada. Statistics Canada, in my view does a good job of aggregating the data and imposing consistent definitions on the (processed) information it releases. But if, for example, police data, for a given year, are reported on a calendar year basis and corrections data are reported on a fiscal year basis, that's the way it is and little is gained by trying to create absolute consistency.

There are many similar problems. For example, across jurisdictions, are prison population or count data collected for each day and averaged, or are one or more 'census' days used to collect the data?

I have been accessing these data frequently for about 20 years. Typically, when I am updating my files (and copying data points into Excel files), I ensure that the data are reasonably comparable to the ones that I already have. Hence I will ensure that the overlapping years (between my existing data and the source of new data) are comparable to ensure that definitions have not changed in any substantive way. But I don't throw up my arms in despair when the numbers are a bit different "today" from what they were the last time I looked at them.

Conclusion.
All of this said, none of the data that I have presented in this affidavit are controversial. I have been publishing in this area for 20 years and using these data for more specific studies before that. My data in this affidavit, which largely are derived from my publications since about 2003 – which of course are similar to the data presented by others – have never been questioned.

Looking at the data presented in this affidavit from these various sources, I am confident that my 'pictures' of what has happened are going to be the same that anyone else would find.

To be specific, the crime and homicide curves in Figures 1 and 4 are well known and have been published by me and my colleagues, though these are probably more up-to-date than anything that has been published. The Canadian and American imprisonment rates have often been presented and compared.

- - - - - - - - - - - - - - -

Data similar to the data in this affidavit (i.e., same dimensions, but perhaps different years) have been published in the following peer reviewed papers, among other places:

Doob, Anthony N. and Cheryl Marie Webster (2006) Countering Punitiveness: Understanding Stability in Canada's Imprisonment Rate. *Law & Society Review, 40* (2), 325-367.

Webster, Cheryl Marie and Anthony N. Doob (2007) Punitive Trends and Stable Imprisonment Rates in Canada. In Tonry, Michael (ed.). *Crime and Justice: A Review of Research.* Volume 36. Chicago: University of Chicago Press. Pages 297-369.

Doob, Anthony N. and Cheryl Marie Webster (2016). Weathering the Storm? Testing Longstanding Canadian Sentencing Policy in the 21st Century. *Crime and Justice: A Review of Research, 45,* 359-418. (Michael Tonry, editor)

Webster, Cheryl Marie and Anthony N. Doob (2018). Penal Optimism: Understanding American Mass Imprisonment from a Canadian Perspective. In Kevin Reitz (ed.) *American Exceptionalism in Crime and Punishment.* New York: Oxford University Press. (Pages 121-180)

Webster, Cheryl Marie and Anthony N. Doob (2019) Missed Opportunities: A Postmortem on Canada's Experience with the Conditional Sentence. *Law and Contemporary Problems, 82*(1), 163-197.

Webster, Cheryl Marie, Jane B. Sprott and Anthony N. Doob (2019). The Will to Change: Lessons from Canada's Successful Decarceration of Youth. *Law & Society Review.* 53(4), 1092–1131.

Doob, Anthony N. and Cheryl Marie Webster (in press). Canadian Criminal Justice Policy and Imprisonment: Understanding What is Uniquely Canadian. In Carla Cesaroni (editor) *Canadian Prisons: Understanding the Canadian Correctional Landscape.* Oxford University Press, Canada

Webster, Cheryl Marie and Anthony N. Doob (in press) Principles and Politics: Sentencing and Imprisonment Policy in Canada. In David Cole and Julian V. Roberts (editors) *Sentencing in Canada: Law, Policy and Practice.* Irwin Law.

This is Exhibit "D" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Statistics Canada, CANSIM using CHASS.

Series	2014	2015	2016	2017	2018
v1064468671 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; Total all ages; Both sexes (Number)	486	588	541	590	507
v1064468675 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; Age unknown; Both sexes (Number)	1	0	0	0	0
v1064468679 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 0 to 11 years; Both sexes (Number)	0	0	0	0	0
v1064468683 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 12 to 17 years; Both sexes (Number)	29	39	24	53	37
v1064468687 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 18 to 24 years; Both sexes (Number)	143	179	154	176	148
v1064468691 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 25 to 29 years; Both sexes (Number)	88	113	118	122	87
v1064468695 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 30 to 39 years; Both sexes (Number)	106	128	118	125	120
v1064468699 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 40 to 49 years; Both sexes (Number)	54	64	60	54	51

v1064468703 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 50 to 59 years; Both sexes (Number)	42	47	41	32	33
v1064468707 Canada [11124]; Number of persons accused of homicide; Total, by Aboriginal identity; 60 years and over; Both sexes (Number)	23	18	26	28	31

Statistics Canada, CANSIM using CHASS.

Series	2018
v466677 Canada [11124]; Both sexes; 18 years and over (Persons)	29888234
v466731 Canada [11124]; Both sexes; 18 years (Persons)	439964
v466734 Canada [11124]; Both sexes; 19 years (Persons)	463000
v466758 Canada [11124]; Both sexes; 20 to 24 years (Persons)	2436616
v466776 Canada [11124]; Both sexes; 25 to 29 years (Persons)	2574356
v466797 Canada [11124]; Both sexes; 30 to 34 years (Persons)	2552543
v466815 Canada [11124]; Both sexes; 35 to 39 years (Persons)	2516539
v466836 Canada [11124]; Both sexes; 40 to 44 years (Persons)	2380960
v466857 Canada [11124]; Both sexes; 45 to 49 years (Persons)	2406648
v466875 Canada [11124]; Both sexes; 50 to 54 years (Persons)	2579089
v466896 Canada [11124]; Both sexes; 55 to 59 years (Persons)	2726799

v466914 Canada [11124]; Both sexes; 60 to 64 years (Persons)	2456319
v466935 Canada [11124]; Both sexes; 65 to 69 years (Persons)	2035621
v466938 Canada [11124]; Both sexes; 70 to 74 years (Persons)	1625081
v466941 Canada [11124]; Both sexes; 75 to 79 years (Persons)	1109520
v466944 Canada [11124]; Both sexes; 80 to 84 years (Persons)	765344
v466947 Canada [11124]; Both sexes; 85 to 89 years (Persons)	503414
v31226524 Canada [11124]; Both sexes; 90 to 94 years (Persons)	236991
v31226530 Canada [11124]; Both sexes; 95 to 99 years (Persons)	69535
v31226536 Canada [11124]; Both sexes; 100 years and over (Persons)	9895
	59776468

	Federal Imprisonment
1960	35.50084
1961	36.94444
1962	38.50811
1963	38.13443
1964	39.66201
1965	38.24989
1966	37.16231
1967	35.17028
1968	33.30258
1969	34.08885
1970	34.4507
1971	34.07244
1972	37.14478
1973	40.50814
1974	37.26329
1975	37.59191
1976	39.59521
1977	39.34528
1978	35.59624
1979	34.97711
1980	35.28764
1981	36.0114
1982	38.91795
1983	41.14884
1984	42.39457
1985	43.39428
1986	42.55127
1987	39.91817
1988	41.16939
1989	41.84878
1990	40.76756
1991	42.02598
1992	43.50176
1993	46.44277
1994	48.09545
1995	48.03717
1996	47.94629
1997	46.00757
1998	43.6741
1999	42.35676
2000	41.1983

2001	40.7439
2002	40.18698
2003	39.12472
2004	38.51556
2005	39.02257
2006	39.71231
2007	40.45284
2008	40.13322
2009	39.27999
2010	40.46637
2011	41.53944
2012	41.64136
2013	43.07192
2014	42.68285
2015	41.14029
2016	39.77791
2017	38.4888

	Criminal Code (non-traffic) per 1000 residents
1960	
1961	
1962	27.7127
1963	30.2205
1964	32.4523
1965	31.9903
1966	35.1143
1967	38.5007
1968	43.3568
1969	47.3687
1970	52.1233
1971	53.1123
1972	53.5475
1973	57.7295
1974	63.8749
1975	68.5241
1976	69.8387
1977	69.7138
1978	71.5384
1979	76.6584
1980	83.4309
1981	87.3557
1982	87.7345
1983	84.702
1984	83.8677
1985	84.131
1986	87.2662
1987	89.5675
1988	89.1948
1989	88.9214
1990	94.8531
1991	103.4194
1992	100.3986
1993	95.3788
1994	91.2517
1995	90.0842
1996	89.322
1997	84.7545
1998	80.9173
1999	76.9433

2000	76.0679
2001	75.8673
2002	75.1211
2003	77.7025
2004	75.9962
2005	73.2504
2006	72.4522
2007	69.0756
2008	66.3085
2009	64.612
2010	61.5886
2011	57.7993
2012	56.3811
2013	52.0604
2014	50.6135
2015	52.316
2016	52.9709
2017	53.7525
2018	54.8836

	Canada	US
1950		
1951	91.55281454	
1952	91.92890241	
1953	92.22633883	
1954	94.57055014	
1955	96.29252134	170.24
1956	90.18829909	170.24
1957	91.33654425	171.76
1958	99.30913349	177.84
1959	99.87416347	177.84
1960	96.47453833	177.84
1961	101.7589455	180.88
1962	103.4380701	177.84
1963	104.5725394	173.28
1964	104.766595	168.72
1965	102.527425	164.16
1966	98.40169074	155.04
1967	95.72087545	148.96
1968	93.82110129	142.88
1969	90.66234941	147.44
1970	86.95080551	145.92
1971	82.71092584	144.4
1972	82.17940188	141.36
1973	84.08850932	145.92
1974	81.05061876	155.04
1975	86.31881184	168.72
1976	93.0540668	182.4
1977	94.14628597	191.52
1978	91.84498416	200.64
1979	90.19259267	202.16
1980	91.78620349	222
1981	96.95440133	243
1982	107.1945781	264
1983	106.3609568	277
1984	107.9116757	289
1985	105.997512	312
1986	103.0372167	333
1987	100.7085939	354
1988	102.5166444	389
1989	106.8674489	437
1990	105.5355688	458
1991	109.5785561	481
1992	111.7644952	505
1993	114.3603622	528
1994	116.4111317	564
1995	115.3687161	601

1996	113.8860241	618
1997	109.3919511	648
1998	107.4130797	669
1999	103.762058	691
2000	102.6698729	684
2001	102.939028	685
2002	102.9685235	701
2003	100.2543169	712
2004	100.4874945	723
2005	103.7738734	737
2006	108.5930353	751
2007	110.6503274	756
2008	111.6923947	756
2009	110.9229411	743
2010	112.3225768	736.7948
2011	113.7950975	722.9224
2012	114.113606	710.9229
2013	113.8300206	702.3402
2014	111.502496	697.6
2015	112.0407045	679
2016	109.9496357	679
2017	105.66038	669

Can_US_Hom

	Canada	USA
1960		
1961	1.28	4.8
1962	1.43	4.6
1963	1.32	4.6
1964	1.31	4.9
1965	1.41	5.1
1966	1.25	5.6
1967	1.66	6.2
1968	1.81	6.9
1969	1.86	7.3
1970	2.19	7.9
1971	2.15	8.6
1972	2.34	9
1973	2.43	9.4
1974	2.63	9.8
1975	3.03	9.6
1976	2.85	8.8
1977	3	8.8
1978	2.76	9
1979	2.61	9.7
1980	2.41	10.2
1981	2.61	9.8
1982	2.66	9.1
1983	2.69	8.3
1984	2.6	7.9
1985	2.72	8
1986	2.18	8.6
1987	2.43	8.3
1988	2.15	8.5
1989	2.41	8.7
1990	2.38	9.4
1991	2.69	9.8
1992	2.58	9.3
1993	2.18	9.5
1994	2.05	9
1995	2	8.2
1996	2.14	7.4
1997	1.95	6.8
1998	1.84	6.3
1999	1.76	5.7
2000	1.77	5.5
2001	1.78	5.6
2002	1.85	5.6
2003	1.73	5.7
2004	1.95	5.5
2005	2.04	5.6

2006	1.85	5.7
2007	1.8	5.7
2008	1.83	5.4
2009	1.81	5
2010	1.63	4.8
2011	1.74	4.7
2012	1.56	4.7
2013	1.44	4.5
2014	1.47	4.4
2015	1.71	4.9
2016	1.69	5.4
2017	1.82	5.3
2018	1.76	5

This is Exhibit "E" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

American Exceptionalism in Crime and Punishment

Edited by

KEVIN R. REITZ

Oxford University Press

3

Penal Optimism

UNDERSTANDING AMERICAN MASS IMPRISONMENT FROM A CANADIAN PERSPECTIVE

Cheryl Marie Webster and Anthony N. Doob

The American, by nature, is optimistic. He is experimental, an inventor and a builder who builds best when called upon to build greatly.

JOHN F. KENNEDY

Introduction

Particularly for those who have kept abreast of the rates of imprisonment of Western countries since the mid-1970s, it is likely that few people would disagree with the characterization of American mass incarceration as "exceptional." Indeed, the US imprisonment rate began its steady climb in the early 1970s, increasing by a factor of roughly 5 over the next four decades from approximately 96 adult prisoners per 100,000 residents in state and federal prisons in 1970 to 497 in 2010 (or, including an estimate of the jail population for 1970,[1] from 146 in 1970 to 731 in 2010) (Bureau of Justice Statistics 2015) before beginning to decline slowly. The United States currently holds the (in)famous status of imprisoning its citizens at a rate that exceeds almost every other nation in the world.[2] In fact, any academic debate surrounding this phenomenon appears to be rooted primarily (if not almost exclusively) in the various theories which have been proposed to explain it (see, for example, the differing explanations of Bottoms 1995; Ruth and Reitz 2003; Cavadino and Dignan 2006; Simon 2007; Wacquant 2011). Several of the more compelling explanations have been developed through a comparison of the United States with comparable nations (e.g., Garland 1990, 2001; Roberts et al. 2003; Whitman 2003; Tonry 2004). Within this context, Canada may arguably be well suited to shed light on America's dramatic prison boom.

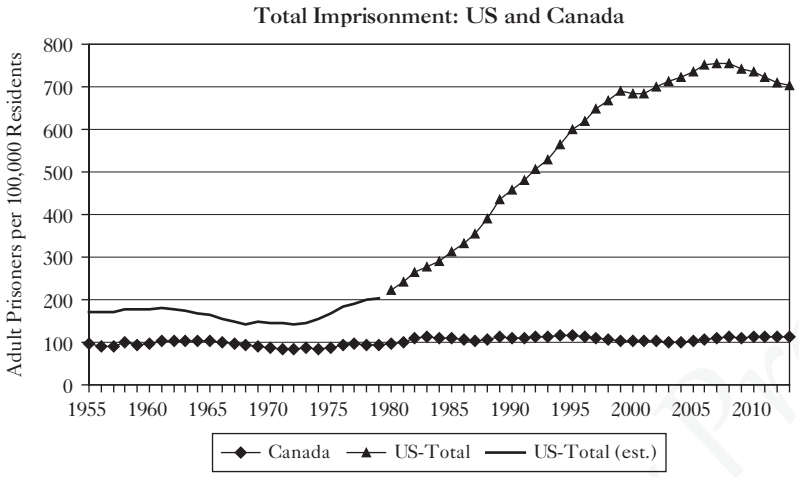


FIGURE 3.1 US and Canadian Imprisonment Rates per 100,000 Residents (1955–2013)

In striking contrast with the United States, Canadian levels of incarceration have remained relatively stable over the last half-century (Doob and Webster 2006; Webster and Doob 2007, 2011, 2012). Further, the current imprisonment rate in Canada—112 per 100,000 general population in 2015—is roughly one-sixth that of the United States (Figure 3.1).

Having said this, Canada is arguably America's closest comparator. The affinities between these two countries are not only geographical, historical, cultural, and economic in nature but also criminological. Canada has experienced a crime culture similar to that found in the United States since the 1960s. While the crime *rates* of the two countries may be somewhat different (and certainly the manner in which national crime figures are estimated in Canada and the United States is considerably different), the *patterns* of growth and decline in levels of crime are remarkably similar—both for crime generally (Figure 3.2)[3] and for homicide in particular (Figure 3.3).[4]

The same can be said for the levels of incarceration of these two nations before 1970 (Figure 3.1). Although the estimated "total" imprisonment rate in the United States (including federal and state prisons as well as the jail populations) is likely to have been about 50 percent higher than that in Canada, both countries showed relative stability from 1930 to 1970.[5]

Methodologically, one has the ingredients of an (*ex post facto*) pseudonatural experiment. That is, one has two broadly comparable groups whose imprisonment rates paralleled each other for at least 50 years (Blumstein, Cohen,

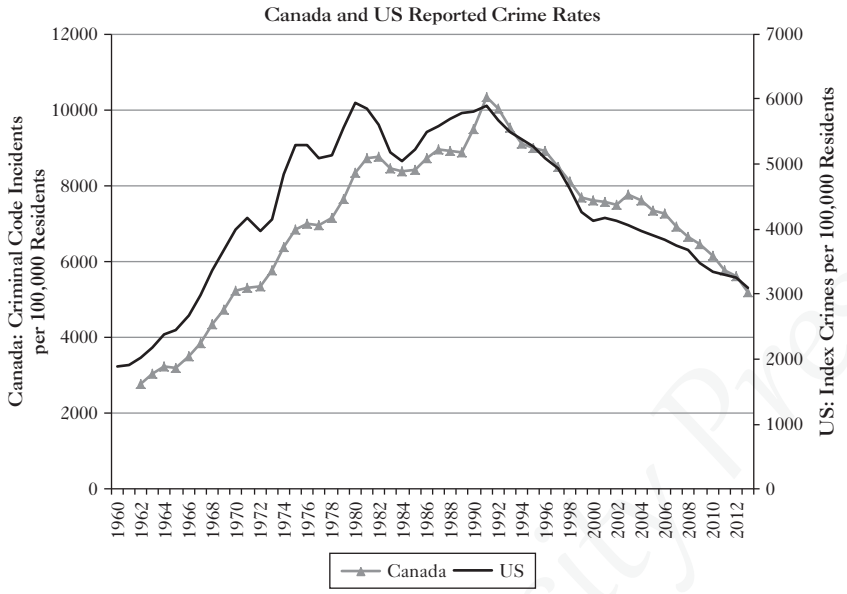


FIGURE 3.2 US and Canadian Reported Crime Rates per 100,000 Residents (1962–2013)

Sources: Sourcebook of Criminal Justice Statistics (2004) (http://www.albany.edu/sourcebook; US Bureau of Justice Statistics, http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls); Statistics Canada, CANSIM. (http://www5.statcan.gc.ca/cansim/a33?lang=eng&spMode=master&themeID=2693&RT=TABLE).

and Nagin 1977; Webster and Doob 2012, Figure 4.1) before diverging dramatically in the mid-1970s. While Canada's levels have remained relatively stable until the present, those of the United States have skyrocketed. One simply needs to identify the independent variable (or set of variables) that occurred in the United States but not in Canada at the time of the divergence as a means of exploring possible (additional) explanations for America's mass incarceration.

The impetus for this chapter derives from this loose methodology. Specifically, we set out to use the Canadian experience as a foil to that of the United States in order to better understand American exceptionalism as it relates to the dramatic growth in its levels of imprisonment since the mid-1970s. Although methodologically simple in design, the identification of the illusive "experimental treatment" proved to be considerably more difficult. The irony, it turns out, is that the most valuable clue was contained in its very name (read *treatment*). While one's attention is naturally drawn to the

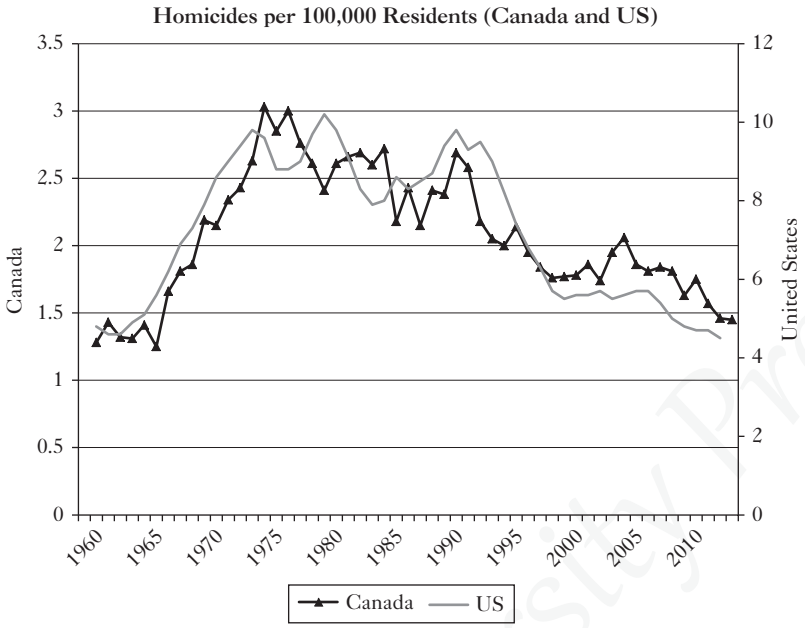


FIGURE 3.3 US and Canadian Homicide Rates per 100,000 Residents (1962–2013)
Sources: Sourcebook of Criminal Justice Statistics (2004) (http://www.albany.edu/sourcebook; US Bureau of Justice Statistics, http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls); Statistics Canada, CANSIM. (http://www5.statcan.gc.ca/cansim/a33?lang=eng&spMode=master&themeID=2693&RT=TABLE).

mid-1970s as the era which must contain the source of the divergence in Canadian and American patterns of incarceration rates, a closer examination of the preexisting trends in imprisonment of these two countries—decades prior to the 1970s—reveals the deceptive nature of their similarity. Although they clearly paralleled each other for over a half-century, they were rooted in fundamentally different conceptualizations of the role of the criminal justice system in controlling crime.

Most obviously, most US states had what is now commonly referred to as an "indeterminate sentencing system" whereby judges—when incarcerating an offender—set broad ranges of possible sentences and administrative bodies (e.g., parole authorities) largely determined when, if ever, the prisoner would be released (see Reitz 2012). The philosophical underpinnings of this sentencing structure were firmly (if not exclusively) entrenched in a rehabilitative model and reflected the optimism of the American policy elite in the ability of the criminal justice system to control crime. During the high-indeterminate

era (which began to crumble in the 1970s), the standard narrative in US corrections was that most prisoners were on the path to rehabilitation and that parole boards could detect when individual prisoners had reached that goal and were safe to release (American Law Institute 1962; Frankel 1973). Even if one were to consider the post-1970s era, in which indeterminate sentencing was replaced by more determinate punishment systems, the same utilitarian optimism would appear to be embraced, albeit now rooted predominantly in an incapacitation (and deterrence) model.

In sharp contrast, sentences (other than for murder) would be considered—using the definition given by van Zyl Smit and Corda (see van Zyl Smit and Corda, this volume)—determinate in Canada during the pre-1970s era whereby judges handed down fixed-length (or maximum-term) sentences (although prisoners could be released on parole after serving at least one-third of the sanction). The guiding principle at the root of this sentencing system was proportionality. Notably, this punishment structure has been maintained until the present. In fact, proportionality as the fundamental principle in the determination of sanctions was formally codified in the *Criminal Code* of Canada in 1996 and has been virtually constitutionalized by the Supreme Court of Canada in *Ipeelee* (paragraphs 37–39). In contrast with the United States, the Canadian government and those responsible for developing criminal justice policy have generally been pessimistic about the ability of the criminal justice system to solve society's crime problems.

This distinction raises the possibility that American exceptionalism in the growth of imprisonment since the mid-1970s is rooted, at least in part, in its long-standing belief that crime can be controlled through criminal justice interventions. Optimism in the effectiveness of either rehabilitation or incapacitation/deterrence as a justification of punishment places few natural limits or constraints on the use of criminal law generally and prison in particular (Rothman 1980; Allen 1981; Zimring and Hawkins 1995). In contrast, Canada's long-standing pessimism concerning the utilitarian purposes of sentencing and its corresponding focus on proportionality as the guiding principle may serve a restraining function on the recourse to punishment and, by extension, imprisonment as an appropriate state response to crime.

This chapter explores this hypothesis of penal optimism. To this end, it begins by addressing the methodological issue of the "unit of analysis." Given the American federal structure and its 51 separate criminal justice jurisdictions, it is entirely possible that America's mass incarceration is not actually a "national" phenomenon. Rather, it could be the result of political actions or structures of particular (especially punitive) states, suggesting the need for a more "local" explanatory focus. The second part tests our

hypothesis by comparing the broad intellectual histories of American punishment philosophy preceding and following the mid-1970s with a focus on the (optimistic) role of the criminal justice system vis-à-vis crime control. The third part extends this hypothesis testing to Canada, where its broad currents of intellectual thought and policy approach surrounding crime and appropriate responses to it are compared with those of the United States. The chapter concludes with a brief discussion of the implications of our findings, particularly as they relate to explanations of American exceptionalism and the core values underlying it.

Exceptionalism or Exceptionalisms?

Prior research on Canadian imprisonment rates (see, for example, Sprott and Doob 1998; Tucker 2009) has highlighted not only considerable variability across provinces/territories but also diverging trends over time.[6] In particular, levels of incarceration of some provinces/territories have shown a long-term increase, while others have shown a decline. Within the context of explaining Canada's (overall) relative stability in imprisonment rates over the past half-century, macro- or national-level theories have some difficulty in taking this "local" variation into account.

A similar concern arises when attempting to understand "American" exceptionalism. As various authors (see, for example, Zimring and Hawkins 1991; Zimring and Johnson 2006; Zimring 2010) have reminded us, the particular American federal structure is an important consideration when attempting to explain mass imprisonment in the United States. This perspective is consistent with the detailed work of others (Miller 2008; Barker 2009; Lynch 2010; Campbell 2014) who have suggested that to understand exactly how imprisonment changed in the United States one needs to examine the political actions or structures in each state. Within this context, it is not implausible—certainly when viewed from the Canadian context—that America's dramatic growth in levels of incarceration since the mid-1970s could be driven primarily by certain states, with other states theoretically displaying diverging patterns. In this case, although it would not be incorrect to talk of "American" exceptionalism, explanations for this phenomenon would arguably need to be more "locally" grounded.

To explore this question of the limits of one particular unit of analysis (country) over another (state), we examined change in levels of incarceration at the state level. Table 3.1 lists the states with the smallest and the largest absolute change in imprisonment rates (in effect, the data used to form the fourth column in Table 3.1). It also displays the incarceration rate in the early 1970s,

the rate in the late 2000s, as well as the difference between these two rates and, for the sake of completeness, the ratio of the two rates.[7]

From the perspective of our macro-level hypothesis, the absolute change in imprisonment rates from 1971–1975 (immediately prior to the increase in mass incarceration and henceforth referred to as the early 1970s rates) to 2006–2010 (the peak of mass incarceration and henceforth referred to as the late 2000s rates) shows very clearly that *every* state—without exception—increased its levels of incarceration over this 35-year period. Further, the increases were nontrivial in size.[8] Ignoring jails and federal imprisonment, the smallest increases in state prison populations occurred in Maine, Minnesota, and Nebraska, whose rates rose by 100, 144, and 174 per 100,000 residents, respectively. Notably, these three "low-increase" states had imprisonment rates—in the early 1970s—of 49, 38, and 69, respectively. From any normal perspective, these *smallest* increases were huge. Simply as a relevant comparator, Canada's increase of 25.4 per 100,000 residents was dramatically less (in absolute or relative terms) than that of any US state.

Having said this, one cannot also help but notice the enormous variation across states in the size of the increase in state imprisonment rates. Judged by absolute numbers, a comparison of the smallest increases (Maine with 100 and Minnesota with 144) with the largest increases (Mississippi with 616 and Louisiana with 749 *additional* state prisoners on an average day per 100,000 residents) tells the story. The contributions of the states to America's prison binge are remarkably uneven. Nonetheless, we argue that when 50 out of 50 states (as well as the federal prisons) show huge increases in their prison systems (without even including nationwide increases in jail populations), there is *something* exceptional and distinctly American that is worth exploring that is *not* state-specific. Simply put, the universality of the large increases in imprisonment in the United States is truly exceptional and deserving of its own explanation.

But we hasten to add that an examination of America as a unified jurisdiction does not tell the whole story. Another way of ordering the 50 states is to compare the states that, in the early 1970s, had the lowest imprisonment rates to those that had the highest levels during this same period. Table 3.2 presents the data.

By world standards, the rates for the "low" states were low in 1971–1975. Even adding in the *average* federal rate for the period (10.6) and multiplying this sum by 1.52 to take into account the missing jail populations, these rates were very low.[9] The same cannot be said for the 2006–2010 rates, especially if one were to add the jail and federal rates. At the same time, both this table as well as Table 3.1 show striking variability across states. A simple comparison

Table 3.1 Ten States with the Lowest and Highest Absolute Change in Imprisonment Rates from 1971–1975 to 2006–2010

Ten States with Lowest and Highest Absolute Change in Imprisonment Rates, 1971–1975 to 2006–2010	Average Imprisonment Rate, 1971–1975	Average Imprisonment Rate, 2006–2010	Absolute Change in Imprisonment Rate between 1971–1975 and 2006–2010	Ratio of 2006–2010 Imprisonment Rate to 1971–1975 Imprisonment Rate
Maine	49.12	149.6	100.48	3.0
Minnesota	37.56	182	144.44	4.8
Nebraska	69.16	243.4	174.24	3.5
Rhode Island	41.9	217	175.1	5.2
New Hampshire	30.34	212.8	182.46	7.0
North Carolina	182.8	366.2	183.4	2.0
Washington	83.76	271.2	187.44	3.2
Utah	49.86	237.4	187.54	4.8
Massachusetts	37.02	224.6	187.58	6.1
North Dakota	24.54	222.8	198.26	9.1
Delaware	63.14	464.6	401.46	7.4
Idaho	57.92	477.4	419.48	8.2
Arkansas	89.62	514.4	424.78	5.7
Missouri	82.18	509.2	427.02	6.2

Arizona	89.44	556.4	466.96	6.2
Texas	143.62	657.4	513.78	4.6
Alabama	109.86	628.4	518.54	5.7
Oklahoma	125.36	660.2	534.84	5.3
Mississippi	87.22	703	615.78	8.1
Louisiana	113.44	862.4	748.96	7.6
Canada	84.9	110.3	25.4	1.3

Source: Sourcebook on Criminal Justice Statistics (University at Albany, School of Criminal Justice), http://www.albany.edu/sourcebook/pdf/t31062012.pdf; US Bureau of Justice Statistics, http://www.bjs.gov/index.cfm?ty=tp&tid=11; Statistics Canada, CANSIM, http://www5.statcan.gc.ca/cansim/a01?lang=eng.

Table 3.2 Ten Highest and 10 Lowest State Prison Rates in 1971–1975: Change in Imprisonment Rates from 1971–1975 to 2006–2010

Ten States with Lowest and Highest Imprisonment Rates, 1971–1975	Average Imprisonment Rate, 1971–1975	Average Imprisonment Rate, 2006–2010	Absolute Change in Imprisonment Rate between 1971–1975 and 2006–2010	Ratio of 2006–2010 Imprisonment Rate to 1971–1975 Imprisonment Rate
North Dakota	24.54	222.8	198.26	9.1
New Hampshire	30.34	212.8	182.46	7.0
Massachusetts	37.02	224.6	187.58	6.1
Minnesota	37.56	182	144.44	4.8
Hawaii	38.08	325.4	287.32	8.5
Rhode Island	41.9	217	175.1	5.2
Montana	42.8	368.8	326	8.6
Vermont	43.86	264.8	220.94	6.0
South Dakota	45.94	417.4	371.46	9.1
Maine	49.12	149.6	100.48	3.0
Alabama	109.86	628.4	518.54	5.7
Louisiana	113.44	862.4	748.96	7.6
Oklahoma	125.36	660.2	534.84	5.3
Nevada	129.28	485	355.72	3.8

Texas	143.62	657.4	513.78	4.6
South Carolina	145.22	515	369.78	3.5
Florida	145.7	543.2	397.5	3.7
Maryland	146.44	394.4	247.96	2.7
Georgia	177.82	533.2	355.38	3.0
North Carolina	182.8	366.2	183.4	2.0
Canada	84.9	110.3	25.4	1.3

Source: Sourcebook of Criminal Justice Statistics (2004), http://www.albany.edu/sourcebook; US Bureau of Justice Statistics, http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls; Statistics Canada, CANSIM, http://www5.statcan.gc.ca/cansim/a01?lang=eng.

of the two states with the lowest imprisonment rates—North Dakota (25 per 100,000 residents) and New Hampshire (30)—with the two states with the highest imprisonment rates—Georgia (178) and North Carolina (183)—shows that large state variation already existed before the "great increase" in American levels of incarceration.

More importantly for our current discussion surrounding units of analysis, it is clear that a "national" explanation for American mass incarceration will seemingly do very little or nothing to explain, for example, why six states (Massachusetts, Minnesota, Hawaii, Rhode Island, Montana, and Vermont) with almost identical 1971–1975 imprisonment rates (ranging from 37 to 43) ended up, 35 years later, with imprisonment rates ranging from 182 to 369. On the contrary, this variability suggests additional explanatory factors above and beyond any national explanation for American exceptionalism in its growth in incarceration. Each of the American states is, in some way, exceptional. The question is simply one of differing degrees.

However, what happened between the early 1970s and the late 2000s is exceptional in yet another way. In a certain statistical sense, the comparison of state prison incarceration rates in the early 1970s and late 2000s is intriguing because it appears to describe an unusual relationship. First of all, we have a perfectly intuitive finding. Treating each of the 50 states as a unit, there is a reasonably high correlation between the imprisonment rate of the states in the early 1970s and their imprisonment rate 35 years later ($r = +.61$). In other words, states with relatively high imprisonment rates in the early 1970s had relatively high imprisonment rates in the late 2000s. This finding is hardly surprising: if every state were to increase its imprisonment rate by roughly 350 prisoners per 100,000 residents, there would be a very high relationship between early 1970s rates and late 2000s rates.

What is more interesting is the correlation between the imprisonment rate in the early 1970s and the *size of the increase* in imprisonment rates (between the early 1970s and the late 2000s). The relationship is positive and large ($r = +.41$). If these 50 states were conceptualized as part of the same population, one might expect what is typically called "regression to the mean" whereby states that started this period with low rates would show greater increases than would states that started already high. In intuitive terms, while all states might increase, a state that was anomalously low for some reason in the early 1970s would be expected to increase more than a state that was already very high simply because it had, after all, more "room" to increase. In contrast, a state that was already very high might be expected to increase less as it was already imprisoning large numbers of people.

This statistical phenomenon is *not* what happened. As Table 3.3 shows, states with low rates in the early 1970s tended to increase less than states with high rates in the early 1970s.

From Table 3.3, one can see that those 17 states with, initially, low imprisonment rates tended to increase *relatively* little. Only two of them showed high rates of imprisonment in 2006–2010. On the other hand, 10 of the 17 states that had high imprisonment rates in the early 1970s had large increases in imprisonment over the next 35 years. In numerical terms, the average state imprisonment rate increase for all states was 327 adult prisoners per 100,000 total residents. However, for those states that had low imprisonment rates in the early 1970s, the increase was only 255. In contrast, those with high rates in the early 1970s increased an average of 399. In brief, the states with low imprisonment rates in the early 1970s did not seem to be as likely to implement policies to increase imprisonment as did those states with already (relatively) high imprisonment rates.

When considered within the context of state variability in levels of incarceration, all signs point to there being a second consideration. Specifically,

Table 3.3 Size of the Increase in Imprisonment as a Function of the Imprisonment Rate in the Early 1970s

		Increase in State Imprisonment Rate from the Early 1970s to Late 2000s (in *Additional* Prisoners per 100,000 Residents)			Total
		Low (100–248)	Medium (248.1–370)	High (370.1–749)	
Early rate (average state prison imprisonment rate, 1971–1975)	Low (24.5–58)	9 (53%)	6 (35%)	2 (12%)	17 (100%)
	Medium (58.1–89.5)	5 (31%)	6 (38%)	5 (31%)	16 (100%)
	High (89.6–182.8)	2 (12%)	5 (29%)	10 (59%)	17 (100%)

Chi squared = 10.17, degrees of freedom = 4, $p = .036$.

Source: Sourcebook of Criminal Justice Statistics (2004), http://www.albany.edu/sourcebook; US Bureau of Justice Statistics, http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls; Statistics Canada, CANSIM, http://www5.statcan.gc.ca/cansim/a01?lang=eng.

states seem to vary in a systematic way in their contribution to this aspect of American exceptionalism. Once again though, we hasten to point out that this finding is hardly surprising. Indeed, one does not need to be an American to look at the 10 states with the highest "early" state imprisonment rates (1971–1975) and the 10 lowest "early" rates (Table 3.2)—or, for that matter, the 10 states with the highest and lowest increases in state imprisonment rates between 1971–1975 and 2006–2010 (Table 3.1)—and quickly conclude that these two groupings of states represent very different societies.[10]

Most obviously, the lowest rates are generally found in northern states, while the highest rates are generally located in southern or western states. However, the distinctions are not only geographic in nature. Rather, these two distinct groups of states remind us of similar alignments that emerged in earlier work (Doob and Webster 2006; Webster and Doob 2007, 2012) in which we reported that US states in the regions with the most "Canadian-like" values—based on a classification developed by Adams (2003) from polling data—had the lowest imprisonment rates (see final panel of Table 3.4).[11] Given that Canada—in contrast with the United States as a whole, as well as with every state (and the federal jurisdiction)—has had a relatively stable rate of adult imprisonment (roughly 100 ± 20 adult prisoners per 100,000 overall residents) since the late nineteenth century and most notably since the 1970s, this relationship provides some support for the notion that levels of incarceration are, in part, a function of underlying value systems. Specifically, Canadian culture appears to be rooted in more nonviolent, communitarian values that may not be as supportive of increasing punitive responses to criminal behavior.

To be clear, we are not suggesting that this relationship is, in any sense, causal in nature. Rather, our point is twofold. On the one hand, variation in levels of incarceration across states does not appear to be random. On the other hand, high imprisonment appears to be embedded in wider social values, particularly (but certainly not exclusively) as they relate to broad orientations toward offenders. Table 3.4 explores the relationship between imprisonment rates and other social policies.

The first panel of Table 3.4 examines capital punishment—the most extreme form of ostracism/social exclusion of the offender who is seen, one might argue, as expendable or beyond hope/redemption. As one can observe, those states that have retained capital punishment (at least until 2012) tended to have higher imprisonment rates both in the early 1970s and in the late 2000s. Further, notwithstanding the fact that they started with higher rates than the abolitionist states, the states that retained capital punishment increased their imprisonment rates to a greater extent than those states

Table 3.4 Social Policies and Imprisonment Rates (Some Examples)

Dimension	Type of State (Number of States in Parentheses)	Average State Imprisonment Rate, 1971–1975	Average State Imprisonment Rate, 2006–2010	Change (Late–Early)
Capital Punishment in 2012	No (17)	55	304	249
	Yes (33)	95*	462*	368*
Felon Disenfranchisement	No (39)	77	385	308
	Yes (11)	97	491*	395*
Imposition of cash assistance and food stamp bans on certain ex-felon drug offenders	None/almost none (14)	68	330	261
	Mixed (26)	81	420	339
	Full or almost full bans (10)	99	488*	390*
Minimum wage	Above federal rate (19)	73	371	298
	At federal rate (20)	78	379	301
	Below federal rate (11)	99	526*	426*
State is in region with Canadian-like attitudes	Yes (17)	66	344	279
	Somewhat (19)	63	359	295
	No (14)	123*	554*	430*

*$p < .05$.

without capital punishment. Within this context, it may not be coincidental that Canada executed its last offender in 1962 and formally abolished capital punishment in 1977. Even in 1987, when the Canadian House of Commons voted on a resolution to reinstate capital punishment, the resolution failed. Similarly, a 2001 unanimous Supreme Court of Canada decision (*United States v. Burns* 2001) refused to allow two people charged with murder in the United States to be extradited for trial until the state gave an undertaking that they would not face the death penalty if convicted.

The second panel considers felon disenfranchisement. The view that former offenders are no longer "real" members of the community can be made quite explicit by removing what might normally be seen as a right of citizenship: the right to vote. Eleven states in the late 2000s did not allow those who have been convicted of a felony to vote, even after their sentences have been completely served (Uggen and Shannon 2012). Although the 1971–1975 average imprisonment rates of the states that had felon disenfranchisement laws in the late 2000s did not differ from those of states that did not have these laws, there were significant differences in 2006–2010. Furthermore, those states with felon disenfranchisement laws in the twentieth century experienced the largest increases in imprisonment rates between the early 1970s and the late 2000s. Notably, Canadian ex-offenders never had special restrictions on their ability to vote. However, federal prisoners were not allowed to vote while in prison until 2002 when the Supreme Court (*Sauvé v. Canada* 2002) decided that prohibiting prisoners from voting was not a reasonable restriction on Canada's constitutional guarantee of the right to vote. Despite being incarcerated, prisoners were still considered full citizens.

Taking away the right to vote from former offenders is one way of reminding them that they have forfeited their (full) citizenship. Taking away welfare and access to affordable food would appear to be an attempt to communicate that offenders are not fully human, sentient creatures (or, at the very least, that they are not worthy of compassion and assistance). The third panel assesses US President Clinton's welfare "reform" bill—which became law in 1996—under which offenders convicted of certain drug offenses were made ineligible *for life* to receive federally supported welfare payments (cash assistance under the Temporary Assistance for Needy Families program and/or the federal Food Stamp program (Mauer and McCalmont 2014)). However, the law allowed states to opt out completely or in part (Mauer and McCalmont 2014) from these punitive provisions. Fourteen states opted out completely or almost completely from the federal policy of not providing the necessities of life to those who were ex-drug offenders and indigent, while another 26 had

mixed policies. Clearly, the states that removed welfare benefits from offenders were more likely than those states that (partially or completely) opted out of this policy to have high imprisonment rates in the late 2000s and experience the greatest increases in their incarceration rates during the 35 years of imprisonment growth in the United States.

The only similar provision that we are aware of in Canada was in place briefly in the late 1990s in one province (Ontario). In this case, the provision imposed a lifetime prohibition on receiving welfare payments to anyone convicted of fraud involving welfare. It was instituted by a very socially conservative government that was in power in the province from 1995 to 2003. The regulation came into effect in 2000 and was quietly ended when the Conservatives lost to the Liberals in 2003. In terms of its view of the disadvantaged generally and of offenders in particular, this prohibition was seen as being a break from both previous Conservative governments in Ontario and with the then federal conservatives.

The fourth panel looks at minimum wage. Although it does not relate directly to offenders or imprisonment, it might be seen as an indication of a state's concern about some of its less fortunate citizens (i.e., those who are forced to work for minimum wage). Many states apparently tie their state minimum wage rate to the federal rate. However, those that explicitly set their minimum wage below that of the federal government had higher imprisonment rates in 2006–2010. Further, these states also increased their imprisonment rates to a greater extent between 1971–1975 and 2006–2010 than those states with rates on par with the federal government.

In brief, it appears that high imprisonment is related not only to other punitive criminal justice policies but also to broader social policies such as the minimum wage. This finding is not unexpected. In fact, it corroborates other criminological research. At a macro level, similar relationships between welfare and imprisonment rates were found by Beckett and Western (2001) in the context of the United States and by Downes (2012) who looked at the percent of gross domestic product spent on welfare across European countries and their respective penal policies. Even more broadly, Lappi-Seppälä (2011) surveyed 30 European and English-speaking nations and reported that countries with low rates of economic disparity, with generous social welfare policies, and in which the population is generally more prosperous tend to have low imprisonment rates.

At a more micro level, there is a substantial literature that demonstrates that punitive attitudes (e.g., the view that people who offend should be treated harshly) are related to other social values. For example, Johnson (2009) found that people who support the most punitive approaches to offending tend to be

the most fearful and the most angry about crime. Pickett and Chiricos (2012) also noted that punitiveness toward juvenile offenders tends to be concentrated among those who blame blacks for violent crime. This finding is consistent with various other studies (Chiricos, Hogan, and Gertz 1997; Johnson 2009; Pickett and Chiricos 2012) which have suggested that, for some people, "black" and "crime" are associated. More importantly, those people who make the link in their minds between these two constructs tend to be more punitive. Particularly those who feel most threatened by African Americans hold the most punitive attitudes (Pickett, Tope, and Bellandi 2014).

While we prefer to leave the discussion of race and imprisonment in the United States to others who have more expertise than we do, it nonetheless appears notable to us that the proportion of African American residents in a state (in 2012–2013) correlates much more highly with state imprisonment rates in the early 1970s and the late 2000s and the size of the increase (+.65, +.62, +.52, respectively) than does the proportion of Hispanic or "other races" in a state (correlations range from +.07 to +.21). Specifically, if people in states with a high proportion of African Americans are more likely to blame African Americans for crime, it is not surprising that it is those states that have high imprisonment rates for both the period 1971–1975 and 2006–2010 and large increases in imprisonment over this 35-year period (Table 3.5).

As Table 3.5 shows, in those states currently with high proportions of African American residents, the imprisonment rate not only started off higher than in the states with lower proportions of African American residents but increased more and ended up higher.

Table 3.5 Racial Makeup of the State (2012–2013) and Imprisonment Rates

Proportion of 2012–2013 Population That Is African American	Average Overall Imprisonment Rate (Adult Prisoners per 100,000 Residents)			Number of States
	Early 1970s	Late 2000s	Increase (Late–Early)	
Low (<3.5%)	54.7	316.5	261.8	16 (100%)
Medium (3.6%–11.5%)	78.1	413.9	335.9	17 (100%)
High (11.6%–37.9%)	108.7**	489.3**	380.6*	17 (100%)

*$p < .05$, **$p < .01$.

In brief, we would argue that broader social values are not merely correlated with imprisonment rates. Rather, levels of incarceration also appear to reflect—as well as reaffirm—underlying core values regarding offenders (especially as regards the nature of citizenship and the rights, privileges, and protections inherent in it) and appropriate state responses to crime. Most notably, there would seem to have been a moral shift—beginning in the late 1970s—in the value system of Americans (particularly in those states with high imprisonment) which began privileging notions of exclusion, ostracism, ambivalence, and severity—to borrow from Tonry (2013)—vis-à-vis their offenders. Indeed, perceptions of the offender as an outlaw—an individual (physically, legally, and psychologically) excluded or separate from society and whose illegal actions reflect an underlying immoral character that is beyond hope or reintegration—appear to justify particularly harsh state responses of intolerance and ambivalence from law-abiding citizens.

Clearly, "state-specific exceptionalism"—to adapt an expression of Lappi-Seppälä (2011, 324)—is a component of American mass incarceration. The enormous variability across states in their past and present state imprisonment rates (as well as the magnitude of their increases across time) speaks to the need to consider more "localized" explanations. However, the systematic nature of the changes in state levels of incarceration over our 35-year period also suggests that more macro-level factors may be equally legitimate and valuable. Further, the association between high state imprisonment rates and other punitive punishment policies points to the role that the criminal justice system is expected to play vis-à-vis crime control as a potential starting point of investigation. By extension, its relationship to broader social values (particularly linked to citizenship) may provide an intriguing bridge between the two levels of analysis.

Within this framework, the juxtaposition of Canada's currents of thought and policy approach to crime and imprisonment with those of the United States (both before and after the mid-1970s) takes on new meaning. One of the fundamental differences between these two countries resides in their different conceptualizations of the role of the criminal justice system—and, in particular, imprisonment—in addressing crime. We propose that American exceptionalism in its growth in incarceration since the early 1970s can be tied—one might say, ironically—to its penal optimism. That is, the optimism in the ability of the criminal justice system—primarily (but not exclusively) through recourse to prison as an instrument of effective crime policy *writ large*—to control crime. Prior to the mid-1970s, this optimism took the form of a strong belief in the system's capacity to rehabilitate offenders. Subsequent to this era, optimism took the form of a strong faith in the system's ability

to bring down crime rates through brute incapacitation and deterrence. In contrast, Canada has always shown deep skepticism that crime could be controlled by the criminal justice system.

American Optimism
Progressive Era

Through a Canadian lens, it would seem that the intellectual history of punishment philosophy of the United States is rooted largely in the belief/acceptance that crime rates and levels of incarceration are related. Specifically, criminal activity can be controlled—if not eliminated—through greater recourse to the criminal justice system, in general, and prison, in particular. We would argue that this utilitarian optimism has been a feature of American penal policy since the beginning of the Progressive era in the early part of the twentieth century. Certainly until the early 1970s, this faith in the criminal justice system as at least a partial solution to crime is most commonly associated with the indeterminate sentencing system which prioritized the rehabilitative ideal. Prison was the site par excellence to cure or reform "lost" or "sick" offenders who would be incarcerated until such time as they were deemed to be reformed.

Indeed, it was believed that crime could be controlled by careful and thoughtful individualized treatment. As Rothman (1980, 5) notes, the American Progressives "aimed to understand and to cure crime, delinquency, and insanity through a case-by-case approach." But to accomplish this task, they needed flexibility—not only in terms of being able to move offenders to the location best able to cure their offending but also (and especially) in terms of being able to hold the offender for a relatively indefinite period of time. The indeterminate sentence was ideal at providing these prerequisites. For Progressives, "the fixed sentence was retributive, crude, and unfair" (Rothman 1980, 68). It made no more sense, they argued, than it would to hospitalize all people with a given disease for a fixed length of time and to release them whether or not they were cured.

In fact, it was just a question of time. The Progressives did not have a single "theory" about crime. Whether criminal behavior was caused by environmental or biological factors did not matter. The goal was unquestionably attainable. One simply had to identify what had gone wrong and "fix" it. And, of course, the state was ideally suited to accomplish this goal: Progressives trusted the state to do good (Rothman 1980, 60). Not surprisingly, they were perfectly willing to give the state significant—if not almost unlimited—power to intervene in the lives of citizens. As Rothman notes,

> Progressives never paused to reckon with their own limitations. They never considered whether, given their knowledge, they should move more cautiously and circumspectly in implementing their policies. . . . Reformers, to a fault, were enthusiasts, so certain of their ability to achieve success that they were unwilling to qualify or to moderate their programs, to protect the objects of their wisdom from the coercion of their wisdom. (p. 8)

Similarly, for those who proved to be incorrigible, the psychiatrist-criminologist Bernard Glueck is quoted by Rothman (1980, 71–72) as suggesting that this group of offenders "had to be dealt with in only one way, and that is permanent segregation and isolation from society." Whether the offender was imprisoned for treatment or for the protection of the public, coercion and often striking violations of any notion of proportionality characterized this era. Having said this, the underlying notion that prisoners can (and should) be held in custody until such time (if ever) that they are safe to be released was justified morally by the genuinely benevolent intentions underlying the rehabilitative ideal. It is difficult to fault a criminal justice system that is rooted in such values as hope, compassion, redemption, and reintegration. In fact, this moral high ground may have also permitted—if not encouraged—the perpetuation of this sentencing system despite the evidence of its ineffectiveness which was mounting even early in the twentieth century.

This same optimism in the ability of the state to solve the problem of crime was also adopted on a broader scale. According to President Lyndon Johnson, criminal behavior could be eliminated from society through effective crime prevention. Rather than cure offenders after the fact, President Johnson proposed a frontal attack on the root causes of crime. Specifically, he declared war against poverty. Indeed, "the war on poverty . . . is a war against crime and a war against disorder" (Johnson 1964). The rallying call was to support "the war on poverty . . . the Civil Rights Act, and . . . major educational bills" as well as "educate your children . . . take care of the delinquent . . . [and] get out and work and vote and fight and give and do something about [poverty]" (Johnson 1964).

As part of this declaration of war, Johnson created the President's Commission on Law Enforcement and Administration of Justice in 1965, chaired by Nicholas deB. Katzenbach. Its 1967 report is a landmark in the intellectual history of criminal justice in the United States. Rhetorically, and because of its presidential imprimatur, it is a high-water mark for the belief that the criminal justice system could successfully "cure" criminals and that

these efforts (combined with President Johnson's Great Society and initiatives in the inner cities) would transform society for the better (Ruth and Reitz 2003).

In itself, the commission's final report, *The Challenge of Crime in a Free Society*, makes for interesting reading in the early twenty-first century. Perhaps because the orientation of the commission as a whole was toward its mandate—"law enforcement and administration of justice"—and its task was to look at crime and the system set up to respond to it, the greatest part of the report appears to be what generally would be regarded as liberal proposals to improve various parts of the criminal justice system. Nonetheless, about 24 (pp. 55–78) of its 291 pages focused on what might be described as the social causes of crime—the factors *outside of* the criminal justice system responsible for crime. Recommendations were made with which few, today, would disagree. They included calls to "Re-examine and revise welfare regulations so that they contribute to keeping the family together; Improve housing and recreation facilities" (p. 66) or intensify "[e]fforts, both private and public . . . to prepare youth for employment . . . [and] Create new employment opportunities" (p. 77). In the five pages spent dealing with sentencing, the commission identified a number of problems and advocated for more realistic maximum sentences, the elimination of mandatory minimum sentences, and the creation of mechanisms to deal with disparity in sentencing. They recommended that the orientation of prisons be on rehabilitation and that there be more attention spent on controlled reintegration of prisoners.

The rallying call to improve the correctional system was rooted in the urgency of reform—both of the institution and, by extension, of the lives of the prisoners:

> The costs of action are substantial. But the costs of inaction are immensely greater. Inaction would mean, in effect, that the Nation would continue to avoid, rather than confront, one of its most critical social problems; that it would accept for the next generation a huge, if now immeasurable, burden of wasted and destructive lives. Decisive action, on the other hand, could make a difference that would really matter within our time. (p. 185)

The enormity of the endeavor was not lost on the commission, which noted, realistically, that "this report on crime and criminal justice in America must insist that there are no easy answers" (p. 291). However, they did not shy

away from their task of "controlling crime and improving criminal justice" (p. 291). Rather, their more than 200 specific recommendations expressed their "deep conviction that if America is to meet the challenge of crime it must do more, far more, than it is doing now. . . . It must resist those who point to scapegoats, who use facile slogans about crime by habit or for selfish ends" (p. 291).

Indeed, optimism was at the root. As the report affirmed, "Controlling crime in America is an endeavour that will be slow and hard and costly. But America can control crime if it will" (p. 291). What was needed, the commissioners apparently believed, was only the will to implement reasonable policies. America had made itself a promise to put a man on the moon before the end of that decade. Surely it could solve the problem of crime on earth.

But time was running out. As one last gasp of extreme liberal optimism of its kind, Ramsey Clark (US attorney general 1967–1969) returned to the battle cry of the War on Poverty as the solution to the crime problem. Although he was not the only prominent American who continued to express optimism about the government's ability to solve the crime problem during the last years of the Progressive era, he is arguably one of the most eloquent. To win the war, he saw the need to make fundamental changes in American society:

> If the challenge of change seems staggering, our capacity to meet it is overwhelming. There was never a people that so clearly had the means to solve their problems as Americans today. Movers, builders, doers—we have proven the ability of man to dramatically change his destiny. Now we must show that we can control that destiny. A nation that doubled its productive capacity in four years during World War II can supply the needs of its people. (Clark 1970, 341)

While Clark's call for fundamental change in American society was heard, the response was certainly not in the form that Clark was eliciting. The 1970s brought with them a completely different approach to crime and punishment.[12] Gone would be the optimism of the Progressives in a rehabilitation model whereby crime could be resolved through either individualized treatment, the War on Poverty, or reform of criminal justice institutions (and social programs). But in its place would emerge a different form of optimism—what some might suggest as a defeatist's form of optimism—that is rooted in an incapacitation and deterrence model based fundamentally on high incarceration.

Post-Progressive Era

On January 3, 1973, New York's governor Nelson Rockefeller placed one large nail in the coffin of the prior liberal strategy to criminal justice when he introduced his new approach to the use of illegal drugs with the following words:

> It is time for brutal honesty regarding narcotics addiction. . . . In this state, we have allocated over $1 billion to every form of education against drugs and treatment of the addict through commitment, therapy, and rehabilitation. But let's be frank—let's tell it as it is: We have achieved very little permanent rehabilitation—and have found no cure. (quoted by Kohler-Hausmann 2010, 71)

Rockefeller joined with an ever-increasing chorus of Americans in highlighting the failure of rehabilitation. More importantly, he advocated a new role of incarceration which focused on its capacity—par excellence—to segregate offenders from society as a form of physical warehousing for the purpose of containing—if not eliminating—crime. As he explained,

> I, therefore, will ask for legislation making the penalty for all illegal trafficking in hard drugs a life sentence in prison. To close all avenues for escaping the full force of this sentence, the law would forbid acceptance of a plea to a lesser charge, forbid probation, forbid parole, and forbid suspension of sentence. (quoted by Kohler-Hausmann 2010, 71)

This solution was likely rooted in Rockefeller's belief in the relationship between Japan's very low drug addiction rate and the life sentences that were being handed down in this country for drug pushers (Kohler-Haussman 2010, 79). He saw the targeting of small-time drug pushers as a way of protecting society whereby "the young people who are sharing and selling relatively small amounts of heroin" are removed from the community "and isolated like carriers of a dangerous contagion" (Rockefeller, quoted by Kohler-Haussmann 2010, 81). The analogy was clear. Kohler-Haussmann quotes a doctor at the Community Medicine Department of the State University of New York as noting that,

> Governor Rockefeller's new proposals for dealing with the drug problem by attacking sellers are strongly supported by epidemiological theory. . . . Thus heroin addiction is similar in many ways to diseases such as malaria with its identifiable vector, the mosquito. Malaria has

> been controlled in many parts of the world, not by treating sick individuals and not by warning people against swamps, but by eliminating swamps and mosquitoes. Governor Rockefeller, having previously tried treatment . . . and education programs for heroin addiction and seen them fail to control its spread, has opted for a public health approach which . . . has some real chance of success. (Kohler-Haussmann 2010, 82)

This optimism in the ability of the state to control drug crime through sheer containment of offenders arguably opened the floodgates to more punitive responses to crime (i.e., more frequent and longer prison sentences). In fact, in the 10 years following the passing of the "Rockefeller drug laws" in 1973, 48 states added mandatory minimum penalties to their drug laws (Kohler-Haussmann 2010). Perhaps more notably, Blumstein and Beck (1999) suggest that the incarceration of drug offenders was not only a major contributor to the growth in imprisonment between the early 1970s and the late 2000s. Rather, it also contributed "in an important way to the extreme representation of African-Americans in prison" (p. 54). Both phenomena—Kohler-Haussmann (2010, 82) argues—reflect a new perception that cast drug pushers as not only "anti-citizens, but as non-humans whose fate was utterly irrelevant."

The second decisive nail in the coffin of the rehabilitative model came shortly after Rockefeller announced his new battle plan to solve (drug) crime. Martinson's highly influential 1974 paper in *The Public Interest* was seen by many Americans as sounding the death knell for rehabilitation programs generally. While others have noted (see, for instance, Ruth and Reitz 2003, 83–84) that Martinson was not alone in his rather pessimistic assessment of the ability of the criminal justice system to stave off crime through the rehabilitation of offenders, the motto "nothing works" became the rallying cry for a new approach to crime control. Indeed, if the Katzenbach Report is the best intellectual marker of transformative liberal optimism, the Martinson Report is arguably (one of) the most influential work(s) that punctured that balloon. Given America's heavy investment in rehabilitative policies until this point as *the* solution to crime, the acceptance of the apparently unequivocal failure of this approach produced nothing less than a seismic shock in the United States.

In a search for other responses to crime, it appeared that by the mid-1970s Lyndon Johnson's approach to solving the crime problem—by winning the war on poverty—had been forgotten. Nixon had come and gone as president. And since crime was no longer believed to be "curable" through rehabilitation, the other side of the Progressives' crime coin had to be invoked: society simply

needed to be protected from offenders. As Rockefeller had already pointed out, the criminal justice system was well placed to accomplish this task. Brute incapacitation was America's new savior.

To bring about this change, the indeterminate sentence was certainly not the answer. By the early 1970s, many groups had lost confidence in this sentencing structure. However, "determinate" sentences had no logical connection with crime rates. But what they did do was give legislatures the power to do something about crime if one believed—as did Rockefeller and those who were influenced by him—that punishment would solve the crime problem. In a carefully argued account of the changes that took place in California, Campbell (2014) suggests that although the original determinate sentencing law in this state (passed in 1976) was not especially harsh, "[w]hat was radical was that [the law] restructured the institutional processes that would establish sentencing ranges in the legislature where they were immediately subject to interest group activism and, ultimately, populist pressures" (p. 394). Particularly after experiencing increases in serious crimes in the late 1970s (Webster, Doob, and Zimring 2006), these Californian bodies began increasing sentencing severity for these crimes (e.g., Proposition 8 in 1982), believing that they had the power to reduce crime through incapacitation and deterrence simply by voting for more punitive sanctions.

By 1981, California's Democratic governor clearly linked crime reduction to tough sentencing measures, such that, as Campbell (2014, 398) points out, "at one point, nearly *one-third* of all bills introduced were crime related." Furthermore, legislators appeared to be willing to pay for increased imprisonment. As one noted, "sometimes we just have to bite the unpalatable bullet on essential issues" (quoted by Campbell 2014, 398). Equally notable, the drop in crime in California in the early 1980s was attributed—by politicians and later by conservative economists (e.g., Kessler and Levitt 1999)—to the new harsh penalties. Campbell (2014) notes that "The [California] Governor essentially redefined overcrowded prisons as an indicator of success, not correctional failure or penal excess" (p. 401). In the early 1980s, the growth in imprisonment required "a solution that repudiated fiscal conservatism in the name of controlling crime. California Governor Deukmejian summed up the logic well [in 1983]: 'Let's never forget that getting more criminals off our streets and into prison is our goal" (Campbell and Schoenfeld 2013, 1399). Only 12 years earlier, Governor Ronald Reagan had celebrated the 32 percent drop in imprisonment that had occurred between 1968 and 1971, noting that,

> With the entire nation plagued by runaway crime rates and bulging prisons, our major California cities report a reduction in crimes of

> violence. Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison at any time in our history and our prison population is lower than at any time since 1963. (quoted in Gartner, Doob, and Zimring 2011, 311)

While the criminal justice system was still seen by the political elite as the principal institution responsible for controlling crime, the association of crime rates to imprisonment had been turned upside down. As society could no longer rely on the rehabilitation of offenders into law-abiding, peaceful citizens, society was left exposed—if not defenseless. In fact, Ruth and Reitz (2003, 84) further observe that "[t]he intellectual collapse of optimism in rehabilitation theory occurred at the exact historical moment when the high crime spike of the 1960s, and the scissors effect of rising crime and declining punishment had reached their most dramatic juncture." This coincidence arguably exacerbated a sense of vulnerability of Americans. Perhaps not surprisingly, the perception of offenders changed—now seen as "bad" or morally corrupt individuals who threatened the safety, security, and well-being of "good" people. Exclusion—in the sense of the offender's complete "excommunication" from society and from the rights and protections inherent in its citizens—became the obvious solution.

The leading intellectual justification for this renewed—albeit reoriented—faith in the ability of the criminal justice system to control crime came in 1975. There are two books by Americans with the title *Thinking about Crime*. The first, written by James Q. Wilson, appeared in 1975. Whether he influenced criminal justice policy during the last quarter of the twentieth century or his book merely reflected the dominant—or developing—view of the justice system during this period (or both) is not important for our purposes. His analysis, however, is of consequence.

Wilson rejected the criminologist's belief in the social causes of crime, popular during the early 1970s, not so much because he disagreed with what they said but because he felt that this approach did not lead to policies that would actually reduce crime. The problem, according to Wilson, is that the criminologist's assumption that "the causes of crime are determined by attitudes that in turn are socially derived, if not determined" requires long-term strategies which target these attitudes. As "behaviour is easier to change than attitudes," society's focus should be on "alter[ing] behaviour in the short run." To this end, "the policy analyst is led to assume that the criminal acts *as if* crime were the product of a free choice among competing opportunities and constraints. The radical individualism of Bentham and Beccaria may

be scientifically questionable but prudently necessary" (Wilson 1975, 55–56, emphasis in the original).

Wilson substantiated his attack on the criminologist's crime-control approach not only by pointing out that rehabilitation programs in prison did very little to reduce the amount of crime but also by presenting data showing very high recidivism rates in the United States. Indeed, Ruth and Reitz (2003, 84) noted that "[e]ver since [the publication of Martinson's evaluation of correctional rehabilitation in 1974], conservatives like Wilson have stood on the empirical high ground when asserting, not necessarily a nihilistic view of reformist possibilities, but a pessimistic view that rehabilitation is difficult, uncertain, expensive, and can at best reach a minority of all offenders." As a more immediate solution to the crime problem, Wilson suggested that the correctional system's proper role might be seen as serving different functions: to isolate and to punish. In fact, Wilson was optimistic that crime could be effectively dealt with through the criminal justice system (and sentencing, in particular) with almost instantaneous results. As a justification for what was to become implicit American policy, he explained that,

> The purpose of isolating—or more accurately, closely supervising—offenders is obvious: whatever they may be doing when they are released, they cannot harm society while confined or closely supervised. The gains from merely incapacitating convicted criminals may be very large. . . . If much or most serious crime is committed by repeaters, separating repeaters from the rest of society, even for relatively brief periods of time, may produce major reductions in crime rates. (Wilson 1975, 172–73)

In brief, Wilson was unwilling to suggest that Americans should have to wait for "long-term" changes in society to reduce crime. In his view, one can either worry about why crime exists in our society or do something to get rid of it today, whatever its causes. That was the choice. To the extent, then, that this kind of optimistic thinking informed politicians and policy at the time, Wilson gave people reason to believe that America could, if it truly wanted to, get rid of its crime problem. Moreover, while this approach might "strike many enlightened readers [at the time] as cruel, even barbaric," Wilson explained that it was not. Rather, "[i]t is merely a recognition that society at a minimum must be able to protect itself from dangerous offenders . . . [as well as] a frank admission that society really does not know how to do much else" (Wilson 1975, 172).

The mechanisms were simple and effective. On the one hand, Wilson argued that harsh penalties would act as a deterrent. To substantiate this claim, he noted that "[t]he deterrent capacity of criminal penalties is supported by statistical data for large numbers of offences over long periods of time" (Wilson 1975, 177). On the other hand, he contended that more punitive sanctions whereby offenders would be imprisoned for longer periods would also reduce crime. This optimism was supported by a study of the (projected) consequences for New York's crime rate, had a harsher sentencing regime been implemented. Wilson cites the authors as concluding that,

> the rate of serious crime would be only *one-third* what it is today if every person convicted of a serious offence were imprisoned for three years. This reduction would be less if it turned out (as seems unlikely) that most serious crime is committed by first-time offenders, and it would be much greater if the proportion of crimes resulting in an arrest and conviction were increased (as also seems unlikely). The reduction, it should be noted, would be solely the result of incapacitation making no allowance for such additional reductions as might result from enhanced deterrence or rehabilitation. (Wilson 1975, 201, emphasis in the original)

It was "conservative optimism"—to use an expression of Ruth and Reitz (2003, 89)—at its best. In fact, these scholars describe this form of hubristic certainty as "rivalling anything in the annals of rehabilitative optimism."

Perhaps the pinnacle—or at least one of the more amusing high points—of American penal optimism in the incapacitation model proposed by Wilson occurred in 1987 with the release of a US National Institute of Justice report entitled *Making Confinement Decisions* (see Zimring and Hawkins 1988) Through an assessment of the costs and benefits of increasing levels of incarceration, this document demonstrated the dramatic economic savings which would result from the prevention of crime through the mechanisms of incapacitation and marginal general deterrence. Specifically, this report presented an economic model of the impact of long prison sentences on crime rates which estimated that, although imprisonment of one year would involve total social costs of roughly $25,000, the social costs averted by this incarceration (through incapacitation alone) would be approximately $430,000. As Zimring and Hawkins (1988, 426) underline, the cost–benefit ratio which would result from longer prison sentences—over 17 times as great—is clearly beyond anything yet seen in the annals of public administration.

In fact, this economic model could also be used to predict the number of crimes averted through incapacitation. Taking advantage of the natural experiment running in the United States since the early 1970s whereby imprisonment rates had been increasing continuously and substantially, Zimring and Hawkins (1988) applied the estimates generated in *Making Confinement Decisions* to these trends. Using 1977 as their starting point, they calculated—employing the methods used by the US National Institute of Justice report—the total volume of crime during this year to be approximately 40 million reported crimes. By extension, it was determined that the incarceration of roughly 230,000 additional offenders "should reduce crime to zero on incapacitation effects alone" (p. 429). Given that the US prison population increased, in fact, by a total of 237,000 between 1977 and mid-1986, these scholars demonstrated quite convincingly that the theoretical model of this report predicted that there would be *no* crime whatsoever in America by 1987.

It is hard to imagine a more optimistic prediction than this one. Perhaps more revealing than the model's faulty predictive value was the continued (if not expanded) optimism in the ability of the criminal justice system—through harsher sanctions—to solve the crime problem despite this type of debunking.[13] Indeed, while the model may have some glitches, the theory is unassailable. Zimring and Hawkins (1988, 436) provide a compelling explanation for this apparent incongruity:

> As long as levels of crime are high enough to generate substantial anxiety, those who view increased imprisonment as a solution will continue to demand more prisons and will do so in terms that do not change markedly at any level of incarceration. Indeed, the more attenuated the link between the malady and the proposed remedy, the more insatiable will be the demand for more of the remedial measure.

And so it went in America, with ever-increasing recourse to incarceration in the continuing faith that crime would eventually be solved through incapacitation and deterrence. One might be tempted to argue that this form of penal optimism—like its Progressive predecessor—appears to be relatively impervious (at least over an extended period of time) to criticism which calls into question its effectiveness.[14] In fact, such (unshakable) faith in utilitarian mechanisms seemingly provides few inherent limits to the recourse to prison as the sanction par excellence. Indeed, even ethical restraints appeared not to be an obstacle. We would suggest that Americans had little moral difficulty with the notion defended by Wilson—as well as those who followed his

suggestions or at least acted in a manner that was consistent with them—of imprisoning people for crimes that they might commit in the future. Similarly, they saw no reason to be concerned about the use of those who have offended as a resource to deter others who might offend. Implicitly, the justification was clear: offenders had shown themselves beyond reasonable doubt to be inherently "bad" people. Their liberty—Wilson told us—needed to be sacrificed for the good of the law-abiding members of the community. Their crimes justified the forfeiture of their rights and protections as full citizens.

Canadian Pessimism

In sharp contrast with the United States, the intellectual history of punishment philosophy of Canada is rooted largely in the general acceptance that levels of incarceration have little to do with crime rates. Specifically, there has never been a strong or consistent belief that criminal activity can be controlled—if not eliminated—through greater recourse to the criminal justice system, in general, and prison, in particular. On the contrary, penal pessimism—that is, the lack of strong faith in the ability of sentencing and imprisonment to serve utilitarian goals such as rehabilitation, incapacitation, and deterrence—has been the predominant leitmotif traversing Canada's broad currents of intellectual thought and policy approach to crime since the nation's birth in 1867.

Adopting the European definition of determinacy (see van Zyl Smit and Corda, this volume), Canada's sentencing system is one of "determinate" sentences.[15] Judges hand down sentences with a fixed maximum term.[16] Further, while a parole board *may* release offenders handed down prison sentences of six months or more on parole under certain conditions, it is notable that this possibility is only available to a small proportion of sentenced prisoners. Specifically, although approximately 33 percent of those *found guilty* in Canada are sentenced to prison, only about 18 percent of those *sent to prison* get sentences in which they have a right to a parole hearing (sentences of six months or more). Even in terms of this small percentage of parole-eligible prisoners, most are not, in fact, paroled (Doob, Webster, and Manson 2014). As such, the vast majority of offenders with prison sentences are released virtually automatically at the two-thirds point in their sentences. In other words, though there is certainly some indeterminacy in Canada's imprisonment system, it is not a central feature.[17]

As Canada's governments have never, apparently, had much confidence that the problem of crime could be solved through the criminal justice system,

the fundamental principle of sentencing has largely been that of proportionality. This guiding framework was formally enshrined in legislation in 1996 when sentencing provisions were brought into place which explicitly required judges to sentence proportionately. Canada's *Criminal Code*[18] states relatively clearly[19] that,

> **718.1.** A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

However, proportionality is not a new addition to Canadian sentencing. In a recent Supreme Court of Canada decision, it was acknowledged that proportionality "was not borne out of the 1996 amendments to the Code but, instead, has long been a central tenet of the sentencing process" (*R. v. Ipeelee* 2012). More importantly for our current purposes, the court underlined that this principle,

> also has a constitutional dimension, in that s. 12 of the *Canadian Charter of Rights and Freedoms* forbids the imposition of a grossly disproportionate sentence that would outrage society's standards of decency. In a similar vein, proportionality in sentencing could aptly be described as a principle of fundamental justice under s. 7 of the *Charter*. (*R. v. Ipeelee*, para. 36)

Clearly, proportionality is also conceived as serving a limiting or restraining function. Indeed, this decision reminds us that "[w]hatever weight a judge may wish to accord to the various objectives and other principles listed in the *Code*, the resulting sentence must respect the fundamental principle of proportionality" (*R. v. Ipeelee*, para. 37).

Not surprisingly, sentencing in Canada is based on the offense (and criminal record of the offender). Though governments have tried, for more than a century, to "correct" offenders when they end up being incarcerated (or with community sanctions), no one ever seemed convinced that this response was going to solve the problem of crime. Further, harsher sanctions for the purposes of deterrence or incapacitation were generally viewed with significant skepticism. On the one hand, Canada never fully believed that they would reduce crime. On the other hand, the harsher sanctions generally associated with these goals ran counter to Canadian conceptions of those who commit crime as well as appropriate state responses to them. In particular, the perception of the offender as a continuing member of society (with all of the rights, privileges, and duties inherent in citizenship) who should ultimately be

reintegrated into the community placed substantial restrictions on degrading or exclusionary measures.

Progressive Era Canadian-Style

Penal pessimism emerged as early as 1848—19 years before Canada became a country—in the valorization of certainty rather than severity of punishment when considering the overall deterrent effect of the criminal law. As the chief justice of Upper Canada noted,

> An occasional offence, however flagrant, occurring in a large and populous District can never be justly regarded as a reproach to its inhabitants; it only verifies the certain truth of the imperfection of human nature. . . . What the law alone can do for preventing the increase of crime must depend on the steadiness, activity and intelligence with which it is administered, for it is a true maxim that it's not so much the severity as the certainty of punishment, which deters offenders and makes the law respected. (quoted in Beattie 1977, 51–52)

A similar statement was made by Canada's first prime minister, John A. Macdonald (who, among other things, practiced criminal law before going into politics). Specifically, he affirmed that "Certainty of punishment, and more especially certainty that the sentence imposed by the judge will be carried out, is of more consequence in the prevention of crime than the severity of the sentence" (Gwyn 2011, 160). Harsher sanctions—it would seem—have never been seen in Canada as a solution to crime.

Equally notable, the same chief justice of Upper Canada (quoted in Beattie 1977, 51–52) recognized that despite any value that certainty of punishment may have in controlling crime, "it is on other means of prevention, more slow in their operation, but more secure and more general in their effects, that we must depend. I mean, of course, the religious and moral instruction of the people." It would also seem that the criminal justice system was never perceived to be well placed to stop crime.

That is not to say that rehabilitation of offenders was not a central concern of corrections. However, Canada's early experience with penitentiaries did not provide a great deal of comfort for those who would argue that these institutions would be effective tools to reduce crime. Canada's first penitentiary, opened in 1835, was subject to a major review and investigation starting in 1848, in large part because of reports of unduly harsh treatment of inmates. In 1914, the (federally established) Royal Commission on Penitentiaries

reported on, among other things, the results of its inquiry into "the conduct and administration of penitentiaries, including such methods as may conduce to the permanent reformation of the convicts, and, without prejudice to the punishment which convicts should properly undergo and without undue burden upon the public funds, tend to mitigate as far as may be found possible sufferings entailed by their confinement upon those dependent upon them" (Canada 1914, 5). Since this last statement was in the terms of reference of the Commission of Inquiry, it is clear that concerns about the collateral harms of imprisonment were already part of the government's thinking. Importantly, the commission's recommendation that indeterminate sentences be instituted for those sent to penitentiary was not adopted.

Similar negative views of Canada's penitentiaries were expressed 24 years later by another royal commission. Prisons were seen as criminogenic institutions. With clear concern, the report of the Royal Commission to Investigate the Penal System of Canada states,

> The undeniable responsibility of the state to those held in its custody is to see that they are not returned to freedom worse than when they were taken in charge. This responsibility has been officially recognized in Canada for nearly a century but, although recognized, it has not been discharged. The evidence before the Commission convinced us that there are very few, if any, prisoners who enter our penitentiaries who do not leave them worse members of society than when they entered them. (Canada 1938, 100)

Equally notable, the report of the Joint Committee of the Senate and House of Commons on Capital Punishment, Corporal Punishment, and Lotteries (Canada 1956) raised skepticism about the effectiveness of the deterrent impact of these penalties. Although this committee chose not to recommend the abolition of capital punishment, Canada's last offender was executed only six years after the report was completed.[20] In contrast, the committee did recommend the abolition of corporal punishment—in this case the whipping of penitentiary prisoners—both as a sanction and as a disciplinary punishment in prison.[21] This decision reflected not only doubts about its (general and specific) deterrent effect but also the view of the commissioner of penitentiaries (and others) that it hurt the chances of reform and rehabilitation and "did positive harm by embittering some offenders" (p. 44) as well as the perception of others that it was "out of step with modern penal theory" (p. 45).[22]

Certainly one could argue that, during these historical periods, it would not have been surprising to see similar statements coming from comparable

groups in the United States. What is important, however, is that the sentencing structure that existed in Canada at the time in which reports such as that of the Joint Committee of the Senate and House of Commons on Capital Punishment, Corporal Punishment, and Lotteries were being written was, in all important respects, the same as it is now. Obviously, the details of the *Criminal Code* have changed in important ways. And sentences have changed. But, for the most part, judges appointed by the provincial or federal governments hear cases prosecuted by prosecutors who are civil servants appointed under normal rules for government employees. The sentences that they hand down to those found guilty appear to be—and generally are—"fixed" sentences. The purposes of sentences are chosen from a menu, and, for the most part, sentences are supposed to be proportionate to the offense and the offender's responsibility for the offense.

By 1969, crime had already started to rise in Canada and the United States. What was to become a landmark document (Canadian Committee on Corrections 1969) was released. Statements reflecting its pessimism about the ability of sentencing to solve the crime problem—particularly through deterrence and incapacitation—are peppered throughout the report:

> Relatively little is known as to the effectiveness of the deterrent techniques and at present protection by way of segregation is, in general, both erratic and irrational in that it is imposed by way of fixed sentences at the end of which the offender, however dangerous, must be set free. Existing legislative provision for indefinite segregation does not appear to us either in theory or in practice to have protected Canadian society from the dangerous offender. (p. 189)

Given these views, it is not surprising that when the committee turned to sentencing, it advocated restraint in the use of prison. Specifically, "in all cases where there has been no finding of dangerousness, sentences of imprisonment should be imposed only where protection of society clearly requires such penalty" (p. 190). Indeed, the committee wished to emphasize,

> the danger of overestimating the necessity for and the value of long terms of imprisonment except in special circumstances. The serving of a long term imposes an enormous financial burden upon society and at the same time greatly reduces the chance of the inmate on release assuming a normal, tolerable, role in society and may indeed result in the creation of a social cripple. (p. 190)

This committee set the tone for formal government statements about sentencing for the next several decades when it concluded that "the Committee maintains that imprisonment or confinement should be used only as an ultimate resort when all other alternatives have failed" (p. 204).[23]

We are not suggesting that by 1969 Canada had rejected "deterrence" and "incapacitation"—or, for that matter, "rehabilitation"—as sentencing purposes. It should be recalled that these provisions are *still* within Canada's *Criminal Code*. Rather, persistent skepticism in the ability to achieve these utilitarian goals has limited their adoption as the principal or guiding purposes of sentencing. For instance, Canada has a long tradition in its commitment to the rehabilitation of offenders.[24] Even within the context of prison, extensive programming and treatment have long been a mainstay. Notwithstanding this focus, Canada has never sentenced offenders to prison *for* rehabilitation, nor has Canada ever adopted an indeterminate model—despite multiple calls for it—whereby the prison-release system depended on a correctional officer's finding of an inmate's successful rehabilitation. While the rehabilitation of an offender is obviously a desired goal in the Canadian *correctional* system, a rehabilitative model of sentencing—particularly within a custodial setting—has never been seen as an effective mechanism of crime control.

Further, Canada's prioritization of proportionality as the guiding principle when handing down sanctions clearly limits or restrains a rehabilitation—or, for that matter, a deterrence or incapacitation—model of sentencing. However, we would add that the perception of offenders within Canada also restricts the types (and degrees) of state response to them. In a statement made in the House of Commons in 1971 suggesting that the government would take seriously its responsibility to rehabilitate those who were housed in its penitentiaries, the (Liberal) minister responsible for these correctional institutions noted that,

> Even nowadays, too many Canadians object to looking at offenders as members of our society and seem to disregard the fact that the correctional process aims at making the offender a useful and law abiding citizen, and not any more an individual alienated from society and in conflict with it. . . . An inmate is always a citizen who, sooner or later, will return to a normal life in our society and as such, is basically entitled to have his human rights as a citizen respected by us to the largest possible extent. (Goyer 1971)

Crime policy put forward by the Liberals was—for the most part, until 2006—indistinguishable from Conservative crime policy. In his response

that same day to the minister's statement, the Conservative justice critic stated that,

> He says . . . that the inmate is always a citizen who sooner or later will return to a normal life in our society and is basically entitled to retain his human dignity. . . . I want to congratulate the minister for realizing at last that crime is not just a sordid happening but rather a result of human behaviour brought about by our economic and social conditions which we have failed to change. (Woolliams 1971)

Indeed, offenders in Canada have traditionally been perceived as retaining all of the rights and protections of citizenship. Despite their crimes, they are believed to merit re-entry into the community once their sentence has been fulfilled. Inclusion—rather exclusion—has long been the central goal.

Post-Progressive Era Canadian-Style

In 1973, the same year that Rockefeller proposed an incapacitation approach to solve the "drug problem" in America, Canada responded to its own concerns surrounding increasing drug use in a quintessentially Canadian way. Specifically, it solicited a report of the Commission of Inquiry into the Non-Medical Use of Drugs (more typically referred to as the Le Dain commission, after its Chair, Gerald Le Dain). The commissioners were not optimistic about the use of criminal law, noting that "the effective application of the criminal law in the field of non-medical drug use is subject to many difficulties" (p. 53). After looking at the evidence that had been brought to them, the commission predictably concluded that "[t]he rate of success with law enforcement against both distribution and simply possession (or use) is relatively disappointing. . . . The actual risk of apprehension, which is the essential basis of deterrence, is not very great" (p. 54).

While the committee did not condone the nonmedical use of drugs, it was concerned about the enthusiasm that some had for "stamping out" the use of drugs with the criminal law. In particular, it pointed out that "[u]ndoubtedly, the prohibition against simple possession has some effect on use. The question is whether the effect it has justifies the various costs which it entails" (p. 56). It subsequently proceeded to list and discuss these costs: creating an illicit drug market, inhibiting people from seeking treatment, distorting or limiting the messages that could be given in drug education programs, the demand that a prohibition model puts on law enforcement resources, the stigma of a criminal conviction, and finally the

effect of imprisonment. Particularly in terms of this latter cost, the committee was clear:

> The adverse effects of imprisonment, including the physical violence to which inmates are exposed, have been described many times. They are well known. Perhaps the chief objection to imprisonment is that it tends to achieve the opposite of the result which it purports to seek. Instead of curing offenders of criminal inclinations it tends to reinforce them. . . . These adverse effects of imprisonment are particularly reflected in the treatment of drug offenders. (pp. 58–59)

The interim report had recommended maintaining—albeit lowering—the then existing penalties for marijuana (e.g., removing the mandatory minimum penalty for importing marijuana). However, the most notable recommendation was as follows:

> The costs to a significant number of individuals, the majority of whom are young people, and to society generally, of a policy of prohibition of simple possession are not justified by the potential for harm of cannabis and the additional influence which such a policy is likely to have upon perception of harm, demand and availability. We, therefore, recommend the repeal of the prohibition against the simple possession of cannabis. (Commission of Inquiry into the Non-Medical Use of Drugs, 1973, 10)

By the time that the final report was transmitted to the government of Canada (in December 1973), Rockefeller's drug bill had become law.

In 1974, the Martinson Report was published. In contrast with the United States, Canada did not experience the same seismic impact when digesting it. On the one hand, Canadians would not have been shocked by the findings in the report. The deleterious effects of the recourse to criminal law, in general, and to imprisonment, in particular, had repeatedly been recognized by formal government and nongovernment documents throughout the century (Webster and Doob 2012). Indeed, several of the concerns expressed by the Commission of Inquiry into the Non-Medical Use of Drugs a year earlier merely reflect this long-standing recognition of the limited effectiveness of utilitarian sentencing objectives in reducing crime. On the other hand, Canada's early appreciation of the limits of rehabilitation as a sentencing goal stands in sharp contrast to the stubborn persistence of the rehabilitative ideal of the Progressives in the United States during this same era. By extension, the Canadian sentencing

system was never built on a full rehabilitative model. As such, the policy elite in Canada saw no need to change their orientation toward imprisonment in the wake of the Martinson Report.

In 1976, just as American imprisonment rates were beginning to rise and an incapacitation/deterrence model was being established, Canada turned in the opposite direction. Restraint in the use of imprisonment became the rallying cry. While deterrence was always in the background, no one seemingly believed that increased use of long sentences would reduce crime. In its first report to Parliament entitled *Our Criminal Law*, the Law Reform Commission of Canada (1976, 24–25) recommended that,

> The cost of criminal law to the offender, the taxpayer and all of us must always be kept as low as possible. . . . The harsher the punishment, the slower we should be to use it. . . . The major punishment of last resort is prison. . . . As such it must be used sparingly. . . . Positive penalties like restitution and community service orders should be increasingly substituted for the negative and uncreative warehousing of prison.

A year later, a House of Commons subcommittee chaired by a future minister of justice looking into the penitentiary system in Canada emphasized that "Society has spent millions of dollars over the years to create and maintain the proven failure of prisons. Incarceration has failed in its two essential purposes—correcting the offender and providing permanent protection to society" (Canada 1977, 35). Noncustodial sanctions were recommended as a more effective means of responding to prohibited behavior. In arguably the clearest statement yet of Canadian pessimism in the ability of incarceration to solve the problem of crime, the report concluded that,

> It is apparent that the penitentiary system is not an effective means for dealing with a significant proportion of the criminality that exists in Canada. If we continue to conceive of imprisonment as a sort of universal solvent to the problems of crime in our society, we will do nothing more than repeat old prescriptions for failure. The penitentiary system should be relied on to do only what it is capable of doing and not be expected to accomplish the impossible task of solving complex social, behavioural and economic problems using steel bars, gas, walls, clubs, repression and isolation as its methods. . . . In addition to financial losses, the damage done to the individual's familial and social relationships, and to his employment future, must also be taken into account. The drastic changes incarceration introduces into his life may

> often make it impossible for him to ever re-establish himself in society. (Canada 1977, 35–36)

In 1982, the then deputy attorney general of Canada developed a document described as "set[ting] out the policy of the Government of Canada with respect to the purpose and principles of the criminal law" (Canada 1982, preface). This report constituted the first comprehensive and fundamental statement of the government regarding its view of the philosophical underpinnings of criminal law policy. Beyond containing the now typical statements of the need for restraint in the use of the criminal law, as well as the importance of proportionality and the use of the least restrictive alternative, this policy explicitly called attention to the fact that,

> It is not so much the law, nor even the agencies of the justice system that have the major impact on creating a just, peaceful and safe society—a society in which we want to live. Rather, justice and peace are functions of the attitudes and behaviour of individual citizens, and the understanding and support they give to the institutions that, after all, exist only for the sake of the collectivity of citizens we call society. (p. 69)

Notably, the document was released under the signature of the (Liberal) minister of justice and future prime minister Jean Chrétien but was reprinted and released by the Conservative government seven years later (though the preface with the Liberal justice minister's signature was carefully removed).

Two years later (1984), Mark MacGuigan, as minister of justice, released a report on sentencing. It noted with displeasure that,

> Statistics are often cited showing that Canada incarcerates, on a per capita basis, more people than almost any other western democracy except the United States. Indeed, Canada's incarceration rate looks relatively restrained only in comparison to that of the United States, and such other countries as the Soviet Union and the Union of South Africa. (Canada 1984, 8)

This report gave a very weak endorsement of deterrence through sentencing, suggesting that there was "ambiguous or inconclusive evidence" (p. 35) at present to support the conclusion that public safety could be achieved by way of deterrence. More important perhaps was the view that "[w]hile it is undeniable that the physical security of the public is protected from

inmates while they are incarcerated, it does not follow that non-carceral or community-based sanctions cannot equally serve the purpose of protection of society" (p. 34).

In 1987, the Canadian Sentencing Commission (appointed in 1984 by the Liberals) reported and unambiguously suggested that by handing down proportionate sentences (by way of presumptive guidelines), Canada's imprisonment population could be contained. Once again, proportionality was to be the primary principle determining sentences. Judges would be forbidden to imprison people for the purposes of rehabilitation. Denunciation, deterrence, and the other traditional purposes of sentences could be given "consideration" but only within the limits defined by proportionality, and the restrictions on the use of imprisonment.

A parliamentary committee in 1988 (chaired and dominated by Conservatives) examined the recommendations from the Sentencing Commission. Although it did not endorse several of the Sentencing Commission's more radical recommendations (e.g., presumptive sentencing guidelines, the abolition of discretionary parole for ordinary sentences, and reduced legislated maximum sentences), the parliamentary committee did not challenge any of its major recommendations on the purpose and principles of sentencing. It recommended alternatives to imprisonment (through victim–offender reconciliation programs or alternative sentencing planning) and endorsed the recommendation that "a term of imprisonment should not be imposed, nor its duration determined, solely for the purposes of rehabilitation" (Canada 1988, 247). More generally, restrictions were to be placed on the use of imprisonment.[25]

Two years later (1990), a set of three integrated policy papers on sentencing and corrections released by the Conservative ministers of justice and the solicitor general referred favorably to the (Liberal) 1982 statement of principles on the criminal law and the (Liberal) statement about sentencing. Perhaps the most important recommendations were that sentences be proportionate and that a term of imprisonment should be imposed only under a restricted set of circumstances.[26] In acknowledging the past, the justice minister noted that,

> Although Canada does not imprison as large a portion of its population as does the United States, we nevertheless imprison more people than most other western democracies. Imprisonment is expensive and it accomplishes very little, apart from separating offenders from society for a period of time. [Recent commissions] have urged that imprisonment should be used as a last resort and reserved only for those convicted of the most serious offences. (Canada 1990, 17)

This set of reports—constituting the last major integrative report on Canada's (adult) justice system—not only noted the importance of an integrated examination of the sentencing and corrections systems but also attempted to be honest about what was possible. At the same time, a more pessimistic view of the ability of the punishment system to reduce crime would be hard to find. As a general or overall summary of Canada's position, it was emphasized that,

> We do not at present have the means or the knowledge to drastically reduce crime or rehabilitate all offenders. We can, however, seek to reduce or mitigate the social costs of crime, punish offenders, and create programs, opportunities, and incentives for treatment for those we think might respond so that they are not an ongoing burden to society. (Canada 1990, 8)

This acknowledgment of the limited power of the criminal justice system in solving the problem of crime was reiterated within the context of the perceived ability of imprisonment, in particular to reduce criminal activity. With no ambiguity, it was affirmed that "[i]mprisonment is generally viewed as of limited use in controlling crime through deterrence, incapacitation and reformation, while being extremely costly in human and dollar terms" (Canada 1990, 10). By extension, the overuse of prison was—yet again—condemned. In fact, we were reminded that "[v]irtually all official reports on sentencing and corrections have declared that we rely too heavily in Canada on imprisonment as a criminal sanction" (p. 10). In particular, incarceration continues to be seen as criminogenic in that it "may decrease rather than increase the chances of reforming individual offenders" (p. 8). Within this context, the report underlines that "[w]e need to develop effective alternative methods for punishing and reforming offenders, and where imprisonment is used, we must better prepare offenders for safe reintegration into the community (p. 8). As an overall approach to sentencing, the report is equally clear: "Criminal penalties should be applied in proportion to the degree of responsibility of the offender. . . . On the other hand, the principle requires that punishment be limited by the requirement not to sacrifice the individual accused to the common good" (p. 12).

Importantly, consensus between Canada's two major (federal) political parties was clear throughout this period. Sentencing and imprisonment were important. But if one was interested in reducing crime, one had to look elsewhere. When a Conservative-dominated House of Commons committee looking into crime prevention released its report in 1993, there was as close to a

complete rejection of imprisonment as a crime-prevention technique as one could imagine. The committee noted, with smug satisfaction, that,

> If locking up those who violate the law contributed to safer societies, then the United States should be the safest country in the world. In fact the United States affords a glaring example of the limited impact that criminal justice responses may have on crime. . . . Evidence from the U.S. is that costly repressive measures alone fail to deter crime. (Canada 1993, 2)

In 1993 when this report was released, Canada's imprisonment rate had grown to 114 (per 100,000 residents—almost exactly what it was in 2012–2013). The American rate (including jails) in 1993 was 528. In 2012, it had fallen (from a high of 756) to 711.

When the Liberal government did finally put detailed sentencing legislation into the *Criminal Code* in 1996, the main sentencing provisions received almost no public attention. The forces of Canadian pessimism about the ability of the criminal justice system to solve the problem of crime had been well established by that point. Indeed, there was no controversy then[27]—and little since then—on any part of the restrictions on imprisonment other than the last nine words of 718.2(e), which were codified for the first time but had been repeatedly affirmed in the past.[28] We doubt that we need to remind readers of the moves during this same period in the United States toward various forms of "three strikes" legislation as well as other approaches (e.g., the federal guidelines) which were designed to increase imprisonment.

Canadians during the 1990s steadfastly maintained their pessimism that crime could be solved through criminal law. This belief was well enough established that Allan Rock, then minister of justice, affirmed in a public and subsequently published speech that just as "war is too important to be left to the generals. . . . Crime prevention is too important to be left to the lawyers, or the justice ministers, or even the judges. . . . In the final analysis, crime prevention has as much to do with the [minister of] . . . Finance, [the minister of] . . . Industry, and [the minister of] . . . Human Resources Development, as it does with the [minister of] Justice" (Rock 1996, 191–92).[29] Policies related to sentencing and imprisonment had, at that point in Canada's history, been successfully separated from crime prevention.

Equally notably, this pessimism in the ability of the criminal justice system (and imprisonment, in particular) to solve crime was widely held. Beyond the federal level of government, the provinces/territories also showed considerable concern that incarceration rates were creeping up (the 1994 rate of about

116 was an all-time high). In January 1995, the Federal/Provincial/Territorial Ministers Responsible for Justice met to discuss this matter. In response, they asked their deputies and the heads of corrections "to identify options to deal effectively with growing prison populations" (Federal/Provincial/Territorial Ministers Responsible for Justice 1996, i).

In May 1996, they were presented with a policy paper "that would assist in managing and countering the pressures of prison population growth" (Federal/Provincial/Territorial Ministers Responsible for Justice 1997, i). Their statement of principles—apparently endorsed by all ministers at that 1996 meeting—was clear. In particular, it not only stipulated that "[t]he best long-term protection of the public results from offenders being returned to a law abiding life style in the community" but also that "[f]air, equitable and just punishment that is proportional to the harm done and similar to like sentences for like offences is a legitimate objective of sentencing." Finally, it was (re)affirmed that "Incarceration should in most cases be used only where public safety so requires and we should seek alternatives to incarceration if safe and more effective community sanctions are available" (Federal/Provincial/Territorial Ministers Responsible for Justice 1997, annex C, 2). Not surprisingly, the ministers' concern about countering rising imprisonment rates received, as far as we can tell, almost no publicity. Furthermore, we were unable to find—in the public documents—any concern that by "containing" prison populations, crime would be affected.

Discussion/Conclusions

As a natural experiment, our exercise in identifying a possible explanation for the dramatically different trends in imprisonment between Canada and the United States since the mid-1970s is obviously flawed. While Canada is almost certainly the most comparable nation to the United States, there is clearly a multitude of other plausible factors that distinguish the two countries and which might shed light on American mass imprisonment. Moreover, the interaction between broad national explanations and more localized state-level structures and practices renders any macro-level exploration of US criminal justice and sentencing systems considerably more complex.

Within this context, our study should be seen as exploratory in nature. We are not experts on American criminal justice policy or its intellectual history. Our contribution to the discussion is simply to bring to the table a different point of view. Indeed, this chapter reflects our attempt to use the Canadian experience (both before and after the early 1970s) as a lens through which to understand American exceptionalism in its growth in incarceration. Further,

the associations we suggest are not meant to be seen as causally determined. Rather, they are intended as "food for thought" for those who have much greater expertise in the subject matter of all that is distinctly American.

With these caveats in mind, one of the most striking contrasts between the United States and Canada seemingly resides in the degree of faith that each nation has placed in the ability of the criminal justice system, generally, and prison, in particular, to reduce—if not eliminate—the problem of crime in society. On one extreme, Canada may be described as portraying considerable penal pessimism. Successive Canadian politicians—starting with Canada's first prime minister over a century ago—as well as numerous government-appointed bodies have had little confidence that the criminal justice system is well placed to control crime, through either rehabilitation, incapacitation, or deterrence. Crime has traditionally been seen as being a product of larger forces in society, and to the extent that it can be affected by government policies, it is government social policies that are seen as important.

Within this context, prisons have largely been seen as a "bad thing." Given their recognized criminogenic features, they have generally been perceived as a cause of crime rather than a solution to it. As such, prisons are viewed simply as a necessary evil whose use should be minimized as much as possible and whose effectiveness in reducing crime is viewed with deep skepticism. Simultaneous to this conceptualization of prison, Canadian governments, other than the Conservative Party in power between 2006 and 2015, have traditionally maintained that offenders—despite their crimes—remain full citizens. As such, they continue to be afforded the rights and privileges inherent in citizenship. Compassion and support—rather than degradation and ostracism—are the guiding responses. Reintegration is the principal goal. Precisely because offenders almost always return to society under Canada's fixed sentencing system, the exclusion of prisoners from Canadian society has never been seen as an effective solution to crime.

On the other extreme, the United States may be described as embracing considerable penal optimism. Dating back to the early 1900s, Americans have shown strong faith in the ability of the criminal justice system—and imprisonment in particular—to significantly reduce, if not eradicate, crime. During the Progressive era, it was believed that the problem of crime could be solved through rehabilitation. By professional examination, treatment, and assessment, the offender could be "cured" of his or her criminal tendencies and return to lead a law-abiding life in the community. Prisons were seen as appropriate locations in which to carry out the rehabilitative techniques, and the indeterminate sentencing system provided the flexibility to administer treatment until such time as the offender has been reformed. Although

benevolence was clearly at the root of this sentencing model, the offender was perceived as "sick" and in need of assistance, justifying the violation of many of his or her rights as a citizen in the form of coercive treatment and disproportionate sanctions.

Since the early 1970s, penal optimism continued to characterize the American approach to crime. However, the focus shifted from a strong belief in rehabilitation to an equally powerful faith in incapacitation and deterrence as effective crime-control strategies. It was believed that brute incapacitation would solve the problem of crime not only by removing offenders from society for lengthy periods of time but also by deterring (potential as well as actual) offenders from committing criminal acts in fear of such harsh penalties. Prison continued to be seen as the location par excellence to accomplish this task as it ensured the (long, if not permanent) segregation of offenders from law-abiding citizens. Indeed, Americans' response to offenders hardened whereby ambivalence replaced benevolence and severity substituted for compassion. The offender came to be seen as morally corrupt and either beyond hope or undeserving of assistance. He or she was stripped of the status of full citizen, becoming—in a certain sense—an outlaw. Indeed, exclusion from society (and its protections) became the rule.

From the view of outsiders, one of the defining characteristics of the American model of either the rehabilitation or the incapacitation/deterrence persuasion is the apparent lack of limits that such optimism places on the state's response to crime. Given the spectacular end result—that is, solving the problem of crime in society—as well as the genuine belief that such a laudable goal was attainable, considerable liberties could (justly) be taken on the part of the state in its response to offenders. Perhaps the only remaining restraining factor was that of simple moral palatability. But even in this case, it appears that Americans were able to take the moral high ground—either through the conviction in the sheer benevolence at the root of rehabilitation or the necessity of protecting "good" citizens from dangerous criminals through segregation.

We might suggest that it is not coincidental that one notes—in the first part of this chapter—evidence suggesting that a moral shift occurred in the United States. Beginning in the late 1970s, the core values of Americans appear to have changed whereby notions of exclusion, ostracism, ambivalence, and severity began to be privileged as appropriate state responses to offenders. Equally notable, this new value system was especially evident in states with high imprisonment rates.

This association is not particularly surprising. One does not need to be a philosopher to realize that general deterrence (or, more specifically, deterrence

through increased use of imprisonment) and incapacitation—as purposes of sentencing or as justifications for imprisonment—require different moral rationalizations or value systems from prison sentences designed to improve the life chances of an offender. In the case of imprisonment for deterrence purposes, offenders are being used, by the state, as a resource to reduce the burden of crime on society generally. No one needs to justify the sentence in terms of what it does for or to the offender; offenders are simply being sacrificed for the rest of the community. It is acceptable to use them as resources because they are "bad people," the evidence being that they have done bad things (i.e., they were convicted of crime).

In the case of incapacitation—a justification once described informally by Frank Zimring as "having the advantage of having no moving parts"—it is even more simple. Offenders are not being punished for what they have done or to "fix" them. They have, in effect, lost their rights of full membership in society because they have offended and are, in effect, banished. In that sense, they no longer are full citizens in terms of protective obligations on the part of the state. And there is no need to worry about whether it is fair to imprison them or consider principles like proportionality in sentencing (see Zimring and Hawkins 1995). The new three-strikes sanctions say it all. The only difference is that the offender (versus the baseball player) is "out" of a much bigger game.

As Tonry (2004) would say, "sensibilities" changed. Each expression of optimism in the United States seemingly has a corresponding set of core values which gives meaning and justification to the state's principal strategies to resolve the crime problem. The difference between the Canadian and the American approaches may reside—at least to some extent—in the combination of these two elements. Canadian core values of communitarianism, inclusiveness, acceptance, and nonviolence (Adams 2003) have arguably reflected as well as reaffirmed our long-standing restraint in the use of imprisonment and our commitment to inclusionary philosophies regarding the nature of citizenship and the limits of state intervention. Reminiscent of Whitman's (2003) argument, Canada may simply be closer—in punishment strategies—to European countries like France and Germany with their "deep commitment to the proposition that criminal offenders must not be degraded—that they must be accorded *respect* and *dignity*" (p. 8, emphasis in original) than to the United States.

Obviously, it is speculative on our part to suggest that the different Canadian values and approaches to sentencing and imprisonment that have existed for more than a century are *responsible* for the fact that in 2011 the overall US rate of imprisonment was more than six times that of Canada. However, it is

intriguing to consider the possibility. While penal optimism and exclusion, on the one hand, and pessimism and inclusion, on the other hand, may seem—at least at first glance—to be odd bedfellows, they suggest that the differences between Canada and the United States in criminal justice policies may go far beyond the relative size of their prison populations.

NOTES

1. Jail figures for the US states are not apparently available reliably until approximately 1980. However, between 1980 and 2010 the *prison* population (state and federal) constituted an average of about 66 percent of the total (prison plus jail) population (range 63 percent–70 percent). Hence, it is plausible, we assume, to estimate that the "total" US imprisonment rate for the pre-1980 period was about 1.52 times the prison rate.
2. The International Centre for Prison Studies on October 8, 2014, listed only Seychelles as having a higher imprisonment rate than the United States (868 vs. 707). http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All. Notably though, Seychelles is a country of 155 islands (off the coast of Africa) with a total population of roughly 90,000. While this nation had a total of 786 prisoners in 2014, the United States had an estimated prison and jail population of 2,228,424 in 2012, the most recent year available to the compilers of that list at the time it was downloaded (November 2014).
3. For Canada, total crime includes all offenses considered to be criminal. For the United States, it is only those offenses that are considered to be "index crimes." Most notably, the Canadian measure involves large numbers of minor crimes that are not counted as "index crimes" in the United States (e.g., administration of justice offenses, minor thefts, and minor assaults). As such, any attempt at comparing absolute values for the two countries is meaningless.
4. Note that this figure (and the previous figure) use different scales for the United States and Canada. Homicide rates in the United States are typically about three times the Canadian rate.
5. This pre-1975 stability was, of course, the basis of Blumstein and colleagues' (Blumstein and Cohen, 1973; Blumstein, Cohen, and Nagin, 1977) idea that "stability" in imprisonment needed to be explained (when it was known that crime rates had varied over time).
6. It is important to note that provincial/territorial imprisonment rates only reflect custodial sentences of less than two years. In Canada, criminal law is a federal responsibility, while the provinces/territories are responsible for the administration of justice. Responsibility for corrections is split whereby the federal government is responsible for those sentenced to two years or more and the provinces/territories are responsible for those sentenced to less than two years in prison (and remand prisoners) as well as most community sanctions. This "division of

criminal labor" finds no parallel with the American federal system in that each US state (as well as the federal government) has its own criminal law and its own prison system, which operate largely independently of each other.

7. We include the "ratio" of the two rates for the sake of completeness. However, we do *not* believe that it is a very useful figure, in large part because it is driven so much by the starting rate in the early 1970s. This limitation is best illustrated by looking at the data for North Dakota—the state with the lowest 1971–1975 rate. Its "absolute change" in imprisonment is also fairly small (column 4). In fact, it has the tenth smallest increase in imprisonment in this 35-year period. But the *ratio* of the late 2000s rate over the early 1970s rate is the second largest in the United States. This description does not seem to portray what happened in North Dakota when one considers that its rate was the fifth smallest for the period 2006–2010 (222.8). The full set of data for all 50 states can be found in Appendix 3A.1.
8. We calculated the average of each state's rates of imprisonment for each period of interest. Specifically, we compared the average state increases in the period 1971–1975 (before the "great increase") with those in the period 2006–2010 (at the peak of the "great increase").
9. See note 1. Direct comparisons of these state prison rates with Canada should not be made. The "Canada" rate includes all adult prisoners (those serving sentences in federal and provincial institutions as well as those in presentence custody). Canadian federal imprisonment rates broken down by the province in which the offender was sentenced are not available. Hence, a true "provincial" rate cannot be calculated (just as a true overall rate cannot be calculated for US states because of federal imprisonment rates). Canadian rates also vary by province. Using the federal Canadian penitentiary average for the single year 1971 (34.1 prisoners per 100,000 residents), some Canadian provincial rates for 1971 are comparable to these low US state rates (for 1971–1975) including Newfoundland (60), Nova Scotia (64), and Quebec (55). However, these estimates are problematic as the use of federal penitentiaries appears to vary dramatically across provinces (Sprott and Doob, 1998). Including the federal US imprisonment rate and our estimate of the jail population (see note 1) results in comparable estimates for North Dakota (53.4), New Hampshire (62.2), and Massachusetts (72.4). Using these estimates, in 1971 Vermont's total imprisonment rate would have been about that of Canada as a whole (82.7 in 1971).
10. For a different interpretation, see Zimring (2010). Using a different measure and analytic framework, this scholar concludes that "there are . . . no indications . . . of anything other than fifty different outcomes of a uniform process" (p. 1237). Our analysis in Table 3.3 (as well as in Tables 3.4 and 3.5) would suggest that there are, in fact, clusters of states with different growth rates, as well as related characteristics.
11. Adams' classification of US states in terms of how "Canadian-like" they are was based on a two-dimensional value structure on which individuals (or groups)

can be placed. Canadians were more likely than Americans to hold such attitudes as a willingness to accept nontraditional views of the family or to consider oneself a "citizen of the world" before a "citizen of one's community and country." Canadians were also found to be more likely than Americans to indicate that they are comfortable in adapting to the uncertainties of modern life and were not threatened by the changes and complexities of society today. In contrast, individuals who fell into the quadrant most unlike the preponderance of Canadians were more likely to endorse such views as that "there are rules in society and everyone should follow them" or that "immigrants who have made their home in [this country] should set aside their cultural backgrounds and blend in." It was also found that those least like Canadians were more likely to endorse "confidence that, in the end, people get what they deserve as a result of the decisions they make, both positively and negatively."

12. As Rothman (1980, 12) notes, the perspective of the Progressives "was substantially different from that of the 1970's, so different that I am comfortable in taking the period of 1900–1965 as one, labelling it 'Progressive' and conceiving of the post-1965 period, our own, as post-Progressive—indeed anti-Progressive." While we would agree that the Progressive era is substantively different from its successor, we might quibble with the truncated upper demarcation of this former period. More importantly, we would argue that the categorization of the latter era as "anti-Progressive" misses the continuity between these two broad currents of intellectual thought and policy approach to crime and the role of the criminal justice system.
13. For skeptical readers needing quantitative evidence, Zimring and Hawkins (1988, 230, fig. 1) provided data from the US Department of Justice showing that crime had not, in fact, hit zero by early 1987.
14. One need only think of the extensive research on the marginal deterrent effect of harsher sanctions on crime rates. Despite over 40 years of studies, there continues to be no consistent and plausible evidence to support this form of general deterrence (Doob and Webster 2003, Webster and Doob 2012). The literature on the ineffectiveness of specific deterrence is even stronger (Nagin, Cullen, and Jonson, 2009).
15. Though true now, this was not strictly true in the twentieth century. In some provinces (Ontario, for example), indeterminate sentences (with a maximum of two-year duration) could be handed down. This practice was ended in the 1970s without much fanfare (since, among other things, it involved neither long sentences nor sentences for the most serious crimes).
16. An exception to this generalization is life sentences (and those given indeterminate sentences as "dangerous offenders").
17. An average, in recent years, of roughly 170 offenders per year are admitted on a life sentence (almost all for murder) or an indeterminate sentence (as dangerous

offenders). About 89,000 offenders per year are admitted to Canada's prisons with "fixed" sentences.

18. As noted earlier, criminal law is a federal responsibility. Hence, there is only one criminal law for all of Canada. We have argued previously that the distancing and insulating of the federal government (with its powers to modify the criminal law) from both the administration of most criminal law and individual crimes may act as a protective factor against increased imprisonment (Webster and Doob, 2007, 337–41).
19. Nonetheless, this explicit requirement is muddied somewhat by the fact that all of the usual sentencing purposes, plus a few, are listed as being relevant to the handing down of sanctions. Specifically, Section 718 of the Canadian *Criminal Code* reads,

    > The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:
    >
    > (*a*) to denounce unlawful conduct;
    > (*b*) to deter the offender and other persons from committing offences;
    > (*c*) to separate offenders from society, where necessary;
    > (*d*) to assist in rehabilitating offenders;
    > (*e*) to provide reparations for harm done to victims or to the community; and
    > (*f*) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

20. However, it is notable that legislation abolishing the practice did not come into effect until 1977.
21. In fact, whipping was imposed by the courts only about 30 times a year or 1.5 percent of the time when it was available between 1950 and 1955—a rather large decline from the period 1930–1934 when it was administered about 116 times a year, representing 9.7 percent of the convictions for which it was available (Canada 1956, 43).
22. In case their recommendation was not accepted by Parliament, they proposed that "uniform specifications for the construction and use of the strap should be made and enforced" (Canada 1956, 47). Whipping of prisoners (in the privacy of one's own penitentiary, of course) was not immediately abolished. Though it was available as part of a sentence and as an institutional disciplinary punishment, it appears that it was mostly used at the end for disciplinary purposes. Correctional Service Canada reports that "[b]etween 1957–67, there were 333 instances of corporal punishment inflicted on offenders for breaching institutional rules, whereas in 1968, only one occurrence is recorded. It appears that October 15, 1968 was the last recorded application of its use as a disciplinary measure in federal penitentiaries. Instances of offenders being sentenced to

corporal punishment by the courts likewise declined: in 1954, for example, corporal punishment was ordered only 14 times." It was officially abolished in 1972 (http://www.csc-scc.gc.ca/text/pblct/rht-drt/05-eng.shtml; downloaded April 3, 2013).

23. More specifically, the committee explicitly recommended that

> Legislation be framed to encompass the principles contained in section 7 of the [1962 draft American Law Institute] Model Penal Code . . . which . . . provides that: "(1) The Court shall deal with a person who has been convicted of a crime *without imposing sentence of imprisonment unless,* having regard to the nature and circumstance of the crime and history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public because
>
> (*a*) there is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime; or
>
> (*b*) the defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or
>
> (*c*) a lesser sentence will depreciate the seriousness of the defendant's crime." (Canada 1977, 191)

24. For illustrations, see Gaes et al. (1999). In addition, as noted in a government statement of policies and goals for corrections, "The fundamental goal of the correctional system is to contribute to the maintenance of a just, peaceful, and safe society through the safe custody and control of offenders and their reintegration into the community as law-abiding citizens" (Canada 1990).

25. Interestingly, there were some recommendations for harshness as well. In what looks like a compromise for their statement that "the committee does not generally support the introduction of further mandatory minimum sentences" (Canada 1988, 70), mandatory minimum sentences of 10 years were recommended for "all offenders convicted of a second or subsequent offence for sexual assault involving violence." As the committee itself noted, this mandatory minimum sentence "would apply to a narrowly defined class of offenders in narrowly defined circumstances for a very grave offence" (p. 71). That year, there were 791,355 criminal incidents "cleared by charge" and presumably (mostly) ending up in court. Our estimate is that 762 of these charges might have been sexual assaults involving violence, and probably no more than 5–20 percent of these accused (or 38–152) would have been people who were there for a second similar offence. It seems likely that even if their recommendation had been implemented, it would not have created a significant increase in imprisonment since these offenders would have received very long sentences anyway.

26. Specifically, "a term of imprisonment should be imposed only (1) to protect the public from crimes of violence, (2) where any other sanction would not sufficiently reflect the gravity of the offense or the repetitive nature of the criminal conduct of an offender or adequately protect the public or the integrity of the administration of justice, or (3) to penalize an offender for willful noncompliance

with the terms of any other sentence that has been imposed on the offender where no other sanction appears adequate to compel compliance." (Canada 1990, 16).

27. This is not strictly accurate. The bill originally had an exhaustive list of factors that could be the basis of "hate motivated" crime (which was listed as an aggravating factor in sentencing). These included "sexual orientation" among other listed factors. This elicited enormous outcry from conservative politicians, focusing much of their attention related to the bill on those two words. Eventually, the list was made nonexhaustive, which had little impact on the shrill voices of the opposition. But "sentencing" per se was mostly ignored. Also receiving essentially no public scrutiny were provisions allowing for "alternative measures" rather than prosecution of cases (s. 717).
28. Section 718.2 reads, "A court that imposes a sentence shall also take into consideration the following principles . . . (*e*) all available sanctions other than imprisonment that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders."
29. It should not be assumed that "tough-on-crime" issues did not arise. In 1996—in a bill which introduced Canada's now defunct "long gun registry"—a provision of four-year mandatory minimum sentences for violent offenses carried out with a firearm was introduced. This legislation was almost certainly seen as an attempt to appease those who were against the gun registry. We estimated (Webster and Doob, 2007, 317, n. 23) that the mandatory minimum had little impact on actual sentences. In interviews with senior people in the Department of Justice at the time, there was clearly concern about the increase. One official told us that the department had estimated that it would have a measurable impact on federal imprisonment counts, while another told us that the department had estimated that it would have little impact on prison counts for reasons outlined in our 2007 chapter.

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Appendix 3A.1 Imprisonment Rates for 50 States (1971–1975 and 2006–2010)

	Average 1971–1975	Average 2006–2010	Absolute Change	Ratio: End/ Beginning
Alabama	109.9	628.4	518.5	5.7
Alaska	59.2	407.2	348.0	6.9
Arizona	89.4	556.4	467.0	6.2
Arkansas	89.6	514.4	424.8	5.7
California	90.9	462.0	371.1	5.1
Colorado	80.8	459.2	378.4	5.7
Connecticut	56.7	393.4	336.7	6.9
Delaware	63.1	464.6	401.5	7.4
Florida	145.7	543.2	397.5	3.7
Georgia	177.8	533.2	355.4	3.0
Hawaii	38.1	325.4	287.3	8.5
Idaho	57.9	477.4	419.5	8.2
Illinois	56.4	354.6	298.2	6.3
Indiana	69.9	432.0	362.1	6.2
Iowa	52.5	295.8	243.3	5.6
Kansas	72.8	311.0	238.2	4.3
Kentucky	92.9	480.4	387.5	5.2
Louisiana	113.4	862.4	749.0	7.6
Maine	49.1	149.6	100.5	3.0
Maryland	146.4	394.4	248.0	2.7
Massachusetts	37.0	224.6	187.6	6.1
Michigan	100.1	480.0	379.9	4.8
Minnesota	37.6	182.0	144.4	4.8
Mississippi	87.2	703.0	615.8	8.1
Missouri	82.2	509.2	427.0	6.2
Montana	42.8	368.8	326.0	8.6
Nebraska	69.2	243.4	174.2	3.5
Nevada	129.3	485.0	355.7	3.8
New Hampshire	30.3	212.8	182.5	7.0
New Jersey	73.4	299.2	225.8	4.1
New Mexico	70.0	318.2	248.2	4.5
New York	73.6	308.2	234.6	4.2
North Carolina	182.8	366.2	183.4	2.0
North Dakota	24.5	222.8	198.3	9.1
Ohio	85.5	442.6	357.1	5.2
Oklahoma	125.4	660.2	534.8	5.3

(*continued*)

Appendix 3A.1 continued

	Average 1971–1975	Average 2006–2010	Absolute Change	Ratio: End/ Beginning
Oregon	89.8	368.2	278.4	4.1
Pennsylvania	53.8	384.0	330.2	7.1
Rhode Island	41.9	217.0	175.1	5.2
South Carolina	145.2	515.0	369.8	3.5
South Dakota	45.9	417.4	371.5	9.1
Tennessee	90.4	428.2	337.8	4.7
Texas	143.6	657.4	513.8	4.6
Utah	49.9	237.4	187.5	4.8
Vermont	43.9	264.8	220.9	6.0
Virginia	107.6	480.8	373.2	4.5
Washington	83.8	271.2	187.4	3.2
West Virginia	60.4	337.4	277.0	5.6
Wisconsin	53.8	379.8	326.0	7.1
Wyoming	76.7	390.2	313.5	5.1
Arithmetic (unweighted) average of states	81.0	408.4	327.4	5.5
Federal institutions	10.6	59.8	49.2	5.6
State (overall) only	88.8	442.2	353.4	5.0
State and federal (combined)	99.4	502.0	402.6	5.1
Canada	84.9	110.3	25.4	1.3

This is Exhibit "F" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Public safety is not compromised by retroactively shortening sentences.

From time to time, people are released from prison sooner than was originally expected. In France, for example, groups of prisoners are released from time to time before their normal release dates (often on a national holiday prisoners are released simply to keep prison numbers in check). On occasion, prisoners also have been given the opportunity to petition for sentence reductions. For example, when the United States Sentencing Commission amended the guideline for offences involving crack cocaine in 2007, the Commission allowed judges to hear motions from existing prisoners, who had already been sentenced, for a retroactive reduction in the sentences they were serving.

This study examines a simple question: Were those who received an unexpected benefit – early, and unexpected, release from prison – more likely to reoffend than those who served their full sentence. Said differently, did the decision to allow these prisoners to return to the community earlier than expected put the community at risk? Within about 40 months of the decision allowing the courts to give existing prisoners the benefit of the reduced guideline sentence, 25,736 prisoners had applied to have their sentences shortened. Most of these applications (64%) were granted. Most of those prisoners whose motions for a sentence reduction were denied were not legally eligible for a sentence reduction.

Those whose motions for a reduced sentence were successful had their sentences reduced by an average of 30 months (from an average of 12 years, 9 months to 10 years 3 months). Federal prisoners normally serve 85% of their sentences. A sample of 836 prisoners released in 2008 after serving sentences related to crack cocaine offences were matched with 483 similar crack cocaine prisoners who served their full sentences but were released in the 12 months immediately before the change came into effect. Both groups were largely male (91%) and Black (87% and 86% for the 'early' and 'regular' release groups, respectively) and similar in age (36.3 years and 35.4 years). They had similar criminal history scores and similar proportions had been sentenced below the guideline (31%, 33%) on a motion by the prosecutor. Most had been sentenced during a time when the 'guidelines' were mandatory.

The recidivism rates (defined as a re-arrest or revocation of supervised release) were similar for the two groups at all points in time up to the end of the 5-year follow-up period. At the end of 2 years, the recidivism rate for the 'early release' group was 30.4%; this was not significantly different from the rate for the comparison group (32.6%). Those with longer criminal histories tended to have higher recidivism rates, but there were no significant differences between the 'early release' and 'full sentence' prisoners at any level of criminal history. Five years after release, 43.3% of the early release prisoners had been re-arrested or revoked. This was not significantly different from the comparison group figure (47.8%). Looking only at re-arrest, the groups were similar (33.9% and 37.3% for the early release and full release groups, respectively).

Though the two groups were similar on all measured dimensions, it is possible that the groups were different on other characteristics. In addition, it is possible that, for other reasons, social conditions in the community were different for those released between July and November 2008 than for the comparison group (released March 2007-February 2008). This seems implausible, however, when one considers that for most of the 5-year follow-up, the "at risk" periods overlapped.

Conclusion: It would appear that an unexpected reduction of over 2 years in prison for these cocaine offenders did not encourage them to re-offend. Various analyses suggest that the re-offending rates for various subgroups of these offenders did not differ significantly from the re-offending rates for those who served the sentences they expected when they were first sentenced. For these drug offenders, then, unexpected early release did not lead to changes in offending rates.

Reference: Hunt, Kim Steven and Andrew Peterson (2014) Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment. Washington, D.C.: United States Sentencing Commission. (Related documents were also consulted.)

This is Exhibit "G" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

US imprisonment rates have been declining for about 8 years. At the current average rate of decline, US imprisonment will be at the 1980 rate in the year 2052. Releasing prisoners before their expected release dates would ensure a quicker return to 1980 levels without increasing crime.

An earlier study (*Criminological Highlights 14*(5)#6) suggested that reoffending rates for US federal prisoners who were unexpectedly given a reduction in their sentences were no different from the reoffending rates of those who served their full sentences. That paper looked at those released in 2008 as a result of US Sentencing Commission guideline changes that were retroactively applied.

In addition to reducing the disparity in sentencing for those involved in cocaine vs. crack drug offences, the 2010 US Fair Sentencing Act also eliminated or restricted certain mandatory minimum sentences. The US Sentencing Commission allowed these changes to be applied retroactively.

In order to determine if the unexpected sentence reduction from the implementation of the 2010 Act had any effect on recidivism, this study compared the reoffending rates of two groups of prisoners: (a) 5,525 people released early between 1 November 2011 and 30 November 2013. On average they served 30 months less than the second group who served their full sentence: (b) 2,298 prisoners who were released between 1 November 2010 and 31 October 2011 after serving their full sentences. This group, if the change in sentencing policy had been in effect, would have been released early, but had served their full sentences before the change in sentencing came into effect. The groups were very similar on most measures (gender, age, criminal history scores). The people who got out early, however, were slightly more likely to be Black (86.4% vs. 83.5%) and had slightly more serious criminal history scores. Although this last fact would normally lead one to expect higher reoffending rates for this group, that is not what the study found.

The results were consistent across comparisons. Overall the three-year recidivism rates (arrests for new offences, or a court or supervision violation) were identical – 37.9%. About a third those who "reoffended" committed 'court or supervision' violations. This finding – similar recidivism rates for those serving their full sentences and those released early – held for all three major race/ethnicity groups (Black, White, Hispanic), males and females, those with varying amounts of education, those under and over 30 years old, those with minor and substantial criminal history scores, and those whose offences involved or did not involve a weapon. The prisoners examined in this study varied in terms of whether they had been sentenced within, above, or below, the sentencing guideline range. Again, however, there were no differences, within each of these groups, on the recidivism rates for those who served their full sentences and those who received the benefit of the retroactive changes in their sentences. Similarly, the findings held for those with sentences under 10 years in length and 10 years or more.

Conclusion: An unexpected reduction of prison time of (on average) 30 months did not affect reoffending rates for these drug offenders. This finding – no change in reoffending – held for various subgroups that were examined. Obviously, one cannot automatically assume that the results would be the same if other prisoners were unexpectedly released from prison early. The results do suggest, however, that presumptively there is little risk to public safety by extending these early-release policies to others serving time in prison at least for non-violent offences.

Reference: Hunt, Kim Steven, Kevin Maass, and Todd Kostyhak (2018). Recidivism Among Federal Offenders Receiving Retroactive Sentence Reductions: The 2011 Fair Sentencing Act Guideline Amendment. Washington, D.C.: United States Sentencing Commission.

This is Exhibit "H" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Centre for Criminology & Sociolegal Studies
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The Effects of Imprisonment: Specific Deterrence and Collateral Effects

Research Summaries Compiled from *Criminological Highlights*
by
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14 February 2014

The materials summarized in this compilation come from *Criminological Highlights*, an information service produced by the Centre for Criminology & Sociolegal Studies at the University of Toronto. The project is directed by Anthony Doob and Rosemary Gartner.

Criminological Highlights is produced by a group of faculty (at the University of Toronto and at nearby universities), criminology doctoral students, and librarians. To find items appropriate for *Criminological Highlights*, we scan everything that comes into the Centre of Criminology library and over 100 journals that are available electronically. From time to time, we also consider papers published in journals in related fields. A short list (typically about 20-30 articles per issue) is chosen and the group reads and discusses each of these papers. For a paper to be included in *Criminological Highlights* it must be methodologically rigorous and it must have some (general) policy relevance.

From September 1997 until April 2011 (Volume 11, Number 6) *Criminological Highlights* was funded by the Department of Justice, Canada (and for a few years by the Correctional Service of Canada). From August 2011 onwards, the project has been funded by the Ministry of the Attorney General, Ontario. Views – expressed or implied – in this publication (and in the commentary that follows) are not necessarily those of the Ontario Ministry of the Attorney General nor are they necessarily those of the Department of Justice, Canada, or the Correctional Service of Canada.

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This overview of research findings is designed to be read along with the actual research summaries from *Criminological Highlights* which are contained in Part B of this report.

The effect of imprisonment on recidivism

The renewed popularity of mandatory minimum sentences makes the examination of the effects of imprisonment more important than it might have been in the past. More generally, however, it is in the public interest to know what the impact of imprisonment is on those who experience it.

Mandatory minimum sentences almost always involve sentences of imprisonment. In some cases, people are sent to prison who – in the absence of a mandatory minimum prison sentence – would not have received a prison sentence. In other cases, the length of time that they spend in prison is longer than it would be otherwise because a mandatory minimum sentence is required.

Harsh sentences are often justified in terms of their *specific* deterrent impact – the presumed deterrent impact of the sentence on the offender being sentenced. The theory is simple: offenders will, because they receive harsh sentences, be deterred from committing additional offences in the future (after they have served their sentences) because they have learned that harsh penalties are the consequence of offending.

Recently, for example, the Government of Canada introduced specific deterrence (but not general deterrence) into the *Youth Criminal Justice Act*. This modification is based, one could assume, on their belief that Canadians would be safer if those being sentenced were given harsher sentences (or the government believes that Canadians believe that they would be safer from crime if specific deterrence was listed as a purpose of sentencing).

Implicitly, and occasionally explicitly, the Government of Canada has criticized judges for not being harsh enough. The implication of what spokespeople for the government state is clear: Canadians would be safer if judges handed down more and longer prison sentences. Said differently, judges are portrayed as being responsible for at least some crime in the community.

As it turns out, in some jurisdictions, this hypothesis – tough judges create lower recidivism rates – has been tested directly through what could be considered random assignment of those being sentenced to judges who vary in their average severity. In one study in Washington, D.C., drug felony cases were assigned to judges in what was almost a random fashion. Judges varied considerably in the average severity of the sentences they imposed. The most lenient judge sentenced about 23% of these cases to prison; the harshest judge sentenced 65% to prison. On average, the cases sentenced by the various judges were

similar. The most conservative interpretation of the findings was that the recidivism rates of those sentenced by tough and lenient judges were the same, although there were some indications that those sentenced by tough judges were *more* likely to reoffend (page[1] B-1). A similar study carried out in state courts in Chicago with ordinary offenders sentenced to a variety of different offences had similar findings (Page B-2).

A large review of the findings on the impact of imprisonment on reoffending (Page B-3) suggested – especially if one focused on the highest quality research – that the impact of imprisonment was either non-existent or that imprisonment of offenders (holding other relevant factors constant) increased the likelihood that they would re-offend over the alternative – imposing a non-prison sentence.

Studies focused on more homogeneous populations show similar effects. A true (randomized) experiment in Switzerland (page B-4) demonstrated that there was no evidence of a specific deterrence effect of imprisonment in comparison with a community service. In fact, there was some evidence on some measures that prison increased the rate of recidivism. A study carried out in the Netherlands (page B-5) using a different methodology found that those sentenced to prison were more likely to re-offend than those given community service orders. Two Australian studies demonstrate the same phenomenon: imprisoned offenders are at least as likely to reoffend as those who are not sentenced to prison (page B-6).

An American study, looking at matched pairs of offenders, one of whom was imprisoned one was not, found that for both sexes, those sent to prison were, if anything, more likely to reoffend (page B-7). Another study, using a range of different methodologies and different recidivism measures found that imprisonment increases the likelihood of reoffending (page B-8). The length of time an offender spends in prison appears to be unrelated to recidivism (page B-9).

Perhaps one of the more important findings is that those sent to prison for the first time are more likely to re-offend than are equivalent offenders sentenced to a community punishment (page B-10). Similarly, drug offenders sent to prison are more likely to reoffend than those sentenced to probation (page B-11).

Part of the difficulty for those who are incarcerated is that incarceration (above and beyond being found guilty) appears to reduce a person's likelihood of being in the workforce (page B-12).

The Canadian *Youth Criminal Justice Act* was designed explicitly to reduce the use of youth court and of youth custody. These strategies – avoiding formal processing of youths who have offended – appear to be sensible. A review of the data on this issue "indicates that

[1] Page numbers for the *Criminological Highlights* summaries (Part B of this compendium) are to be found at the bottom right. (Other numbers that might be found on some pages relate to the original source of the summary).

there is no public safety benefit to [youth justice] system processing" (page B-13). Similar conclusions were reported in a recent Australian study (page B-14).

For youths, it needs to be remembered that offending rates tend to drop – even for high rate offenders – as youths age. Furthermore, long stays in juvenile facilities did not reduce reoffending (pages B-15 and B-16).

Part of the reason that harsh penalties do not appear to have much impact for youths may be that when they are apprehended, their perceptions of the likelihood of being caught in the future do not increase very much (page B-17).

Finally, for one of the more common types of offences - drinking driving offences[2] - the size of the fine that is imposed does not matter (page B-18). Governments may wish to raise the fine for impaired driving offences (as they have done numerous times in Canada). But they should not think that by doing so anyone is made safer.

Collateral impacts of imprisonment

When one member of a family is incarcerated, it obviously can have effects on other family members (page B-19). In fact, the incarceration of fathers increases the physical aggressiveness of their young sons (page B-20), and increases the likelihood that their sons will commit offences (page B-21). Furthermore, the incarceration of fathers increases the likelihood that their children, when they become adults, will commit offences (B-22).

Incarceration of a father can also have a negative impact on the mental health of mothers who are left to care for their child (page B-23).

The incarceration of mothers has similar negative impacts on their children – increasing the likelihood that their children will commit offences (page B-24).

Not surprisingly, the effect of incarceration of a parent depends to some extent on the role that the parent was playing before the incarceration began and the nature of the relationship between the incarcerated parent and the (remaining) caregiver, whether that person is a parent or someone else (page B-25).

Finally, the negative impact of incarceration can go beyond the immediate family and have negative impacts on the community more generally (page B-26).

[2] In Canada, in 2010, drinking driving offences constituted the most serious charge in the case of 15.6% of those cases in which there was a finding of guilt.

Volume 11, Number 4 **Article 2** September 2010

Punitive judges don't stop crime.

A fair amount of published research suggests that harsher sentences do not reduce recidivism and may even increase the likelihood of future offending (*Criminological Highlights*, 11(1)#1, 11(1)#2). A weakness of many studies of the impact of imprisonment on subsequent offending is that it cannot be assumed that judges hand down sentences at random. Hence there remains the possibility that pre-existing differences between those offenders treated harshly and those treated more leniently may account for differences (or lack of differences) in their recidivism rates. In order to overcome this problem, this study takes advantage of one common fact, and one unusual procedure: judges vary in their punitiveness and, in Washington, D.C., judges have cases assigned to them in an essentially random fashion. In other words, it might be said that Washington, D.C. offenders are randomly assigned to be sentenced by judges who give sentences of quite different levels of severity.

This study looked at the impact of variation in sentence severity on recidivism in cases of drug felonies (largely distribution and possession for the purpose of distribution) in 2002/3. Cases were assigned to nine different judges in a sequential fashion. Though there were occasional departures from this procedure because a court was overloaded with cases, neither the facts of the case nor the defendant ever determined the court assignment. Indeed, a careful examination of the cases found that judges had very similar distributions of cases on 20 different dimensions. Most (85%) of the defendants had at least one prior arrest and most (67%) had at least one prior conviction.

There were nine court dockets (or judges). The proportion of these drug offenders who were incarcerated varied, across judges, from a low of 23% incarcerated to a high of 65%. These differences far exceeded what could be expected by chance. Said differently, the judge (as opposed to the characteristics of the case) was a major determinant of sentence severity. The average non-suspended prison sentence varied from 5.1 months for the least punitive judge to 11.9 months for the most punitive. The proportion given probation, instead of or in addition to prison, varied from 29% to 60%. Clearly there was considerable variation across judges. The measure of recidivism was whether the offender was rearrested on any criminal charge in Washington, D.C., or the neighbouring state of Maryland within 4 years of the date on which the case was completed. Since those incarcerated had less opportunity to offend, this operationalization would tend to reduce the apparent re-offending rate of those incarcerated or those incarcerated for the longest period of time (i.e., it would tend to create effects that would support the idea that individuals are deterred by harsher sentences).

There was no evidence that those sentenced by harsh judges (i.e., those who incarcerated higher proportions of offenders; or those judges who, on average, incarcerated offenders for long periods of time) were less likely to recidivate. Similarly, the number of months of probation was unrelated to reoffending. If anything, those who received sentences from harsh judges (i.e., those prone to handing out prison sentences) were *more* likely to recidivate (even though they might have had less time to do so) though this effect was not consistently statistically significant across analyses.

Conclusion: Whether one controls, statistically, for characteristics of the 1003 cases in the study, or simply compares the outcome of cases randomly assigned to be sentenced by 'tough' vs. 'lenient' judges, the findings are consistent. The most conservative conclusion would be that "Incarceration seems to have little effect on the likelihood of rearrest. Despite the fact that [the study] measured recidivism in a way that gives those incapacitated by prison time less time to recidivate than those who are not incarcerated, prison time seems to do little to reduce the odds of rearrest. Evidently, the combined effects of incapacitation and specific deterrence are weak in this setting" (p. 381). "Those assigned by chance to receive prison time and their counterparts who received no prison time were rearrested at similar rates over a 4-year time frame" (p. 382).

Reference: Green, Donald P. and Daniel Winik (2010). Using Random Judge Assignments to Estimate the Effects of Incarceration and Probation on Recidivism Among Drug Offenders. *Criminology, 48*(2), 357-387.

Imprisonment does not reduce the likelihood of reoffending.

One of the traditional justifications for imprisonment is that it will increase the likelihood that offenders will stop offending and become reintegrated into society (e.g., by getting a job). The theory is that through one or more mechanisms – specific deterrence, rehabilitation, job training, separating the offender from a criminogenic community, or simply 'breaking the cycle' of offending – imprisonment will help them stop offending.

The data do not support this view. Research comparing those sent to prison (as compared to those receiving community sanctions) suggests that prison is more likely to increase future offending than it is to decrease it (*Criminological Highlights*, V11N1#1, V11N1#2, V11N5#2, V11N6#4, V13N2#3). This finding also appears to hold for youths (V10N6#1, V11N4#3, V12N5#7). In addition to studies using advanced statistical techniques to create comparable groups who are sentenced to prison or not, studies in which offenders are essentially randomly assigned to receive a prison or non-prison sanction (V3N4#4, V11N4#2) show the same effect: experiencing prison does not reduce reoffending.

This paper takes advantage of the fact that in the state courts in Chicago, criminal cases are randomly assigned to the judges. Each judge hears a wide variety of cases including violent offences such as sexual offences and robbery (10% of the cases), property offences such as burglary or theft (29%), weapons offences (8%) and drug offences (53%). This study shows that the judges varied in the punitiveness of their sentences. Overall, about 35% of offenders were incarcerated. However, the least punitive judge sent only 26% of those found guilty to prison, whereas the most punitive judge sentenced 47% to prison. The study looked at relatively low level felony convictions to ensure that offenders would be released fairly soon after conviction if they were incarcerated. Though not the focus of this study, reoffending, not surprisingly, was related to race, age, the number of prior arrests, and offence.

Typically, of course, judges tend to imprison the 'worst' offenders – usually those with the longest criminal records. This normally makes it difficult to see whether there is an actual *causal* effect of imprisonment on offending. However, in this study, because judges varied in their punitiveness, and cases were randomly assigned to judges, there was an opportunity to see whether punitiveness of the sentences handed down *above and beyond the characteristics of the case* had an impact on recidivism.

Recidivism for this group of offenders was relatively high: the 5-year recidivism rates for those offenders who were sentenced by the 25 judges varied between about 60% and 70%. Most importantly, however, there was *no* relationship between the punitiveness of the judge and the recidivism rate for offenders sentenced by each judge. Said differently, the most punitive judges were no more successful in stopping crime than the least punitive judges. Judges, it would appear, aren't responsible for crime.

About half of these offenders had been convicted previously of an offence, and about 80% had previously been arrested. In other words, many had a history of involvement in the criminal justice system. Five years after the conviction and sentencing examined in this study, fewer than 20% were involved in employment that could be tracked through deductions from their pay for social security purposes. Most importantly in terms of the purpose of this study, the rate of employment (based on this measure) at five years after sentencing did not vary for those dealt with by the most punitive compared to the least punitive judges.

Conclusion: It appears that variation in the use of prison had no effect on reoffending; nor did it have any impact on ordinary employment five years after sentencing. Instead, "these results reinforce the perspective that prisons function primarily as custodial institutions – interrupting but not fundamentally altering, the average life-course trajectory of their temporary inhabitants" (p. 157).

Reference: Loeffler, Charles E. (2013). Does Imprisonment Alter the Life Course? Evidence on Crime and Employment from a Natural Experiment. *Criminology, 51*(1), 137-166.

Volume 11, Number 1 **Article 1** February 2010

Incarcerating offenders who could be given non-custodial sanctions does not reduce the likelihood that they will commit further offences. In fact, incarceration may increase the probability of recidivism.

Evidence does not support the conclusion that increasing the severity of sentences – e.g., by imposing incarceration rather than a non-custodial sentence – increases the general deterrent impact of the criminal law (e.g., *Criminological Highlights*, V6N2#1). But in addition, incarceration is often justified by assertions that it reduces crime by incapacitating or deterring imprisoned offenders. This paper looks at the possibility that the latter mechanism – deterrence through imprisonment – might be effective. Though the rate at which offenders are imprisoned varies dramatically across countries, imprisonment is, almost certainly, the most expensive sanction in any country. Hence if imprisonment is being employed for utilitarian purposes, it is important to know if there is a crime-reducing effect. On the other hand, if, as some suggest, imprisonment *increases* the likelihood of recidivism, then policies that increase imprisonment may not only be expensive, they may lead to increased crime and even higher rates of imprisonment.

There are theoretical reasons to expect that imprisonment will *decrease* crime just as there are reasons to expect that it will *increase* crime. The theory of specific deterrence is grounded in the idea that a chastening effect, derived from the experience of imprisonment, will deter reoffending. The structure of sentencing law as it addresses recidivists may also cause previously convicted individuals to revise upward their estimates of the likelihood and/or severity of punishment for future lawbreaking. This could occur because the criminal law commonly prescribes more severe penalties for recidivists. On the other hand, being in prison may increase crime by making crime seem more acceptable, decreasing the stigma of offending, creating opportunities for people to associate with others who are likely to offend, or by decreasing legitimate opportunities for offenders.

One of the most difficult challenges in estimating the impact of any sanction (especially imprisonment) on offenders is that comparisons of those who did and did not receive the sanction are needed. Given that imprisonment is rarely imposed on a truly random basis, care must be taken to ensure that studies have appropriate comparison groups. This is especially important because offenders over about age 18 are likely, over time, to decrease their involvement in crime.

This paper looks at a range of high quality studies on the effect of imprisonment.

- 5 studies were found in which sanctions were, in effect, handed down randomly (e.g., *Criminological Highlights* V3N4#4). The evidence suggests imprisonment either has no impact or a criminogenic (crime-increasing) impact.
- 32 studies were characterized as using a 'matched' control (carried out on a variable-by-variable basis) or on a 'propensity score' basis. The best of the variable-by-variable studies shows a clear criminogenic impact of custodial sanctions as does the best of the propensity score studies. The majority of the studies show tendencies (often not statistically significant) toward criminogenic effects of imprisonment. "Overall, across both types of matching studies, the evidence points to a criminogenic effect of the experience of incarceration" (p. 153).
- The 31 regression based studies have the enormous disadvantage of failing to take account of age in an adequate fashion. Nevertheless, in 22 of the 31 studies, the majority of estimates support the conclusion that imprisonment is criminogenic; in only 7 do the majority of the estimates support a crime-reducing impact of imprisonment; the remaining studies were evenly split.

Conclusion: "The great majority of [competently carried out] studies point to a null or criminogenic effect of the prison experience on subsequent offending. This… should, at least, caution against wild claims – at times found in 'get tough' rhetoric voiced in recent decades – that prisons have special powers to scare offenders straight" (p. 178). Hence, the continued use of prisons for the simple purpose of reducing re-offending cannot be justified by the considerable amount of evidence that currently exists.

Reference: Nagin, Daniel S., Francis T. Cullen, and Cheryl Lero Jonson (2009). Imprisonment and Reoffending. In *Crime and Justice: A Review of Research* (Tonry, Michael, ed.), Volume 38. University of Chicago Press.

Community Service works: Those offenders given short prison sentences are, if anything, more likely to re-offend than equivalent offenders given community service.

Background. Community service orders (CSOs) have become popular in many countries, including Canada, because they are seen as a less expensive alternative to prison. This study takes the examination of CSOs one step further and looks at the recidivism rates of offenders randomly assigned to CSOs or to a short period of incarceration.

This study, in one district in Switzerland, compared the impact of a CSO to a short (up to 14 days) prison sentence. If an offender sentenced to a short stay in prison were found to be eligible for community work, the offender was given the option of being assigned, *on a random basis*, to community work rather than prison. Because the assignment was random, the two groups (prison and CSO) can be assumed to be equivalent on all pre-existing dimensions.

The results, in general, showed no significant difference on the likelihood of being re-convicted or the average number of convictions within 24 months of the prison/CSO experience. However, when "re-arrest" data were examined, it appeared that those who were assigned to do community service were somewhat less likely to be re-arrested than those who served their sentences in prison.

Immediately after serving their sanction, all participants in the study answered a number of questions. In comparison with those who went to prison, the offenders who experienced community service were more likely to report that they believed that the sanction they received would reduce recidivism, and was fair. Those who went to prison were more likely to indicate that they no longer had a "debt" to society and were more likely to believe that the sentencing judge (but not the correctional authorities) had been unfair.

Conclusion. Clearly, short prison sentences are no better, and may be worse, than community service. It is possible that one reason why community service orders may be better is that offenders feel that they were dealt with fairly by the system. Thus this paper -- using what is sometimes referred to as the "gold standard" in evaluation research, the randomized controlled experiment -- serves as one more nail in the coffin of the belief in the "short sharp shock."

Reference: Killias, Martin, Marcelo Aebi and Denis Ribeaud. Does community service rehabilitate better than short-term imprisonment?: Results of a controlled experiment. *The Howard Journal,* 2000, *39*(1), 40-57.

Volume 11, Number 5 **Article 2** January 2011

Community Service Orders are more effective at reducing recidivism than short sentences of imprisonment.

In The Netherlands, community service has been an increasingly popular alternative to prison sentences of less than 6 months. Dutch law initially allowed community service to be substituted for short prison sentences, and subsequently encouraged its use as a sanction in its own right. Simple comparisons of the recidivism rates of those who received prison sentences and those who received community service orders suggest that being sent to prison increases recidivism. This paper improves on this previous research by creating comparable groups of offenders, half of whom were sentenced to prison and half of whom received sentences of community service.

The challenge in a study of this kind is to create two groups of people who are as similar as possible on all characteristics except for the sentence they received. Often this is done by finding pairs of people who, on variables known to relate to recidivism, are identical except for the fact that one went to prison and the other was sentenced to community service. An alternative approach is to create an overall measure of the likelihood of receiving community service (using all of the background information that is available) and then matching on this 'propensity score' those who actually received community service with those who were sent to prison. This study did both, using offenders sentenced in The Netherlands in 1997. In other words, they took pairs of people whose backgrounds would appear to make them equally likely to have received community service, but only one actually did. In addition, they matched on age, sex, and the relative length of the sentence (in hours of community service and months of imprisonment). Offenders could receive up to 240 hours of community service or 6 months in prison. Only those offenders who had never before been sentenced to either community service or prison were included in the study to ensure that there could be no 'carry over' effects from previous experience with either of these sanctions.

Recidivism measures – mean yearly conviction rates – were calculated for periods of time of 1, 3, 5, and 8 years (correcting statistically for the portion of each follow-up period that the offender was actually 'at risk' in the community). The results are easy to describe: those who were sentenced to prison had higher recidivism rates (average annual rate of convictions) at each of the four time intervals. This pattern – higher recidivism for those sent to prison – was found for all crime, and separately for property crimes and violent crimes. For example, looking at the five year follow-up period, those sentenced to prison were convicted of an average of 0.52 offences per year, whereas those sentenced to community service were convicted of only 0.28 offences per year.

Conclusion: The results are similar to results from other studies (see *Criminological Highlights 3*(4)#4, *11*(1)#1, *11*(1)#2): sending offenders to prison for the first time for periods of up to six months rather than imposing community service on them appears to increase the likelihood of subsequent offending. "In the short term as well as in the long term, community service is followed by less recidivism than imprisonment… The absolute difference in recidivism after community service and imprisonment is 1.21 convictions after a follow-up period of five years" (p. 346). In 2008, 81% of the 86,717 offenders (or 70,353 offenders) sentenced to prison in Canada received sentences of less than 6 months. Not all of these 70,353 offenders would have met the criteria for this study since some of them had already experienced either imprisonment or a community service order. But these data would suggest that the alternative – up to 240 hours of community service – would have been an effective way (in terms of costs and recidivism) of being tough on crime.

Reference: Wermink, Hilde, Arjan Blokland, Paul Nieuwbeerta, Daniel Nagin, and Nikolaj Tollenaar (2010). Comparing the Effects of Community Service and Short-Term Imprisonment on Recidivism: A Matched Samples Approach. *Journal of Experimental Criminology, 6*, 325-349.

Volume 11, Number 6 **Article 4** April 2011

Being sent to prison does not decrease subsequent offending.

Recent research (see *Criminological Highlights 11*(1)#1, *11*(1)#2, *11*(4)#2) suggests that sending offenders to prison is likely, if anything, to increase slightly the likelihood that they will re-offend compared to what would have occurred had they been given some other sentence. Given that prison sentences are expensive (in Canada, about $322 per prisoner per day for federal prisoners and about $161 for provincial prisoners), if sentences – particularly short sentences – cannot be shown to reduce subsequent offending, it would appear to make sense to search for less expensive alternatives.

This study, carried out in New South Wales, Australia, examined the criminal careers of two sets of offenders: those convicted of burglary and those convicted of non-aggravated assault. For each offence type, pairs of convicted offenders were located one of whom had been imprisoned for the offence, the other who had received a non-custodial sentence. The members of each pair were matched on variables that have been shown to relate to recidivism such as prior record, prior imprisonments, and whether bail had been refused (as an indicator of concern about reoffending).

The results show that those who were imprisoned for assault were more likely to reoffend even after various factors not used for matching purposes were controlled for statistically. For those convicted of burglary, the results were similar, but the difference in the likelihood of reoffending for those imprisoned and not imprisoned was not significant.

A second study, also carried out in New South Wales, using a relatively similar approach, compared those given prison sentences to those given suspended sentences – non-custodial sentences similar to Canada's conditional sentence of imprisonment. In this study, scores measuring an offender's 'propensity to reoffend' were calculated using 16 demographic (e.g., age, economic disadvantage of home neighbourhood) and criminal justice measures (e.g., criminal record, offence seriousness). Pairs with the same 'propensity scores' were created with one of each pair going to prison and the other receiving a suspended sentence. The dependent measure was the length of time the offender remained free of offending in the community.

A total of 2,650 pairs of convicted offenders with no prior prison sentences – one of whom was sentenced to prison, the other who received a suspended sentence – were followed for about 1100 days. There was no difference between the two groups in the likelihood of being reconvicted. When examining the 1661 pairs of offenders with prior prison experience, those sent to prison were likely to reoffend earlier than were those who received a suspended sentence.

Conclusion: The results of the two papers are fairly consistent. "It would be unwise to imprison offenders when the only reason for doing so is a belief in the specific deterrent effect of prison" (Study 1: page 10). The results "provide no evidence to support the contention that offenders given imprisonment are less likely to re-offend than those given a suspended sentence" (Study 2, page 10). Clearly the findings that certain groups are more likely to reoffend when sent to prison are not completely consistent across studies. However, what is consistent across studies and with other research is the finding that sending offenders to prison does *not* reduce subsequent reoffending.

Reference: Weatherburn, Don (2010). The Effect of Prison on Adult Re-Offending. Crime and Justice Bulletin (New South Wales, Bureau of Crime, Statistics, and Research) Number 143. Lulham, Rohan, Don Weatherburn, and Lorana Bartels (2009). The Recidivism of Offenders Given Suspended Sentences: A Comparison with Full-Time Imprisonment. *Crime and Justice Bulletin*, Number 136.

Volume 13, Number 2 **Article 3** February 2013

Both women and men are *more* likely to reoffend if they are sent to prison than if they are made subject to some other less intrusive sanction.

Previous research has shown that those given prison sentences are, if anything, more likely to reoffend than are equivalent people given non-prison sentences. The failure of prison to reduce reoffending has been demonstrated both for adults (see *Criminological Highlights 11*(1)#1, *11*(1)#2, *11*(4)#2, *11*(6)#4), *12*(5)#8) and youths (*Criminological Highlights, 10*(6)#1, *12*(1)#8, *12*(5)#7). This study expands our knowledge of the effect of imprisonment on reoffending by looking separately at the impact of prison sentences on the reoffending rates of women and men.

Starting with a sample of 7550 women and ten thousand men who were released from Florida prisons between 1994 and 2002, offenders were, to the extent that it was possible, matched with those who received traditional probation, intensive probation, or a jail sentence (a custodial sentence of a year or less). Matching was carried out separately for women and men. The matching was carried out by creating a score for each person on the likelihood of going to prison vs. each of the three other possible outcomes, separately (probation, intensive probation, and jail). The propensity scores were calculated from race (Black, Hispanic, White), age, type of offence, severity of offence, number and type of prior convictions, and whether they had been imprisoned before.

In effect, this means that a single match was found for the imprisoned offenders first from those who got probation, and then for each of the other outcomes. On the individual variables, the matched groups were almost identical. The fact that matching was possible for so many offenders demonstrates that "similar sentences receive dissimilar treatment" (p. 376) reasonably often.

The offenders were followed for three years following release from prison or jail, or 3 years after sentencing for those who received a non-custodial sentence.

Four separate types of recidivism were examined: reconviction for a violent, property, drug, or other type of offence. Recidivism rates were compared for imprisoned offenders against each of the three groups (separately) that received non-prison sanctions. These analyses were carried out separately for women and men. For women, each of the comparisons involved at least 3934 matched pairs of offenders. For men, all comparisons involved at least 8510 matched pairs. 22 of the 24 different comparisons (male/female by four type of recidivism by 3 different comparisons for imprisoned offenders) showed higher rates of recidivism for imprisoned inmates; 16 of them were significant. Neither of the two comparisons showing lower reconviction rates for imprisoned offenders was significant.

The size of the effects varied somewhat. But what is important is that there was no evidence – for women or men – that imprisonment led to lower reconviction rates compared to equivalent other offenders who received, instead of imprisonment, probation, intensive probation, or a (shorter) jail sentence. Indeed, the opposite occurred: in general, those receiving prison sentences tended to be more likely to reoffend during the three years following their release.

Conclusion: The results suggest that prison sentences, if anything, increase offending for both women and men. The crime-increasing impact of imprisonment appeared to be greater when compared to two clearly non-custodial sentences – ordinary probation and intensive probation. For women, a prison sentence appeared to be more likely to increase property offending rather than violent or drug offending, People are sent to prison for lots of reasons. These findings suggest that for both women and men, it is not the case that they will 'learn a lesson' and stop offending after being sent to prison. Rather, it seems more likely that the 'lesson learned' from prison is to commit more crimes.

Reference: Mears, Daniel P., Joshua C. Cochran, and William D. Bales (2012). Gender Differences in the Effects of Prison on Recidivism. *Journal of Criminal Justice, 40*, 370-378.

Compared to a community sanction, imprisonment increases the likelihood of reoffending for adult offenders in Florida This conclusion is consistent across three quite different methods of controlling for other factors and is consistent when recidivism is measured for one, two and three year follow-up periods.

Recently published research suggests that imprisoning offenders – as compared to giving them community sanctions – either has no impact on re-offending, or makes them more likely to reoffend (see *Criminological Highlights 11*(1)#1, *11*(1)#2, *11*(4)#2, *11*(6)#4, *12*(5)#7).

This study examines the impact of imprisonment on reoffending for a group of Florida offenders who were either sent to prison or received a community sanction that included house arrest – confining offenders to their home except for travel to work, treatment, or the probation office (unless authorized in advance by the probation officer). Re-offending was defined as a new felony conviction resulting in jail, prison, or community supervision.

Looking at these two groups as a whole – prison vs. house arrest – one is not surprised to see that the prison sample as a whole was more likely to reoffend within all three time periods since they differed on many variables (sex, race, age, current offence, criminal history) related to reoffending. The challenge, therefore, is to create equivalent groups of people who either went to prison or were punished in the community.

Three techniques were used: (1) Traditional logistic regression where each of the variables related to recidivism was controlled for statistically; (2) "Precision matching" in which people – one of whom was sentenced to prison, the other who was sentenced to house arrest – were matched on a series of relevant factors; or (3) Through the use of matching on a 'propensity to reoffend' score. Propensity-to-reoffend scores were first created for 500 prison and 500 house arrest offenders. Then an attempt was made to find an offender in the other group with an almost identical estimated 'propensity to reoffend' score. The latter two methods necessarily resulted in some people being unmatchable. For example, it is likely that some of very serious cases that resulted in prison sentences would not have equivalent matches in the house arrest cases.

A number of different matching approximations were used for each of the latter two methods. In addition, as indicated, recidivism within 1, 2, and 3 years of release from prison were examined. The results are consistent: Recidivism rates at each point in time were somewhat higher for those who were sent to prison than for those who were sentenced to house arrest. The size of the differences varied with the exact form of matching and the time period in question. But a relatively typical finding was that the three year recidivism rate for those sent to prison would be about 48% compared to 38% for those given house arrest.

Conclusion: It is often suggested that sending people to prison *must* reduce crime since at least some of those who are in prison would, if they were in the community, commit at least some crimes. Though this may be true, the overall crime control estimates of imprisonment should take into account studies such as this one, that show that *after release* former prisoners may be *more* criminally active than they would be if they had been punished in the community. Clearly, however, the data are not entirely consistent across studies on whether prison reliably makes prisoners more criminally active than they would be had they not been imprisoned. The conservative conclusion is that imprisonment does not reduce reoffending. Nevertheless, these findings along with other published studies add weight to the conclusion that imprisonment can, at least for some types of offenders, increase reoffending.

Reference: Bales, William D. and Alex R. Piquero (2012). Assessing the impact of imprisonment on recidivism. *Journal of Experimental Criminology, 8*, 71-101.

Volume 12, Number 3 **Article 1** January 2012

The length of time an offender spends in prison on the first prison sentence has no discernible impact on the likelihood that he or she will reoffend.

There are theoretical reasons to believe that the time that an offender spends in prison could either increase or decrease the likelihood of reoffending. If time in prison were to convince offenders that the risks of offending are too high, long prison sentences could reduce offending. Alternatively, long periods of time in prison could increase subsequent offending by reinforcing deviant values, stigmatizing the offender, and/or making it more difficult for the offender to obtain legitimate employment upon release.

This study investigates the impact of the length of time in prison on reoffending in a three year period after release for a group of Dutch offenders sentenced to prison for the first time in 1997. All were under 40 years old, and were convicted of violent, property, or drug offences. In order to control for differences between those getting longer and shorter sentences, two somewhat independent techniques were used. First, the 4,683 offenders were divided into four groups according to the best estimate of their predicted 'trajectories' of offending at the time of sentencing. Second, pairs of offenders receiving 'long' and 'short' sentences were matched on various other measures (age, sex, whether the offender was an immigrant, 9 different measures of past criminal convictions, and various measures of the seriousness of the offence for which they were being sentenced). In the end, 4,096 offenders were successfully matched. Those excluded were largely those with extremely long or short sentences. Most importantly, the matched pairs were always of the same age and sex and were in the same offending trajectory group.

Offenders were divided into 5 groups according to the time that they served, running from 'less than one month' to 'more than one year'. Dutch prison terms are short as compared to the US, but comparable to those in Northern Europe and Canada. 86% of the sentences in this sample were under a year, a figure which is comparable to overall Canadian sentences (89% under 1 year).

The findings are easy to describe. When adequate controls were imposed on the comparisons, pairs of similar offenders with different sentence lengths did not differ in reoffending. Two measures were used: the felony reconviction *rate* and the *proportion* reconvicted (one or more times) within three years. Essentially, the data show that the length of time in prison (ranging from under a month to over a year) had no effect on reconviction. It is important to note, however, that *without any controls*, those receiving long sentences looked somewhat less likely to reoffend. It is easy to understand why: those receiving long sentences were very different from those receiving shorter sentences on many dimensions related to reoffending. What is important, however, is that when age, offending trajectory and a large number of other important controls are introduced, there was essentially no consistent impact of time in prison on offending. Said differently, when cases that are similar on relevant dimensions are compared, time in prison has no discernible impact on reoffending.

Conclusion: Previous research suggests that sending an offender to prison rather than imposing a community punishment may be criminogenic (see *Criminological Highlights, 11*(1)#2). For those who are imprisoned for the first time, the length of time in prison appears to be irrelevant to future offending. Obviously prison sentence length is going to vary for reasons other than likelihood of reoffending (e.g., for the purpose of achieving proportionality). These data, however, suggest that judges, when sentencing an offender to a first prison sentence, should not vary the sentence length because of a belief that sentence length affects reoffending.

Reference: Snodgrass, G. Matthew, Arjan A. J. Blokland, Amelia Haviland, Paul Nieuwbeerta, and Daniel S. Nagin (2011). Does the Time Cause the Crime? An Examination of the Relationship Between Time Served and Reoffending in the Netherlands. *Criminology, 49*(4), 1149-1194.

Volume 11, Number 1 **Article 2** February 2010

First-time imprisonment of offenders increases the likelihood that they will re-offend.

It has been demonstrated (e.g., *Criminological Highlights* V11N1#1) that placing offenders in prison either has no impact or a criminogenic (crime increasing) impact on them. However, the effect on those sent to prison for the first time may be very different. "Imprisonment may exert more of an influence on those with criminal histories that are relatively short and involve relatively few offenses than for individuals with a prior criminal trajectory that starts early and involves many convictions" (p. 228).

Because offending rates are so age-dependent, this study compares the "post-release re-conviction rate of imprisoned individuals and matched controls who were not imprisoned over identical ages" (p. 228). The sample of cases that were examined started with a group of male offenders tried in the Netherlands in 1977. All convictions prior to that date and up until 2002 were recorded. The study focused on offenders who were imprisoned for the first time between age 18 and age 38. It then examined their offending in the three years after release from prison. The length of imprisonment (for those in the sample who were imprisoned) varied in length from 1 day to 1 year, with about 80% imprisoned for 6 months or less.

In order to match those who were incarcerated with those who were not, offenders were grouped according to their offending trajectories. "The method is designed to identify groups of individuals following approximately the same developmental trajectory over a specified period of time for the outcome of interest (criminal convictions)" (p. 236). Hence, "regardless of prison status at a certain age, individuals in the same trajectory group up to that age appear to be headed along the same path, at least so far as criminal offending is concerned" (p. 236). In all, 21 separate group-based trajectory models were estimated. The purpose was to provide a baseline set of expectations of the conviction histories of individuals who had not been imprisoned over the period of the trajectory.

In addition, a 'propensity score', estimating for each individual the likelihood of future offending, was created on the basis of offence characteristics, criminal history, and various measures of the offender's life circumstances. Then individuals who were first imprisoned at a given age were matched with up to 3 individuals who were not imprisoned at that same age. The propensity scores of these matched individuals had to be the same or very close. Obviously some people were unable to be matched: those relatively high rate offenders who committed relatively serious offences were almost invariably sent to prison. Matches for them could not be found. By dropping these offenders from the study, the confidence in the study is *increased* since it demonstrates that the study only compared offenders for whom similar offenders (imprisoned and non-imprisoned) could be found.

The results are easy to describe: For all crimes (combined) and for three different types of crimes separately (property, violent, and all other) the experience of first-time imprisonment *increased* the likelihood of reconviction within a three year period. There was, in addition, some evidence that the crime-generating impact of imprisonment was larger for those imprisoned at younger ages.

Conclusion: On balance, then, the criminogenic effects of first time imprisonment are fairly consistent across offence types and age. Though not all of the criminogenic effects of first time imprisonment were significant, there were *no* crime reducing effects of imprisonment that were significant, and only 9 of 64 comparisons between those imprisoned and not were in the direction of suggesting a crime reduction effect. It could be argued, therefore, that judges who send offenders to prison for the first time in circumstances in which alternatives to imprisonment are plausible are likely to be contributing to an increased crime rate.

Reference: Nieuwbeerta, Paul, Daniel S. Nagin, and Arjan A. J. Blokland (2009). Assessing the Impact of First-Time Imprisonment on Offenders' Subsequent Criminal Career Development: A Matched Sample Comparison. *Journal of Quantitative Criminology, 25,* 227-257.

The U.S. War on Drugs and other imprisonment programs appear to ensure a continued supply of criminals. Indeed, there is "compelling evidence that offenders who are sentenced to prison have higher rates of recidivism… than do offenders placed on probation" (p. 329).

Background. "Scholarly research generally concludes that increasing the severity of penalties will have little, if any, effect on crime" (p.330). Similarly, the increase of sanctions for drug use and distribution has little (if any) effect on drug consumption. However, like many of the sentencing changes that have taken place since 1990, the War on Drugs in the U.S. is based on a deterrence model. Though much of the focus on sentencing reform has been on general deterrence, there is also a literature suggesting that imprisonment has no measurable impact on the likelihood of a punished offender committing a subsequent offence. Custodial and non-custodial sentences appear to be equally effective (or ineffective) in their effects on recidivism.

This study looked at 342 drug offenders and 735 non-drug offenders (some of whom had a history of involvement with drugs) convicted in 1993. Approximately two thirds had been sentenced to probation while the others had gone to prison. Controlling for factors known to be related to recidivism (*e.g.,* gender, race, employment, age, prior convictions as well as factors related to the likelihood of imprisonment in 1993), the study looked at recidivism over a four-year period. Various measures of recidivism (*i.e.* a new charge being filed, subsequent incarceration, "time to failure") were examined.

The results showed that "offenders who were sentenced to prison were significantly more likely than offenders placed on probation [in 1993] to be arrested and charged with a new offence…, to be… sentenced to jail or prison for a new offence" (p.342) and to "fail" more quickly. These results held for drug offenders, those involved with drugs but not convicted of a drug offence, and those without drug involvement. In all cases, those sentenced to prison in 1993 were more likely to recidivate than those sentenced to probation.

Conclusion: The authors conclude that "[t]he results… provide no support for the deterrent effect of imprisonment. Despite the fact that we used several different measures of recidivism, tested for the effect of imprisonment on different types of offenders, included a control for the offender's predicted probability of incarceration for the 1993 offence, and examined recidivism rates during a relatively long follow-up period [48 months], we found no evidence that imprisonment reduced the likelihood of recidivism. Instead, we found compelling evidence that offenders who were sentenced to prison had higher rates of recidivism and recidivated more quickly than offenders placed on probation" (p.350). "The findings of this study cast doubt on the assumptions underlying the crime control policies implemented during the past two decades… Policies pursued during the War on Drugs have been counterproductive" (p.352). That is, unless one is in a profession that profits from high crime rates or has investments in the prison industry.

Reference: Spohn, Cassia and David Holleran (2002). The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders. *Criminology, 40*, 329-357.

Incarcerating young adults who could be punished in the community ensures that they will be less likely to be in the workforce upon release.

Being imprisoned for the first time appears to increase the likelihood of future offending (*Criminological Highlights* 11(1)#2). In addition, the mention of a criminal record by people applying for an entry level job (*Criminological Highlights* 6(3)#2) reduces considerably their chances of being offered that job. This paper compares the employment prospects of two groups of offenders: those sent to prison and a comparable group who were convicted but not incarcerated.

The challenge in research of this kind is to estimate the impact of imprisonment on employment above and beyond the pre-existing differences between those imprisoned and those not imprisoned. In other words, those who are sent to prison often have employment deficits such as low education or few job skills. This study used a subset of respondents from the (U.S.) National Longitudinal Survey of Youth – those youths who had not been convicted by the time of their first interview (age 13-17) but who were convicted prior to one of the subsequent interviews. As it turns out, the 'to-be-incarcerated' youths who are convicted do differ, as a group, from the 'convicted-but-not-incarcerated' youths. Hence a 'matching' strategy (based on over 30 variables such as family structure, educational background, various risk factors, arrest history, and offence of conviction) was used in this study.

Various outcome measures were examined reflecting the possibility that one of the impacts of imprisonment could be to discourage young people from looking for employment. Thus the researchers examined whether the offender was employed, unemployed (in the work force but not employed) or not in the work force at all.

First time incarceration, controlling for pre-conviction differences, reduces the likelihood of formal employment by about 11% compared to those convicted but not incarcerated. The employment deficit is consistent over time (after conviction). "The higher presence of nonemployment [by those incarcerated] stems almost exclusively from labour force nonparticipation rather than unemployment" (p. 465). In other words, it is not so much that those sent to prison can't find jobs; they simply aren't looking for work (perhaps because they believe – correctly or not – that they will not get jobs). For those who obtain employment, there was no difference between the non-incarcerated and those incarcerated in the number of weeks per year that they actually worked.

Looking at employment over time, most of those convicted (whether sent to prison or not) experienced unstable employment. However, incarcerated youths are less likely to be in stable employment, more likely to be consistently out of the work force, and more likely not employed but only occasionally looking for work.

Conclusion: The youths in this study were, on average, only in prison (on this first occasion) for a little more than 4 months. Nevertheless, this relatively short period of incarceration appears to have had a long-lasting impact on their employment patterns. By their own accounts, it was not so much that ex-inmates were not *finding* work, it is that they were not looking for work. Since all of those in this study had been convicted, it is clear that there is an additional long-term deficit created by incarceration, in addition to any impact of the conviction itself. More specifically, the challenge seems to be to identify ways of attaching ex-inmates to the labour market. "To the degree that… incarceration [of youths] disrupts the process of attachment to work, it has the capacity to serve as a catalyst that sustains long-term criminal involvement" (p. 471).

Reference: Apel, Robert and Gary Sweeten (2010). The Impact of Incarceration on Employment during the Transition to Adulthood. *Social Problems, 57*(3) 448-479.

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Formal processing of youths in the youth justice system does not reduce subsequent offending. If anything, youths processed formally are more likely to re-offend than those screened out of the formal system or processed informally.

Those making decisions about how to process young offenders often have choices on how to respond to these offenders – especially when youths have committed relatively minor offences. In Canada, police are required to consider measures other than court-based procedures and it is presumed that it is better for many young offenders to be dealt with outside of the formal justice system. To some extent, Canada's 2003 youth justice law has been successful in reducing the use of youth court (see *Criminological Highlights* 10(1)#1, 10(3)#1).

This paper reviews research on the impact of youth court processing on subsequent offending, comparing it to a non-youth-justice-system response to offending. It is limited to 'random assignment' studies in order to ensure that any findings cannot be attributed to pre-existing differences between the two groups of youths.

In all, 29 separate sets of findings, involving 7,304 youths, in studies published between 1973 and 2008 were located that met this very strict (random assignment) criterion. In each study, youths were randomly assigned to one of two conditions: normal court processing or some form of less formal processing. Across studies, the 'less formal processing' varied somewhat. What was important, however, was that by assigning the youths to treatment on a random basis, the two groups ('court processing' and 'no formal processing') can be considered to be equivalent. The authors looked at the longest follow-up period reported in each study (when more than one was reported). These follow-up periods were, on average about 12-13 months long (range 4 to 36 months).

Overall, court processing appeared to *increase* the likelihood that youths would be involved in at least some subsequent offending, though there were non-trivial differences across studies. For those 7 experiments that reported the total number of offences that the youth were involved in (instead of or in addition to simply whether the youth committed a subsequent offence), court processing also had a criminogenic effect. Youths processed by the courts were, on average, involved in more crime than those processed in other ways. Similar effects were found for severity: formal court processing of youths, if anything, increased the severity of subsequent offending.

These criminogenic effects are, however, very small. The studies were broken down in various ways (e.g., those carried out early in the period vs. later, whether the comparison involved the provision of services or the youth was not offered any services if diverted, etc.). None of the sub-sets of studies showed a significant crime-reducing impact of court processing.

Conclusion: A conservative conclusion would be that court processing does not reduce subsequent offending. "Given that the evidence indicates that there is no public safety benefit to [youth justice] system processing, and its greater costs when compared to release, even the most conservative cost-benefit analyses would favour release over [youth justice] system processing" (p. 38). Obviously some youths, because they have committed serious offences, will be brought to court in any jurisdiction and one cannot generalize the findings from these studies to those youth because these studies focused largely on youths charged with relatively minor offences. At the same time it should be noted that "the data from these studies do not support a policy of establishing [formal] diversion programs for juveniles who normally would not have been officially processed…." (p. 39).

Reference: Petrosino, Anthony, Carolyn Turpin-Petrosino, and Sarah Guckenburg (2010). Formal System Processing of Juveniles: Effects on Delinquency. The Campbell Collaboration. Oslo, Norway: www.campbellcollaboration.org

Youths sentenced to custody in New South Wales, Australia, were as likely to re-offend as were equivalent youths who received community-based sanctions.

Although there is a fair amount of research suggesting that, compared to the effect of a community sanction, imprisonment does not decrease re-offending in adults (see *Criminological Highlights 11*(1)#1, *11*(1)#2, *11*(4)#2, *11*(6)#4), *12*(5)#8), there is less information about the impact of imprisonment on youths (*Criminological Highlights, 10*(6)#1, *12*(1)#8) perhaps because there is a more general presumption that formal processing can be harmful for youths (*Criminological Highlights, 11*(4)#3).

This study used data from youth cases in New South Wales in which the youth was convicted of one or more charges. In order to create equivalent groups, an analysis was done to determine the predictors of receiving a detention or prison order (rather than a community-based sanction). The predictors of a prison sentence were prior imprisonment, offence seriousness, other offences in the case, offender sex, prior record, whether the offence took place in a city or a more remote area, and age. Aboriginal status did not predict sentence after these other factors were taken into account.

In general, those sent to prison were more likely to have been previously incarcerated, to have a record, to have more serious offences, etc. Hence in order to create equivalent groups, youths who were sent to prison were matched with youths who had similar 'propensity' to receive a custodial sentence but did not actually receive one. This technique necessarily meant that some extreme cases were excluded from the comparison because matches could not be found. For example, it is unlikely that an equivalent community-sentenced case could be found as a match for a very serious case that resulted in a custodial sentence. Youths were tracked for an average of 21 months and up to 1000 days or more.

After the matching, there were no differences between the two groups (those who received custody and those who received a community-based sanction) on factors that went into the 'propensity score' (e.g., age, criminal record, current offence, etc). Looking at the matched sample, the 'survival' in the community of the two groups (prison and community sanction) were fairly similar. In other words, their propensity to reoffend and the timing of their reoffending were very similar. In addition, an analysis was carried out using recidivism within one year as the dependent variable. The matched groups had very similar likelihoods of reoffending.

Conclusion: "The imposition of a custodial sentence had no effect on risk of reoffending" (p. 39). Clearly no matching study is perfect and it can always be argued that with better matching a different result might have been found. However, given that these findings are broadly similar to other recent research on this topic, it seems unlikely that more finely tuned matching would result in a reoffending benefit from imprisonment. Since youths spent only an average of about 8 months in prison, any incapacitation effect of imprisonment would likely be rather small. "The current results, therefore, strengthen the argument in favour of using custodial penalties with juvenile offenders as sparingly as possible" (p. 40) given the relative costs of imprisonment and community sanctions.

Reference: McGrath, Andrew and Don Weatherburn (2012). *Australian & New Zealand Journal of Criminology, 45* (1), 26-44.

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A study of serious delinquents demonstrates that most serious delinquents – even high rate offenders - did not persist in their delinquent careers after being found delinquent. Furthermore long stays in prison did not reduce reoffending and for some youths appeared to increase the likelihood of future offending.

Some political rhetoric would lead one to the conclusion that youth crime can effectively be addressed by identifying serious adolescent offenders, and then treating or incapacitating them. The difficulty, as many studies have shown, is that even defining who is a persistent or serious offender is problematic, and those who are labelled as serious or persistent do not necessarily persist (e.g., see *Criminological Highlights 1*(3)#7) *11*(3)#1). These papers examine the offending patterns, over a 3-year period, of 1,354 serious young offenders, age 14-18, from two U.S. cities.

All of the youths in this study had been found guilty of a serious crime (mostly serious crimes against the person) and for most of the youths, this was not their first appearance in court. They (and a parent) were interviewed shortly after they were adjudicated as delinquent and roughly every 6 months thereafter and their self-reports of offending were recorded.

The youths were divided into 5 distinct groups on the basis of their 3-year offending patterns. 24% of these serious offenders were low rate to start with and almost never offended again. 34% of the youths had offended at a relatively low rate in the beginning of the period, but their offending rates declined over time. About 18% started with a moderate rate and continued offending at this rate throughout the 3-year follow-up. 15% started off with high rates of offending but declined to a very low rate over the 3 years. Finally, 9% started off with high rates of offending and remained relatively high.

For four of these five groups – all except those with initially low rates of offending - the more time the youth spent in the community rather than in custody, the higher the rate of offending, a result not surprising given that 'time in the community' equates with 'opportunity to offend'. For the stable low rate offenders, however, (24% of the original sample) more time in institutional care was associated with *higher* rates of offending. Incarceration for them, it would seem, increased subsequent offending. In addition, 'time in custody' did not differentiate the two groups that started off with high rates of offending. The two high rate offending groups – those starting high and dropping off dramatically across the three year period (14% of the total sample) and those starting high and persisting with high rates of offending (9% of actual offending) -- spent almost exactly the same amount of time in custody.

Hence the data show that "even within a sample of juvenile offenders that is limited to those convicted of the most serious crimes, the percentage who continue to offend consistently at a high level is very small… [Moreover] our ability to predict which high-frequency offenders desist from crime and which do not is exceedingly limited…" (p. 469-470) even though the researchers had a total of 22 measures on the youth (including psychological assessments), the youth's family background, and peers.

Conclusion: "The considerable heterogeneity in offending patterns in the immediate years after court involvement challenges the political rhetoric in juvenile justice and the popular and scientific fixation on identifying lifelong antisocial personality problems. These results do *not* support the view that serious offenders are headed toward a life of crime. Most, in fact, had very low levels of involvement during the entire 3-year follow-up period. Furthermore, for these youths, "incarceration may not be the most appropriate or effective option, even for many of the most serious adolescent offenders. Longer stays in juvenile facilities did not reduce reoffending; institutional placement even raised offending levels in those with the lowest level of offending" (Paper 2, p, 3).

Reference: Mulvey, Edward P., Laurence Steinberg, Alex R. Piquero, Michelle Besana, Jeffrey Fagan, Carol Schubert, and Elizabeth Cauffman (2010). *Development and Psychopathology, 22,* 453-475. Mulvey, Edward P. Highlights from Pathways to Desistance. OJJDP Juvenile Justice Fact Sheet, March 2011.

Volume 10, Number 6 **Article 1** December 2009

Serious juvenile offenders who are ordered to serve time in juvenile institutions are just as likely to reoffend as are comparable youths who remain in the community. Furthermore, longer stays in juvenile institutions do not reduce subsequent offending.

Although many political leaders suggest that communities would be safer if serious juvenile offenders were placed in institutions for long periods of time, they typically make such suggestions in the absence of empirical support. Most systematic studies of the issue are much less optimistic. If long stays are not effective, then it logically follows that crime prevention policies based on the removal of youths from the community should be revisited. This paper examines the effect of the removal of serious juvenile offenders from the community, using a sample of 921 youths in two locations in the United States.

About half of this sample of youths was placed on probation; the other half was sent to an institutional placement. The unusual strength of this study was that 66 separate variables were used to control, statistically, the differences between those youth placed in institutions and those placed on probation. These same variables were used to control for differences between youths who received institutional placements of different lengths. Not surprisingly, many of these variables showed differences between those placed in institutions vs. probation and between those who received long vs. short stays, underlining the importance of controlling for the differences.

Two measures of subsequent offending were used: the re-arrest rate during a follow-up period of 48 months and the self-reported offending rate – the number of different types of offences (out of 22 serious antisocial and illegal behaviours) that the youth engaged in during the 4-year follow-up, corrected for the amount of time that the youth was actually in the community. These two measures were, not surprisingly, moderately (r = .47), but by no means perfectly, correlated.

Given that there were background differences between those youths placed in institutions and those who remained in the community, there were differences in subsequent offending rates for the two groups, absent of any controls. Those placed in the community were about half as likely to be rearrested as those placed in institutions. The more appropriate test of the impact of institutional placement, however, is one that takes into account the differences between the groups. After controlling for the background differences between the two groups, there were *no* significant differences between the two groups on re-arrest rate. Said differently, "the results show no marginal gain from placement in terms of averting future offending" (p. 722). Similar effects were found for self-report offending.

When looking at the effects of the length of institutional placement (taking into account the various control factors), there was, once again, "no marginal benefit, at least in terms of reducing the future rate of offending [re-arrest and self-report offending], for retaining an individual in institutional placement longer" (p. 723).

Conclusion: This study of relatively serious young offenders suggests that a strategy of placing youths in custodial settings – and holding them there for long periods of time – is not likely to reduce future offending. The latter finding – that the effect is unrelated to the "dose" of the "treatment" – suggests that, in this case, *more* is not likely to be *better*.

Reference: Loughran, Thomas A., Edward P. Mulvey, Carol A. Schubert, Jeffrey Fagan, Alex R. Piquero, and Sandra H. Losoya (2009). Estimating a Dose-Response Relationship Between Length of Stay and Future Recidivism in Serious Juvenile Offenders. *Criminology, 47* (3), 699-740.

When youths are apprehended and arrested for offences, their perceptions of the likelihood of being caught in the future increase – but not very much.

Much of the popular and academic interest in deterrence has to do with general deterrence, or reductions in crime (by people other than the offender) through harsher penalties. General deterrence, however, has been shown largely to be ineffective. But punishments may be effective in other ways. Specifically, it may be that catching and arresting people for offences will reduce their future offending by increasing their assessments of the likelihood that they will be caught and arrested should they offend in the future. In other words, a criminal justice system that is good at catching offenders may teach them, in effect, that crime does not pay. This study looks into this possibility with a sample of adolescents who had been found guilty of relatively serious offences in either of two U.S. counties.

These adolescents were interviewed once every 6 months for three years starting when they were, on average, about 16.5 years old. Among other things, they were asked how likely it was that they would be caught and arrested if they were to commit each of seven different crimes ranging in seriousness from 'stealing clothes from a store' and 'vandalism' to 'robbery with a gun' and 'stabbing someone' (p. 652). They were also asked to report how many times, if any, they had committed each of 22 offences. Arrests were recorded from juvenile court records in the two locations. The focus of the study was on the youths' estimates of the probability of being apprehended as a function of whether they had been caught for any offences they had committed during this period.

Overall, the findings showed that the youth's estimate, during any six month period, of being apprehended for offending was a function of two things: the youth's perception of being apprehended prior to that period and whether the youth had been apprehended for offending during the previous six months. Overall, if a youth committed a crime, the youth's estimate of being apprehended increased by 6.3% if the youth had been arrested compared to if they had not. It would appear that arrests for one type of crime (aggressive crimes) also affected respondents' perceptions that they would be apprehended for income-generating offences, though this effect is slightly smaller. In other words, there was some evidence that the impact of an arrest was not crime specific. Overall the data show that although the youths did change their subjective estimate of being apprehended, there was a good deal of variability in whether and how much updating of these estimates actually took place.

Conclusion: It appears that "even among serious offending juveniles, an arrest still has a potential deterrent effect, at least as far as increasing risk perceptions. However, among more experienced or frequent offenders, this gain from deterrence may be reduced or, in some cases, lost all together" (p. 691). There was, however, a great deal of individual variability. Thus it cannot be assumed that apprehension and arrest is, for all youths, a crime reducing strategy. It is difficult, moreover, to estimate how much impact the changes in perception (of apprehension) may have on actual offending. One study found that a 10% change in the perceived likelihood of apprehension reduced offending by approximately 3% to 8% depending on the offence. Applying these findings to the present results would suggest that the impact of an arrest would be quite modest – reducing offending through individual deterrence by between 1.2% and 3.2%.

Reference: Anwar, Shamena and Thomas A. Loughran (2011). Testing a Bayesian Learning Theory of Deterrence Among Serious Juvenile Offenders. *Criminology, 49* (3), 667-698.

Volume 12, Number 4 **Article 1** March 2012

Increasing the size of fines handed down for drinking-driving offences will not reduce re-offending.

Fines are a relatively common sanction in criminal courts. In Canada, fines are imposed almost as often as prison sentences. For criminal code driving offences (the impaired driving offences, dangerous driving offences, etc.) fines are imposed in Canada about five times as frequently as imprisonment. For impaired driving offences, there are almost 10 times as many fines imposed as prison sentences. More generally – for less serious offences and in other countries – fines are a very common penalty.

Previous research has suggested that the imposition of mandatory minimum fines has not had a measurable general deterrent impact. In other words, mandatory minimum fines are no more likely to keep people from committing drinking-driving offences than penalties set by judges in which the judge has discretion on the size of the fine. But there is less research on the effect of fines of different amounts on the likelihood that those who receive the fine will reoffend. However, other research would suggest that the size of the penalty an offender receives has no deterrent effect on the likelihood that the offender will reoffend (see *Criminological Highlights, 11*(4)#2, *11*(1)#1, *11*(1)#2).

This study examined the subsequent drink-driving offending of all of those charged with driving with blood-alcohol concentrations above the legal limit in New South Wales, Australia in 2003 and 2004. The study takes advantage of the fact that there is substantial variability in the fines handed down by different magistrates. Various controls were introduced related to the offender (age, sex, prior record of a drinking-driving offence) and the offence (urban or non-urban setting, blood alcohol content, plea, whether the offender was represented by counsel).

Looking at the likelihood of a subsequent drinking-driving offence within three years, the results show that males, those with more serious original drinking-driving offences, those who faced their original charge without lawyers, and those with previous convictions for drinking driving offences, had a higher likelihood of reconviction. However, there was no indication of an impact of the size of the fine that was handed down on the likelihood of reoffending within three years.

Overall, almost 10% of the 12,658 offenders reoffended. There was a good deal of variation in the fines handed down when they were convicted. The lowest 25% of the fines were $400 or less. The top quarter of the fines exceeded $800. Thus the conditions for an adequate test of the specific deterrent impact of the fine were met. Hence, had there been even a small deterrent impact of the size of the fine, an effect would have shown up.

Conclusion: Since the size of the fine appears to have no impact on the likelihood that a drinking driver will re-offend, it is reasonable to ask why this might be the case. One possibility, of course, is that the perceived likelihood of apprehension may be too low. Australian governments, aware of this problem, spend a good bit of effort on random breath testing and advertising campaigns designed to emphasize the risks in drinking and driving. "The perceived risk of apprehension, however, may be more dependent on the number of times a driver has been stopped by police *while intoxicated or after drinking* than on the publicity surrounding random breath testing, or the total number of times he or she has been stopped by the police or the number of times police have been seen performing random breath tests on other people" (p. 799). What is clear, however, from this study and others is that raising the penalty size is not going to reduce this type of reoffending.

Reference: Moffatt, Steve and Don Weatherburn (2011). The Specific Deterrent Effect of Higher Fines on Drink-Driving Offenders. *British Journal of Criminology, 51*, 789-803.

Criminological Highlights **Item 6**
Volume 1, Number 1 September 1997

When offenders who also are parents are incarcerated, there are predictable harms which will occur to their children.

*Background***.** There are theoretical, and direct empirical, reasons to expect that the children of incarcerated parents will suffer. For various reasons, it turns out that most incarcerated women (perhaps about 75% in the U.S.) are mothers. In the U.S., a large scale survey of prisoners estimated that 56% of men in state prisons have young children. Hence, children with parents in prison is a non-trivial problem -- probably in Canada as well.

This paper. When one looks at each stage of development, it appears that there is evidence both from developmental psychology and from studies of the children of incarcerated parents that shows that there are profound negative effects on the children. These effects may be general -- in terms of interfering with the healthy development of the child -- or they may be specific (e.g., leading to future criminality of the child). In terms of the impact on the child's future criminality, the effects may be indirect (e.g., creating poor self-concept which may then predispose the child toward anti-social behaviour) or may be direct. What seems quite clear, however, is that at each stage of development (from infancy through late adolescence) the child of incarcerated parents is disadvantaged in important ways.

Conclusion. Canada's imprisonment rate, overall, is quite high compared to most civilized countries. Those who advocate the use of prison as a crime control strategy usually focus on the immediate effects (denunciation and incapacitation), or presumed but unsupported effects (individual and general deterrence), but seldom focus on the data that suggest that incarceration of parents can have a serious negative impact on their children. The criminal justice system focuses largely on the offender when a decision to incarcerate is made. Some attention might be given to the impact on society as a whole of such decisions since, in the end, society as a whole pays a part of the cost borne largely by the children of incarcerated parents.

Reference: Johnson, Denise. Effects of parental incarceration. In Gabel, Katherine and Denise Johnston *Children of incarcerated parents.* New York: Lexington Books, 1995.

The incarceration of fathers leads to increased physical aggression in their 5-year old sons.

It is well established that the incarceration of a parent has collateral effects on families and communities (see *Criminological Highlights 12*(5)#1, *9*(5)#6, *10*(2)#2, *10*(3)#2). "Seeing a father arrested, visiting him in prison, and dealing with paternal absence may traumatize children" (p. 285). When combined with diminished financial resources and generally less favourable parenting, the effects on children can be serious. This paper examines the impact of paternal incarceration on very young children's level of physical aggression.

Using data from a longitudinal study of largely 'at risk' families, mothers were interviewed in hospital shortly after birth of the child, and again when the child was 1, 3, and 5 years old. The aggressiveness of the child was assessed from the mother's report when the child was 3 and 5 years old. The focus of the study was on incarcerations that took place when the child was between 3 and 5 years old. In addition, data were collected on a large number of 'risk' factors including whether the father had been incarcerated prior to the child's third birthday.

Children were matched at age 3 on their likelihood of experiencing paternal incarceration after their third birthday. Boys who experienced incarceration of their fathers after age 3 were reported to be more physically aggressive at age 5. This effect held even when the sample was restricted to families in which the father had been incarcerated at some time prior to the boy's third birthday. For girls, however, the incarceration of the father after age 3 did not increase childhood aggression.

Various statistical tests "provided no evidence that changes in family life (aside from paternal absence and stigma) mediate the relationship between paternal incarceration and boys' physical aggression" (p. 299). Other analyses suggest that "the first time boys experience paternal incarceration, they experience it as they would experience the separation of parents – with increasing aggression while the father is gone that dissipates when he returns. For boys who have already experienced paternal incarceration, a new bout of incarceration has large effects both during the incarceration and after it" (p. 301). Removing a father who was abusive to the mother had an independent effect of reducing aggressiveness at age 5. Thus for these families, "the benefits of having a [father who was abusive to the mother] removed from the household may outweigh the costs" (p. 304).

Conclusion: Perhaps the most important finding, from a policy perspective, is that "the effects of paternal incarceration on boys' physical aggression are concentrated among boys of nonviolent fathers" (p. 304). For young boys, 3-5 years old, the incarceration of their fathers appears to cause an increase in aggressive behaviour. Whether this will translate into criminal behaviour when the child is older is, of course, not known. However, given that the increase in childhood aggressiveness from paternal incarceration is concentrated in families of non-violent offenders, an examination of sentencing policies for these offenders might be warranted.

Reference: Wildeman, Christopher (2010). Paternal Incarceration and Children's Physically Aggressive Behaviours: Evidence from the Fragile Families and Child Wellbeing Study. *Social Forces, 89*(1), 285-310. .

Volume 12, Number 5 **Article 1** May 2012

The imprisonment of parents increases the property offending of their sons.

It is well established that crime tends to run in families. There are many explanations for cross-generational similarity in the involvement in crime such as similarity in levels of economic deprivation or child rearing methods, social learning, etc. This paper looks at the cross-generational similarity in a different way, suggesting that there may be an independent effect of parental incarceration on the criminal behaviour of children.

This study examines data obtained from a sample of boys in Pittsburgh, Pennsylvania, who were first interviewed when they were between 7 and 13 years old. They were then followed for 12 years. The youths were chosen, in part, because they were considered to be at high risk for offending. The child and a parent (typically the mother) were interviewed every six months for the duration of the study. The youth's involvement in property crimes (thefts, purse snatching, automobile thefts and stealing from a car, and breaking and entering), as well as marijuana use were examined.

The challenge, in terms of determining whether incarceration of parents has any effect on children, is that "Because parental incarceration is associated with parental criminality, antisocial behaviour, and multiple other childhood risk factors, children of incarcerated parents may already be at risk for problem behaviour *before* their parent is incarcerated" (p. 270). In order to control for such pre-existing factors, the offending risk for children whose parents were subsequently incarcerated was assessed in comparison to a control group that was created consisting of similar youths. Because some of the parents had been incarcerated in the past (i.e. before the study period), this study does not look only at the impact of the *first* incarceration of a parent but rather at the impact of incarceration after the beginning of the study.

For each child with a parent who was incarcerated during the study period, three children in the study were located who were very similar but who did not have an incarcerated parent. The children without an incarcerated parent were comparable to the child with the incarcerated parent on 14 measures, including the following: age of the child, criminal history and incarcerations of the parent, parental supervision of the child, offending by the child, school performance, and relationship of the child with peers and family.

Compared to the matched controls, youths were more likely to commit property crimes in each year after the incarceration of a parent. The design allowed children to be followed for up to 6 years after the parental incarceration. There were no effects of parental incarceration on marijuana use by the children, depression, or academic performance. Subsequent analyses suggest that much of the impact of parental incarceration is related to reduced involvement of the boy with the family (as assessed by the family and the youth) and to the boy's involvement with delinquent peers. The results also showed that the effect of parental incarceration on White youths might be larger than the effect on Black youths.

Conclusion: The incarceration of a parent appears to have a negative impact on male children above and beyond pre-existing disadvantages that children of incarcerated parents might experience. Combined with other findings suggesting that incarceration itself may either increase the likelihood of re-offending or have no effect on re-offending (*Criminological Highlights* *11*(1)#1&#2, *11*(4)#2, *11*(6)#4, *12*(5)#8), it is likely that policies that lead to the incarceration of offenders can simultaneously have an impact on their future criminal behaviour as well as that of their sons.

Reference: Murray, Joseph, Rolf Loeber, and Dustin Pardini (2012). Parental Involvement in the Criminal Justice System and the Development of Youth Theft, Marijuana Use, Depression and Poor Academic Performance. *Criminology, 50* (1) 255-302.

When the fathers of children under 12 years old are imprisoned, there is an increased likelihood that these children will offend as adults.

It is well established that children whose parents have committed criminal offences are, themselves, more likely to commit offences. Thus it is hardly surprising that children whose fathers spent time in prison are more likely than other children to offend. This paper allows an examination of the impact of imprisonment of fathers on their children while controlling for the criminal behaviour of the father.

This study tracks 5,981 children who were born in the early 1970s and tracked until 2003. All of them had fathers who were convicted of a crime in the Netherlands in 1977. Most of the fathers (59%) had been convicted of a crime but were never imprisoned. The fathers of the others had been imprisoned at least once before the child reached 18. The criminal convictions of the father may have taken place before the child was born, when the child was less than 12 years old, or between 12 and 18, or some combination of these.

In an analysis without control variables, the imprisonment of the father was associated with a higher rate of offending (likelihood of offending each year after age 18) for both boys and girls. It appears that the effect of the father's imprisonment was largest when the father was imprisoned between the child's birth and when the child was 12 years old.

Some of the controls that were added – for example whether the parents separated at some point before the child turned 18 years old – could well be, in part, a consequence of imprisonment of the father. Nevertheless, adding various controls – the offending history of the father, whether the parents separated, whether the father was born outside of the country, whether the child was born when the mother was under 20 years old – reduced, but did not eliminate the impact of the father's imprisonment. "Children whose father was imprisoned between ages 0 and 12 thus have a significantly higher chance of a conviction, even after accounting for the father's criminal history (and other family characteristics) compared to children whose fathers never went to prison" (p. 98).

The impact of the imprisonment of the father was significant, but rather small in size once the offending history of the father had been taken into account. One possible explanation for the small effect is that during the period of the study "the Netherlands had a history of an extended social welfare system and… a relatively mild penal climate with relatively low prison populations" (p. 101).

Conclusion: The finding of a small but measurable effect of imprisonment of the father on the offending rate of his children when they are young adults is consistent with the growing literature on the effects of imprisonment on the families of those imprisoned (*Criminological Highlights* V12N6#7, V12N6#8). These findings, combined with those showing that imprisonment can increase the likelihood of future offending by those imprisoned (*Criminological Highlights* V11N1#1, V11N1#2), suggest that any presumed incapacitative impacts of imprisonment need to be assessed in the context of possible increases in criminal activity of those imprisoned and the family of the prisoner.

Reference: Van de Rakt, Marike, Joseph Murray, and Paul Nieuwbeerta (2012). The Long-Term Effects of Paternal Imprisonment on Criminal Trajectories of Children. *Journal of Research in Crime and Delinquency, 49*(1), 81-108.

One of the collateral effects of imprisonment is that the imprisonment of the father of a young child increases the likelihood of a major depressive episode in the mother.

In some communities – most notably low income minority communities in the U.S. – the incarceration of a parent is a relatively common event. Incarceration clearly can have important impacts – separation of partners, transforming an intact family into single parent family, diminished social and economic resources, and stigma which "spreads to people associated with inmates" (p. 217). This paper examines the impact of incarceration of fathers on mothers' mental health.

Currently in the US, "one in four black children can expect to have a parent imprisoned during their childhood" and the parent (most commonly the father) is likely to be "absent during key developmental periods of their children's lives" (p. 218). As a consequence, the incarceration of the father can affect children's mental health which, itself, is likely to have a negative impact on the mother.

The difficulty in evaluating the impact of the incarceration of the father of a child on the mother's mental health is that "mothers who share children with incarcerated men may suffer from high levels of stress whether or not the father was incarcerated" in part, perhaps, because of the characteristics of men who are sent to prison. Alternatively, mental illness, or "depression itself may be associated with mothers getting involved with incarcerated men" (p. 220).

This study examined the families of 3,826 children from a survey in which the parents (a disproportionate number of whom were identified as 'at risk') were interviewed when the child was 1, 3, and 5 years old. Standard measures of maternal depression and life dissatisfaction were obtained from the mothers at the 3- and 5-year surveys. "Recent" paternal incarceration was defined as incarceration at least once between the 3- and 5-year surveys and characterized 20% of the sample. Incarceration prior to the 3-year interview (39% of the sample) was defined as "distal" incarceration. Various factors associated with paternal incarceration and maternal mental health were statistically controlled.

Recent paternal incarceration was associated with a much greater risk of maternal depression. Some – but not all – of the simple association could be explained by characteristics of the mother (e.g., that she had a parent who had experienced depression or she experienced material hardship), and an additional portion can be explained by characteristics of the father. Nevertheless, the relationship of the recent incarceration of the father to depression in the mother was still significant. The effect of the 'recent' incarceration held even for those who had been incarcerated prior to the 3-year interview, suggesting that the effect was not caused simply by characteristics of the mother or father.

Conclusion: Incarcerating a child's father appears to have a causal link with the onset of depression in the mother. It does not appear to be solely a 'selection' effect. Though changes in the quality of the relationship between the parents explained some of the effect of incarceration, changes in parenting experiences and economic well-being appear to be important in understanding why mothers whose partners are incarcerated are likely to suffer from major depression. Mothers whose partners are incarcerated experience depression in large part because it "leads to financial instability among mothers, further deterioration of already vulnerable relationships, and growing parental stress" (p. 234).

Reference: Wildeman, Christopher, Jason Schnittker, and Kristin Turney (2012). *American Sociological Review, 77*(2), 216-243.

Volume 9, Number 5 **Article 6** July 2008

The incarceration of mothers with young children contributes to crime: their children, as adults, are more likely to be involved in the criminal justice system than are children of mothers who are equally involved in crime, but who avoided being incarcerated.

In the U.S. it is estimated that 63% of incarcerated women have one or more minor children, most living with them prior to incarceration and that 7% of African American children have a parent in federal or state prison. Various problems for children – e.g., depression, anxiety, school-related difficulties, substance abuse, and aggressive/antisocial behaviour – have been linked to parental incarceration.

In this study, a large national (American) sample of children was repeatedly surveyed from childhood into early adulthood. Some of the questions asked of the respondents (the youths) involved whether a parent was incarcerated at the time of the interview. Respondents were followed into early adulthood and their criminal convictions were recorded. The study included various control variables in an attempt to separate out the effect of the incarceration of the mother from other related factors (e.g., absence of the mother for other reasons, delinquency of the child, the mother's involvement in crime), as well as standard demographic variables such as gender, race, education of the child and of the mother, whether the mother was an adolescent when the child was born.

The focus of the study is on adult criminal involvement measured by whether or not respondents were convicted of an offence in adult court up to age 21. The main comparison was between survey respondents whose mothers had or had not been incarcerated at some point during the respondents' childhood years. The findings are clear: those study participants whose mother had been incarcerated were considerably more likely to have been convicted in adult court (26%) than were those study participants whose mothers had not been incarcerated (only 10% of these respondents were convicted).

The results showed some of the usual correlates of criminality. Those youths who indicated that they felt peer pressure to get involved in various criminal activities were, as adults, more likely to have an adult conviction. And those who had not lived with their mothers for at least some time for reasons other than the mother's incarceration were more likely to be involved in crime. And, of course, males were more likely to have been convicted as adults than were females. Maternal offending had a small effect on whether the youth, as an adult, was convicted, but had a significant impact on whether the youth reported ever being on adult probation.

Above and beyond these effects (and the delinquency of the respondent as a youth), those youths whose mothers had been incarcerated when they were young were, as adults, more likely to have been convicted of a criminal offence. Interestingly, "maternal imprisonment did not appear to be a risk marker for poor home environments…. although children of incarcerated mothers did report significantly lower levels of parental supervision" (p. 292).

Conclusion: Although it is not completely clear why maternal incarceration is linked with the adult offending of their offspring, it is clear that the effect is not simply that the mothers were themselves offenders or that it is a continuation of childhood delinquency of the child. Part of the effect could, of course, be that the incarceration of the mother is yet another form of maternal absence which, itself, appears to have impacts on offending. Whatever the reason, however, it would appear that there are collateral impacts of maternal incarceration on children and these effects persist into early adulthood.

Reference: Huebner, Beth M. and Regan Gustafson (2007). The Effect of Maternal Incarceration on Adult Offspring Involvement in the Criminal Justice System. *Journal of Criminal Justice, 35,* 283-296.

Although parental incarceration is likely to have negative consequences on the prisoner's children and those taking care of the prisoner's children, the actual effect depends on the dynamics of the pre-existing relationships among prisoners, their families, and the caregivers.

Research on the impact of parental incarceration has generally shown that the impact on the prisoner's children (and spouses) is generally negative (e.g., *Criminological Highlights* V1N1#6, V9N5#6, V12N5#1, V12N6#7&8, V13N1#7). However, this research typically ignores the nature of the pre-existing relationship between prisoners and their families.

This study reports the results of detailed in-depth interviewers with 100 caregivers of children with at least one incarcerated parent – 54 fathers, 44 mothers, and two children with both parents incarcerated. Caregivers were the mother (n=39) or grandparents (n=40), fathers (n=12) or other family members (n=9). In most cases (n=58), the caregiver reported that parental incarceration had an overall negative impact on their lives, though in 20 cases there was a positive effect for the caregiver. In the remaining 22 cases, the caregiver reported no overall impact.

Negative impacts were easy to find: there was added financial stress on the family, but also the caregivers were left with fewer people who could help out in child rearing. There were many reports of additional emotional stress on the caregiver as a result of the child's distress at the loss of a parent. "Many of these caregivers reported feeling 'helpless,' 'overly stretched,' and lost'" (p. 941). On the other hand, the impact was not always negative. Some prisoners, when in the community, had been inconsistent or dysfunctional parents. Their absence, then, made life for the (remaining) caregiver somewhat easier. Caregivers who reported that there was no impact of the incarceration of the parent typically said that the prisoner had not been very involved in raising the child; hence the absence of the parent made no real difference. "To assess the impact of incarceration on families, the extent and degree of parental involvement prior to incarceration must be considered… . Not all parents are involved in their children's lives" (p. 936).

"Those [caregivers] who experienced a positive change [in their lives] reported having supportive family systems in their lives… For many, … family support was present before the incarceration of the parent and remained a key source of assistance in their ability to provide for their children" (p. 942). "Caregivers with cohesive, integrated family support systems fared differently… Variation in family support is critical for understanding whether caregivers will experience positive or negative changes in life circumstances as a result of parental incarceration" (p. 943).

Conclusion: The factors that were important in determining the impact on caregivers of children of incarcerated parents appeared to be the same across types of caregivers. The pre-existing relationship with the incarcerated parent, and financial and emotional support from friends and families were important in understanding the impact on the caregiver. For example, incarcerated mothers, in this study, appeared to have been different from incarcerated fathers in that they were more likely to have experienced various serious life traumas. Many of the remaining family members (fathers, grandparents) had distanced themselves from the mother prior to the incarceration. Hence the impact of her incarceration was not seen as being as negative as the incarceration of the father. This finding underlines the importance of understanding the nature of the pre-existing relationships. Prior parental involvement, support systems, and interpersonal relationships combine to determine what the impact will be on those caring for the prisoner's child.

Reference: Turanovic, Jillian J., Nancy Rodriguez, and Travis C. Pratt (2012). The Collateral Consequences of Incarceration Revisited: A Qualitative Analysis of the Effects on Caregivers of Children of Incarcerated Parents. *Criminology, 50* (4), 913-959.

Volume 10, Number 2 **Article 2** February 2009

The harmful effects of imprisoning large numbers of people from a community extend beyond those incarcerated and their immediate families: the communities themselves can show the impact of high imprisonment policies.

It is well known that imprisonment can hurt the life chances of those who are incarcerated. Imprisonment of drug offenders, for example, may act to increase recidivism (e.g., see *Criminological Highlights 5*(2)#3). Imprisonment also reduces the ability of men to get a job (*Criminological Highlights 6*(3)#2) and even if they do find employment, being imprisoned appears to have a permanent impact on a person's wages (*Criminological Highlights 5*(3)#7). This paper suggests that concentrated incarceration may go beyond these individual impacts and may harm the communities themselves.

Whether a country has a high or a low rate of imprisonment, imprisonment is concentrated in some communities more than others. Men are much more likely to be imprisoned than women. In the United States, men are almost 15 times more likely to be imprisoned than women. (In Canada, the rate of imprisonment (average counts) of men is about 17 times that of women.) In addition, imprisonment is concentrated in certain racial or ethnic groups (e.g., Blacks, Aboriginal persons), the young, and people who are educationally and economically disadvantaged. One study found that the result of this concentration is that in some poor neighbourhoods in some U.S. cities, almost one in five males age 18-44 is in prison on any given day. Another study estimated that about a third of young males in certain neighbourhoods are incarcerated for at least some period each year.

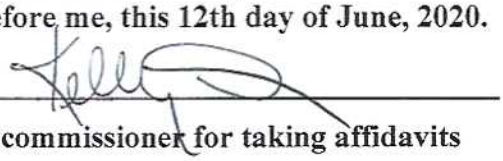
The impact of this level of concentrated imprisonment is widespread.

- There can be enormous impacts on a family if the remaining family members were financially dependent on the incarcerated family member. In addition, "incarceration affects social networks by removing one of the members of the poor family's network" (p. 105). The indirect effect of incarceration, then, may be to create social isolation for some families. In addition, removal of the father weakens his commitment to his children upon his return to the community.
- Incarceration appears to be related to the lasting deterioration of poor families, contributing to the high rate of single (female) parent families. These effects hold across racial and ethnic groups, but are strongest for black males whose likelihood of marriage drops by half after incarceration.
- Incarceration rates in a given year appear to be related to later increases in sexually transmitted diseases in a neighbourhood and higher rates of teenage pregnancies.
- The economic viability of neighbourhoods is reduced as those with income are taken out of it.
- The legitimacy of the criminal justice system and perhaps other government institutions appears to be corroded by high rates of imprisonment. Not surprisingly, those former prisoners who are legally able to vote are considerably less likely to do so than are similarly situated people who have not experienced imprisonment.
- To the extent that those returning from prison are *more* likely to commit offences than they would be had they not been incarcerated, communities to which they return become less safe and are perceived to be less safe.

Conclusion: Although few would question the necessity of imprisoning some offenders, this paper suggests that, in addition to direct financial costs to society and personal costs to the offender, there are a range of almost inevitable negative impacts of incarceration on communities. It would be sensible, then, for governments to consider these costs when debating changes in laws that might affect imprisonment rates.

Reference: Clear, Todd (2008). The Effects of High Imprisonment Rates on Communities. In Tonry, Michael (ed.). *Crime and Justice: A Review of Research*, Volume 37. University of Chicago Press.

This is Exhibit "I" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.



A commissioner for taking affidavits

Incident-based crime statistics, by detailed violations, Canada, provinces, territories and Census Metropolitan Areas [1] [2] [3] [4]

Frequency: Annual

Table: 35-10-0177-01 (formerly CANSIM 252-0051)

Geography: Canada, Province or territory, Census metropolitan area, Census metropolitan area part

	Canada (map)[6]				
	Total violent Criminal Code violations [100][7]				
Statistics	**2014**	**2015**	**2016**	**2017**	**2018**
	Number				
Actual incidents	370,050	382,115	388,564	406,626	423,767
	Rate				
Rate per 100,000 population	1,044.23	1,070.26	1,076.07	1,112.82	1,143.50
	Percent				
Percentage change in rate [8]	-4.69	2.49	0.54	3.41	2.76
	Number				
Unfounded incidents [9]	..	..	..	55,273	51,038
	Percent				
Percent unfounded [9]	..	..	..	11.97	10.75
	Number				
Total cleared	266,422	269,834	276,071	284,808	286,806
Cleared by charge	173,943	178,806	184,638	190,244	195,943
Cleared otherwise	92,479	91,028	91,433	94,564	90,863
Total, persons charged [10]	153,827	158,322	163,239	167,324	172,103
	Rate				
Rate, total persons charged per 100,000 population aged 12 years and over [11]	498.95	509.93	519.95	526.40	533.47
	Number				
Total, adult charged	139,086	143,897	148,232	151,490	156,216
	Rate				
Rate, adult charged per 100,000 population aged 18 years and over [11]	488.53	501.44	510.62	514.97	522.76
	Number				
Total, youth charged [12] [13]	14,741	14,425	15,007	15,834	15,887
	Rate				
Rate, youth charged per 100,000 population aged 12 to 17 years [11]	624.60	613.59	634.39	668.44	668.04
	Number				
Total, youth not charged [12] [13]	15,273	15,115	15,240	16,338	15,576
	Rate				
Rate, youth not charged per 100,000 population aged 12 to 17 years [11]	647.14	642.94	644.24	689.72	654.97

Symbol legend:

.. not available for a specific reference period

How to cite: Statistics Canada. Table 35-10-0177-01 Incident-based crime statistics, by detailed violations, Canada, provinces, territories and Census Metropolitan Areas
DOI: https://doi.org/10.25318/3510017701-eng

Related information

- ▶ Source (Surveys and statistical programs)
- ▶ Related products
- ▶ Subjects and keywords

Date modified:
2020-05-30

This is Exhibit "J" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Volume 11, Number 3 **Article 5** July 2010

The recidivism rate of young violent men who are released from prison can be reduced.

Although imprisoning offenders is seen by many politicians to be a good way to reduce crime, it has three large problems: it is expensive and inefficient (see, e.g., *Criminological Highlights*, V3(1)#1); it may increase subsequent offending (e.g., *Criminological Highlights 11*(1)#1, 11(1)#2); and eventually most prisoners are released. This paper addresses the third problem: what can be done to reduce subsequent offending by serious violent offenders being released from jails.

The Boston Reentry Initiative (BRI) initiates contact with jailed inmates within 6 weeks of their entering the Suffolk County House of Correction. Inmates are chosen for the project on the basis of assessments (objective and subjective) that they are at high risk of involvement in violent crime upon release. Factors used to choose candidates included current offence, arrest history, gang membership, whether the inmate is from a violent neighbourhood or is seen to be likely to be involved in firearms incidents in the future.

While in jail, inmates meet with representatives of criminal justice agencies (e.g., prosecution, probation, parole departments), social service agencies, and faith-based organizations. The representatives of these organizations explain the services they could provide inmates upon release. Inmates are then assigned staff caseworkers and faith-based mentors from the community. Mentors' salaries are paid by the program and typically stay connected with BRI participants for 1-1.5 years. A plan for release is developed for each inmate, and enrolments in programs (in jail) are chosen to meet each inmate's needs. On release, arrangements are made for the inmate to be met by a family member or a mentor at the door of the jail.

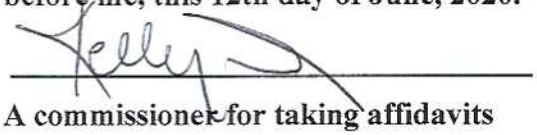
In this study, the average inmate, upon release, had 7.3 contacts with mentors and about 40 hours of programming in the community. Services in the community included such matters as obtaining shelter, clothing, a job, counselling, etc. Inmates were steered to 'community partners' (e.g., career centres, half-way houses) that had proved to be successful in linking inmates to jobs and communities. A somewhat imperfect control group was created consisting of jailed inmates who were matched to the treatment inmates on their propensity-to-offend scores (based on age, race, current offence, criminal history, and gang involvement).

Within a year of release 20% of the BRI participants and 35% of the comparison group had been arrested for a violent crime. 36% of the BRI participants and 51% of the comparison group were arrested for any crime within a year. These differences – less offending by program participants – were evident two and three years after release.

Conclusion: Compared to many correctional programs, this program was unusual on at least two dimensions: It targeted difficult offenders who were expected to have a relatively high recidivism rate and, similar to some other programs for offenders who are a concern to many citizens (e.g., see *Criminological Highlights,* 9(3)#6, 11(2)#6), it was very intensive. Nevertheless, it does demonstrate that programs aimed at those released from prison on some form of conditional release can be effective.

Reference: Braga, Anthony A., Anne M. Piehl, and David Hureau (2009). Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative. *Journal of Research in Crime and Delinquency, 46* (4), 411-436.

This is Exhibit "K" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.



A commissioner for taking affidavits

In a longitudinal study of delinquent males followed from age 7 to age 70, there were no identifiable groups whose rates of offending did not decline with age.

Background. The belief that a group of offenders exists whose crime rate does not drop with age is attractive to policy makers. It suggests that criminal activity can be substantially reduced if something were done (*e.g.,* treatment or incapacitation) with such a group that would stop future offending. Within this context, policy makers and "criminal careers" researchers have focused on identifying "the subset of chronic offenders known as serious, violent offenders" (p.558) (See also, *Criminological Highlights, 1* (3) #7).

This study followed a sample of 500 boys born between 1924-1931 through to 1996. Originally part of a study carried out by Sheldon and Eleanor Glueck, these boys were subsequently traced until the 1990s by way of various death and (state and federal) offending records. The main focus of this research was to determine whether the age-crime relationship – an increase in crime from childhood into adolescence or early adulthood and a decline thereafter – was consistent across groups of offenders.

The results are easy to describe.

- Pooling across all offences, there was a sharp increase in offending which peaked in adolescence and was followed by a slower decline throughout the life course.
- For property offences, the rate peaked in adolescence, with a very sharp rate of decline immediately afterward. In fact, the rate of (property) offending was quite low by age 30.
- For violent offending, the peak was in the 20s, and the drop-off in offending rates was substantially slower, "with some offenders remaining active well into their 40s…" (pp. 565-6).
- Drug and alcohol offending was relatively constant between age 20 and approximately age 47 before it sharply declined.
- In an attempt to identify groups that might not show a decline in offending, 13 measures from the boys themselves (as youths), their parents, official records, and teachers were used. More specifically, this study examined differences in such variables as IQ, age of onset of misbehaviour, psychological assessment indicators of the boys and level of delinquency in adolescence. Youths were grouped into those 20% with the most "risks" vs. the rest. The same pattern emerged – early peaks in late adolescence for property crimes, and later peaks (late 20s) for violent offences, and a flatter curve peaking in the 30s for drug/alcohol crime. Though obviously the rate was higher for the "high risk" offenders, the general shape of the curves was the same.
- High rate chronic offenders showed the same pattern of drop-off in offending demonstrated by those with lower rates of offending.
- Even when the high rate offenders with high "family risk" factors were compared with the remaining youths, the results were identical: the drop-off in offending occurred more or less at the same time.

Conclusion. "The data are firm in signaling that persistent and frequent offending in the adult years is not easily divined from zeroing in on juvenile offenders at risk" (p.577). There is variation in the age at which certain groups of men will peak in their offending rates, but there are no identifiable groups whose level of offending does not drop off with age. "Crime declines with age even for active offenders" (p.585). As such, it was impossible to find a "life-course persistent group [that] can be prospectively or even retrospectively identified based on theoretical risk factors at the individual level in childhood or adolescence" (p.588).

Reference: Sampson, Robert J. and John H. Laub (2003). Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70. *Criminology, 41,* 555-592.

This is Exhibit "L" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Research at a glance

Profile of Convicted Murderers who Reoffend with a Similar Crime while under Supervision in the Community

KEY WORDS: *Reoffend homicide, murderers, full parole, supervision in the community*

Why we did this study

In July 2007, following the report entitled *Board of Investigation into the Release and Supervision of an Offender on Full Parole Charged with First Degree Murder – Durham, Ontario – October 27, 2006* , the Research Branch was asked to compile a list from the Offender Management System (OMS) of all homicide cases in Canada from January 1, 1998, to January 1, 2008, inclusively. From there they were asked to inventory all first- and second-degree murder and manslaughter cases and then to identify all those offenders who had previously been sentenced for murder or manslaughter prior to this ten-year period. The objective was to determine whether there are indicators that could help parole offices establish a checklist for these types of cases.

What we did

Over this ten-year period, 3,032 males were arrested, convicted and given a federal sentence for various types of homicides. Of this number, 83 (2.7%) were under supervision at the time of their offence and 10 (0.3%) were under supervision and had previously been sentenced for another homicide. This is an average of one case per year.

Although this sample is too small for statistical analyses, an in-depth review of these 10 cases revealed 15 common traits among the offenders. The purpose of this report is to present these indicators.

To avoid any errors in compiling the data collected, each repeat homicide by a male offender under community supervision between January 1, 1998, and January 1, 2008, that was recorded in the OMS was double checked.

What we found

A list of 15 characteristics and trends for the ten cases emerged: 1) A significant history of violence; 2) Early commission of a violent crime (juvenile criminal history); 3) A very violent pre-, per- and post- MO (the death of the victims was followed by the suicides of two assailants and a third was shot by police); 4) A relatively short lapse of time between release and recidivism; 5) A lack of remorse; 6) A complete lack of empathy for the victim or victims; 7) Criminal opportunities associated with a very conspicuous criminal lifestyle; 8) Membership to a criminal group or organization; 9) Abuse of multiple substances dating back more than 15 years; 10) Diagnosed mental health problems 11) A violent family background; 12) A dysfunctional family background; 13) Repeated escapes or attempts to escape; 14) Repeated parole failure; 15) Varied involvement or failure in programs appropriate to the offender's risk level.

Number of Offenders Convicted of Homicide 1998 – 2008 (N=3032)

Offenders convicted of homicide while under community supervision	83	2.7
Repeat homicide committed while under community supervision	10	0.3

What it means

Although the sample size obtained in this study was much too small for tests of significance and the results cannot be used to construct an actuarial scale, however, the results were used to establish a list of 15 characteristics and trends for the ten cases studied. These 15 indicators could prove useful for parole officers working with offenders sentenced for homicide who are under federal supervision in the community.

For more information

Bensimon, P. (2011). *Profile of Convicted Murders who Reoffend with a Similar Crime while under Supervision in the Community*. Ottawa, Ontario. Correctional Service of Canada

To obtain a PDF version of the full report, contact the following address: research@csc-scc.gc.ca.

Prepared by: Philippe Bensimon, Ph.D.

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This is Exhibit "M" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Recidivism of paroled murderers as a factor in the utility of life imprisonment.

John L Anderson[1]

Abstract

When a convicted murderer violently re-offends after being released, a prominent media profile results, intense fear is engendered within the community and it generates vigorous commentary, usually and understandably critical of the offender and the justice system. On the other hand, there is evidence that most murders are opportunistic and singular. In this article, Australian and international recidivism literature is synthesised in the specific context of murderers released to parole. This recidivism data is then analysed and evaluated as a factor in the utility of sentences of life imprisonment without parole for convicted murderers. A comprehensive synthesis, analysis and evaluation of the literature reveals that a small percentage of paroled murderers recidivate by committing a violent offence and even fewer kill again. Recidivism rates are a significant factor in the measure of the success or otherwise of sentencing and corrections. Accordingly, these findings support the contention that life imprisonment without parole is of limited, if any, utility for the large majority of convicted murderers and for the community.

Introduction

> 'The release of a prisoner sentenced to life imprisonment … (is) of particular sensitivity' (*Watson v The State of South Australia* [2010] SASCFC 69, [90] per Doyle CJ).

Recent sentences of life imprisonment imposed in New South Wales, the only Australian jurisdiction where it means imprisonment for the term of the offender's natural life with no prospect of release to parole, continue to highlight the recurring problems of inequity and disproportionality inherent in this ultimate sentence. A stark aspect of the inequity and disproportion of a life sentence is the variable age of offenders when they are sentenced. Some recent examples are Daniel Holdom, who was 44 years old with a life expectancy of a further 37.75 years when sentenced to life for the objectively grave killings of a young mother and her 2-year old daughter (*R v Holdom* [2018] NSWSC 1677), Robert Xie who was 53 years old with a life expectancy of a further 33.1 years when sentenced to life imprisonment for the brutal murders of five members of the Lin family (*R v Xie* [2017] NSWSC 63), and Vincent Stanford who was only 24 years old with a life expectancy of a further 57 years when he was sentenced to life imprisonment for the horrific murder of a young high school teacher (*R v Stanford* [2016] NSWSC 1434).

This unforgiving sentence raises an important question about the recidivism of murderers and the existence of evidence as to the utility of sentences of life imprisonment with no prospect of parole in preventing violence and protecting the community. Are they justified as absolute forms of retribution and extreme incapacitation because of the unique moral obloquy involved and/or are the

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convicted murderers forever dangerous to society resulting in an enduring need for community protection? (Anderson 2006). A significant and legitimate community concern is the potential for convicted murderers to kill again if released to parole.

Some comparatively recent high-profile Australian cases have highlighted the risks associated with releasing murderers and serious violent offenders to parole. Adrian Bayley (*R v Bayley* [2013] VSC 313; and *Bayley v R* [2013] VSCA 295) is a notorious example. Bayley was convicted of the brutal rape and murder of Jill Meagher while he was on parole. He had served eight years imprisonment for various violent rape offences and was on bail pending an appeal against a separate cumulative sentence imposed for serious physical violence. The Victorian Court of Appeal observed (at [28]) that Bayley acknowledged that his prior criminal record revealed 'a shocking history of gratuitous violence inflicted upon vulnerable women'. Bayley was sentenced to life imprisonment for murder but with a non-parole period of 35 years so that he still has a prospect for eventual release to parole. This case caused considerable community disquiet and led to a judicial review of the Victorian parole system with resultant legislative changes to that system in the *Corrections Act 1986* (Vic). Similarly, significant community outrage was evident in NSW when Terrence Leary, who was released to parole from a re-determined life sentence for murder was charged with eight offences within 10 months of release in 2013, including wounding with intent to murder, attempted rape, and assaulting police. The State Parole Authority immediately revoked Leary's parole and he subsequently pleaded guilty to a serious violent sexual offence and was sentenced to 15 years imprisonment. Interestingly, the same outrage was not apparent when John Walsh was recently convicted and sentenced to life imprisonment for the murder of another prisoner with whom he had shared a cell (*R v Walsh* [2018] NSWSC 1299). Walsh was serving two life sentences for the murders of his grandchildren at the time of this killing thus making it a serious example of homologous homicide. As this killing occurred in prison there was much less media attention and community backlash, although it does underline the potential for convicted murderers to kill again in any setting.

In the context of these comparatively recent examples of serious violent recidivist behaviour, the question arises as to whether such recidivism is typical or atypical of convicted murderers in Australian jurisdictions. It is a singularly important question because the prospect of release to parole for all offenders gives them hope for a future law-abiding and fulfilling life outside the confines and strictures of a prison. As Appleton (2010) has observed in the context of England and Wales, 'Lifers who fail on licence attract a high level of publicity and attention, whereas the day-to-day routine of good practice goes largely unnoticed' (p.218).

Convicted Murderers and Release to Parole

Murder receives 'a disproportionate amount of media attention … [and] when an offender commits a subsequent homicide … there is likely to be overwhelming media reporting and public outrage' (Cale *et al.* 2010, pp.159-

160). Popular perceptions of murderers are that they are 'individuals with high risks of serious recidivism who pose a continuing danger to society … [and there is] no more sensational sequel [that] can occur than for … [a paroled] offender to commit another serious or lethal offence … [which] have catastrophic impacts on the families of victims and survivors' (Broadhurst *et al.* 2017, p.2; see also Roberts *et al*. 2003). Contrastingly, there is also credible evidence that most murders have been committed in situations that are unlikely to be replicated for the individual concerned, which significantly reduces the chances of recidivist violence or killing (see, for example, Mitchell and Roberts 2012; Smith *et al.* 2012; Bryant and Bricknell 2017; Miladinovic and Mulligan 2015; see also Mitchell 1990).

The populist perception that murderers are all violent and dangerous people who perpetually pose a threat to public safety considered against the evidence that most murderers will not recidivate because their crimes occur in specific circumstances that rarely recur (see references immediately above), must thus be evaluated in light of available data from recidivism studies about those specific paroled offenders. In fact, it has become apparent through the research of recidivism of a range of offenders that the violence or harm demonstrated in an original or index offence, including a murder, is not necessarily a good indicator of future risk of violence or harm by that individual (see, for example, Spier 2002; Holland *et al*. 2007; Payne 2007; Wan and Weatherburn 2016). Available data on recidivism in Australia and internationally demonstrates that even though there may be a small number of convicted murderers who are forever dangerous to the community, the risk of violent and homicidal recidivism is minimal for the overwhelming majority (see, for example, Broadhurst *et al.* 2017; Liem 2013; Van Zyl Smit and Appleton 2019, Ch 10). These released offenders may be reformed, have been deterred or have otherwise changed or matured in their life course. Whatever the reason, the simple fact of ceasing to commit serious violent crime in this special group of offenders is significant in and of itself. It is an important factor in arguing that they should have at least a prospect of release to parole from the time a sentencing decision is made.

Jones and Weatherburn (2010) have observed that 'levels of knowledge about crime and justice would appear to exert a very large independent effect on levels of confidence in (various) aspects of the justice system' (p.523). Accordingly, this knowledge must be carefully assembled and used to promote understanding and confidence in the broader community whose safety is a paramount consideration. In particular it is important to disseminate the reality about the recidivism of the large majority of convicted murderers and the minimal risk that they usually pose to the safety of specific individuals and the general community despite having been convicted of serious crime. At the same time, the sentence of natural life for murder, another significant aspect of the justice system, must be carefully scrutinised for ongoing utility in this distinctive context.

An important question is that if there is no prospect of release from a life sentence for murder, does a qualitative analysis of the findings from available recidivism studies support the utility of this permanent form of incapacitation

and absolute retribution as an effective method of violence prevention? Alternatively, does this analysis provide an important plank upon which to challenge such an unforgiving sentence and for arguing against its utility as a method for violence prevention and community protection in contemporary penal policy?

Recidivism of murderers – Australian studies and literature

At the outset, it is important to clarify the meanings of 'homicide' and 'murder'. Rorie *et al.* (2018) have recently discussed the problematic nature of applying meta-analytic methods to conceptually ambiguous research. As there is definitional ambiguity across the available studies from various jurisdictions selected for review, 'a qualitative (but still systematic) review of the literature that allows for an accounting of conceptual variation and how such variation may produce differences in results' (Rorie *et al.* p.54), rather than a meta-analysis of the studies is used to reach a hypothesis about the incidence and nature of the recidivism of convicted murderers. This hypothesis will ultimately be used to inform policy recommendations about the utility of the natural life sentence for murder in NSW. Further empirical research to test the hypothesis is planned by analysing the recidivism of a unique cohort of convicted murderers who were sentenced to life imprisonment before 1990 in NSW, had their life sentences re-determined and have been released to parole.

Most recidivism studies use the categorisation of 'homicide', which includes murder, attempted murder, manslaughter, and causing death by dangerous driving or other dangerous acts. Within this broad category of 'homicide', the most serious form is murder, and in Australia life imprisonment is the mandatory or maximum sentence prescribed for this crime. Murder has a narrower legal meaning of intentional killing but, depending on the particular state or territory jurisdiction, may include reckless killings and constructive murder arising from the commission of another serious crime, such as armed robbery (see, for example, *Crimes Act 1900* (NSW) s 18; *Crimes Act 1958* (Vic) s 3A; *Criminal Code Act 1899* (Qld) s 302). In all Australian jurisdictions, there is the potential for a sentence of life imprisonment to extend for the term of the prisoner's natural life, but that rarely translates in practice (Anderson 2012). Since 1990, NSW is the only Australian jurisdiction where the imposition of the maximum sentence of life imprisonment necessarily means that the offender has no prospect of release to parole (*Crimes Act 1900* (NSW) s 19A). As life is the maximum sentence, it is possible (and usual) for a convicted murderer to be sentenced to a wholly determinate sentence with a non-parole period. In a study of sentenced homicides in NSW, Keane and Poletti (2004) found that the median sentence for murder was a head sentence of 18 years and a non-parole period of 13½ years. There are a small number of murderers sentenced to life imprisonment each year but as at 30 June 2018 numbers had accumulated to 87 lifers in NSW (Australian Bureau of Statistics 2018, Table 26). The only possible release mechanism for a prisoner sentenced to natural life imprisonment is the exercise of the

prerogative of mercy in the most extraordinary circumstances (*Crimes (Sentencing Procedure) Act 1999* (NSW) s 102).[2]

In synthesising and qualitatively evaluating the available recidivism studies the focus will be on convicted murderers and the commission of a subsequent murder or murders when released. That precise level of detail is not always available in the studies identified, so the broader 'homicide' category will be used with the qualification that the data reflects a wider range of killings than cases of intentional murder. Also, as recidivism is usually measured in terms of a subsequent conviction it may not always be possible to break down the data into specific crimes. Wide-ranging categories of violent and non-violent re-offending are often used, but where specific data on repeat homicide offending is available this will be highlighted in the qualitative analysis.

In Thompson's early general study of recidivism for the NSW Department of Corrective Services (1995), the comparative recidivism of homicide offenders was found to be 'low' with only 'two out of 82 back for a violence offence' (p.5). Although 11 of the 82 homicide offenders who had served very long terms were re-imprisoned within two years of release, this was mostly for 'breach of parole' and no offenders were convicted of a further homicide during this time (pp.29, 30 and 39). The most serious violent offence for homicide offenders who recidivated was 'shoot at with intent to prevent arrest'. The data shows that 98% of homicide offenders were discharged to parole as they were all sentenced prior to 1990 when life imprisonment was the mandatory punishment for murder but was largely symbolic as a system of executive release on licence operated (see Anderson 2006). Of these, 89% of first time male homicide offenders, 79% of repeat imprisonment male homicide offenders and 100% of female homicide offenders didn't recidivate in the two years following release. This study is limited by the relatively short follow-up period given the lengthy terms that most of these offenders served in prison. Taking account of this limitation on accuracy for predictive purposes and recognising that more offenders will recidivate over time, it is still arguable from this early data that it is rare for paroled homicide offenders to recidivate violently and even more uncommon for them to kill again. Recidivist behaviour for the majority of offenders has been shown to be most prevalent within two years of release (see, for example, Ross and Guarnieri 1996; Holland *et al.* 2007; Payne 2007; Weatherburn and Ringland 2014; Liem *et al.* 2014; Wan and Weatherburn 2016) so the 'time at risk' follow up period is only a qualified impediment, particularly given the small cohort of offenders and the substantial length of their incarceration (see Rhodes *et al.* 2018; and Wakefield 2018).

Wan and Weatherburn's (2016) later NSW study examining the risk of commission of a subsequent violent offence by those released after serving a sentence for committing such an offence found that although the risk of violent re-offending varies across different offender groups, 'in the average case, after 20 years, around 23% of those convicted of a violent offence will have

[2] For a comprehensive examination and explanation of the life sentence for murder, whether as a mandatory or maximum sentence, and how it works in practice in all Australian jurisdictions and some international contexts see, Anderson 2012.

been convicted of a further violent offence (i.e. 77% will never commit another violent offence)' (p.10). This study did not specifically examine recidivism by convicted murderers noting that 'the numbers [of such offenders] were too small' to include as a separate category in this large quantitative study of over 26,700 offenders. Murder or homicide offences were not in the top 30 re-offence profile of offending amongst violent offenders who re-offended. The most significant form of re-offending against the person was 'serious assault resulting in injury' ranked at 7 (5.14%) while 'serious assault not resulting in injury' ranked well down at 21 (1.05%) (p.6). With a comparatively low risk for further violent offending by the 'average violent offender', these results demonstrate that 'the incapacitation effect of prison on violent offending is likely to be fairly limited' (p.11). Accordingly, it is possible to extrapolate that indeterminate sentences of life imprisonment are unlikely to have ongoing utility in terms of the protective effect for the community in relation to a considerable majority of violent offenders, including those convicted of murder. It is certainly arguable on these findings across generalised violent offending with long term follow up that the selective incapacitation of such offenders is more likely to produce a significant number of false positives. This would lead to unnecessarily and unfairly restricting the liberty of these individuals beyond proportionate punishment for the actual crimes committed.

In other Australian jurisdictions, a 2007 study of recidivism in Victoria found that very small percentages of convicted murderers – 5%, and other homicide offenders – 3%, returned to prison (Holland, Pointon and Ross 2007, pp.16 Table 7 and 23). The most restrictive measure of recidivism, namely 're-imprisonment' was used in this study because access to arrest and conviction data was not available to Corrections Victoria, thus presenting a limitation as to data accuracy with consequent delimiting of the reliability of the findings. The authors of this study record that in 2007 there had been relatively little Australian research into prisoner recidivism with only one previous major study in Victoria. Ross and Guarnieri (1996) examined a sample of 838 Victorian prisoners and found that within 2 years of release 60% had been re-convicted of a least one offence and 43% had been re-imprisoned, increasing to 74% re-convicted and 54% re-imprisoned within 7 years. Within the sample, 8 (1%) had been convicted of murder, 21 (2.5%) of manslaughter and 8 (1%) of attempted murder. Of these 37 'homicide' category offenders 20 (54.1%) were not reconvicted in the follow-up period and only 7 (18.9%) were re-imprisoned for various offences not including homicide (pp.33-34). It was found that the 're-conviction rate for homicide was significantly below the expected value (i.e. the average for all offenders) … [and] homicide offenders were significantly less likely to be re-imprisoned when compared to property offenders' (pp.34-35).

Most recently, in a long term study of the specific recidivism of homicide offenders in Western Australia (Broadhurst *et al.* 2017) using survival analysis techniques for individuals arrested and charged with homicide offences in that jurisdiction over 22 years (1984-2005) it was found that although 'homicide offenders, especially those who are charged with murder, have substantial risks of re-offending, and those who have prior arrest records have higher risks of re-offending for a grave offense', it is rare to find 'homologous

homicide re-offending' (p.12). The longitudinal nature of this study is unique in relation to recidivism of homicide offenders. In this way the study aimed to provide a higher measure of accuracy in relation to recidivism and importantly sought 'to address the contrary anecdotal impressions that such offenders either rarely commit further violent offences or remain high risk on release from custody' (p.3). Overall, only three out of a large sample of 1088 homicide offenders were identified as homologous recidivists (p.8). When this small number of recidivist homicide offenders is closely examined it actually reveals only one true homologous 'murder' offender who was first imprisoned for murder at 21 years of age and then again arrested for murder four years after being released on parole from the first sentence. It is also clear that this offender had a lengthy criminal history for violence from a young age.

A number of limitations are apparent in this study with data restricted to Western Australia only, the arrest and charge recidivism measure is 'less definitive than convictions', offenders can manage to avoid detection and arrest for subsequent crimes, some offenders may have died and the paucity of qualitative data, particularly mental health status (Broadhurst *et al.* 2017, p.14). A critical point is made as to the use of risk assessment instruments and their validation in the discussion of the findings. It is emphasised that 'evidence-based risk assessment can add accuracy to clinical or experiential judgment' in decision-making about release of offenders from prison and community-based corrections (p.15), but that the data gathered from using those instruments alone cannot make predictions perfectly accurate. Even conceding the evident limitations and the difficulty of assessing risk of recidivism and predicting violence, this is a very useful study focussed on homicide recidivism from one Australian jurisdiction. The statistically significant point to be made is the extreme rarity of homologous homicide recidivism particularly when 'murder' is isolated from the broad range of 'homicide' offences for a more nuanced analysis. This recent study provides further important support for the hypotheses that convicted murderers are extremely unlikely to recidivate by killing again once released to parole.

Overall, the available Australian studies highlight the straightforward fact of bulk desistance from violent crime in this distinct group of offenders. Even without isolating the variables associated with the type of killing originally committed by these offenders, a particular feature is not killing again either in custody or upon release to parole. This synthesis and evaluation of the various studies highlights that there is substantial cessation of both violent and homologous homicide offending and that, in itself, is compelling when making decisions about the perpetuation of indeterminate sentences for convicted murderers. Simply to remove entirely the ordinary opportunity for a professional risk assessment to be made for release to parole when a life sentence is imposed is not borne out by the analysis of data from the available homicide recidivism studies. There are intriguing individual profile assessments to be made both in terms of adequate punishment for the crime and ongoing risks, but the general point is that there is little or no evidence to support popular perceptions about the continuing dangerousness and tremendous risk to community safety presented by most convicted murderers. This large measure of desistance from crime underlines a concomitant need

for review of continued incarceration and individual access to professional risk assessments to ensure a fair and equitable distribution of punishment for convicted murderers.

Recidivism and life sentence prisoners – International studies and literature

More literature exists in relation to specific international studies of the recidivism of homicide offenders, but it is still limited given the high profile and continuing debate about the potential future threat to the general community of previously violent offenders (see, for example, Grann and Wedin 2002; Erwin 1992; Eronen, Hakola and Tiihonen 1996; Roberts, Zgoba and Shahidullah 2007; Neuilly *et al.* 2011; Cale *et al.* 2010; Baay, Liem & Nieuwbeerta 2012; Liem 2013; Liem, Zahn and Tichavsky 2014; and Sturup and Lindqvist 2014). Overall, and consistent with the synthesis and evaluation of the Australian studies, the data in the various international literature shows the rate of serious violent and homicide recidivism for these offenders to be extremely low.

A study by Spier (2002) of New Zealand prisoners released between 1995 and 1998 showed that even though 73% of inmates were reconvicted of some offence within two years of their release none of those who had been serving life imprisonment were re-imprisoned and only 4.7% of convicted murderers were re-convicted of a violent offence (pp.9-12). Interestingly it was specifically noted that 'violent offenders released from a prison sentence for homicide or sex offences had lower violent offence reconviction rates than inmates released from prison for all other violent offences' (pp.11-12). At that time the indeterminate sentence of life imprisonment was mandatory for murder in New Zealand although the Parole Board could consider the cases of life sentence prisoners after they had served 10 years imprisonment.[3] In extrapolating from all the data gathered in this study it was found that 'only a very small proportion of all released inmates are reconvicted for very serious offences, and the type and seriousness of the offence that a person was imprisoned for is not a reliable predictor of the likelihood that they will commit a serious offence in future' (p.15).

Turning to Canada, the mandatory life sentence for murder is mitigated by eligibility for release to parole so that a life sentence rarely means for the term of a prisoner's natural life. It can have that practical result if parole is denied and a prisoner eventually dies in prison. The 25-year parole ineligibility period for first-degree murder was 'a political trade-off for abolishing the death

[3] Sentencing judges were later given the power to order minimum periods of more than 10 years - see *Criminal Justice Act 1954* (NZ) s 33A(2)(c) and *Criminal Justice Act 1985* (NZ) ss 80(1) (2) and 93(1). This process is now governed by sections 86E and 102 - 104 *Sentencing Act 2002* (NZ), which operate to make life imprisonment the presumptive sentence with judicial discretion to impose a determinate sentence circumscribed to those cases where it would be 'manifestly unjust' to impose a life sentence having regard to all the circumstances. Specific provisions operate in relation to orders for the length of a minimum term of imprisonment, which must be fixed except where the court is satisfied that the offender should serve a sentence of life imprisonment without parole having regard to the specified purposes of the sentence.

penalty' (Graham 1992, p.1) and 'lifers must serve their sentence for the remainder of their lives, whether in a penitentiary or under supervision in the community' (Public Safety Canada 2010, p.16). Statistical material in this jurisdiction shows that the concept of gradual and supervised release to the community is more extensively applied for offenders convicted of murder than for any other group. This underlines the rehabilitative purpose of parole and also 'provides a more effective way of protecting the public than would a more sudden release of offenders, at sentence expiry, without assistance and supervision' (NPBC 2009, p.6; see also *Corrections and Conditional Release Act 1992* (Canada) s 100; and Ellis & Marshall 2000). A 2002 study of the long term follow-up of convicted murderers released on full parole indicates that about 7% re-offend and only a very small number of offenders released on parole after a murder conviction were repeat homicide offenders, equating to approximately 0.3% (NPBC 2002). An earlier study which followed offenders convicted of murder and released on full parole between 1975 and 1990 found that 77.5% were not re-incarcerated while on parole and of those re-incarcerated, 13.3% were revoked for a technical violation of parole conditions and 9.2% for an indictable offence (Erwin 1992). As to the type of offences committed, only five out of the total of 658 offenders (0.76%) 'were convicted of having committed a second murder while they were on full parole. Three of these were convicted of first-degree murder and two of second-degree murder' (Erwin 1992, p.2).

A later national study of repeat homicide offenders in Canada looked closely at factors associated with homicide recidivism to distinguish such offenders from the much larger cohort of homicide offenders who did not recidivate. Interestingly, Cale *et al.* (2010) found 'key criminal lifestyle patterns' as important predictors of recidivism with lack of employment prior to the first homicide, severe alcohol and drug abuse and childhood experiences of abuse and neglect identified as critical risk factors (pp.173-175). Overall, it must be emphasised from this study that the amount of homicide recidivism over the 30-year period was extremely small, particularly taking account that 'manslaughter' was included as a form of homicide. Although there was an increase in first-degree murder as a second and subsequent homicide it still only comprised 26.5% of homicide recidivism whereas second-degree murder comprised 42.2% and manslaughter 31.3% (pp.166-167). References to earlier literature on repeat homicide studies conducted in Finland, the United Kingdom, Sweden and the United States unequivocally shows that 'though the follow-up periods and samples in these studies are diverse, they clearly demonstrate that the rate of homicide recidivism is extremely low' (p.162) as an international phenomenon.

Illustrating this consistent point in American studies, a recent study of a sample of released homicide offenders by Neuilly *et al.*(2011) revealed low rates of violent recidivism and the extreme rarity of homologous homicide offending for this group of offenders despite a moderately high overall rate of recidivism, usually for minor offences or violations of parole, resulting in re-imprisonment. In this study just over half of the sample of released homicide offenders did recidivate by the end of the 5-year follow-up period but none committed a new homicide and only '12% committed a new violent offense,

16.7% committed a drug offense (and) 4.2% committed a weapons offense' (p.154). The large majority of recidivism was for minor parole violations, such as missing a curfew or failing a drug test. Another study examining the long-term frequency and severity of recidivism of homicide offenders released over a six-year period in Philadelphia with a lengthy follow-up period of almost 40 years found 'that very few homicide offenders re-offended by committing another homicide … and approximately 1 out of 6 recidivated violently … (and) were most likely to do so in the few years immediately following release' (Liem *et al.* 2014, pp.2642-2643). The recidivism data in this study disclosed only 3% of offenders recidivating by committing another homicide while most of the 54% offenders who did recidivate committed minor and non-violent offences (p.2367). In discussion of the findings of this study, the authors highlight that the results 'indicate that very few homicide offenders re-offended by committing another homicide, and this finding is in line with other studies' (p.2643). In fact, the general theme from the North American studies is that it is exceptional for recidivist conduct of homicide offenders to involve another killing, particularly murder.

A landmark American study is that conducted by Marquart and Sorenson (1989) in relation to assessing the dangerousness of capital offenders following the commutation of death sentences flowing from the Supreme Court decision in *Furman v Georgia* 408 U.S. 238 (1972). A majority of judges in that case found the death penalty was unconstitutional or that capital punishment, as then administered, constituted cruel and unusual punishment in contravention of the eighth amendment to the US Constitution. The conditions created by this decision allowed for 'an "ideal" natural experiment for testing such predictions of future dangerousness' (Marquart and Sorenson 1989, p.6) as the study examined the prison and release behaviour of all capital offenders whose death sentences were commuted as a result of the *Furman* decision. The authors note that 'the greatest fear expressed after the *Furman* decision was that commuted inmates would someday be released to society and commit more heinous crimes … Murder is the prime concern' (pp.22 and 25). In analysing the histories of 239 *Furman*-commuted prisoners released into the community for an average of five years but up to 15 years, there was only one parolee who committed a subsequent homicide and approximately 79% did not commit further crimes (p.27). Of those who otherwise recidivated, a very small proportion (12%) committed a range of felonies, some involving violence. In addition, killings of four prisoners and two prison guards occurred in correctional facilities. This was only significant in relation to whether execution rather than release would have prevented homicidal recidivism. Overall, the authors observe, while conceding the need for further research, that 'the data in this study parallel other recidivism research on murderers in general … murderers on parole appear to rarely repeat their original crime' (p.24) They reinforce the conclusion made by Hugo Bedau (1982), a prominent death penalty scholar, earlier in the 1980s that although 'murderers do sometimes kill again even after years of imprisonment, the data … show that the number of such repeaters is very small. Both with regard to the commission of felonies generally and the crime of homicide, no other class of offender has such a low rate of recidivism' (p.175).

It is strongly arguable in extrapolating the findings from the '*Furman*-Commuted Inmates' study to the contemporary context of the sentence of life imprisonment without parole that to deprive these convicted murderers of the opportunity for assessment for release to parole is tantamount to a slow execution with reliance on unreliable predictors. The available evidence shows that the large majority of these offenders are most unlikely to violently recidivate and extremely unlikely to kill again. Since the time of this study several other international studies have re-inforced the extreme rarity of homologous homicide offending.

In England and Wales**,** it is apparent that 'the vast majority of released life-sentenced prisoners are successfully integrated into the community, with recent research showing that only 2.2% of those sentenced to a mandatory life sentence and 4.8% of those serving other life sentences reoffend[ed] in any way, compared to 46.9% of the overall prison population' (HMI Probation and HMI Prisons 2013, p.6). Although there has been a significant increase in the number of prison recalls in England and Wales with the 2007 Parole Annual Report revealing 'that the number of life licensees recalled to prison had risen by almost 500 per cent since 2002' (Appleton 2010, p.170), it is apparent that 'the significant growth in the number of lifers recalled to prison reflects a climate of increased accountability and enforcement within the probation service … (and) also indicative of the growing preoccupation with public protection and risk avoidance and closer surveillance of offenders on licence' (Appleton 2010, p.179). The precise reasons for the recalls of an increasing number of lifers show that the 'failure' label was applied to 'those who were recalled having committed further offences, plus those who were recalled as a result of breaches of the life licence or "inappropriate behaviour"' (Appleton 2010, p.217). There is certainly no indication of recalls for homologous homicide offending in this comparatively recent research of life-sentenced offenders.

In a later analysis of public protection and dangerousness in relation to offenders formally applying for release on licence after serving the minimum term of their sentence of life imprisonment, Mitchell and Roberts (2012) emphasise the extremely low rate of homologous homicide offending in England and Wales:

> … government statistics show that during the period 2000-01 to 2010-11 there were 6,053 convictions for murder or manslaughter, and only 30 cases (<0.5%) of persons who had previously been convicted of such an offence. (pp.60-61)

Finally, turning to the findings of several homicide recidivism studies in the Scandinavian countries, it is apparent that there are very low re-offending rates, particularly for homologous homicide. This is consistent with international trends and strongly reinforces the hypothesis that it is extremely rare for convicted murderers to kill again once released to parole. First, a 1996 study in Finland of specific homicide recidivism in a 13-year period from 1981 to 1993 revealed that out of a total of 1649 homicides committed in this period only 36 (2.18%) homicide recidivists were identified of whom 24 were

alcoholics and 23 had a personality disorder (Eronen *et al.* 1996). Second, in a Swedish study, 153 homicide offenders were tracked for 32 years until 2007 and only 5 (3%) committed a subsequent homicide offence**,** of which 2 were convicted of murder, within a mean time of 5 years and 10% re-offended by committing a major violent crime during the follow-up period within a mean time of 9.4 years (Sturup and Lindqvist 2014). Third, Bjørkly and Waage's 2005 review of the literature on recidivistic single-victim homicide found the 11 studies that were considered indicated 'prevalence rates ranging from 1 to 3.5% of all homicides … (and) generally a substantial time period will elapse between the first and second homicide' (p.104). As to particular characteristics, it was difficult to obtain accurate information to state firm conclusions but 'personality disorder in combination with alcohol and drug dependence appeared to be the most prevalent diagnoses in the six studies that addressed the diagnostic issue with a minimum level of accuracy' (p.104).

Most significantly, Marieke Liem's 2013 review of literature on homicide offender recidivism revealed a wide variety of differences between various studies because of the recidivism measures, the 'time-at-risk' follow-up periods and the specific focus recidivist behaviours, however, several commonalities were found. Taking the stated limitations into account, Liem found that it was still possible to conclude that 'specific recidivism (i.e., committing a second homicide) among "general" homicide offenders is very rare', however, 'recidivism is high when measured in parole violations and new drug charges. Recidivism as measured by committing violent offenses seems to fall between the two extremes, ranging from 2 to 16%' (pp.19, 21 and 23).

Overall, the caution exercised by parole authorities in releasing convicted murderers back into the community is understandable when dealing with such a controversial issue particularly appreciating the need for retribution for the seriousness of the crimes committed and anguish for a range of secondary victims. The import of the growing number of international studies, however, is that such offenders will rarely commit another murder or homicide offence and only a relatively small proportion will re-offend in a serious or violent way. Future research on homicide recidivism has been suggested by Liem (2013) to be in four directions, including expanding beyond North American and Northern European countries and should aim to strive for longer-term follow-up periods in developing adequate evidence-based responses 'to prevent future criminal behaviour among this special group' (p.24). At this stage the evident purport of the available studies is that the risk of any form of violent and homicidal recidivism in this distinctive group of offenders is very low. Coupled with the advances in risk assessment and prediction of violence through the use of more sophisticated risk assessment tools in conjunction with structured clinical judgments and criminogenic needs analysis (Ogloff and Davis 2005) there is a strong argument that murderers sentenced to life imprisonment should at least have the opportunity to be reviewed and assessed for release after serving a proportionate non-parole period. This term in detention would ideally be guided the proportionality principle in the context of a culture of penal moderation rather than by ill-informed perceptions about the continuing dangerousness of most convicted murderers

and unwarranted fears about the risks they pose to community safety if released from imprisonment, fuelled by a climate of penal populism (see, for example, Ashworth 2017).

Conclusion and Looking Forward

The finding from this qualitative analysis of relevant and available literature is that the various Australian and international studies analysed indicate that the recidivism rate for convicted homicide offenders, including murderers, who are released to parole is extremely low, most notably in relation to violent re-offending and homologous homicide offending.

In the final analysis it is contended that the demonstrated and vast measure of desistance from serious crime and subsequent homicides by murderers released to parole is of significant weight in the measure of success of sentencing and corrections. It is compelling in making decisions about release and the utility of indeterminate sentences for these offenders. Coupled with the sophisticated and reliable modern methods for assessing the future risk of previously violent offenders (Ogloff and Davis 2005; Broadhurst *et al.* 2017), which provide an effective level of confidence in the accuracy of any predictions as to violent re-offending, there is a developing argument that the sentence of life imprisonment without parole is of limited, if any, utility for most convicted murderers and for the community from which they have been excluded.

Echoing the sentiments of Bedau (1982) in relation to how we treat convicted murderers, '…we can undertake to release none of them; or we can reconcile ourselves to the fact that release procedures, like all other human practices, are not infallible, and continue to improve rehabilitation and prediction during incarceration' (p.180). There is clearly a need for caution and the application of procedural safeguards in considering the release of convicted murderers to parole, but the fact that those released from life imprisonment across the world have significantly lower rates of recidivism than other released prisoners and very rarely commit another murder is a solid plank in the argument of the disutility of natural life sentences.

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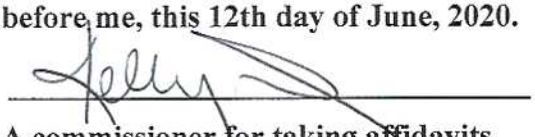
This is Exhibit "N" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.



A commissioner for taking affidavits

People who have been incarcerated for homicide offences are very unlikely to commit another homicide offence when they are released back to the community.

Releasing homicide offenders into the community is often controversial. The Canadian Minister of Justice recently introduced a bill requiring life without parole for certain homicide offenders, suggesting that it "demonstrates our continued commitment to protecting Canadians." The question is whether there is a *special* need to protect ordinary citizens from those released on parole from, or after serving, a prison sentence for murder or whether protection from homicide specifically, or violent offences more generally, could best be accomplished by investing resources elsewhere.

In a Swedish study, 153 homicide offenders were tracked for 32 years. Five (3%) committed a subsequent homicide offence (2 murders and 3 other homicide offences). Those homicide offenders who, during the follow-up period, committed any serious offence (10% of the sample) were substantially younger when they committed the first offence (29) than those who did not commit another violent offence (36). Repeat homicides occurred an average of only 5.0 years (range 1-11 years) after the earlier homicide, reflecting the fact that in Sweden sentences tend to be considerably shorter than in the US or Canada. Repeat homicide offenders tended to be young when they committed their first offence, and were still relatively young when they committed their second.

An American study, examining the 3-year recidivism rates of prisoners released in 15 states, also shows low rates of homicide re-offending. In that study 1.2% of 4,433 people released from prison after serving a sentence for any form of homicide were re-arrested for a subsequent homicide offence. However, this group was dramatically more likely to be re-arrested for a property (10.8%) or drug offence (13%) than for homicide. Those released after serving time for homicide were responsible for fewer than 1% of all homicides that occurred during this period.

A Canadian report on 4,131 people who had previously committed murder found that 13 of them who were on full or day parole committed repeat homicide offences from 1975 to 1999. One of these 13 had previously been convicted of capital or first degree murder. An additional 24 of the 7,652 offenders serving sentences for manslaughter committed another homicide offence while on conditional release. Most of this latter group (16) were on 'statutory release' (a presumptive form of supervised release prior to the end of the sentence for those not released on parole). "Repeat homicide offenders [of all types] on conditional supervision accounted for less than four tenths of 1% of the [15,266] reported homicide deaths in Canada [during this 24 year period]" (p. 5).

Conclusion: Parole authorities are cautious about releasing those convicted of murder. This is reflected by the fact that 82% of those serving sentences for 1st degree murder in Canada are currently in custody. The only certain way to reduce reoffending in the community to zero for those convicted of murder would be to prohibit release of *everyone* serving a life sentence for murder. To reduce the number of 'repeat homicides' by those convicted of 1st or 2nd degree murder to zero, Canada would have to imprison the 1749 people serving life sentences for murder currently in the community, at a net additional cost (imprisonment cost minus supervision cost) of $145 million a year. Focusing on, and focusing resources on, this group, however, ignores the fact that 99.6% of homicides in Canada were *not* committed by those who had committed a previous homicide offence.

Reference: Sturup, Joakim and Per Linquist (2014): Homicide Offenders 32 years Later: A Swedish Population-based Study on Recidivism. *Criminal Behaviour and Mental Health, 24*, 5-17.
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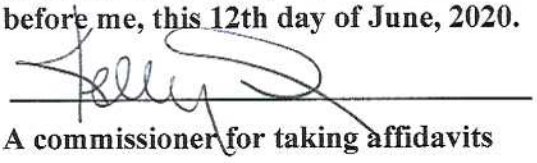
This is Exhibit "O" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.



A commissioner for taking affidavits

Correctional Service Canada

Commissioner's Directive

Security Classification and Penitentiary Placement

Commissioner's Directive

- Number: 705-7
- In Effect: 2018-01-15

Related Links

- Policy Bulletin 466
- Policy Bulletin 526
- Policy Bulletin 554
- Policy Bulletin 584
- Policy Bulletin 586
- Policy Bulletin 607

AUTHORITIES

- *Corrections and Conditional Release Act* (CCRA), sections 3.1, 4, 15.1, 26, 28, 29, 30 and 40
- *Corrections and Conditional Release Regulations* (CCRR), sections 11, 12, 17 and 18

PURPOSE

- To determine the inmate’s security classification and penitentiary placement

APPLICATION

Applies to staff responsible for the inmate’s security classification and penitentiary placement

CONTENTS

RESPONSIBILITIES

1. The Assistant Commissioner, Correctional Operations and Programs, following consultation with the Deputy Commissioner for Women in cases of women inmates, and when supported by the Regional Deputy Commissioner, is the final decision maker for:
    a. initial classification to other than maximum security, for an inmate serving a life sentence for first or second degree murder, or an inmate convicted of a terrorism offence punishable by life except when the male inmate is transferred directly to the Special Handling Unit.
    b. initial classification of a Dangerous Offender to minimum security.
2. The Senior Deputy Commissioner is the final decision maker on the security classification and penitentiary placement for inmates transferred to the Special Handling Unit.
3. The Regional Deputy Commissioner will establish a regional procedure for the readmission of an inmate subject to a temporary detention, revocation, or an inoperative release.
4. The Regional Deputy Commissioner:
    a. will forward a recommendation to the Assistant Commissioner, Correctional Operations and Programs, for final decision:
        i. for the initial classification to other than maximum security of an inmate serving a life sentence for first or second degree murder, or an inmate convicted of a terrorism offence punishable by life
        ii. for the initial classification of a Dangerous Offender to minimum security
    b. is the final decision maker if he/she disagrees with the Institutional Head's recommendation to classify a Dangerous Offender to minimum security or to make the initial placement to other than maximum security, for an inmate serving a life sentence for first or second degree murder, or an inmate convicted of a terrorism offence punishable by life
    c. of the receiving region, is the final decision maker for out-of-region movements from provincial/territorial custody.
5. The Institutional Head or District Director will:
    a. authorize an inmate's security classification (this authority may be delegated to the Deputy Warden or Area Director except for an inmate who is subject to a Dangerous Offender designation, or in those cases where the security classification is related to a transfer decision and/or involves an inmate serving a life sentence for first or second degree murder, or an inmate convicted of a terrorism offence punishable by life)
    b. forward the recommendation to the Regional Deputy Commissioner for final decision:
        i. for the initial classification to other than maximum security of an inmate serving a life sentence for first or second degree murder, or an inmate convicted of a terrorism offence punishable by life
        ii. for the initial classification of a Dangerous Offender to minimum security.
6. The decision maker must provide specific ratings for institutional adjustment, escape risk and public safety in every inmate security level final decision. If the decision maker does not concur with the recommended ratings in the Assessment for Decision, a rationale must be provided for the divergence from the recommendation.
7. The decision maker will provide the inmate with the rationale as well as the information considered in the decision, in writing within five working days. The inmate will be advised, at the same time, of the right to seek redress using the grievance process pursuant to CD 081 – Offender Complaints and Grievances.
8. When the decision maker for the security classification is the Assistant Commissioner, Correctional Operations and Programs, or the Senior Deputy Commissioner, a grievance arising from the decision will be submitted directly to the national level.
9. The Institutional Head will:
    a. implement a process to ensure the high profile offender flag is set for any inmate who meets the definition of a high profile offender
    b. implement a process to ensure procedures are followed when a high profile offender is being placed, pursuant to CD 701 – Information Sharing
    c. ensure processes outlined in CD 784 –Victim Engagement are followed.

PROCEDURES

Centralized Intake Assessment Process

10. The community Parole Officer will complete the Custody Rating Scale, pursuant to Annex B, for women inmates in provincial/territorial custody.
11. The Parole Officer will:
    a. complete the Custody Rating Scale
    b. complete the Assessment for Decision for the initial inmate security level and penitentiary placement pursuant to Annex E
    c. complete a new Assessment for Decision for the inmate security level and penitentiary placement for all revoked inmates, where temporary detention facilities exist.

Decentralized Intake Assessment Process

12. The community Parole Officer will complete:
    a. the Custody Rating Scale for inmate security level within five working days of initial sentencing
    b. the Custody Rating Scale and Assessment for Decision for inmate security level and penitentiary placement following suspension or revocation.
13. The Warrant of Committal will be used to effect the initial admission of the inmate from provincial/ territorial to federal custody.
14. Once in federal custody, the inmate will be moved to the placement institution via a penitentiary placement decision.
15. The institutional Parole Officer will:
    a. complete a subsequent Custody Rating Scale upon receipt of additional information, if required
    b. complete the Assessment for Decision for security classification and penitentiary placement pursuant to Annex E, if required.

Interregional Movements for Offender Intake Assessments and Interregional Penitentiary Placements

16. An out-of-region movement or placement of an inmate may be required for population management reasons.
17. Refer to Annex F when it is determined that the most viable option is to either:
    a. move an offender directly from provincial/territorial custody to an out-of-region facility for the purpose of completing the offender intake assessment, or
    b. proceed with an interregional penitentiary placement.

Inmates Convicted of Terrorism Offences

18. For an inmate convicted of a terrorism offence included in Part II.1 of the *Criminal Code*, or an offence determined by the court to constitute a terrorism offence as defined in section 2 of the *Criminal Code*, an interim placement review will be completed within 15 days from the sentencing date while the inmate is in provincial/territorial custody. The review will consist of, at a minimum, the completion of the Custody Rating Scale.
19. In regions with a centralized intake assessment process, the Custody Rating Scale will be completed by the institutional Parole Officer; while in regions with a decentralized process, the community Parole Officer will complete the Scale.
20. When the Custody Rating Scale results in a maximum security rating for an inmate convicted of a terrorism offence, the Regional Deputy Commissioner of the region where the inmate was sentenced will subsequently outline in a Memo to File whether the inmate would meet the criteria for a transfer to the Special Handling Unit for assessment purposes. As applicable, the inmate may thereafter be directly transferred from provincial/territorial custody to the Special Handling Unit. The intake assessment and the assessment for admission to the Special Handling Unit will be completed in accordance with the timeframes prescribed in CD 708 – Special Handling Unit.
21. The Memo to File outlining the reasons for transfer to the Special Handling Unit for assessment purposes will be shared with the inmate within two working days following the transfer.

Inmates Subject to a Dangerous Offender Designation

22. When the classification of a Dangerous Offender to minimum security is being considered, the decision-making process is as follows:
    a. the Assessment for Decision, the CSC Board Review/Decision Sheet (Inmate Security Level) containing the Institutional Head's recommendation, and the required psychological risk assessment will be forwarded to the Regional Deputy

Commissioner for review

b. following review of the documentation noted above, the Regional Deputy Commissioner will enter his/her recommendation in the CSC Board Review/Decision Sheet

c. if the Regional Deputy Commissioner recommends against the proposed classification to minimum security, he/she will enter the final decision and reasons for denial in the CSC Board Review/Decision Sheet

d. if the Regional Deputy Commissioner is in agreement with the proposed classification to minimum security, he/she will enter the recommendation in the CSC Board Review/Decision Sheet and the pertinent documentation regarding the proposed classification to minimum security will be forwarded to the Assistant Commissioner, Correctional Operations and Programs, for the final decision.

Initial Offender Security Level and Penitentiary Placement

23. A penitentiary placement recommendation is included in the same Assessment for Decision covering the security classification decision. When recommending a penitentiary placement for an inmate, the recommended institution will be one that provides an environment that contains only the necessary restrictions, taking into account, but not limited to, the following factors:

    a. the safety of the public, staff or other persons in the penitentiary and the inmate

    b. the inmate's individual security classification

    c. the security classification of the institution (CD 706 – Classification of Institutions)

    d. accessibility to the inmate's home community and family

    e. the cultural and linguistic environment best suited to the inmate

    f. the state of health and health care needs of the inmate

    g. the availability of appropriate programs and services to meet the inmate's needs

    h. the inmate's willingness to participate in programs.

Custody Rating Scale

24. In addition to the Custody Rating Scale, the offender security level takes into consideration the following factors as required by section 17 of the CCRR:

    a. the seriousness of the offence committed by the inmate

    b. any outstanding charges against the inmate

    c. the inmate's performance and behaviour while under sentence

    d. the inmate's social and criminal history, including a Dangerous Offender designation under the *Criminal Code*, and, where applicable, young offender history

    e. any physical or mental illness or disorder suffered by the inmate

    f. the inmate's potential for violent behaviour

    g. the inmate's continued involvement in criminal activities.

25. The Parole Officer scores each factor based on the information obtained from the inmate during the intake assessment as well as from documents collected (e.g., FPS sheet, police report). A guide for the completion of the Scale is contained in Annex B.

26. The security level cut-off scores in the Custody Rating Scale are as follows and all scores are inclusive:

    a. **minimum security**: 0 to 85 on the institutional adjustment dimension AND 0 to 63 on the security risk dimension

    b. **medium security**: between 86 and 94 on the institutional adjustment dimension and between 0 and 133 on the security risk dimension; OR between 0 and 85 on the institutional adjustment dimension and between 64 and 133 on the security risk dimension

    c. **maximum security**: 95 or greater on the institutional adjustment dimension OR 134 or greater on the security risk dimension.

27. The Parole Officer will make a recommendation on the security level based on the Custody Rating Scale and the assessment of institutional adjustment, escape risk, and public safety. This assessment and recommendation will be completed pursuant to Annex E.

Security Classification

28. An inmate will be classified as:

    a. maximum security where the inmate is assessed by the Service as:

        i. presenting a high probability of escape and a high risk to the safety of the public in the event of escape, or

        ii. requiring a high degree of supervision and control within the penitentiary

    b. medium security where the inmate is assessed by the Service as:

        i. presenting a low to moderate probability of escape and a moderate risk to the safety of the public in the event of escape, or

        ii. requiring a moderate degree of supervision and control within the penitentiary

    c. minimum security where the inmate is assessed by the Service as:

        i. presenting a low probability of escape and a low risk to the safety of the public in the event of escape

        ii. requiring a low degree of supervision and control within the penitentiary.

29. The assessment will be completed pursuant to Annex E.

Placement of Co-Convicted Inmates

30. Co-convicted inmates under current sentence for an offence resulting in death or serious harm and whose association or influence on each other may be detrimental to the rehabilitation and safe reintegration of one or more inmates, or to the safety and security of the institution will:

    a. not be accommodated in the same cell

    b. whenever possible, will not be accommodated on the same range, unit, or in the same institution.

Procedures Following the Capture of an Inmate

31. Following the capture of an inmate who has escaped or who was unlawfully at large, he/she will be detained at an institution, at the appropriate security level, in the region of the arrest.

32. The region in which the inmate is recaptured is responsible for determining the appropriate placement and security level. Readmission procedures may differ by region.

Inmate Security Level and Penitentiary Placement Decision

33. The reasons for the security level and proposed penitentiary placement will be provided in writing to the inmate two working days prior to the final decision and transfer to the assigned penitentiary.

34. The Institutional Head will consider any responses provided by the inmate in the final penitentiary placement decision.

35. The inmate may appeal the penitentiary placement decision using the offender grievance process pursuant to CD 081 – Offender Complaints and Grievances.

Commissioner,

Original Signed by:

Don Head

ANNEX A - CROSS-REFERENCES AND DEFINITIONS

CROSS-REFERENCES

CD 001 – Mission, Values and Ethics of the Correctional Service of Canada
CD 081 – Offender Complaints and Grievances
CD 550 – Inmate Accommodation
CD 701 – Information Sharing
CD 702 – Aboriginal Offenders
CD 703 – Sentence Management

CD 705-5 – Supplementary Assessments
CD 706 – Classification of Institutions
CD 708 – Special Handling Unit
CD 710 - 2 – Transfer of Inmates
GL 710 2 - 1 – CCRA Section 81: Admission and Transfer of Offenders
GL 710-2-3 – Inmate Transfer Processes
CD 710 - 6 – Review of Inmate Security Classification
CD 784 – Victim Engagement

Integrated Mental Health Guidelines
Aboriginal Social History Tool

Criminal Code

DEFINITIONS

Co-convicted offenders : offenders who were parties in the commission of an offence resulting in death or serious harm (section 99 of the CCRA), even though they may have been charged with different offences and received different sentences or may have been prosecuted at different times.

Custody Rating Scale : a research-based tool used to assist in assessing the most appropriate level of security for the penitentiary placement of an inmate.

Dangerous Offender : an offender who is subject to a designation by the court under section 753 of the *Criminal Code*.

High profile offender : an offender whose offence dynamics elicited or have a potential to elicit a community reaction in the form of significant public and/or media interest.

Inmate security level : a rating (minimum, medium or maximum) based on the assessment of the inmate's institutional adjustment, escape risk and risk to public safety.

Inoperative : discontinuation of conditional release and return to custody when receipt of an additional sentence or an increase in the sentence length on appeal results in a conditional release eligibility date in the future.

Mental health institutional assessment: a type of mental health assessment where the purpose is to assess and delineate significant mental health and/or responsivity issues (e.g., intellectual functioning, cultural considerations, etc.) to be considered in relation to institutional adjustment/security level classification. The assessment will identify those factors that may impact the offender's adaptation and/or integration into a lower security environment.

Psychological risk assessment: an evaluation of offender risk, needs, responsivity and the manageability of risk, done from a psycho-social perspective, utilizing a variety of scientifically-validated assessment methodologies in an integrated process. It also includes reference to appropriate strategies for the management of risk.

Temporary detention : period of incarceration arising out of the execution of a warrant of apprehension and suspension of conditional release.

ANNEX B - CUSTODY RATING SCALE

INTRODUCTION

For all items in the Custody Rating Scale, **no incidents or convictions will be counted if they occurred when the inmate was under the age of 16**.

PART I – INSTITUTIONAL ADJUSTMENT RATING

1. HISTORY OF INVOLVEMENT IN INSTITUTIONAL INCIDENTS

Definitions

Incidents: any actions or behaviours listed in Annex C that occurred prior to final penitentiary placement for the current sentence.

Last five years of incarceration (pertaining to item b): any accumulated period or periods of federal or provincial/territorial incarceration (including remand) in the inmate's history that total five years or more, not just the five years immediately preceding the current admission to federal custody.

Serious physical injury: any injury as determined by Health Services personnel as having the potential to endanger life, or which results in permanent physical impairment, significant disfigurement or protracted loss of normal functioning. It includes, but is not limited to major bone

fractures, the severing of limbs or extremities, and wounds involving damage to internal organs.

Instructions

Incidents involving convictions in institutional court or outside court, and incidents contained in institutional security reports should be counted. For incidents in the provincial jurisdiction, find the offence in Annex C that most closely corresponds. Incidents occurring while the inmate was in a youth facility (but not under the age of 16) should be included.

Where there is clear and substantial evidence to support that the inmate was a victim of an assault or fight and not the aggressor, no score should be given.

With the exception of item 1a) as shown below, the remaining items are mutually exclusive, that is once you have chosen the response option appropriate to the incident, **the same incident** is not applied to any other item under Institutional History.

Item	Score
1. History of Involvement in Institutional Incidents	
a) No prior involvement (proceed to item 2 – Escape History) pursuant to OMS	0
Any prior involvement	2

Notes

- a) refers to any period of incarceration
- **If a score is entered under b), c) or d), then a score of "2" must be entered under a) any prior involvement.**

b) Prior involvement during last five years of incarceration:	
in an assault (no weapon or serious physical injury)	1
in a riot or major disturbance	2
in an assault (using a weapon or causing serious physical injury)	2

Notes

- Score only one of the above options and choose the option that yields the highest score.

c) Prior involvement in one or more incidents in serious category	2

Notes

- c) refers to any period of incarceration.
- This includes serious incidents that occurred in the last five years of incarceration but that do not meet the criteria specified in 1 b).
- Also includes serious incidents in remand or intake on a prior admission.

d) Involvement in one or more serious incidents prior to sentencing and/or pending placement for the **current commitment** (includes incidents occurring while the inmate is awaiting completion of the Offender Intake Assessment)	5

Notes

- Serious incidents while in remand, awaiting transfer to federal custody or in intake status on previously completed sentences are not scored here.

Sources of Information

- FPS record
- Discipline and Dissociation file
- Security incident base (Security Information Reports)
- Provincial records/files
- Inmate interview

2. ESCAPE HISTORY

Definitions

Escape: includes only escapes from federal/provincial/territorial correctional institutions, from police/peace officer custody or while on escorted temporary absence (ETA). It does not include leaving an open custody youth facility, a community residential facility (CRF), a community correctional centre (CCC) or where an inmate has been unlawfully at large from an unescorted temporary absence (UTA) or probation.

Last five years of incarceration (pertaining to item d): includes any accumulated period or periods of federal or provincial/territorial incarceration (including remand) in the inmate's history that total five years or more, not just the five years immediately preceding the current admission to federal custody.

Instructions

Where charges were laid against the inmate, it is not necessary that a court conviction be registered to count the incident of escape. When reviewing cases where the inmate was charged with "escape lawful custody" or "unlawfully at large", count only those situations where the act leading to the charge was an escape from a federal/provincial/territorial institution, from police/peace officer custody or while on an escorted temporary absence from a federal or provincial/territorial institution.

Provincial or territorial designation of security levels maximum, medium and minimum is equal to the federal levels, except in the case of provincial/territorial jails and detention/remand centres which are considered to be maximum security for the purposes of scoring the CRS.

Escapes from provincial/territorial closed/secure custody youth facilities should be counted under category b.

Item	Score
2. Escape History	
a) No escape or attempts	0
b) An escape or attempt from minimum or police/peace officer custody with no actual or threatened violence:	
over two years ago	4
in last two years	12
c) An escape or attempt from medium or maximum custody or an escape from minimum or police/peace officer custody with actual or threatened violence:	
over two years ago	20
in last two years	28
d) Two or more escapes from any level within the last five years	28

Only the single highest score for any one item from 2a) to 2d) is entered on the Scale even though any number of them may be applicable to the inmate.

Sources of Information

- FPS record

- Discipline and Dissociation file
- Security incident base (Security Information Reports)
- Provincial records/files
- Inmate interview
- Police reports

3. STREET STABILITY

Street stability refers to the evaluation of an inmate's level of functioning in the community as it relates to socially and legally acceptable norms. In order that street stability can be assessed consistently and objectively, four specific key life style areas must be evaluated separately and a composite rating reflecting these areas determined.

Street stability is assessed against the inmate population and not relative to non-criminal individuals. In addition, it should be assessed relative to the community in which the inmate was residing at the time the offence was committed. For example, if unemployment was relatively high in a particular community, the inmate should be assessed against the employment opportunities in that community.

Where applicable and if completed as part of the current assessment, the domain ratings from the Dynamic Factor Identification and Analysis (revised), Associates and Community Functioning domains can be used to support the Above Average (Factor Seen as an Asset or No Immediate Need), Average (Low or Moderate Need) and Below Average (High Need) rating.

(i) Employment/Education

CRS Guidelines

Above average – The inmate has been steadily employed or attending an educational program for more than six months prior to the present incarceration.

Average – The inmate has been employed or attending an educational program sporadically in the last six months prior to this incarceration and there have been significant periods of unemployment during this period.

Below average – The inmate has been usually unemployed and was not employed when the current offence(s) was committed. If the inmate verbalizes that the employment/educational situation contributed to the present offence(s), the rating should be "below average".

(ii) Marital/Family Adjustment

CRS Guidelines

Above average – A stable marriage (including common-law) exists. The inmate is presently supported by an intact nuclear family (includes parents, siblings, spouse and children).

Average – The inmate has a marital partner, however, periods of instability have occurred, and/or the nuclear family is somewhat unstable.

Below average – No significant family relationships are identified as having existed during the six month period prior to the commission of the present offence(s) and/or immediate family members do not provide pro-social supportive roles.

(iii) Interpersonal Relationships

CRS Guidelines

Above average – The inmate associates with essentially non-criminal persons in the community.

Average – Associations with unstable or criminally oriented persons, along with a mixture of stable individuals has been identified.

Below average – The inmate's social circle is made up almost entirely of persons with criminal backgrounds or unstable lifestyles. The inmate may have a co-accused in the present offence(s) with whom social ties in the community are identified.

(iv) Living Arrangements

CRS Guidelines

Above average – Lengthy period of time (more than one year) at a single residence unless legitimate reasons for relocation are identified.

Average – Changes of residence once or twice per year have occurred with no strong rationale identified.

Below average – Changes of residence have occurred two or more times during the six month period prior to the current offence(s).

After having examined each lifestyle area, place the individual in the category that best describes the life circumstances prior to incarceration. An overall assessment should be made of the areas considered together.

Item	Score
3. Street Stability	
a) Above average	0
b) Average	16
c) Below average	32

Sources of Information

- Police report(s)
- Presentence report
- Community Assessments
- Suspension report
- Inmate interview

4. ALCOHOL/DRUG USE

Applicable results from the Dynamic Factor Identification Analysis (revised) (Substance Abuse) or other substance abuse assessment instruments can be used to support the No Identifiable Problem (No Immediate Need for Improvement), Abuse Affecting One or More Life Areas (Low/Moderate Need) and Serious Abuse Affecting Several Life Areas (High Need) ratings.

Item	Score
4. Alcohol/Drug Use	
a) No identifiable problems – Drug/alcohol use does not occur, or alcohol is used in socially acceptable situations. Drugs and/or alcohol were not used prior to the commission of the present or previous offence(s), or	0
b) Abuse affecting one or more life areas – If the inmate's use of drugs or alcohol has been identified as negatively affecting at least one major area in the inmate's life and/or drugs/alcohol were used prior to the commission of the present offence(s), or	3
c) Serious abuse affecting several life areas – If most life areas are negatively affected by drug and/or alcohol abuse, and they are used before the commission of present and past offences (e.g. there is a pattern).	6

Sources of Information

- Police report(s)
- Presentence report
- Community Assessments
- Suspension report
- Inmate interview

5. AGE (AT TIME OF SENTENCING)

Select the score for the inmate's age at time of sentencing for the current offence(s). When there is more than one current offence, take the earliest sentencing date.

Readmission

For inmates returning on suspension with/without new convictions, use the executed suspension warrant date to calculate the inmate's age.

For inmates returning on revocation without new offences, use the PBC revocation decision date as the date of sentencing to calculate the inmate's age.

For inmates returning on revocation with new offences, use the date of sentencing on the new offences to calculate the inmate's age.

Item	Score
5. Age (at Time of Sentencing)	
a) 30 years or more	0
b) 29	2
c) 28	4
d) 27	6
e) 26	8
f) 25	10
g) 24	12
h) 23	14
i) 22	16
j) 21	18
k) 20	20
l) 19	22
m) 18 years or less	24

PART II – SECURITY RISK RATING

1. NUMBER OF PRIOR CONVICTIONS

Definition

Prior convictions: convictions other than the ones for which the inmate is presently serving a sentence.

Instructions

Convictions are counted separately only if they were awarded a consecutive sentence. All convictions that are dealt with by the imposition of concurrent sentences, even if they are different (e.g. false pretences and fraud), or occurred on different dates, are counted as a single conviction for the purpose of completing the Scale. Unless the conviction is stated as being consecutive, it is assumed to be concurrent. Convictions under the *Juvenile Delinquents Act*, *Young Offenders Act* or *Youth Criminal Justice Act* should be counted. **No incidents or convictions will be counted if they occurred when the inmate was under the age of 16**.

Item	Score
1. Number of Prior Convictions	
a) None	0
b) One	3
c) Two to four	6
d) Five to nine	9
e) Ten to fourteen	12
f) Fifteen or more	15

Sources of Information

- Canadian Police Information Centre

- FPS record

2. MOST SEVERE OUTSTANDING CHARGE

All outstanding charges at the time of admission on the inmate's current sentence are to be identified. Using Annex D, determine which outstanding charge is the most severe, and enter only the score for that offence.

For suspension or revocation admissions, check for any outstanding charges and score accordingly. If parole has been revoked following the commission of an offence and the charges have not yet been dealt with by the courts, count the offence under this item. In situations where the police have informed CSC they are planning to charge an inmate but have not yet done so, do not count the charge below. However, this may be an issue to take into account in the rationale for decision-making on placement.

Item	Score
2. Most Severe Outstanding Charge	
a) None	0
b) Minor	12
c) Moderate	15
d) Serious	25
e) Major/extreme	35

Sources of Information

- Sentence Management screen
- Canadian Police Information Centre
- FPS record

3. SEVERITY OF CURRENT OFFENCE

Using Annex D, determine which of the inmate's current offences is the most severe. Choose the single highest score that applies to the inmate.

Note: A revocation of parole or statutory release for a technical violation or conviction for a breach of a long-term supervision order (LTSO) counts as a current offence in the "minor or moderate" category.

Item	Score
3. Severity of Current Offence	
a) Minor or moderate	12
b) Serious or major	36
c) Extreme	69

Sources of Information

- Sentence Management screen
- Warrant(s) of Committal
- Admission Form

4. SENTENCE LENGTH

This is the total aggregate sentence as calculated at admission to CSC. Life or indeterminate sentences are included in "over 24 years".

Item	Score
4. Sentence Length	

Item	Score
a) 1 day to 4 years	5
b) 5 to 9 years (more than 4 years and up to 9 years)	20
c) 10 to 24 years (more than 9 years and up to 24 years)	45
d) Over 24 years (includes life or indeterminate)	65

Sources of Information

- Sentence Management screen
- Warrant(s) of Committal
- Admission Form

5. STREET STABILITY

This item is to be rated following the same definitions and instructions provided previously for Institutional Adjustment Score – Street Stability (item 3). The difference is in the scores assigned for each category and the special category "other". "Other" is to be selected for inmates convicted of a criminal organization or a terrorism offence included in Part II.1 of the *Criminal Code*, or an offense determined by the court to constitute a terrorism offence as defined in section 2 of the *Criminal Code*.

Item	Score
5. Street Stability	
a) Above average	0
b) Average	5
c) Below average	10
d) Other (i.e., convicted of criminal organization offences or terrorism offences)	20

6. PRIOR PAROLE AND/OR STATUTORY RELEASES (MANDATORY SUPERVISION)

Definition

Parole release: provincial/territorial or federal day or full parole.

Only federal statutory releases/mandatory supervisions are counted.

Releases at warrant expiry date are not counted.

Instructions

A calculation of the number of releases the inmate has obtained throughout his/her criminal history is required. Whether or not the release was revoked is not relevant for the completion of this item.

Item	Score
6. Prior Parole and/or Statutory Releases (Mandatory Supervision)	
a) None	0
b) Previous parole release (OMS offers choice from 1-21. One point is given for each release.)	
c) Previous release on statutory release or mandatory supervision (OMS offers choice from 1-21. Two points are given for each release.)	

Count only one release following a formal admission of any type. If an inmate was released on a day parole (the first release following a current admission), then received either a day parole “continued” or a full parole decision, count only the one release on the first day parole.

If an inmate was released from federal custody on statutory release, then revoked (formally re-admitted) and then released on day parole, count one statutory release and one parole release.

7. AGE AT TIME OF FIRST FEDERAL ADMISSION

If the current sentence is not the first federal sentence for this inmate, enter his/her age at the time of admission for the first federal sentence on the record. If the current sentence is the inmate's first federal sentence, use the age at the time of admission for the current sentence.

Choose the score that applies to the inmate's age category.

Item	Score
7. Age at Time of Admission	
a) 35 years or more	0
b) 34	3
c) 33	6
d) 32	9
e) 31	12
f) 30	15
g) 29	18
h) 28	21
i) 27	24
j) 26	27
k) 25 years or less	30

FINAL SCORES AND SECURITY LEVEL RATING

OMS calculates the scores for institutional adjustment and security risk separately and then provides the security level rating (classification).

ANNEX C - OFFENCES COMMITTED WHILE INCARCERATED

Notes

1. When the offence is a conspiracy to commit another offence, use the offence that is the object of the conspiracy to score seriousness.

2. This list of offences is not exhaustive. Users should exercise judgment to find the offence on this list that is the closest approximation to the offence(s) committed by the inmate.

Serious Offences

Criminal Code of Canada

- Murder
- Attempt to commit murder
- Causing bodily harm with intent
- Assault
- Aggravated assault
- Torture
- Hostage taking (forcible confinement)
- Arson

- Weapons/firearms
- Extortion
- Mischief causing danger to life
- Resisting or obstructing public or peace officer
- Permitting or assisting escape
- Theft
- Manslaughter
- Counselling or aiding suicide
- Impeding attempt to save life
- Assault with weapon or causing bodily harm
- Assaulting peace officer
- Sexual assault, aggravated sexual assault
- Prison breach
- Explosives – Possession without lawful excuse
- Importing or delivering prohibited weapons
- Breaking and entering
- Bribery of officers
- Personating peace officer
- Supplying noxious things
- Fraudulent concealment

Institutional Offences

- CCRA** 40(h) fights with, assaults or threatens to assault another person
- CCRA 40(n) does anything for the purpose of escaping or assisting another inmate to escape

** CCRA = *Corrections and Conditional Release Act*

Moderate Offences

Criminal Code of Canada

- Indecent acts
- Offences in relation to prostitution
- False pretence or false statement
- Fraud
- Making counterfeit money
- Interception of private communication
- Unauthorised use of computer
- Forgery
- Personation with intent

Institutional Offences

- CCRA 40(a) disobeys a justifiable order of a staff member
- CCRA 40(b) is, without authorization, in an area prohibited to inmates

- CCRA 40(c) wilfully or recklessly damages or destroys any property that is not the inmate's
- CCRA 40(d) commits theft
- CCRA 40(e) is in possession of stolen property
- CCRA 40(f) is disrespectful toward a person in a manner that is likely to provoke them to be violent or toward a staff member in a manner that could undermine their authority or the authority of staff members in general
- CCRA 40(g) is abusive toward a person or intimidates them by threats that violence or other injury will be done to, or punishment inflicted on, them
- CCRA 40(i) is in possession of, or deals in, contraband
- CCRA 40(j) without prior authorization, is in possession of, or deals in, an item that is not authorized by a Commissioner's Directive or by a written order of the Institutional Head
- CCRA 40(k) takes an intoxicant into the inmate's body
- CCRA 40(l) fails or refuses to provide a urine sample when demanded pursuant to section 54 or 55
- CCRA 40(m) creates or participates in (i) a disturbance, or (ii) any other activity that is likely to jeopardize the security of the penitentiary
- CCRA 40(o) offers, gives or accepts a bribe or reward
- CCRA 40(p) without reasonable excuse, refuses to work or leaves work
- CCRA 40(q) engages in gambling
- CCRA 40(r) wilfully disobeys a written rule governing the conduct of inmates
    - (r.1) knowingly makes a false claim for compensation from the Crown;
    - (r.2) throws a bodily substance towards another person; or
- CCRA 40(s) attempts to do, or assists another person to do, anything mentioned in paragraphs (a) to (r)

** CCRA = *Corrections and Conditional Release Act*

ANNEX D - MODIFIED CSC OFFENCE SEVERITY SCALE

Notes

1. Dangerous drugs: heroin and other opiates/cocaine/PCP/LSD and other similar substances.
2. Assault offences: classify according to seriousness **of the harm inflicted** by the assault.
3. Any sexual offence involving a child victim is considered major.
4. If a parole violation is the result of a new offence, classify according to the new offence.
5. Conspiracy, attempt to commit and accessory before and after the fact are classified as the actual offence.
6. This list of offences is not exhaustive. Users should exercise judgement to find the offence on this list that is the closest approximation to the offence(s) committed by the inmate.
7. As a general principle, do not ignore information that is not on the official record. For example, where the FPS indicates assault, but other reliable sources allow us to determine that the inmate actually committed a sexual assault, treat the offence as a sexual assault and score accordingly.

Extreme Offences Severity

- Murder or terrorism offences punishable by life

Major Offences Severity

- Attempted murder
- Hijacking of aircraft, treason, espionage
- Other terrorism offences

- Assault (with or without weapon) causing serious injury, risk of death, disfigurement or mutilation
- Kidnapping, forcible detention, abduction and/or hostage taking
- Illegal possession and/or detonation of explosives which are likely to cause death
- Armed robbery (with extreme violence, organized or notorious)
- Sexual assault offences (i.e. rape, attempted rape, sexual assault, aggravated sexual assault, any sexual offence involving a child, etc.)

Serious Offences Severity

- Armed robbery, attempted armed robbery, robbery with violence
- Sabotage
- Trafficking, possession for the purpose of trafficking dangerous drugs
- Manslaughter
- Use of firearm during commission of an offence
- Escape with violence from any level of security, escape from escort, prison breach, participate in riot
- Arson
- Conspiracy to traffic or import a dangerous drug
- Trafficking in illegal firearms
- Extortion
- Assault (with or without weapon), wounding

Moderate Offences Severity

- Possession of dangerous drugs
- Forgery, possession of instruments for forgery
- Bribery
- Breaking and entering, breaking out
- Non-violent sex offences (i.e., gross indecency, indecent assault)
- Escape without violence from minimum security or from escort
- Auto theft, conversion of auto
- Possession of stolen property over
- Assault causing bodily harm (no serious injury)
- Parole or statutory release revocation, breach of probation (technical)
- Possession of a restricted or prohibited weapon
- Trafficking, conspiracy, possession for the purpose of trafficking (soft drugs)
- Fraud offences, false pretences
- Forcible entry
- Criminal negligence causing death or resulting in bodily harm, dangerous driving
- Robbery
- Theft
- Obstruction of justice and perjury, resist arrest, obstruct peace officer, etc.
- Possession of a weapon to commit an indictable offence, carry a concealed weapon
- Criminal harassment

- Conviction for a breach of a long-term supervision order (LTSO)

Minor Offences Severity

- Possession of stolen property under
- Possession of soft drugs
- Public mischief, damage to property, causing a disturbance, willful damage
- Driving while impaired, driving with over 0.08, driving under suspension, take auto without consent, careless driving, etc.
- Unlawfully at large, failure to attend court, failure to comply with undertaking or recognizance, failure to appear
- Common assault
- Theft under
- Criminal negligence not resulting in bodily harm
- Possession of forged currency, passports, cheques
- Parole or statutory release revocation, breach of probation (technical)
- Failure to remain at the scene of an accident

ANNEX E - ASSESSMENT FOR DECISION FOR A SECURITY CLASSIFICATION AND PENITENTIARY PLACEMENT – REPORT OUTLINE

INTRODUCTORY STATEMENT/CASE STATUS

Provide a brief statement of the purpose of the report, length of sentence, current offence(s), outstanding charges or appeals and immigration/deportation/extradition status.

SECURITY CLASSIFICATION ACTUARIAL RESULTS

Identify when the Custody Rating Scale, Security Reclassification Scale, or Security Reclassification Scale for Women was completed, the scores (institutional adjustment rating and security risk rating) and overall level of security indicated by the scale.

Include the statement that "The inmate has been provided a copy of CD 705-7, Annex B – Custody Rating Scale".

INSTITUTIONAL ADJUSTMENT

Consider the following to assess institutional adjustment rating and update any relevant information since the completion of the most recent inmate security level review. For Aboriginal offenders, provide an analysis within the context of their Aboriginal Social History:

- length of the inmate's sentence and its impact on the inmate's institutional adjustment
- violent institutional incidents – use of weapons, role in the incidents, harm caused (including during provincial incarceration and previous federal sentences)
- review the inmate's disciplinary information during intake, federal and provincial/territorial custody (identify if there have been any previous minor or serious disciplinary offences, the nature and gravity of the offences, if there is a pattern)
- periods of segregation (disciplinary, voluntary and involuntary)
- include comments on the inmate's behaviour from unit staff
- review the Preventive Security file, record date of review and consultation with the Security Intelligence Officer
- indicate whether the inmate has any affiliations with criminal organizations/gangs, or continues to be involved in criminal activities while in custody
- identify the existence of incompatibles or co-convicted inmates and the impact on institutional adjustment
- identify whether any administrative intervention has been required in this case, such as transfers to higher security, segregation or transfers for protection reasons, behavioural contracts, etc. For Aboriginal offenders, indicate whether any cultural interventions or restorative options were considered or used as an alternative to administrative interventions. If cultural interventions or restorative options were not used as an alternative, explain why
- comment on inmate's level of motivation/engagement to participate in his/her Correctional Plan

- mental health concerns that may affect institutional adjustment based on the results of psychological, psychiatric, mental health assessments or other information
- identify whether the inmate displays special needs or socio-cultural factors indicating a requirement for special intervention on an ongoing basis (Aboriginal inmate, woman inmate, etc.)
- identify whether the inmate has a history of mental health issues, suicidal ideation, self-injury . For Aboriginal offenders, provide an analysis of their history of mental health concerns, suicidal ideation and/or self-injury within the context of their Aboriginal Social History
- current emotional stability, and whether this will impact on the inmate's institutional adjustment.

Institutional Adjustment Rating

Based on the individual adjustment factors and any other relevant considerations, assign a rating of either low, moderate or high.

Low – The inmate has demonstrated:

a. a pattern of satisfactory institutional adjustment; no special management intervention is required
b. the ability and motivation to interact effectively and responsibly with others, individually and in groups, with little or no supervision
c. motivation towards self-improvement by actively participating in a Correctional Plan designed to meet his/her dynamic factors, particularly those relating to facilitating his/her reintegration into the community.

Moderate – The inmate has demonstrated:

a. some difficulties causing moderate institutional adjustment problems and requiring some management intervention
b. the potential to interact effectively with others, individually and in moderately structured groups, but needs regular and often direct supervision
c. an interest and active participation in a Correctional Plan designed to meet his/her dynamic factors, particularly those which would lead to a transfer to a less structured environment and ultimately, to his/her reintegration into the community.

High – The inmate has demonstrated:

a. frequent or major difficulties causing serious institutional adjustment problems and requiring significant/constant management intervention
b. a requirement for a highly structured environment in which individual or group interaction is subject to constant and direct supervision
c. an uncooperative attitude toward institutional programs and staff and presents a potentially serious management problem within an institution.

ESCAPE RISK

Consider the following to assess the escape risk rating and update any relevant information since the completion of the most recent inmate security level review. For Aboriginal offenders, consider the impact of residential schools, the 60's scoop, the foster care system and/or repeated interventions by government agencies that may have built a distrust of authority and government agencies that may be linked to repeated escapes, UALs and breaches of trust directly linked to their Aboriginal Social History:

- identify if the inmate is a Canadian citizen
- identify history/convictions for escape, attempt escape, being unlawfully at large, breaches of trust (consider seriousness and recency)
- use of violence or threatened violence in any escapes or attempted escapes
- comment on whether there was a period of bail and whether the conditions of the bail were respected
- identify if there are any outstanding charges or appeals, including those related to immigration/deportation issues that may impact the inmate's risk of escape
- identify if length of sentence may have an impact on this area, and time to be served before eligibility for unescorted temporary absence
- comment on any previous periods on parole or statutory release, whether the inmate has participated in any successful ETAs, UTAs or work releases
- mental health concerns that may affect escape risk based on the results of psychological, psychiatric, mental health assessments or other information

- other concerns – unusual circumstances having the potential to increase the escape risk (i.e. current emotional instability, custody battle, problems with significant other, gambling/drug debts, etc.).

Escape Risk Rating

Based on the preceding escape risk factors and any other relevant considerations, assign a rating of either low, moderate or high.

Low – The inmate:

a. has no recent serious escape and there are no current indicators of escape potential

b. has no significant history of breaches of trust.

Moderate – The inmate:

a. has a recent history of escape and/or attempted escapes OR there are current indicator(s) of escape potential

b. is unlikely to make active efforts to escape but may do so if the opportunity presents itself

c. presents a definite potential to escape from an institution that has no enclosure.

High – The inmate:

a. has demonstrated a pattern of escapes and/or attempted escapes OR there are current indicator(s) of significant potential to escape OR could threaten the security of the institution in order to facilitate his/her escape..

PUBLIC SAFETY RISK

Provide an analysis of the inmate's public safety risk and update any relevant information since the completion of the most recent inmate security level review. For Aboriginal offenders, provide an analysis within the context of their Aboriginal Social History:

- history of any known violence, include violent community incidents (consider the seriousness and recency)
- Dangerous Offender designation under the *Criminal Code*
- the inmate's social, criminal and, where applicable and available, young inmate history. For Aboriginal offenders, describe this history within the context of the offender's Aboriginal Social History
- nature and gravity of current and number of previous offences (whether weapons were involved and whether serious harm occurred to the victim)
- evidence of spousal abuse. For Aboriginal offenders, make links between any spousal abuse and the offender's Aboriginal Social History
- level of dynamic factors or areas of need identified in the Correctional Plan
- Correctional Plan motivation/engagement and progress accomplished
- past releases performance and past ETA, UTA or work release performance
- mental health concerns that may affect public safety risk based on the results of psychological, psychiatric, mental health assessments or other information
- emotional stability/instability, self injury history, suicide history. For Aboriginal offenders, consider their history of emotional stability/instability, self-injury or suicide history within the context of their Aboriginal Social History
- detention referral or whether the inmate is being considered as a potential candidate for detention
- alcohol and drug use and the drug and alcohol rating. For Aboriginal offenders, consider any alcohol and drug concerns within the context of their Aboriginal Social History
- affiliations with criminal organizations/gangs. For Aboriginal offenders, consider any affiliation concerns within the context of their Aboriginal Social History. This may be related to family fragmentation and a lack of cultural identity corresponding based on the offender's Aboriginal Social History linked to a desire to belong
- affiliation with a terrorist organization or radicalized group
- whether the inmate meets the criteria of being a high profile inmate (will only have an impact if in light of the other factors, there is a clear connection between it and public safety)
- identify if the inmate is being supported for release and when

- notoriety likely to invoke a negative reaction from the public, victim(s) or police and/or to receive significant media coverage (sensational crime, major sexual or drug offence, terrorism, affiliation with organized crime, etc.). In order for notoriety to be a relevant factor, it must be demonstrated that it will have an impact on an inmate's reintegration potential by increasing the risk to re-offend, or the likelihood that he/she could pose a threat to the safety of any person or the security of a penitentiary
- public safety risk in the event the inmate would escape.

Public Safety Rating

Based on the public safety factors and any other relevant considerations, assign a rating of either low, moderate or high.

Low – The inmate's:

a. criminal history does not involve violence

b. criminal history involves violence/sexually-related offence(s), but the inmate has demonstrated significant progress in addressing the dynamic factors which contributed to the criminal behaviour and there are no signs of the high risk situations/offence precursors identified as part of the offence cycle (where it is known)

c. criminal history involves violence but the circumstances of the offence are such that the likelihood of reoffending violently is assessed as improbable.

Moderate – The inmate's:

a. criminal history involves violence, but the inmate has demonstrated some progress in addressing those dynamic factors which contributed to the violent behaviour

b. criminal history involves violence, but the inmate has demonstrated a willingness to address the dynamic factors which contributed to the violent behaviour

c. there are current indicator(s) of moderate risk/concern, that include a suspended case being recommended for revocation by the Case Management Team.

High – The inmate's:

a. criminal history involves violence and the inmate has not demonstrated any progress in addressing those dynamic factors which contributed to the violent behaviour or a willingness to attempt to address such factors

b. criminal history involves violence and the inmate has not demonstrated a willingness to address the dynamic factors which contributed to the violent behaviour

c. there are current indicators of high risk/concern, that include a suspended case being recommended for revocation by the Case Management Team.

OVERALL ASSESSMENT

Provide a short summary of the factors and consider the results of the mental health institutional assessment and/or the psychological risk assessment as well as any recent professional opinions such as psychological, psychiatric and mental health assessments and/or health care, comments from the Elder, if available, in the plan for managing the inmate at the proposed security level.

Consider Aboriginal Social History as indicated in CD 702 – Aboriginal Offenders and information provided in the Elder Review.

The intent of considering ASH is to examine circumstances of the Indigenous people and to seek alternative options to normal procedures to manage the Indigenous offender so that a more responsive decision can be made. ASH considerations are not risk factors and should never result in a more restrictive decision. It is possible that the end result may be the same but it is also possible that the consideration of ASH could result in a decision that is more restorative. To incorporate the ASH into the analysis, there are 3 components:

i. Define the unique circumstances of the Indigenous offender.

Analyze the circumstances of the communities (such as residential school systems, child welfare, dislocation, community fragmentation, marginalization, etc.) and the extent of their impact on the Aboriginal offender at the individual level (i.e. gang affiliation, substance abuse, history of suicide, family or community history of substance abuse, family or community history of victimization, poverty, lack or low level of formal education, etc.). It should ideally answer the following question: How has their history impacted their current behaviour?

ii. Ensure that all culturally appropriate and/or restorative options are given due consideration in the decision-making process.

Identify and document all restorative options (such as mediation, behavioural contract, etc.) and/or culturally

appropriate options (traditionally-based options) that are applicable to manage the offender culturally and/or restoratively. The options must be weighed along with all other required considerations in arriving to the recommendation.

Should none of the restorative or cultural options be suitable, document a detailed rationale as to why they are not appropriate.

iii. The analysis is documented in the recommendation to reflect the rationale of the recommendation.

Link the impact of the ASH consideration on the resulting recommendation for penitentiary placement. For example, can the inmate be penitentiary placed at a lower security level with additional supporting options?

Include information provided in the Elder Review (if applicable).

Take victim considerations into account (if applicable).

Indicate the existence of co-convicted and/or incompatible inmates.

Comment on discussions during case conferences, when it occurred and who was present. Identify the Case Management Team's recommendations and how the recommendation meets the needs of the inmate while ensuring the safety of the public.

Comment on consultation with receiving institution, when an interregional penitentiary placement is being considered.

DISSENTING OPINION

Detail any dissenting opinions.

RECOMMENDATION

Final recommendation.

ANNEX F - INTERREGIONAL MOVEMENTS FOR OFFENDER INTAKE ASSESSMENTS AND INTERREGIONAL PENITENTIARY PLACEMENTS

1. The purpose is to provide procedures to:

    - move offenders directly from provincial custody to an out-of-region facility for the completion of the Offender Intake Assessment
    - move offenders from provincial custody to an out-of-region facility when they are returning to federal custody as a result of a suspension
    - effect an interregional penitentiary placement.

2. The receiving facility may be a federal facility, or a provincial facility with which CSC has an Exchange of Services Agreement. The facility may also be a Healing Lodge (section 81) in the case of an interregional penitentiary placement.

Criteria for Interregional Movements and Interregional Penitentiary Placements

3. When it is determined that the most viable option is to either move an offender directly from provincial custody to an out-of-region facility, or proceed with an interregional penitentiary placement, the sending Regional Deputy Commissioner or delegate will assess the offender's risk and needs, and demonstrate that all other options have been considered prior to making the recommendation to proceed with the movement or placement.

4. The sending Regional Deputy Commissioner or delegate will confirm that:

    - consideration has been given to principle 4*g)* of the CCRA:
      (g) correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and are responsive to the special needs of women, aboriginal peoples, persons requiring mental health care and other groups

    - all of the elements for selection of penitentiary as outlined in section 28 of the CCRA have been considered:
      (*a*) the degree and kind of custody and control necessary for
      (i) the safety of the public
      (ii) the safety of that person and other persons in the penitentiary, and
      (iii) the security of the penitentiary

(*b*) accessibility to

(i) the person's home community and family
(ii) a compatible cultural environment
(iii) a compatible linguistic environment, and

(*c*) the availability of appropriate programs and services and the person's willingness to participate in those programs

- there are no current voluntary transfer applications in the sending region that can be processed
- there are no approved voluntary transfers to the proposed receiving region waiting to be actioned.

Procedures for Movement Directly From a Provincial Facility to Another Region for the Offender Intake Assessment or Following a Suspension

5. Once an offender has been sentenced and is in provincial custody, the community Parole Officer will meet with him/her, and gather the required information to prepare a Preliminary Assessment Report.
6. When it is determined that an interregional movement is the best option to manage the offender, the District Director will advise the Assistant Deputy Commissioner, Correctional Operations, who will in turn inform the Regional Deputy Commissioner.
7. Pursuant to section 12 of the CCRA, the offender shall not be received in federal custody until the expiration of 15 days after the day on which he/she was sentenced, unless the offender agrees to be transferred to a penitentiary before the expiration of those 15 days.
8. If the offender is held in provincial custody pending the interregional movement, he/she becomes subject to the Exchange of Services Agreement.
9. The sending Regional Headquarters will ensure that the Regional Advisor, Sentence Management, confirms the admission requirements to federal custody or to provincial custody where CSC has an existing Exchange of Services Agreement, as outlined in CD 703 – Sentence Management.
10. The sending Regional Deputy Commissioner or delegate will discuss with the receiving Regional Deputy Commissioner or delegate the reasons that prevent the offender from remaining within the region, the criteria and considerations given to the pertinent policies to make the recommendation, and the possibility of an interregional movement via the Warrant of Committal. A transfer warrant is not required.
11. Once it has been determined that an interregional movement can be facilitated, the receiving Regional Deputy Commissioner or delegate will inform his/her regional counterpart in the sending region of the final destination.
12. The sending Regional Headquarters will document the rationale and the recommendation for the offender's movement in a Memo to File, which will include, but not limited to:
    - the reason why the Offender Intake Assessment cannot be completed within the sending region
    - the offender's risk and needs, keeping in mind subsection *4(g)* and section 28 of the CCRA
    - the consideration given to the offender's state of health and health care needs, as identified in the Preliminary Assessment Report
    - the identification of any immediate needs in terms of security and suicide
    - a statement that presents the specific considerations given to all other options and a statement indicating that there are no other alternatives
    - the communication made with the regional counterpart, including his/her willingness to accept the movement of the offender in that region.
13. As the sending Regional Deputy Commissioner or delegate has the recommending authority, he/she will sign the Memo to File.
14. The receiving Regional Headquarters will document the final decision in a Memo to File, which will include, but not limited to:
    - the management of the offender's risk and needs
    - the acceptance of the offender in the region
    - the offender's destination.
15. The decision maker for these movements is either the Regional Deputy Commissioner or the Assistant Deputy Commissioner, Correctional Operations, of the receiving region.
16. As the receiving region is the final decision maker, one of the above-named will sign the Memo to File.

17. The Regional Transfer Coordinator is responsible for the coordination of the transfer between regions.
18. The Offender Intake Assessment will be completed by the receiving facility, unless otherwise specified in an Exchange of Services Agreement.
19. Prior to the movement, the sending Regional Headquarters will communicate with the receiving Regional Headquarters when there is new information regarding risk and needs that would impact on the viability of the offender's movement. The Regional Headquarters are responsible for identifying a person to perform this task, and will ensure that the information is documented in a Casework Record.

Procedures for Transfer Directly From a Federal Facility to Another Region for a Penitentiary Placement

20. The Parole Officer will complete an Assessment for Decision for an initial penitentiary placement pursuant to this Commissioner's Directive, which will include an added section to document the receiving region's comments. While the receiving region is being consulted, the Assessment for Decision will remain unlocked to allow the inclusion of these comments.
21. The sending institution will advise the Regional Transfer Coordinator, who will then consult with his/her regional counterpart to explore the regional willingness to accept the inmate and to identify the best suited institution.
22. The Regional Transfer Coordinator will then forward the consultation comments to the sending institution, which will include the final destination.
23. The sending institution will document the consultation comments in the Assessment for Decision, finalize the recommendation, lock the document in the Offender Management System, and share the information with the inmate.
24. The inmate may submit a rebuttal should he/she disagree with the proposed placement. The rebuttal process must be followed pursuant to this Commissioner's Directive.
25. The decisional process is the same as for an interregional transfer pursuant to CD 710-2 – Transfer of Inmates.
26. Consultation process for an interregional penitentiary placement in a Healing Lodge (section 81) will follow the same process as described in CD 710-2 – Transfer of Inmates, but the decision maker is the Regional Deputy Commissioner of the receiving region.
27. The above procedures will also apply in situations when the sending region was not able to finish the Offender Intake Assessment prior to the interregional transfer for penitentiary placement purposes. The responsibility for incomplete case preparation rests with the sending region, unless otherwise agreed upon by the two regions.

Decision on Security Classification

28. The decision on security classification will follow the normal process as outlined in this Commissioner's Directive. The recommendation for security classification is made within the Assessment for Decision for initial penitentiary placement, and the sending Institutional Head makes the final decision.

For more information

- Government-wide Forward Regulatory Plans
- The Cabinet Directive on Regulatory
- The Federal regulatory management
- The Canada–United States Regulatory Cooperation Council

To learn about upcoming or ongoing consultations on proposed federal regulations, visit the Canada Gazette and Consulting with Canadians websites.

Date modified : 2018-01-15

This is Exhibit "P" referred to in the Affidavit of Anthony Doob affirmed before me, this 12th day of June, 2020.

A commissioner for taking affidavits

Corrections and Conditional Release Statistical Overview

2006

This document was produced by the Public Safety and Emergency Preparedness Portfolio Corrections Statistics Committee which is composed of representatives of the Department of Public Safety and Emergency Preparedness, the Correctional Service of Canada, the National Parole Board, the Office of the Correctional Investigator and the Canadian Centre for Justice Statistics (Statistics Canada)

Ce rapport est disponible en français sous le titre : *Aperçu statistique : le système correctionnel et la mise en liberté sous condition*.

This report is also available on the Public Safety and Emergency Preparedness Canada website: http://www.publicsafety.gc.ca

December 2006

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THE MAJORITY OF FEDERAL FULL PAROLES ARE SUCCESSFULLY COMPLETED

Table D8

Federal Full Parole Outcomes*	2001-02		2002-03		2003-04		2004-05		2005-06	
	#	%	#	%	#	%	#	%	#	%
Successful Completion										
Regular	629	77.7	525	75.5	490	79.3	436	75.6	435	77.5
Accelerated	696	71.2	638	70.3	557	68.3	614	71.0	543	66.2
Total	1,325	74.2	1,163	72.6	1,047	73.0	1,050	72.8	978	70.8
Revocation for Breach of Conditions**										
Regular	109	13.5	101	14.5	83	13.4	91	15.8	93	16.6
Accelerated	171	17.5	174	19.2	178	21.8	163	18.8	176	21.5
Total	280	15.7	275	17.2	261	18.2	254	17.6	269	19.5
Revocation with Non-Violent Offence										
Regular	50	6.2	52	7.5	34	5.5	36	6.2	25	4.5
Accelerated	103	10.5	89	9.8	75	9.2	81	9.4	95	11.6
Total	153	8.6	141	8.8	109	7.6	117	8.1	120	8.7
Revocation with Violent Offence***										
Regular	22	2.7	17	2.5	11	1.8	14	2.4	8	1.4
Accelerated	7	0.7	6	0.7	6	0.7	7	0.8	6	0.7
Total	29	1.6	23	1.4	17	1.2	21	1.5	14	1.0
Total										
Regular	810	45.3	695	43.4	618	43.1	577	40.0	561	40.6
Accelerated	977	54.7	907	56.6	816	56.9	865	60.0	820	59.4
Total	1,787	100.0	1,602	100.0	1,434	100.0	1,442	100.0	1,381	100.0

Source: National Parole Board.

Note:
*Excludes offenders serving indeterminate sentences because they do not have a warrant expiry date and can only successfully complete full parole by dying.
**"Revocation for Breach of Conditions" includes revocation with outstanding charges.
***Violent offences include murder and Schedule I offences (listed in the *Corrections and Conditional Release Act*) such as assaults, sexual offences, arson, abduction, robbery and some weapon offences.
Full parole is a type of conditional release granted by the National Parole Board in which a portion of the sentence is served under supervision in the community. Offenders (other than those serving life or indeterminate sentences or subject to judicial determination) normally become eligible for full parole after serving 1/3 of their sentence or seven years, whichever is less.

Court File Number: T-539-20

FEDERAL COURT

BETWEEN:

CANADIAN CIVIL LIBERTIES ASSOCIATION, CANADIAN PRISON LAW ASSOCIATION, HIV & AIDS LEGAL CLINIC ONTARIO, HIV LEGAL NETWORK, & SEAN JOHNSTON

Applicants

-and-

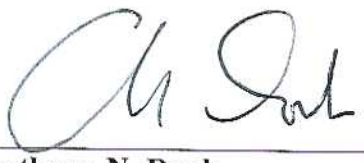
THE ATTORNEY GENERAL OF CANADA

Respondent

CERTIFICATE CONCERNING CODE OF CONDUCT FOR EXPERT WITNESSES

I, **Anthony N. Doob**, having been named as an expert witness by the Applicants, certify that I have read the Code of Conduct for Expert Witnesses set out in the schedule to the *Federal Courts Rules* and agree to be bound by it.

June 12, 2020



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Court File No. T-539-20

FEDERAL COURT

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**CANADIAN CIVIL LIBERTIES ASSOCIATION,
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& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF LISA KERR

I, Lisa Kerr, of the City of Kingston, in the Province of Ontario, DO AFFIRM THAT:

1. I am an Assistant Professor at Queen's University School of Law in Kingston, Ontario. I am the Director of the Criminal Law Group and teach courses on criminal law, sentencing and prison law. I was previously a staff lawyer at Prisoners' Legal Services in British Columbia where my practice focused on health and human rights in federal prisons. My doctorate in law, completed at New York University as a Trudeau Scholar, is a comparative study of prison regulation and prisoner litigation in the United States and Canada. I have published several peer-reviewed articles in these areas and prison regulation and sentencing policies continue to be my primary subjects of research. Since the outbreak of the COVID-19 pandemic, I have been closely following the developments and government responses to the impact of COVID-19 on jails and prisons. As such, I have knowledge of the facts and matters hereinafter deposed. Where such

knowledge is based on information and belief, I have stated the source of such information and belief.

2. I am not providing independent expert evidence in this affidavit, but rather information that I have gathered in the course of research on issues that I understand are relevant to this application and motion for the immediate release of the Applicant on an unescorted temporary absence. Due to the rapid development of events in connection to the COVID-19 pandemic, traditional academic scholarship on the policies and conditions in prisons and jails responding to the pandemic are not yet available. As indicated throughout this affidavit, I rely extensively on reporting available in media and government sources.

Jails and Prisons and the Response of State Authorities to COVID-19

3. It has been widely recognized that the COVID-19 pandemic presents a high risk to individuals deprived of their liberty in prisons, jails and detention centres. Prisoners are especially vulnerable because the virus can spread very quickly due to the high concentration of people in confined and communal spaces and also restricted access to hygiene and sanitation. Through an Inter-Agency Standing Committee, the World Health Organization ("WHO") and Office of the United Nations High Commissioner for Human Rights ("OHCHR") have issued interim guidance on COVID-19 and persons deprived of their liberty. The guidance document, circulated March 27, 2020, calls for many preventative measures to protect detained persons, staff and the wider community from the spread of COVID-19.

4. One of the primary measures recommended by the WHO and the OHCHR to reduce the spread of infection is to reduce the population in prisons, jails and detention centres. The bodies recommend that public authorities should prioritize the release of individuals who have underlying health conditions, low risk profiles, or imminent release dates. A copy of the OHCHR and WHO Inter-Agency Standing Committee Interim Guidance dated March 27, 2020, is attached hereto as **Exhibit "A"**.

5. According to my research, many countries and jurisdictions around the world have taken steps to control the risk of COVID-19 by reducing prison populations through the release of individuals. Over 40 countries around the world have reported the release of individuals from

prisons and jails to control the outbreak of COVID-19. For those jurisdictions that have provided further information, it appears that most jurisdictions are focusing on individuals who are medically vulnerable to COVID-19, those who have low risk profiles or committed non-violent offences, or those subject to imminent release. It should be noted some jurisdictions have different definitions of imminent release, with some having thresholds of three years, one year, six months, or 30 days.

6. Some of the countries that have released prisoners in response to COVID-19 include Afghanistan, Albania, Australia, Azerbaijan, Burkina Faso, Colombia, Cyprus, Ethiopia, France, Germany, Ghana, Guyana, Haiti, India, Iran, Ireland, Israel, Italy, Kenya, Lebanon, Libya, Morocco, Niger, Nigeria, Norway, Panama, Poland, Portugal, Slovenia, Spain, Togo, Trinidad and Tobago, Tunisia, United Kingdom, Northern Ireland, United States of America, Zambia and Zimbabwe. Sources for this information include media articles, government websites, and in a few cases statements from human rights bodies such as Human Rights Watch. According to these sources, the legal measures used to facilitate the release of prisoners include temporary or interim release, house arrest, amnesty, pardons, and parole.

7. Some countries have introduced special legislation to secure the release of prisoners during the COVID-19 pandemic. For example, New South Wales, a state in Australia, passed a bill that would grant emergency powers to corrections authorities to release or parole inmates nearing the end of their sentence, or otherwise on a case- by-case basis. Persons serving sentences for violent crimes and those who pose a risk to safety of the community are excluded. A copy of the relevant provisions of this statute, COVID-19 Legislation Amendment (Emergency Measures) Bill 2020, is attached hereto as **Exhibit "B"**.

8. Here are some examples of what some other democratic countries have done. In Portugal, Parliament voted to grant partial pardons to prisoners with pre-existing health conditions, those with up to two-year sentences or those with less than two years left on their sentences. Other prisoners have been granted extended temporary leave from the prisons. Individuals with serious violent convictions are excluded.[1] In another example, Poland is releasing up to 12,000 individuals convicted of criminal offences to serve their sentences from home under electronic

[1] The source of this information is an article published in the *National Post* on April 8, 2020.

supervision.[2] Italy adopted a governmental decree allowing for the early supervised release of prisoners with less than 18 months left to serve in their sentences, resulting in approximately 3,000 individuals being released.[3] Spain has released over 8,000 prisoners through sentence adjustments.[4] In France, the Minister of Justice confirmed that over 8,000 prisoners had been released in that country between March 16 to April 7, including many pursuant to emergency legislation that allows for the release of inmates nearing the end of their sentences.[5]

9. In the United Kingdom, the constituent countries have taken steps to release prisoners due to COVID-19. England and Wales announced that up to 4,000 low-risk prisoners will be released on temporary absences and will be tracked using electronic tag systems.[6] Northern Ireland plans to release prisoners who are within three months of the end of their sentences.[7]

10. In the United States of America, there have been different approaches by different jurisdictions. At the federal level, on April 3, 2020 U.S. Attorney General William Barr ordered the Bureau of Prisons (BOP) to expand the group of federal inmates eligible for early release. He also ordered the BOP to prioritize releases from federal facilities that have been most heavily hit and where cases of COVID-19 have spread rapidly: federal correctional institutions in Louisiana (Oakdale), Connecticut (Danbury) and Ohio (Elkton). A stimulus bill recently signed by President Donald Trump included a provision meant to facilitate the release of inmates from federal prisons and into home confinement by giving the BOP more discretion to release inmates (before this stimulus law, only inmates who had served 90% of their sentence and only had 6 months left to go could be released into home confinement).[8]

11. For the US individual states, there are several examples. The Governor of Illinois signed an executive order allowing for the release of medically vulnerable people from the state's

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[2] The source of this information is an article published by Reuters on March 23, 2020.

[3] The source of this information is an article by Human Rights Watch dated March 20, 2020.

[4] The source of this information is an article published in *Le Monde* on March 20, 2020.

[5] The source of this information is an article by *Le Parisien* dated April 8, 2020.

[6] The source of this information is an article published in *The Guardian* on April 4, 2020.

[7] The source of this information is an article published by the BBC on March 30, 2020.

[8] The source of this information is an article published by Reuters on April 3, 2020:

prisons.[9] In New Jersey, the Supreme Court of New Jersey ordered the release of all prisoners serving county jail sentences, with a mechanism for prosecutors to object to the release of specific prisoners. A copy of that order, dated March 22, 2020, is attached as **Exhibit "C"**. In New York State, the Mayor of New York has ordered the release of some prisoners from city jails.[10]

12. California is a particularly instructive example of both the risks of COVID-19 in correctional facilities and the importance of depopulation. Early in the pandemic, California fast-tracked the release of almost 3,500 people serving sentences for nonviolent offences who were due to be released within the next 60 days.[11] By July 2020, however, the California prison system was suffering a serious outbreak of COVID-19, with 5,000 positive cases out of 120,000 prisoners – eight times the infection rate of the general state population with only a third of the prison population tested.[12] The crisis has only deepened since the beginning of the month. As of July 15, 2020, there were 6,565 confirmed cases of COVID-19 in California corrections, of which 1,155 – almost 18% – were new in the last 14 days.[13] At San Quentin alone, a single botched prisoner transfer led to an outbreak that has killed 11 prisoners and infected more than 2000 (approximately 60% of the total prisoner population of 3,385), along with more than 200 staff. [14] California now plans to release 8,000 more prisoners.[15]

13. Other states have also taken steps to release prisoners in response to COVID-19. In March 2020, the UCLA Prison Law and Policy Program launched the UCLA Covid-19 Behind Bars Data Project. Spearheaded by Professor Sharon Dolovich, the project has been tracking COVID-19 conditions in correctional facilities across the United States, as well as efforts to

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[9] The source of this information is an article published by *The Chicago Tribune* on April 6, 2020.

[10] The source of this information is an article by ABC News dated March 25, 2020:

[11] The source of this information is an article published by *The Guardian* on April 6, 2020.

[12] The source of this information is an article by UC Hastings law professor Hadar Aviram, published online ["Aviram"].

[13] The source of this information is the California Department of Corrections and Rehabilitation ("CDCR"), Population COVID-19 Tracking Website.

[14] The source of the information concerning the cause of the outbreak is Aviram, *supra* note 14. The source of the information concerning the number of prisoners infected and killed is the CDCR Population COVID-19 Tracking Website, *supra* note 13. The source of the information concerning the total prisoner population is an article published in the *National Post* on July 10, 2020. The source of the information concerning the number of staff infected is the CDCR/CCHCS COVID-19 Employee Status Website.

[15] The source of this information is an article published in the *National Post* on July 10, 2020.

decrease jail and prison populations. Comprehensive data on prison depopulation efforts are regularly updated and published online.[16]

The Situation in Canada

14. Many provinces took prompt action to release prisoners in response to COVID-19. Many of those were offenders serving intermittent custodial sentences, and others were released pursuant to provincial temporary release legislation. The provinces that have confirmed the release of prisoners due to COVID-19 are British Columbia,[17] Alberta,[18] Manitoba,[19] Ontario,[20] Nova Scotia,[21] Prince Edward Island[22] and Newfoundland.[23] Provinces have also been able to reduce their prison and jail populations through the release of individuals who are charged and waiting for trial on remand.

15. According to an Information Note issued by the Assistant Deputy Minister of Ontario's Ministry of the Solicitor General dated April 7, 2020, a copy of which is attached hereto as **Exhibit "D",** Ontario's efforts to release inmates in response to COVID-19 have been particularly successful. Ontario was able to reduce the number of inmates across the province by nearly 30% from March 16, 2020 to April 7, 2020, reducing the number of inmates from over 9,000 to 6,096. According to the most recent Information Note dated July 7, 2020, a copy of which is attached hereto as **Exhibit "E"**, the population within Ontario correctional facilities remains 30% lower than it as on March 16, 2020.

16. It does not appear that the Canadian federal government has taken any substantive steps to release federal offenders or reduce the populations in federal penitentiaries to prevent the

[16] Information on prison depopulation is available here; information regarding efforts to depopulate jails as well as other information on COVID-19 and corrections is available at other tabs of the same spreadsheet document.

[17] The source of this information is an article by CTV News, dated April 7, 2020.

[18] The source of this information is an article by CBC News, dated March 25, 2020.

[19] The source of this information is an article published by the Winnipeg Free Press, dated March 20, 2020.

[20] The source of this information is a statement from Health Minister Christine Elliot and Solicitor General Sylvia Jones, dated March 13, 2020.

[21] The source of this information is an article by CBC News, dated March 18, 2020.

[22] The source of this information is an article by CBC News, dated March 26, 2020.

[23] The source of this information is an article by CBC News, dated March 23, 2020.

spread of COVID-19. According to a CBC news story on March 31, 2020, the federal Public Safety Minister Bill Blair said the he had directed the Parole Board and the Correctional Service of Canada to "consider" whether measures could be taken to facilitate the early release of certain offenders. A copy of this news story is attached hereto as **Exhibit "F"**.

17. According to data compiled by the Office of the Correctional Investigator ("OCI"), however, there was no increase in overall releases between January 5, 2020 and April 26, 2020, although there was an increase in day parole in the last two weeks of that period. While there was a 2.4% decline in the overall prison population from its peak on March 1, 2020, this appears to have resulted from a significant drop in warrant of committal admissions and a smaller drop in revocations rather than from prisoners being granted early or temporary release on COVID-related grounds. A copy of the OCI's report on weekly population trends, 2020-01-05 to 2020-04-26 is attached hereto as **Exhibit "G"**.

18. These trends continued through the rest of April and May. According to the OCI's COVID-19 Status Update of June 19, 2020, a copy of which is attached hereto as **Exhibit "H"**, the population decline of approximately 700 prisoners (about 5% of the total prison population) since the start of the pandemic is mostly attributable to the fact that the courts have not been operating or sending individuals to federal custody in usual numbers: warrant of committal admissions were down by approximately 500 cases since the start of the pandemic, but there was no corresponding increase in the number of releases during this time. The OCI anticipates that as courts begin sitting again, there will be a significant increase in warrant of committal admissions. Without efforts to reduce the prison population through mechanisms such as parole or temporary unescorted absences, therefore, even the small reduction in the overall prison population since the start of the pandemic will be reversed.

19. In the OCI's initial COVID-19 Status Update, dated April 23, 2020 and attached hereto as **Exhibit "I"**, the Correctional Investigator called for immediate inspections by public health authorities to verify that proper infection prevention and control procedures were in place in all federal penitentiaries. In the OCI's June 19, 2020 Status Update, the Correctional Investigator notes that these inspections have now been completed at most penitentiaries, and undoubtedly hold valuable lessons and identify vulnerabilities at the site level. In addition, the results of these

release (either for health or vulnerability reasons or to meet earliest parole eligibility dates), a notable shortcoming thus far in CSC and the Parole Board's response to the pandemic" (**Exhibit "H"**, p 8).

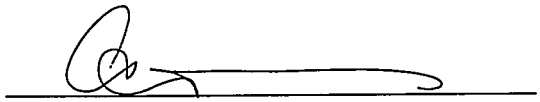
20. The OCI also expressed concern more generally about the absence of measures to depopulate federal corrections:

> There simply was no advanced, coherent or concerted effort or plan in place to thin the federal prison population in order to slow the transmission of COVID-19 in federal corrections. Many provincial correctional authorities led the way in this regard, with no apparent or lasting impact on public safety. The federal response in this respect has been slow, contradictory, confused and deficient. This is a situation that can be easily resolved now that the virus spread appears to have been contained and before the expected next wave (**Exhibit "H"**, pp 8-9).

21. I make this affidavit in good faith and for no improper purpose.

AFFIRMED before me by videconference)
from the City of Kingston, in the Province)
of Ontario, to the City of Toronto,)
in the Province of Ontario)
this 16th day of July, 2020)

Lisa Kerr



A Commissioner, etc

This is **Exhibit "A"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

IASC Inter-Agency Standing Committee

Interim Guidance

COVID-19: FOCUS ON PERSONS DEPRIVED OF THEIR LIBERTY

March 2020
OHCHR and WHO

IASC Inter-Agency Standing Committee

Interim Guidance

COVID-19: Focus on Persons Deprived of Their Liberty

COVID-19 has been declared a global pandemic and as it is spreading, identified vulnerabilities such as the situation of persons deprived of their liberty in prisons, administrative detention centres, immigration detention centres and drug rehabilitation centres, require a specific focus.

Persons deprived of their liberty face higher vulnerabilities as the spread of the virus can expand rapidly due to the usually high concentration of persons deprived of their liberty in confined spaces and to the restricted access to hygiene and health care in some contexts. International standards highlight that states should ensure that persons in detention have access to the same standard of health care as is available in the community, and that this applies to all persons regardless of citizenship, nationality or migration status.

Maintaining health in detention centres is in the interest of the persons deprived of their liberty as well as of the staff of the facility and the community. The state has the obligation, according to international human rights law[1], to ensure the health care of people in places of detention. If the risks related to the virus in places of detention are not addressed, the outbreak can also widen spread to the general public.

The series of messages below aim at addressing the specific issues of persons deprived of their liberty with the responsible services and ministries (Ministry of Justice/Ministry of Interior/Ministry of Health/Agencies in charge of migration, asylum and rehabilitation centres, etc.).

KEY MESSAGES

Engagement & Analysis[2]

- Analyse the situation of detention centers and places where persons are deprived of their liberty, including juvenile detention and rehabilitation centers, taking into consideration the specific context, the right to non-discrimination and equality in access to healthcare and health services, paying particular attention to persons deprived of liberty belonging to vulnerable or high-risk groups, such as the elderly, women, children, and persons with disabilities, amongst others. Since there is a high risk of the disease affecting persons in these closed or restricted settings, initiate a discussion with the stakeholders on the continued legality, necessity and proportionality of such measures given the current risks, and possible alternatives.
- Engagement with key stakeholders:
  - Resident Coordinator/Humanitarian Coordinator and United Nations Country Teams as well as competent authorities, at national and subnational level, (law enforcement and prison authorities, immigration officials, Corrections, Social Welfare, judiciary) and ministries (Interior, Home, Justice, Health etc) in order to initiate discussion and offer technical advice on using the key messages document. Discussions with key stakeholders should include the impact of any state of emergency and its specific measures to the situation of detention centres, possible opportunities for release and/or non-custodial alternatives to detention. For those individuals for whom continued detention or restrictions on freedom of movement remain necessary and proportionate, the preparedness measures that can be taken to manage the risks.
  - Human rights networks, National Human Rights Institutions and civil society organizations accessing detention centers should gather information, conduct health assessments, activate available monitoring on situation in places of detention and identify advocacy opportunities.
  - Detention centers monitoring bodies, including National Human Right Institutions and other entities with relevant monitoring mandates, should continue to have access to places of detention.
  - If already established in accordance with the Optional Protocol to the Convention Against Torture[3], include the National Preventive mechanisms.[4]

[1] https://www.ohchr.org/EN/Issues/Health/Pages/InternationalStandards.aspx
[2] https://www.ohchr.org/Documents/Publications/Chapter31-24pp.pdf
[3] https://www.ohchr.org/en/professionalinterest/pages/cat.aspx
[4] https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx

IASC Inter-Agency Standing Committee

Advocacy

- Public authorities should take immediate steps to address prison overcrowding, including measures to respect WHO guidance on social distancing and other health measures. Release of individuals, including children, persons with underlying health conditions, persons with low risk profiles and who have committed minor and petty offences, persons with imminent release dates and those detained for offences not recognized under international law, should be prioritized. Release of children needs to be done in consultation and partnership with child protection actors and relevant government authorities to ensure adequate care arrangements.
- Authorities should urgently establish non-custodial alternatives to migrant detention in accordance with international law. Any deprivation of liberty must have sufficient legal grounds and, must take place in accordance with procedure established by law, while those detained are entitled to have their detention reviewed by a court of law. Authorities should be encouraged to examine carefully the legal basis for detention, and release anyone whose detention is arbitrary or otherwise does not comply with domestic or international standards. Authorities assessing whether detention is arbitrary should consider issues such as inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.
- Those who are arbitrarily detained should be immediately released as the prohibition of arbitrary detention is a non-derogable norm and their continued detention under the current public health emergency might also severely impact their right to health and their right to life. This includes people in pre-removal detention where deportations have been suspended due to the COVID situation, as in many of such cases, the grounds for their continued deprivation of liberty no longer exist.
- The risk of COVID-19 should be included in ongoing advocacy with authorities to improve conditions in places of detention, reduce overcrowding, and ensure compliance with international standards, including as regard to treatment of detainees[5], without discrimination, including those subject to stricter security measures. Based on existing legislation, authorities could apply non-custodial measures particularly for older persons, ill people, or others with specific risks related to COVID-19.
- COVID-19 can be an opening for engagement with police, other law enforcement institutions as well as the judiciary about risks and opportunities related to pre-trial detention. Limitation of persons in pre-trial detention and implementation of non-custodial measures (see Tokyo Rules[6]) can be an effective measure that reduces risks of spreading COVID-19, which is beneficial for both detainees and law enforcement staff. Discharge is the earliest possible non-custodial measure which authorities are encouraged to apply, as applicable, at the pre-trial stage. Other non-custodial measures, such as conditional discharge, monetary fines, community service, probation and referral to attendance centers, may be applied at the sentencing stage. It should however be noted that cash bail systems may have discriminatory impact depending on the concerned persons age[7] or financial situation.
- In the case of children, authorities have the responsibility to ensure that the best interests of each individual child is the primary consideration and it is widely argued that detention even as a last resort, is never in the best interests of a child, especially when referring to child immigration detention. Thus, non-custodial alternatives to detention, which are family based or community based, should be favored for any person under 18 years, especially in the context of COVID-19 decongestion measures and increased risks to the right to life of all detainees and personnel.[8]
- COVID-19 can be an opportunity to engage immigration, law enforcement, border and other relevant agencies or officials as well as the judiciary in order to reduce the use of immigration detention generally, establish alternatives to immigration detention and to end as a matter of priority the immigration detention of children, families and other migrants in vulnerable situations. While immigration detention must always be an exceptional measure of last resort and strictly legal, necessary and proportionate based upon an individual assessment, consistent with the prohibition of arbitrary detention, some immigration detention, including the detention of children on the basis of their or their parents' immigration status, is prohibited under international human rights law. Governments should take steps to immediately end the practice of child immigration detention and prioritize non-custodial, community-based alternatives to detention for all migrants, taking a human rights-based approach.

[5] E.g. article 10 ICCPR provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Human Rights Committee has stated that this expresses a norm of general international law not subject to derogation (General Comment No.29, para 13(a)). Specific provisions apply to juvenile offenders, e.g. article 37(c) of the Convention on the Rights of the Child and the SMRs.

[6] https://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf

[7] https://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf

[8] article 37(b) of the UN CRC which establishes that children should be deprived of liberty only as a last resort and for the shortest period, consistent with the best interests of the child.

IASC Inter-Agency Standing Committee

Health

- International standards[9] highlights that states should ensure that persons in detention have access to the same standard of health care as is available in the community, and that this applies to all persons regardless of citizenship, nationality or migration status.
- Any detention measures introduced for the purpose of managing risks to public health, including when applied to people arriving from other countries, must be necessary, proportionate and subject to regular review; must not be arbitrary or discriminatory, must be based on an individual assessment, must be authorized by law in accordance with applicable due process and procedural safeguards, must be for a limited time period and subject to periodic review, and must otherwise be in line with international standards. Health concerns do not justify the systematic detention of individuals or groups of migrants, including refugees.[10]
- Persons deprived of their liberty should receive a medical examination upon admission, and thereafter-medical care and treatment shall be provided whenever necessary.[11] The purpose of health screening is to protect the detainee's health, detention centers staff as well as other detainees and to ensure that any illnesses are dealt with as soon as possible to avoid the spread of the virus.[12] All detainees should have access to medical care and treatment without discrimination.[13] Persons deprived of liberty who use drugs and receive harm reduction services should be allowed continued access to such services. Pro-active measures and monitoring should be put in place to ensure that essential personal hygiene items such as soap and sanitizer, as well as menstrual items for women and girls, are made available at no cost throughout their continued use beyond initial distribution point.
- In suspected or confirmed cases of COVID-19 all persons deprived of their liberty should be able to access healthcare, including urgent, specialised health care, without undue delay. Suspected case(s) should be isolated in a dignified conditions away from general population and measures should be put in place to mitigate violence or stigmatization against suspected cases. Detention centres' administrations should develop close links with community health services and other health-care providers.
- If people are released, medical screening and measures should be taken to ensure that ill people are taken care of and proper follow up, including health monitoring, is provided.
- Particular attention should be given to specific health needs of older persons and persons with underlying health conditions or heightened vulnerability, children in detention and those in detention with their mother, pregnant women, elderly and persons with disabilities. Health care services should be provided to gender specific needs at all times.
- Special attention to mental health issues among persons deprived of their liberty. The need for routine mental health and psychosocial support shall be provided immediately.
- Sexual and Reproductive Health shall be provided as part of routine health care.to persons deprived of their liberty.
- Ensure that rationing of health responses and allocation decisions are guided by human rights standards based on clinical status and do not discriminate based on any other selection criteria, such as age, gender, social or ethnic affiliation, and disability.

Housing

- For those who may not have a residence upon release, the state should take measures to provide adequate housing and reasonable accomodation, which may require the implementation of extraordinary measures as appropriate in a state of emergency, including using vacant and abandoned units and available short-term

[9] Rule 24 (1), United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). General Assembly resolution 70/175

[10] UNHCR, Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response, 16 March 2020, available at: https://www.refworld.org/docid/5e7132834.html

[11] Principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. https://www.ohchr.org/EN/ProfessionalInterest/Pages/DetentionOrImprisonment.aspx. See also Rule 30 of the Nelson Mandela Rules. With regard to suspicion of contagious diseases, Rule 30(d) states that they must provide for the clinical isolation and adequate treatment of the prisoner during the infectious period.

[12] OHCHR (2005). Human rights and prisons. Manual on Human Rights Training for Prison Officials. Page 63. Available in: https://www.ohchr.org/Documents/Publications/training11en.pdf

[13] Article 12.1. of the International Covenant on Economic, Social and Cultural Rights recognizes everyone's right to health, including prisoners. Principle 9 of the Basic Principles for the Treatment of Prisoners states that "prisoners shall have access to health services available in the country without discrimination on the grounds of their legal situation". https://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx . Rule 24 of the Nelson Mandela Rules states that "prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status".

rentals. In the case of unaccompanied children, special measures to safeguard their care and protection must be under-taken.

Information

- Information on preventive health measures should be provided to all persons deprived of their liberty in a language and format they understand and that is accessible; and efforts should be made to improve the hygiene and the cleanliness of the detention places. Such measures should be gender, culture, abilities and age sensitive.
- Information on mitigating measures provided to persons deprived of their liberty as well as their families should be in languages and formats that are understandable and accessible to all, clear, and accurate. They should explain the measures that the detention center is taking to protect the health of persons deprived of their liberty and the public at large. Any restrictions on rights and freedoms must be consistent with international human rights norms and principles, including legality, proportionality, necessity and non-discrimination.

Measures taken to prevent outbreaks in detention centres[14]

- While measures needed to prevent outbreaks of COVID-19 must be taken in places of detention, authorities need to ensure that all such measures respect human rights. The procedural guarantees protecting liberty of person may never be made subject to measures of derogation. In order to protect non-derogable rights, including the right to life and prohibition of torture, the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention may not be restricted[15].
- Ability to meet with legal counsel must be maintained, and prison or detention authorities should ensure that lawyers can speak with their client confidentially. Suspending hearings may in fact exacerbate the risk of coronavirus in places of detention. Even in an officially declared state of emergency, States may not deviate from fundamental principles of fair trial, including the presumption of innocence[16].
- Authorities should also guarantee maximum transparency in the adoption of preventive measures and a constant monitoring of their application. The substitution of in-person family visits by other measures, such as videoconferences, electronic communication and increased telephone communications (pay phones or mobile phones) may require sustained organizational effort from the place of detention administration. Any interference with privacy or family must not be arbitrary or unlawful.[17]
- Particular efforts should be made to ensure family visits and alternatives are provided to all detained children and other vulnerable persons in detention, including person with disabilities who may not otherwise be able to maintain contact through other means with their families.
- Isolation or quarantine measures in places of detention must be legal, proportional and necessary, time-bound, subject to review and should not result in de facto solitary confinement. Information about the whereabouts and condition of detainees should be communicated to the families. Quarantines should be time limited and should only be imposed if no alternative protective measure can be taken by authorities to prevent or respond to the spread of the infection.[18]
- Under no circumstances shall the isolation or quarantine be used to justify discrimination or the imposition of harsher or less adequate conditions on a particular group including children.

Protection of families of persons deprived of their liberty

- State agencies who care for persons deprived of their liberty should be reminded that families and children of those persons are right holders with specific needs that must be known and considered. Families, especially women and children, are both protected and impacted by necessary prevention measures.
- While some preventive measures will alter family life including prison visitation, states should minimize creating avoidable rise in anxiety and stress levels, especially among children and the elderly. States should be attentive that response plans do not aggravate pre-existing economic hardship on women-led households.
- States´ response plans need to take their rights and specific needs into consideration as well as avoid placing extra-burden upon them, especially women who in many countries are the primary care of predominantly male prison populations, or putting them at higher risk.

[14] http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov-technical-guidance/coronavirus-disease-covid-19-outbreak-technical-guidance-europe/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention-2020
[15] Article 9 of the ICCPR and General Comment No.35.
[16] Human Rights Committee General Comment No.29.
[17] Article 17 of the ICCPR.
[18] Coronavirus: Healthcare and human rights of people in prison, p 8, Briefing Note 16 March 2020, Penal Reform International, https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf.

IASC Inter-Agency Standing Committee

Staff in charge of and working in detention centres

- Rights of detention centres' staff must be respected. Senior management should be proactive in planning the work of members of staff during the COVID-19 pandemic, share the emergency preparedness plan, and provide support for relatives of members of staff carrying out critical functions.
- Specific training should be provided to all staff to increase knowledge, skills and behaviours related to necessary healthcare and hygiene provisions. [19]Prison or detention center staff should be provided with soap, hand sanitizer and personnel protective equipment. Given potential heightened risks there is need to ensure training and systems for child safeguarding.

[19] Coronavirus: Healthcare and human rights of people in prison, p 10, Briefing Note 16 March 2020, Penal Reform International, https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf.

This is **Exhibit "B"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

Passed by both Houses

New South Wales

COVID-19 Legislation Amendment (Emergency Measures) Bill 2020

Contents

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, *, 2020*

New South Wales

COVID-19 Legislation Amendment (Emergency Measures) Bill 2020

Act No , 2020

An Act to amend a number of Acts to implement emergency measures as a result of the COVID-19 pandemic.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020*.

2 Commencement

This Act commences on the date of assent to this Act.

(b) a Bill may be assented to by the Governor in the name and on behalf of Her Majesty.

3 Meetings of Executive Council

For the purposes of section 35D, the regulations may prescribe the ways and forms in which meetings of the Executive Council are to be held during the prescribed period, including the ways and forms in which the Governor may preside at meetings.

4 Regulations

The Governor may make regulations, not inconsistent with this Schedule, for or with respect to any matter that by this Schedule is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

5 Repeal of Schedule

This Schedule and any regulations made under this Schedule are repealed 12 months after the commencement of this Schedule.

2.5 Crimes (Administration of Sentences) Act 1999 No 93

Part 15

Insert after section 273—

Part 15 Special provisions for COVID-19 pandemic

274 Definitions

In this Part—

correctional premises means any of the following—

(a) a correctional complex,

(b) a correctional centre,

(c) a residential facility,

(d) a transitional centre.

prescribed period means the period—

(a) starting on the commencement of this Part, and

(b) ending on—

(i) the day that is 6 months after the commencement, or

(ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

275 Visits to correctional premises during COVID-19 pandemic

(1) During the prescribed period, the Commissioner may prohibit or otherwise restrict any person, or any class of persons, from entering or visiting, or visiting a particular person within, correctional premises.

(2) The Commissioner may take action under this section—

(a) only if satisfied that it is reasonably necessary to protect the health of an inmate, any other person or the public from the public health risk posed by the COVID-19 pandemic, and

(b) despite any other provision of this Act or the regulations or any other Act or law.

(3) This section does not extend to a visit to correctional premises by the Ombudsman or the Inspector of Custodial Services.

(4) To avoid doubt, this section does not affect any communication between inmates and other persons by post, telephone, email, audio visual link or other means as provided for under this Act.

276 Commissioner may grant parole during COVID-19 pandemic

(1) Despite any other provision of this Act or the regulations or any other Act or law, the Commissioner may, during the prescribed period, make an order (a ***Commissioner's order***) releasing an inmate on parole if—

(a) the inmate belongs to a class of inmates prescribed by the regulations, and

(b) the Commissioner is satisfied that releasing the inmate on parole is reasonably necessary because of the risk to public health or to the good order and security of correctional premises arising from the COVID-19 pandemic.

(2) A class of inmates may be prescribed according to any of the following—

(a) the offence committed by an inmate,

(b) the period remaining before the expiry of an inmate's sentence or non-parole period,

(c) an inmate's age,

(d) an inmate's health or vulnerability,

(e) any other matter.

(3) However, the Commissioner may not make a Commissioner's order in respect of any of the following inmates—

(a) an inmate serving a sentence of imprisonment for any of the following offences—

(i) murder,

(ii) a serious sex offence or an offence of a sexual nature (within the meaning of the *Crimes (High Risk Offenders) Act 2006*),

(iii) a terrorism offence (within the meaning of Division 3A of Part 6 of this Act),

(b) an inmate serving a sentence of imprisonment for life,

(c) a serious offender,

(d) an inmate kept in custody in relation to an offence against a law of the Commonwealth,

(e) a Commonwealth post sentence terrorism inmate,

(f) a NSW post sentence inmate.

(4) Before making a Commissioner's order in respect of an inmate, the Commissioner must consider the following—

(a) the risks to community safety of releasing the inmate,

(b) the impact of the release of the inmate on any victim whose name is recorded in the Victims Register in relation to the inmate,

(c) in the case of an inmate who has previously been convicted of a domestic violence offence (within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*)—the protection of the victim of the domestic violence offence and any person with whom the inmate is likely to reside if released,

(d) the availability of suitable accommodation for the inmate if released,

(e) any other matter the Commissioner considers relevant.

(5) A Commissioner's order is subject to the standard conditions imposed by this Act or the regulations.

(6) During the prescribed period, the Commissioner may—

(a) impose, vary or revoke an additional condition on a Commissioner's order in the same way as the Parole Authority may under section 128 in respect of a parole order made under Part 6, and

(b) revoke the parole of an inmate under this section for any reason.

(7) Subject to any necessary modifications and any modifications provided for by this section or the regulations—

(a) this Act applies, during the prescribed period, to and in respect of an inmate released on parole under a Commissioner's order in the same way as it applies to an offender released on parole under Part 6, and

(b) the Parole Authority, during the prescribed period, is to deal with an inmate released on parole under a Commissioner's order in the same way as it deals with an offender released on parole under Part 6.

(8) Divisions 4 and 5 of Part 7 do not apply in relation to a revocation of an inmate's parole by the Commissioner under this section.

(9) To avoid doubt, the Parole Authority may issue a warrant under section 181 in respect of an inmate whose parole is revoked by the Commissioner under this section or by the Parole Authority under this Act.

(10) The regulations may make further provision for and with respect to—

(a) the functions of the Commissioner under this section and the application of this Act in respect of an inmate released on parole under a Commissioner's order during the prescribed period, and

(b) the application of this section and this Act to an inmate released on parole under a Commissioner's order who remains on parole at the end of the prescribed period.

(11) Nothing in this section requires the Commissioner to consider making a Commissioner's order in respect of an inmate who belongs to a class of inmates prescribed by the regulations.

2.6 Crimes (Domestic and Personal Violence) Act 2007 No 80

Section 29 Provisional order taken to be application for court order

Insert after section 29(3)—

(4) During the prescribed period, the reference to 28 days in subsection (3)(b) is taken to be a reference to 6 months.

(5) In this section—

prescribed period means the period—

(a) starting on the commencement of subsection (4), and

This is **Exhibit "C"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

SUPREME COURT OF NEW JERSEY
DOCKET NO. 084230

CRIMINAL ACTION

In the Matter of the Request to Commute or Suspend County Jail Sentences

CONSENT ORDER

This matter having come before the Court on the request for relief by the Office of the Public Defender (see attached letter dated March 19, 2020), seeking the Court's consideration of a proposed Order to Show Cause (see attached) designed to commute or suspend county jail sentences currently being served by county jail inmates either as a condition of probation for an indictable offense or because of a municipal court conviction; and

The Court, on its own motion, having relaxed the Rules of Court to permit the filing of the request for relief directly with the Supreme Court, based on the dangers posed by Coronavirus disease 19 ("COVID-19"), and the statewide impact of the nature of the request in light of the Public Health Emergency and State of Emergency declared by the Governor. *See* Executive Order No. 103 (2020) (Mar. 9, 2020); and

The Office of the Attorney General, the County Prosecutors Association, the Office of the Public Defender, the American Civil Liberties Union of New Jersey having engaged in mediation before the Honorable Philip S. Carchman, P.J.A.D. (ret.); and

The parties having reviewed certifications from healthcare professionals regarding the profound risk posed to people in correctional facilities arising from the spread of COVID-19; and

The parties agreeing that the reduction of county jail populations, under appropriate conditions, is in the public interest to mitigate risks imposed by COVID-19; and

It being agreed to by all parties as evidenced by the attached duly executed consent form;

IT IS HEREBY ORDERED, that

A. No later than 6:00 a.m. on Tuesday, March 24, 2020, except as provided in paragraph C, any inmate currently serving a county jail sentence (1) as a condition of probation, or (2) as a result of a municipal court conviction, shall be ordered released. The Court's order of release shall include, at a minimum, the name of each inmate to be released, the inmate's State Bureau of Identification (SBI) number, and the county jail where the inmate is being detained, as well as any standard or

specific conditions of release. Jails shall process the release of inmates as efficiently as possible, understanding that neither immediate nor simultaneous release is feasible.

1. For inmates serving a county jail sentence as a condition of probation, the custodial portion of the sentence shall either be served at the conclusion of the probationary portion of the sentence or converted into a "time served" condition, at the discretion of the sentencing judge, after input from counsel.
2. For inmates serving a county jail sentence as a result of a municipal court conviction, the custodial portion of the sentence shall be suspended until further order of this Court upon the rescission of the Public Health Emergency declared Executive Order No. 103, or deemed satisfied, at the discretion of the sentencing judge, after input from counsel.

B. No later than noon on Thursday, March 26, 2020, except as provided in paragraph C, any inmate serving a county jail sentence for any reason other than those described in paragraph A shall be ordered released. These sentences include, but are not limited to (1) a resentencing following a finding of a violation of probation in any Superior Court or municipal court, and (2) a county jail sentence not tethered to a

probationary sentence for a fourth-degree crime, disorderly persons offense, or petty disorderly persons offense in Superior Court. The custodial portion of the sentence shall be suspended until further order of this Court upon the rescission of the Public Health Emergency declared Executive Order No. 103, or deemed satisfied, at the discretion of the sentencing judge, after input from counsel. Jails shall process the release of inmates as efficiently as possible, understanding that neither immediate nor simultaneous release is feasible.

C. Where the County Prosecutor or Attorney General objects to the release of an inmate described in Paragraph A, they shall file a written objection no later than 5:00 p.m. on Monday, March 23, 2020. Where the County Prosecutor or Attorney General objects to the release of an inmate described in Paragraph B, they shall file a written objection no later than 8:00 a.m. on Thursday, March 26, 2020.

1. The objection shall delay the order of release of the inmate and shall explain why the release of the inmate would pose a significant risk to the safety of the inmate or the public.
2. Written objections shall be filed by email to the Supreme Court Emergent Matter inbox with a copy to the Office of the Public Defender.

3. The Office of the Public Defender shall provide provisional representation to all inmates against whom an objection has been lodged under this Paragraph.
4. The Office of the Public Defender shall, no later than 5:00 p.m. on Tuesday, March 24, 2020, provide responses to any objections to release associated with inmates described in Paragraph A, as it deems appropriate. The Office of the Public Defender shall, no later than 5:00 p.m. on Thursday, March 26, 2020, provide responses to any objections to release associated with inmates described in Paragraph B, as it deems appropriate.
5. The Court shall appoint judge(s) or Special Master(s) to address the cases in which an objection to release has been raised.
    a. On or before Wednesday, March 25, 2020, the judge(s) or Special Master(s) will begin considering disputed cases arising from Paragraph A; on or before Friday, March 27, 2020, the judge(s) or Special Master(s) will consider disputed cases arising from Paragraph B.
        i. The judge(s) or Special Master(s) shall conduct summary proceedings, which shall be determined on the papers. In the event the judge(s) or Special

Master(s) conduct a hearing of any sort, inmates' presence shall be waived.

ii. Release shall be presumed, unless the presumption is overcome by a finding by a preponderance of the evidence that the release of the inmate would pose a significant risk to the safety of the inmate or the public.

iii. At any point, the Prosecutor may withdraw its objection by providing notice to the judge(s) or Special Master(s) with a copy to the Office of the Public Defender. In that case, inmates shall be released subjected to the provisions of Paragraphs D-I.

iv. If the judge(s) or Special Master(s) determine by a preponderance of the evidence that the risk to the safety of the inmate or the public can be effectively managed, the judge(s) or Special Master(s) shall order the inmate's immediate release, subject to the provisions of paragraphs D-I.

1. The Order of the judge(s) or Special Master(s) may be appealed on an emergent basis, in a summary manner to the Appellate Division.
2. Should a release Order be appealed, the release Order shall be stayed pending expedited review by the Appellate Division.
3. The record on appeal shall consist of the objection and response filed pursuant to this Paragraph.

v. If the judge(s) or Special Master(s) determine by a preponderance of the evidence that risks to the safety of the inmate or the public cannot be effectively managed, the judge(s) or Special Master(s) shall order the inmate to serve the balance of the original sentence.

1. The Order of the judge(s) or Special Master(s) may be appealed on an emergent basis, in a summary manner to the Appellate Division.

2. Should an Order requiring an inmate to serve the balance of his sentence be appealed, the Appellate Division shall conduct expedited review.

3. The record on appeal shall consist of the objection and response filed pursuant to this Paragraph.

b. The judge(s) or Special Master(s) should endeavor to address all objections no later than Friday, March 27, 2020.

D. Any warrants associated with an inmate subject to release under this order, other than those associated with first-degree or second-degree crimes, shall be suspended. Warrants suspended under this Order shall remain suspended until ten days after the rescission of the Public Health Emergency associated with COVID-19. *See* Executive Order No. 103 (2020) (Mar. 9, 2020).

E. In the following circumstances, the county jail shall not release an inmate subject to release pursuant to Paragraphs A, B, or C(5)(a)(iii) or (iv), absent additional instructions from the judge(s) or Special Master(s):

1. For any inmate who has tested positive for COVID-19 or has been identified by the county jail as presumptively positive for COVID-19, the county jail shall immediately notify the parties and the County Health Department of the inmate's medical condition, and shall not release the inmate without further instructions from the judge(s) or Special Master(s). In such cases, the parties shall immediately confer with the judge(s) or Special Master(s) to determine a plan for isolating the inmate and ensuring the inmate's medical treatment and/or mandatory self-quarantine.
2. For any inmate who notifies the county jail that he or she does not wish, based on safety, health, or housing concerns, to be released from detention pursuant to this Consent Order, the county jail shall immediately notify the parties of the inmate's wishes, and shall not release the inmate without further instructions from the judge(s) or Special Master(s). In such cases, the parties shall immediately confer with the judge(s) or Special Master(s) to determine whether to release the inmate over the inmate's objection.

F. Where an inmate is released pursuant to Paragraphs A, B, or C(5)(a)(iii) or (iv), conditions, other than in-person reporting, originally imposed by the trial court shall remain in full force and effect. County jails shall inform all inmates, prior to their release, of their continuing obligation to abide by conditions of probation designed to promote public safety. Specifically:

1. No-contact orders shall remain in force.
2. Driver's license suspensions remain in force.
3. Obligations to report to probation officers in-person shall be converted to telephone or video reporting until further order of this Court.
4. All inmates being released from county jails shall comply with any Federal, State, and local laws, directives, orders, rules, and regulations regarding conduct during the declared emergency. Among other obligations, inmates being released from county jails shall comply with Executive Order No. 107 (2020) (Mar. 21, 2020), which limits travel from people's homes and mandates "social distancing," as well as any additional Executive Orders issued by the Governor during the Public Health Emergency associated with COVID-19.

5. All inmates being released from county jails are encouraged to self-quarantine for a period of fourteen (14) days.

6. Unless otherwise ordered by the judge(s) or Special Master(s), any inmate being released from a county jail who appears to be symptomatic for COVID-19 is ordered to self-quarantine for a period of fourteen (14) days and follow all applicable New Jersey Department of Health protocols for testing, treatment, and quarantine or isolation.

G. County Prosecutors and other law enforcement agencies shall, to the extent practicable, provide notice to victims of the accelerated release of inmates.

1. In cases involving domestic violence, notification shall be made. N.J.S.A. 2C:25-26.1. Law enforcement shall contact the victim using the information provided on the "Victim Notification Form." Attorney General Law Enforcement Directive No. 2005-5.

a. Where the information provided on the "Victim Notification Form" does not allow for victim contact, the Prosecutor shall notify the Attorney General.

b. If the Attorney General, or his designee, is convinced that law enforcement has exhausted all reasonable efforts to contact the victim, he may relax the obligations under N.J.S.A. 2C:25-26.1.

2. In other cases with a known victim, law enforcement shall make all reasonable efforts to notify victims of the inmate's accelerated release.

3. To the extent permitted by law, the Attorney General agrees to relax limitations on benefits under the Violent Crimes Compensation Act (N.J.S.A. 52:4B-1, *et seq*.) to better provide victims who encounter the need for safety, health, financial, mental health or legal assistance from the State Victims of Crime Compensation Office.

H. The Office of the Public Defender agrees to provide the jails information to be distributed to each inmate prior to release that includes:

1. Information about the social distancing practices and stay-at-home guidelines set forth by Executive Order No. 107, as well as other sanitary and hygiene practices that limit the spread of COVID-19;

2. Information about the terms and conditions of release pursuant to this consent Order;
3. Guidance about how to contact the Office of the Public Defender with any questions about how to obtain services from social service organizations, including mental health and drug treatment services or any other questions pertinent to release under this consent Order.

I. Any inmate released pursuant to this Order shall receive a copy of this Order, as well as a copy of any other Order that orders their release from county jail, prior to their release.

J. Relief pursuant to this Order is limited to the temporary suspension of custodial jail sentences; any further relief requires an application to the sentencing court.

3/22/2020 9:50 p.m. /s/Stuart Rabner
Date Chief Justice Stuart Rabner, for the Court

The undersigned hereby consents to the form and entry of the foregoing Order.

3/22/2020 /s/Gurbir S. Grewal
Date Office of the Attorney General

3/22/2020 /s/Angelo J. Onofri
Date County Prosecutors Association of New Jersey

3/22/2020 /s/Joseph E. Krakora
Date Office of the Public Defender

3/22/2020 /s/Alexander Shalom
Date American Civil Liberties Union of New Jersey

This is **Exhibit "D"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

Ontario

RESPONSE TO COVID-19 INFORMATION NOTE

Author: Institutional Services Division, Assistant Deputy Minister's Office
April 7, 2020

Ontario has implemented several strategies to limit the effects of COVID-19 on our inmate population and our correctional staff.

We have made great progress over the past weeks to reduce the population in our institutions, the annual average population hasn't been as low as the current population since the 1989/1990 fiscal year.

Working closely with the Ministry of Health, Public Health, the Ministry of the Attorney General, the Ontario and Superior Courts and our Community Safety partners, we are confident in the care we are providing our inmate population.

Quick Facts:

- There were 6,096 inmates registered in custody across all 25 institutions on April 7, 2020 when data was extracted.
- This is a 26.9% reduction since March 16, 2020.
- All institutional capacity data is extracted from the Offender Tracking Information System (OTIS). OTIS is a correctional services database holding information submitted by correctional staff regarding individuals supervised by the ministry in the community or in one of Ontario's provincial institutions.

Inmate Testing:

- Inmates tested as of April 7, 2020:
    - Total tested for COVID-19: 103
    - Total negative results: 63
    - Total pending results: 38
    - Total positive results: 5

- Three of the positive cases are inmates at Toronto South Detention Centre (TSDC).
- One of the positive cases is an inmate at Monteith Correctional Complex (MCC).
- One of the positive cases was an intermittent inmate, not in our custody, and no close contacts at the intermittent center (TSDC) were identified.
- In all positive cases, operational protocols related to infection prevention and control have been maintained and all appropriate steps have been taken to protect staff and other inmates.
- At this time, no other institutions have inmates who have tested positive.

Ontario

- Inmate testing and results provided to the Assistant Deputy Minister's Office by the Ministry of the Solicitor General, Corporate Health Care Unit, in consultation with the local Public Health Unit.

Positive Staff Cases:

- As of April 7, 2020, there have been two confirmed cases of staff testing positive for COVID-19 reported to the ministry. (Toronto South Detention Centre, Hamilton Wentworth Detention Centre).
- Proper protocol was undertaken immediately by health care staff working collaboratively with the Medical Officer of Health to contain the exposure.
- At this time, no other institutions have staff who have tested positive for COVID-19.
- Staff positive results are provided to the Assistant Deputy Minister's Office by the Ministry of the Solicitor General, Corporate Health Care Unit, in consultation with the local Public Health Unit.

Other:

- As of April 7, 2020, there has been one confirmed case of third-party contract worker testing positive for COVID-19 reported to the ministry. (South West Detention Centre).
- Proper protocol was undertaken immediately by health care staff working collaboratively with the Medical Officer of Health to contain the exposure.
- At this time, no other institutions have third party individuals identified by Public Health who have tested positive for COVID-19.
- Third party individuals' positive results are provided to the Assistant Deputy Minister's Office by the Ministry of the Solicitor General, Corporate Health Care Unit, in consultation with the local Public Health Unit.

Communicable disease outbreak process:

- If an outbreak of any communicable disease occurs or is suspected, institution officials will take immediate precautionary containment measures in accordance with operating procedures, including notifying the local Medical Officer of Health, and provincial health professionals.
- Institution health care staff working collaboratively and under the direction of the local Medical Officer of Health manage the situation, including containment strategies such as medical isolation.

Ontario

Housing for medically vulnerable inmates

- Decisions about placement are the responsibility of on-site correctional staff. However, where there are medical requirements at issue, this is a collaborative process and extensive consultation with health care takes place. Health care staff provide recommendations based on the assessed health care needs of the inmate.
- The housing placement for an inmate with medical needs will also be influenced by the physical layout of an institution and the facilities that are available at that institution.
- Placement options to protect a vulnerable individual vary and are dependent on institution design. Options may include general population (including protective custody if required); behavioural units, managed clinical care, or special needs units; medical observation units, or an institutional infirmary. There are different areas where patients are housed within an institution that correspond to the level of health care services they require:

Actions:

- Personal visitation for inmates has been suspended until further notice. Institutions are working on local initiatives to provide extra postage, phone calls and other activities for inmates while visits are suspended. Institutions are also undertaking other local strategies to mitigate the impact of these limitations such as providing additional TV time or access to additional TV channels.
- In support of inmates, the ministry has also increased the weekly “canteen” limit by 50% to $90 to allow inmates to purchase additional comfort and recreation items. The ministry is also reviewing new items that can be purchased.
- Professional visits including lawyers and spiritual volunteers are continuing.
- Every individual entering the institution is subject to an active screening process that was developed based on Ministry of Health guidelines. This applies to:
    - New inmate admissions
    - Inmates returning from court or being transferred into the institution
    - All professional visitors and contract staff (e.g. maintenance)
    - All staff, each time they enter the institution
    - Personal Protective Equipment (PPE) is being worn in Admitting and Discharge department by those correctional staff that have first contact with new admits and by nursing staff doing screening.

Ontario

- Staff attending the institution are required to sign an affirmation that:
    - They are not feeling unwell and exhibiting symptoms such as:
        - Fever
        - New cough
        - Difficulty breathing
        - Unexplained muscle aches or fatigue; and
        - Other signs of new onset illness.
    - They have not recently travelled internationally;
    - They have not recently been in close contact with someone who has been diagnosed with COVID-19;
    - They have not been in close contact with someone who is sick with new respiratory symptoms; and
    - They have not been in close contact with someone who recently travelled outside Canada.
- Beginning the week of April 6, 2020 temperature screening for staff entering a correctional institute has been implemented in some institutions and will be implemented in all remaining institutions within the next 5-10 days.
- In partnership with MAG, the ministry has moved as many court appearances as possible to video or telephone in order to reduce the movement of inmates in and out of the institutions (unless specifically requested by the Court).
- The ministry has put a hiatus on non-essential transfers of inmates between institutions in order to reduce the risk of transmission between institutions and communities.
- Facilities are inspected and thoroughly cleaned regularly and/or as required. Additional cleaning services are being co-ordinated and provided through our Corporate Services Division.
- All of those in our custody receive soap, toilet paper, among other toiletries. Inmates are also provided with cleaning supplies to keep their living area clean. Proper handwashing and cough/sneezing protocol has also been communicated to inmates. Information has been posted in inmate areas.
- Staff have access to PPE and are instructed to wear it during specific activities as advised by the Ministry of Health.
- If an outbreak of any communicable disease occurs or is suspected, institution officials take immediate precautionary containment measures in accordance with operating procedures, including notifying the local Medical Officer of Health, and provincial health professionals. Institution health care staff working collaboratively and under the direction of the local Medical Officer of Health manage the situation, including containment strategies such as medical isolation.

Ontario

To reduce capacity:

- Intermittent inmates who serve time on the weekends are required to attend their reporting facility for their first reporting date, where they will be given a Temporary Access Pass (TAP) from custody and permitted to return home. The TAP will be issued for May 1, 2020 or their sentence end-date, whichever comes first. This means those serving intermittent sentences will not have to report to a correctional facility every weekend, reducing the number of individuals entering the institution.
- The ministry has begun to proactively perform a temporary absence review for all inmates to determine whether they are eligible for early release. Inmates chosen must be near the end of their sentences (less than 30 days remaining) and be considered a low risk to reoffend. Inmates who have been convicted of serious crimes, such as violent crimes or crimes involving guns, would not be considered for early release. Unlike the standard process, inmates are not required to apply for release and will be notified if they qualify and must agree to the terms and conditions of their release prior to leaving the institution.
- Where safely feasible, non-custodial options are considered by the Court for individuals charged with non-violent or less serious offences.
- We are working in conjunction with the Ministry of the Attorney General and the Ontario Court of Justice, as well as the police agencies and counsel, to significantly increase the use of virtual courts (video and teleconference), thereby reducing the number of inmates transported to courthouses for appearances.
- The Ontario Parole Board is conducting all hearings remotely by video or teleconference.
- Our ministry is working closely with Corrections Canada to coordinate moving federal inmates from our custody.

This is **Exhibit "E"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

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RESPONSE TO COVID-19 INFORMATION NOTE

Author(s): Erynne Riedstra, Strategic Advisor
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July 7, 2020

The purpose of this information note is to provide an overview of the current status of the Ministry of the Solicitor General's response to COVID-19. This document is prepared by the Assistant Deputy Minister's Office in the Institutional Services in consultation with all relevant program areas including (but not limited to) those that oversee inmate and employee healthcare, supply chain management, cleaning services, and daily operations.

Unless otherwise noted, the healthcare policies and procedures and the actions taken to stop transmission of the COVID-19 virus have been implemented at all provincial adult correctional institutions.

Compliance with policy is monitored locally by senior managers and daily meetings are held with superintendents to discuss implementation status and identify any challenges and develop solutions.

Stocks of critical supplies including PPE and cleaning products at all institutions are monitored daily. Any shortages are reported and addressed immediately.

Inmates have access to both formal and informal complaint procedures to both internal and external oversight bodies for the fair and timely resolution of complaints, concerns and disputes. The formal complaint processes require a timely response and, in some cases, include appeals processes.

All processes relating to screening, Personal Protective Equipment (PPE) or health care were created in consultation with the Ministry of Health and Public Health Ontario.

Facts:

- There were 5,886 inmates registered in custody across all 25 institutions on July 7, 2020 when data was extracted.
- This is a 30% reduction since March 16, 2020.
- All institutions are within operational capacity.

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- All institutional capacity data is extracted from the Offender Tracking Information System (OTIS). OTIS is a correctional services database holding information submitted by correctional staff regarding individuals supervised by the ministry in the community or in one of Ontario's provincial institutions.

Inmates – Positive by Institution (as of July 6, 2020)

Institution	Positive	Resolved* in Custody	Positive Cases Released from Custody
Central East Correctional Centre	0	1	1
Central North Correctional Centre	0	1	0
Elgin-Middlesex Detention Centre	0	1	0
Hamilton-Wentworth Detention Centre	0	1	0
Kenora Jail	0	2	0
Maplehurst Correctional Complex	1	5	3
Monteith Correctional Complex	0	1	0
Niagara Detention Centre	0	0	1
Ontario Correctional Institute	0	89	2
Toronto South Detention Centre	3	8	6
Vanier Centre for Women	0	1	3

**A case is resolved when the inmate is no longer considered positive.*

Staff – Positive by Institution (as of July 69, 2020)

	Ongoing	Resolved**
Central North Correctional Centre	0	1
Hamilton-Wentworth Detention Centre	0	1
Maplehurst Correctional Centre	0	2
Ontario Correctional Institute	0	25
St. Lawrence Valley Correctional and Treatment Centre/Brockville Jail	0	1
Toronto South Detention Centre	0	1

***Staff cases are considered resolved 14 days after the ministry has been notified of a positive test result. Staff testing for COVID-19 constitutes personal health information and there is no requirement for staff to disclose that they have been tested or their results. However, through required case management and contact tracing conducted by Public Health Units, the ministry may be notified. Confirmed staff positive results are provided to the Assistant Deputy Minister's Office in consultation with the local Public Health Unit.*

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Third Party – Positive by Institution (as of July 6, 2020)

	Positive
Southwest Detention Centre	1

Third party individuals' positive results are provided to the Assistant Deputy Minister's in consultation with the local Public Health Unit. The ministry may not be informed if the case is resolved.

Ontario Correctional Institute Outbreak

- On April 15, 2020, an outbreak was declared by Peel Public Health at the Ontario Correctional Institute (OCI).
- The ministry closed the facility on April 21, 2020 after transferring all inmates to the Toronto South Detention Centre (TSDC).
- All inmates who have been transferred from OCI have been placed in medical isolation and protocols are being followed to ensure protection of staff and inmates.
- OCI inmates have been placed in a separate part of TSDC and will not be placed with existing TSDC inmates to stop any potential spread of COVID-19.
- The ministry has protocols for health care and institutional staff in circumstances like these, including droplet/contact protocols and guidelines for managing units where inmates are in medical isolation. Cleaning of high-touch points (e.g. door handles) is being conducted at a minimum twice per day.
- Comprehensive Personal Protective Equipment (PPE) guidelines exist for different circumstances.
- Transferring inmates to TSDC will allow the ministry to accommodate those who need to be isolated. TSDC has a health care unit with resources that will be used to manage and support any inmate medical needs.
- The overall reduction in inmate population has provided space within TSDC that can be used for medical isolation.
- The ministry will continue to work with Peel Public Health to identify staff and inmates who may be impacted.
- All staff from OCI will be self isolating for 14 days before returning to work.
- On May 12, 2020, the OCI outbreak was deemed resolved by Toronto Public Health, with no institutional transmission of cases inside TSDC. Toronto Public Health took carriage of the file when inmates were moved to TSDC.
- As of June 9, 2020, all the inmates originally housed at TSDC have been transferred from TSDC to the Maplehurst Correctional Complex (MHCC).

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Healthcare policies and procedures

Communicable disease outbreak process:

- If a reportable communicable disease occurs or is suspected, institution officials notify the local Medical Officer of Health, and Ministry provincial health professionals.
- The Medical Officer of Health determines whether to declare an outbreak and provides direction for containment.
- Institution health care staff working collaboratively and under the direction of the local Medical Officer of Health take immediate precautionary containment measures in accordance with operating procedures, including containment strategies which may include medical isolation and decontamination of affected areas.
- When an inmate tests positive they are immediately placed in medical isolation under droplet and contact precautions (or kept in medical isolation if they had been already be placed there pre-testing). The local Public Health Unit leads contact tracing in collaboration with the Ministry of the Solicitor General's Corporate Healthcare and Wellness Branch and the institution's healthcare team. While each case is managed individually, once resolved the individual could be integrated back into the general inmate population.
- Placement in medical isolation is temporary and non-punitive. Inmates placed in medical isolation are managed in accordance with ministry policy and still receive access to court and counsel, fresh air ("yard"), showers, use of telephone, and access to personal belongings as well as canteen.
- Contact tracing is the process used by Public Health Units to identify, educate, and monitor individuals who have had close contact with someone who is infected with the virus. The ministry works with Public Health units to support contact tracing for both staff and inmates.

Medical Care:

- Standard health care services available from the Ministry include:
    - Primary Care Physicians and Nurse Practitioners – each institution has one or more physicians and/or nurse practitioners who provide primary medical care to patients. There is a primary care practitioner on call during all hours of health care operations.
    - Registered Nurses and Registered Practical Nurses – all institutions have nurses (including Mental Health Nurses) on staff. Most institutions have nurses scheduled 16 hours per day; 10 institutions have 24-hour nursing.

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- Upon admission to a provincial jail or detention centre, all inmates receive an admission health assessment. This assessment includes:
    - Self-reported health history, including current treatment and pending medical interventions;
    - Infectious disease;
    - Mental health status;
    - Substance use history, including withdrawal management;
    - Acute or chronic health conditions such as diabetes or high blood pressure; and
    - Accommodation needs for health reasons, including medical devices (including prothesis, catheters, colostomies, ileostomies) and mobility devices.
- The institutional health care teams assess any inmates that require additional monitoring or would be deemed high risk.

Housing for medically vulnerable inmates:

- Decisions about housing placement are the responsibility of on-site correctional staff. However, where there are medical requirements at issue, this is a collaborative process and consultation with health care takes place. Health care staff provide recommendations based on the assessed health care needs of the inmate.
- The housing placement for an inmate with medical needs will also be influenced by the physical layout of an institution and the facilities that are available at that institution.
- Placement options to protect a vulnerable individual vary and are dependent on institution design. Options may include general population (including protective custody if required); behavioural units, managed clinical care, or special needs units; medical observation units, or an institutional infirmary. There are different areas where patients are housed within an institution that correspond to the level of health care services they require.

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Actions taken to stop transmission of COVID-19 virus

Screening:

- Every individual entering the institution is subject to an active screening process that was developed based on Ministry of Health Screening Guidelines.

Inmate screening at all institutions

- The ministry has put in screening procedures (in addition to standard health assessment) for all inmates in order to address COVID-19.
- All inmates are screened when they are admitted to the institution, including from police custody or transfers from other institutions.
- Personal Protective Equipment (PPE) is being worn in Admitting and Discharge department by those correctional staff that have first contact with new admits doing screening and by nursing staff conducting further medical assessments.
- Inmates are asked if they have a fever, new cough, difficulty breathing, or have travelled from outside the country in the last 14 days. Inmates answering yes to any question results in the inmate being immediately provided with a mask and asked to wash or sanitize their hands. The inmate will be kept at least two metres from other inmates and in a separate area where possible. Staff within two metres of the inmate will wear a mask and eye protection until they have been cleared by healthcare. Healthcare will be contacted for an assessment as soon as possible.
- All inmates continue to receive a full health assessment on admission which includes, vital signs, including temperature and a review of current and past medical history.
- If an inmate does not pass the screening process, they are placed in medical isolation, based on direction from the healthcare team.
- Inmates who pass the screening process, are placed in an intake unit for a minimum of 14 days and monitored for symptoms before they are moved into the general inmate population. Where operationally feasible, new admits to the intake unit are housed with inmates admitted on the same day.
- All newly admitted inmates are being tested by their 10th day in custody, however the test is voluntary.

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Staff screening at all institutions

- All staff attending the institution are required to sign an affirmation (updated May 22, 2020) that:
    - They are not feeling unwell and exhibiting symptoms such as:
        - Fever/feverish, new or worsening cough or difficulty breathing
        - Other signs of new onset or worsening illness such as:
            - Sore throat
            - Extreme tiredness that is unusual (fatigue)
            - Hoarse voice
            - Muscle aches
            - Difficulty swallowing
            - Lost sense of taste or smell
            - Headache
            - Digestive issues (nausea/vomiting, diarrhea, stomach pain)
            - Chills
            - Pink eye
            - Runny, stuffy or congested nose (not related to seasonal allergies or other known causes or conditions)
    - They have not recently travelled outside of Canada;
    - They have not recently been in close contact with someone who has been diagnosed with COVID-19;
    - They have not been in close contact with someone who is sick with new respiratory symptoms; and
    - They have not been in close contact with someone who recently travelled outside Canada.
- As of April 20, 2020, all institutions have obtained thermometers and implemented temperature screening for all staff attending the institution. Staff presenting with a fever are not permitted to enter the institution or return to work until they have been medically cleared.

Visitor screening at all institutions

- All professional visitors who attend the institution are required to preform a self-assessment (updated May 22, 2020) before entering the institution and are asked to confirm that:
    - They are not feeling unwell and exhibiting symptoms such as:
        - Fever/feverish, new or worsening cough or difficulty breathing
        - Other signs of new onset or worsening illness such as:

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- Sore throat
- Extreme tiredness that is unusual (fatigue)
- Hoarse voice
- Muscle aches
- Difficulty swallowing
- Lost sense of taste or smell
- Headache
- Digestive issues (nausea/vomiting, diarrhea, stomach pain)
- Chills
- Pink eye
- Runny, stuffy or congested nose (not related to seasonal allergies or other known causes or conditions)

  - They have not recently travelled outside of Canada;
  - They have not recently been in close contact with someone who has been diagnosed with COVID-19;
  - They have not been in close contact with someone who is sick with new respiratory symptoms; and
  - They have not been in close contact with someone who recently travelled outside Canada.

- As of April 20, 2020, all institutions have obtained thermometers and implemented temperature screening for all visitors attending the institution. Visitors presenting with a fever are not permitted to enter the institution and are recommended to contact telehealth or a primary care provider.

Other policies and procedures implemented:

- As of July 7, 2020, personal visits have resumed at all institutions. The ministry has established guidelines, which include scheduling all visits, an active screening process for visitors and a mandatory face covering requirement. Visitation will be prioritized for vulnerable inmates.
- Institutions are working on local initiatives to provide extra postage, phone calls and other activities for inmates while visits are suspended. Institutions are also undertaking other local strategies to mitigate the impact of these limitations. Some examples include providing additional TV time or access to additional TV channels.
- In support of inmates, the ministry has also increased the weekly “canteen” limit by 50% to $90 to allow inmates to purchase additional comfort and recreation items. The ministry is also reviewing new items that can be purchased.

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- The Ministry of the Solicitor General is temporarily providing all inmates with calling cards for $20 per month, in addition to their regular access to personal phone calls. This began in April 2020 and will continue at the discretion of the ministry.
- Professional visits including lawyers and spiritual volunteers are continuing.
- In partnership with the Ministry of the Attorney General (MAG), the ministry moved all court appearances to video or telephone in order to reduce the movement of inmates in and out of the institutions (unless required by the Court).
- On July 6, 2020 the Ontario Court of Justice and Superior Court of Justice resumed hearing criminal trials and preliminary inquiries in-person at certain locations.
- Inmates leaving for court are issued masks. Inmates returning from court are screened in the Admitting and Discharge department and secured in cells separate from other new admissions.
- Inmates that are unfit to attend court (e.g. due to COVID-19 related symptoms) will continue to have access to audio or video court options.
- As the province continues its path to recovery, both the Superior Court and Ontario Court of Justice are planning to reopen their courts on a limited basis. The ministry will be working with the courts to facilitate the attendance of inmates at court as required.
- The ministry has put a hiatus on non-essential transfers of inmates between institutions in order to stop of transmission between institutions and communities and all necessary transfers are screened prior to transfer by health care staff.
- Facilities are inspected and cleaned as required. Additional cleaning services have been implemented through the Corporate Services Division for public and high traffic areas. Contracts vary from institution to institution.
- In the case of a confirmed positive case of COVID-19, an outside vendor will come in to complete cleaning in the areas where the employee was working and/or travel pattern within the facility. This is above the additional cleaning contracts that are being established at all institutions.
- It is the responsibility of inmates to keep inmate living areas clean. Inmates are provided with cleaning supplies and direction on the proper cleaning protocols, as well as appropriate PPE where necessary. Inmates have been provided additional information about maintaining proper hygiene, including posters in inmate living areas.
- All of those in our custody receive a personal towel, soap, toilet paper, among other toiletries. Proper handwashing and cough/sneezing protocol has also been communicated to inmates. For health and safety reasons, inmates are not provided with hand sanitizer, but may have supervised access in some cases.

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- In addition to the free supplies that are provided by the institution, inmates may purchase additional hygiene products through the “canteen” program. The amount that inmates may purchase has been increased.

- Staff have access to PPE including face masks, eye protection, gloves and gowns, and are instructed to wear it when appropriate according to Guidelines developed by the Ministry of Health and Public Health Ontario.
  - As of April 27, 2020, all staff and visitors are required to wear a surgical/procedural mask at all times while at work in the institution unless otherwise specified. Masks are supplied by the institution.
  - Staff are trained in the proper usage of PPE, and the ministry has prepared a 30 minute e-learning module on the proper use, maintenance and conservation of PPE.
- Inmates also have access to PPE including face masks and are required to wear it when directed by healthcare according to guidelines developed by the Ministry of Health and Public Health Ontario. For example, an inmate who is presenting with symptoms may be required to wear a face mask.
- If an outbreak of a reportable communicable disease occurs or is suspected, institution officials take immediate precautionary containment measures in accordance with operating procedures, including notifying the local Medical Officer of Health, and SolGen provincial health professionals. Institution health care staff work collaboratively and under the direction of the local Medical Officer of Health to manage the situation, including containment strategies such as medical isolation.
- The ministry has signed a Memorandum of Understanding with with the Nishnawbe-Aski Legal Services Corporation (NALSC) and the Nishnawbe Aski Nation (NAN) to support discharge planning and the safe return home of individuals to NAN territories during the COVID-19 pandemic.
- Of May 24, 2020, the ministry began offering voluntary COVID-19 testing to all inmates and all staff members. Testing was offered at all institutions in a phased approach. As of June 22, voluntary testing has been offered to staff and inmates at all institutions.

To reduce capacity:

- Intermittent inmates who serve time on the weekends are required to attend their reporting facility for their first reporting date, where they will be given a Temporary Absence Pass (TAP) from custody and permitted to return home. The TAP will be issued for August 26, 2020 or their sentence end-date, whichever comes first. This means those serving intermittent sentences will not have to report to a correctional facility every weekend, reducing the number of individuals entering the institution.

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- The ministry has begun to proactively perform a temporary absence review for all sentenced offenders to determine whether they are eligible for early release. Offenders chosen must be near the end of their sentences (less than 30 days remaining) and be considered a low risk to reoffend. Those who have been convicted of serious crimes, such as violent crimes or crimes involving guns, would not be considered for early release. Unlike the standard process, sentenced offenders are not required to apply for release and will be notified if they qualify and must agree to the terms and conditions of their release prior to leaving the institution.
- Where safely feasible, non-custodial options are considered by the Court for individuals charged with non-violent or less serious offences.
- The Ontario Parole Board is conducting all hearings remotely by video or teleconference.
- The ministry is working closely with Correctional Services Canada to continue the movement of federal inmates from our custody.

This is **Exhibit "F"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

Politics

Bill Blair asks prison, parole heads to consider releasing some inmates to stop spread of COVID-19

Public safety minister says response will evolve in response to 'unique risks' in prisons

Kathleen Harris · CBC News · Posted: Mar 31, 2020 12:47 PM ET | Last Updated: April 1

Minister of Public Safety and Emergency Preparedness Bill Blair speaks at a press conference on COVID-19 on Parliament Hill March 18, 2020. (Justin Tang/The Canadian Press)

comments

Public Safety Minister Bill Blair has asked the heads of Canada's prison system and parole board to consider early release for some federal inmates to mitigate the impact of COVID-19 behind bars.

Blair's spokesperson Mary-Liz Power said the government understands the "unique risks" inherent to prisons.

"This pandemic continues to evolve and we have been clear that our response will as well," she said in an email.

"Minister Blair has asked both the Commissioner of the Correctional Service of Canada and the Chair of the Parole Board of Canada to determine whether there are measures that could be taken to facilitate early release for certain offenders."

Prisoners' advocates are ramping up calls to release lower-risk offenders after the Correctional Service Canada (CSC) confirmed COVID-19 cases in two penitentiaries — and are warning that maintaining crowded conditions behind bars during a global pandemic could have disastrous consequences.

On Monday, CSC confirmed its first cases of COVID-19 at two federal prisons in Quebec, with both inmates and staff testing positive.

As of Wednesday morning, CSC said three inmates had tested positive: two at Port-Cartier Institution in Quebec and one at Ontario's Grand Valley Institution for women. As well, 18 employees have tested positive: 11 at Port-Cartier, six at Joliette Institution in Quebec and one at Beaver Creek institution in Ontario.

> “Prisons will become incubators of the virus.”
>
> *- Sen. Kim Pate*

Justin Piché, a criminologist who runs the Criminalization and Punishment Project at the University of Ottawa, argued CSC must engage in a depopulation strategy to save lives.

He said letting people out of halfway houses could free up room for federal prisoners nearing parole eligibility, while many prisoners could be safely released with food and housing supports.

- THE LATEST **Coronavirus: What's happening in Canada and around the world March 31**

- **Correctional officers, inmates at Port-Cartier prison test positive for COVID-19**

"If measures are not taken to safely depopulate federal penitentiaries, in the best case scenario tensions and authoritarian measures such as lockdowns will increase behind the walls, which undermines community safety in the long term," Piché said.

"In the worst-case scenario, CSC will need to order more body bags and find cold storage to stack up the bodies of those whose lives will be lost that could have been saved."

For those who can't be let out, Piché urged CSC to do in practice what it has promised to do on paper: provide information to prisoners, step up cleaning and disinfection and expand access to personal hygiene products.

Piché said CSC also should provide inmates with free telephone calls and legal and community supports, and access to prison canteens to supplement their diets.

The union representing Canada's correctional officers rejected the calls to release offenders, saying they suggest a "complete disregard for public safety."

Union warns of risks with release

"The focus must be on changing routines in our institutions to respect social distancing and self-isolation practices to every extent possible. Canada is in crisis, and its citizens are already dealing with a potentially deadly threat. It is irresponsible to introduce further threats into our communities," reads a statement from the Union of Canadian Correctional Officers (UCCO).

The union urged the government to adopt more stringent testing for all staff.

"In order to keep the front lines strong in our institutions, there may be a requirement to test employees who may not be showing symptoms but may have had contact with a confirmed positive individual, as quarantining such asymptomatic employees for a 14-day period may not be operationally feasible," the union said.

The union also called on CSC to ramp up education efforts and provide more guidance on public health officials' recommendations on physical distancing, minimizing group gatherings, proper hygiene and self-isolation techniques.

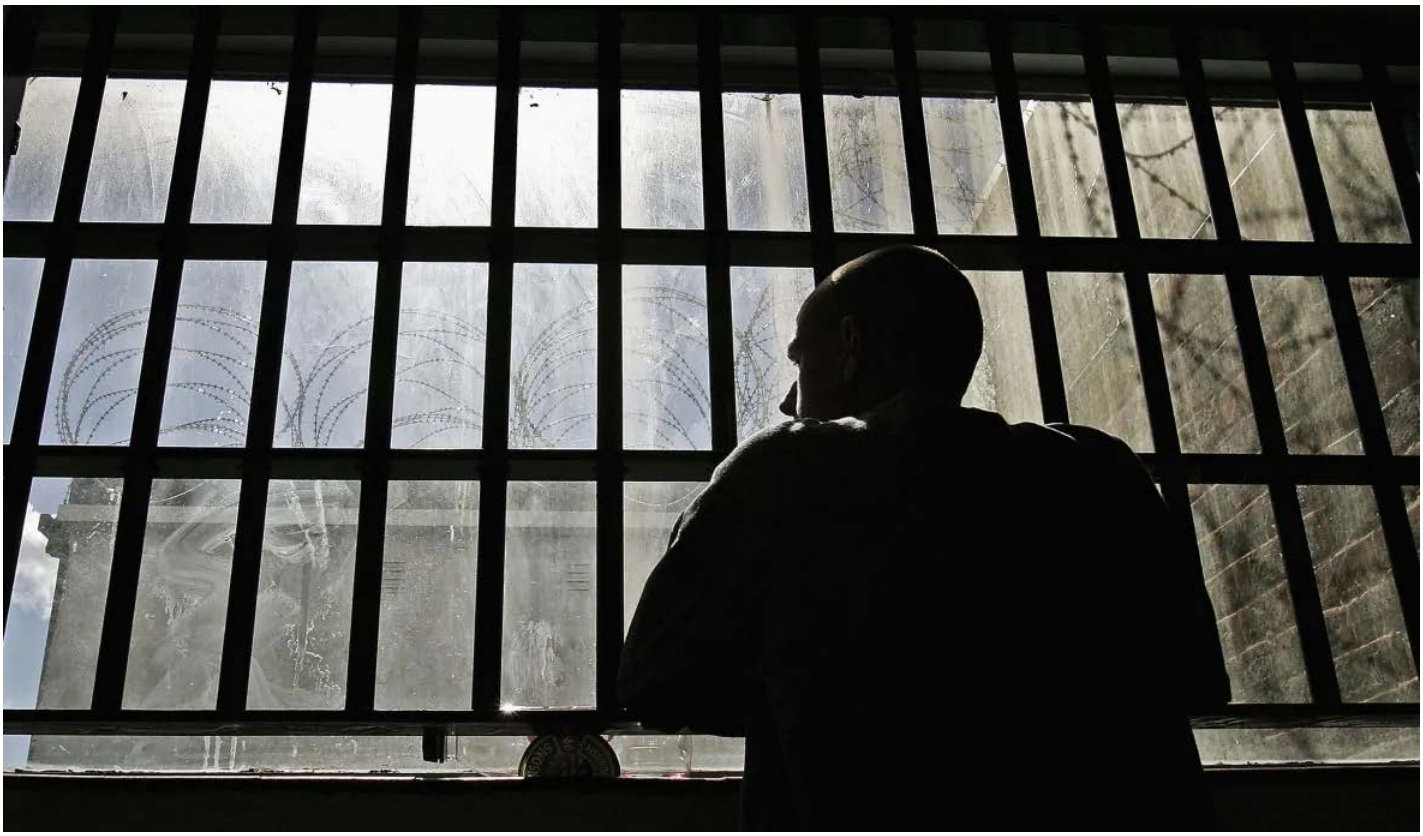
Higher-risk environments

CSC manages more than 23,000 inmates. About 14,000 of them are incarcerated and another 9,000 are under community supervision.

Prisons, like nursing homes and long-term care facilities, are considered higher-risk environments.

They are typically crowded, stressful environments with disproportionately high levels of chronic diseases — often because of a large number of offenders with past drug or alcohol addictions and histories of poor nutrition.

In a briefing in Ottawa Tuesday, Chief Public Health Officer Dr. Theresa Tam said infections in correctional facilities, nursing homes and Indigenous communities are "very concerning" because of their potential to spread fast, with "grave consequences" for those vulnerable populations.



Prisoner advocates want early release for some offenders to prevent the spread of COVID-19. (Peter Macdiarmid/Getty Images)

Catherine Latimer, executive director of the John Howard Society of Canada, said she is "furious" that the federal government has failed to start depopulating prisons safely and quickly.

"If the PM is relying on CSC to make this happen, it's folly," she said.

Latimer is recommending a release strategy prioritizing:

- Offenders who already have been identified as low risk and already have been approved for full parole, day parole or unescorted temporary absences.
- Offenders who have residences or families where they could be placed under house arrest and subjected to electronic monitoring, or other conditions deemed necessary to protect public safety.
- Offenders who are particularly vulnerable, such as those who are elderly, immuno-compromised or have chronic illnesses.

CSC said it is working to prevent infections through suspending visits, temporary absences into the community and transfers of inmates.

"As we continue our critical work to uphold public safety during this time, we will monitor the situation closely and continue to work with public health authorities, our employees and unions to ensure that appropriate measures are in place for the ongoing protection and safety of our employees and inmates," CSC said in a statement.

Potential for 'rapid spread' behind bars

But Sen. Kim Pate, an advocate for prison reform who has been pushing for the release of some offenders during the pandemic, said banning visits and locking down prisons with infections will not work because asymptomatic staff coming and going to work can still carry the virus, and the spread can occur "extremely rapidly" in closed environments without adequate health care.

"Medical professionals, NGOs, correctional staff and prisoners are acutely aware of the dangers of COVID-19 in prisons. Not just for them, but for the broader community," she said. "Prisons will become incubators of the virus.

"In my humble opinion, it is long past time for CSC management to stop denying the very real risks, deflecting responsibility and delaying action."

Emilie Coyle, executive director of the Canadian Association of Elizabeth Fry Societies, wrote a letter to Blair and other ministers urging a depopulation strategy and warning of the potential for "rapid spread" in women's prisons. She said it's impossible to practise physical distancing in an institutional setting and said women prisoners already receive substandard health care.

"A system that was already failing to meet the needs of people in their care cannot reasonably claim that they can manage a public health crisis," she wrote.

NDP public safety critic Jack Harris also wrote to Blair today. He said he is pleased to hear the minister is now looking into this, but said action is needed right away.

"These decisions must be carefully considered, but every day the government delays in taking action increases the risk — not only to inmates but to the people who work in the facilities and their communities as well," he said.

This is **Exhibit "G"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

Weekly Population Trends
2020-01-05 to 2020-04-26

The purpose of this report is to examine whether the Covid-19 pandemic is having an influence on CSC's federal offender populations. The offender counts are examined in light of the admissions and releases that have occurred during the same time periods. This report examines the following population groups --- all offenders, FSW, Indigenous, Caucasian and black.

The following population tables were derived from the CRS-M Offender Profile --- In Custody and Community data cubes. The inmate and supervised counts were taken for each week from January 5, 2020 to April 26, 2020, a total of 17 weeks. The admission and release data were extracted from the data warehouse directly. All admission and release information has been aggregated by week for the seven days prior to the snapshot dates. For instance, admissions and releases have been aggregated from December 29 to January 5 for the January 5th snapshot date.

Summary

- The inmate population of federal offenders has declined by 338 (2.4%) since its peak 2020-03-01
- The community population has increased by 61 (0.7%) offenders since 2020-03-01
- This appears to have resulted from a significant drop in warrant of committal admissions and a smaller drop in revocations
- There has been no increase in overall releases although day paroles have increased in the last two weeks

- The FSW inmate population has declined by 30 (4.5%) from its peak of 696 on 2020-03-29
- The supervised FSW population has increased by 25 (3.5%) since 2020-02-16
- This appears to have resulted from a drop in warrant of committal and revocation admissions and an increase in day parole releases

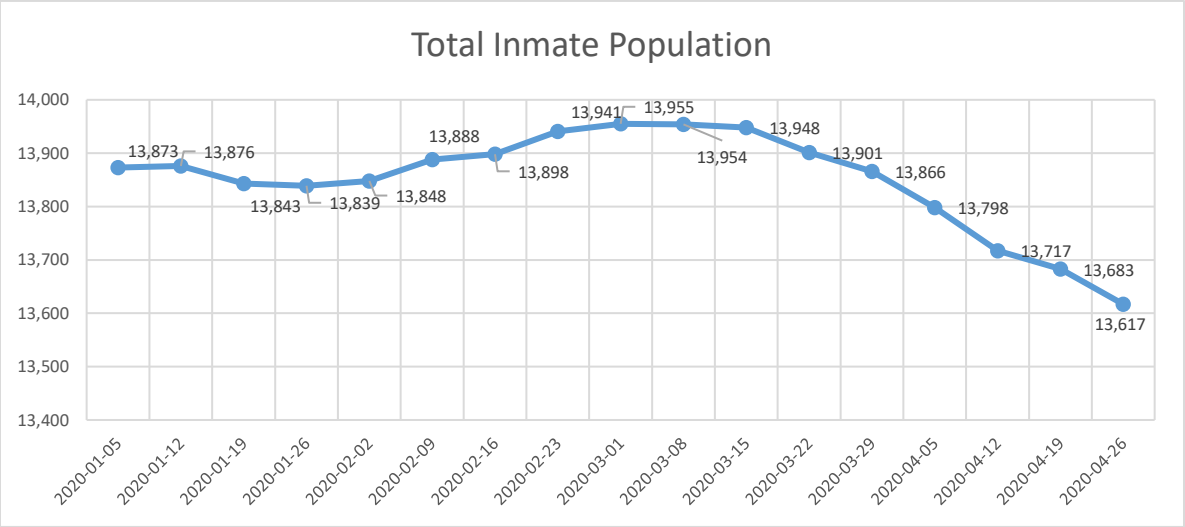
- The Indigenous inmate population has declined by 94 (2.2%) since 2020-03-08
- The Indigenous supervised population has increased by 54 (3.0%) since 2020-03-01
- This appears to have resulted from a drop in warrant of committal and revocation admissions

- The population of Caucasian inmates has declined by 206 (3.0%) since 2020-03-08
- The supervised population of Caucasian offenders has increased by 10 (0.2%) since 2020-03-29
- The decrease in population has resulted from a significant drop in warrant of committal and revocation admissions

- The population of black inmates has declined by 39 (2.9%) since 2020-03-15
- The supervised population of black offenders has increased by 37 (5.2%) since 2020-02-02
- The decrease in population has resulted from a significant drop in warrant of committal admissions

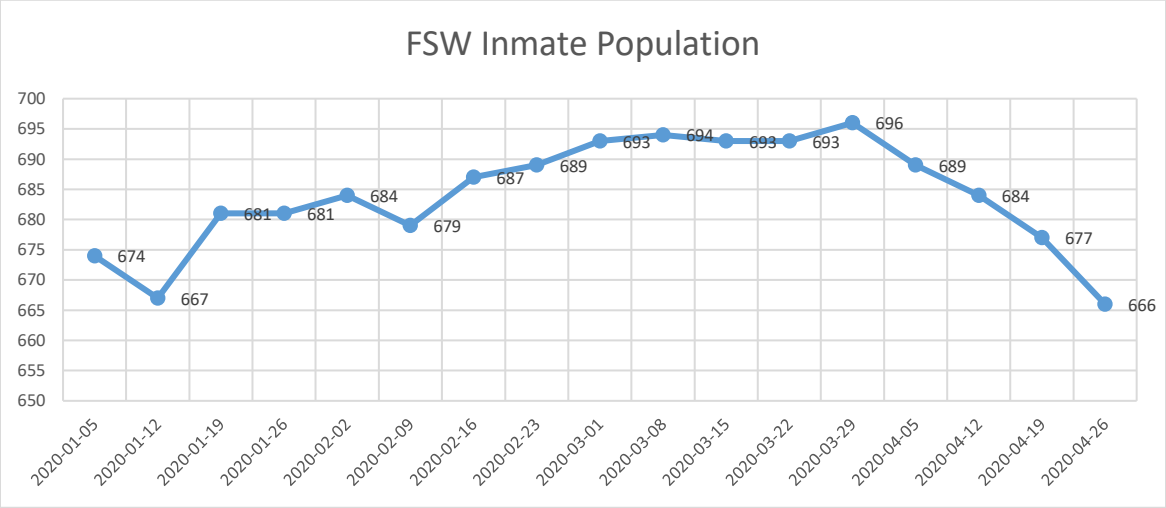
Section 1 – Inmate Population Trends

Graph 1: Total Inmate Population by Week



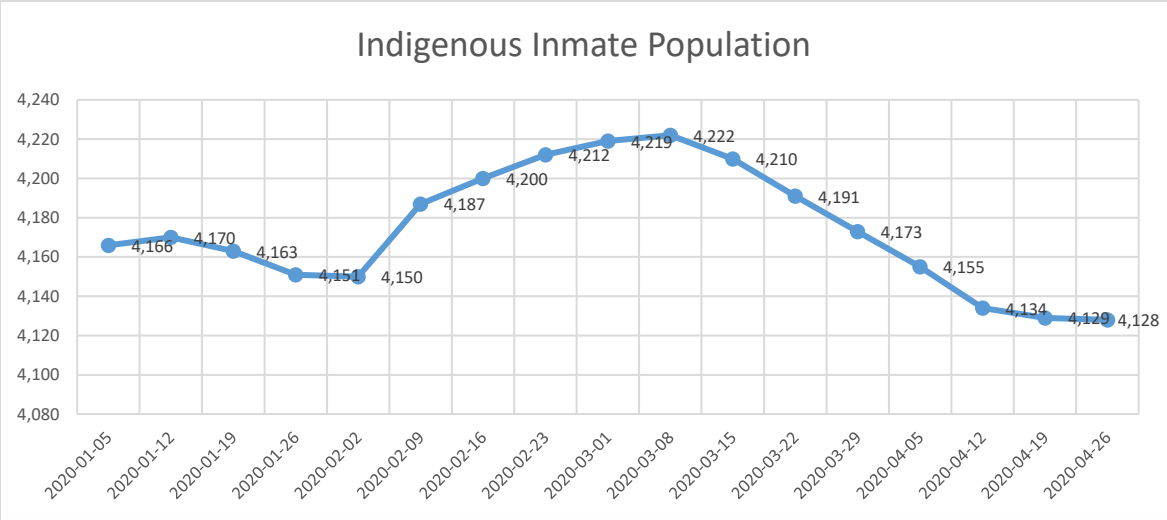
- The inmate population began to decline on 2020-03-01
- The inmate population has declined by 338 (2.4%) from its peak on 2020-03-08.

Graph 2: FSW Inmate Population by Week



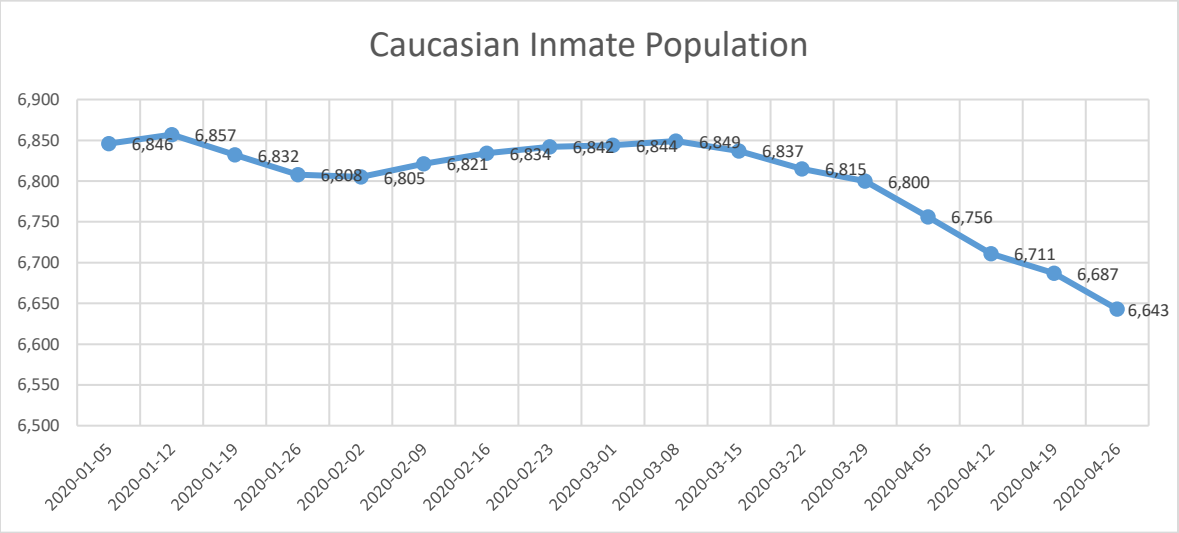
- The FSW inmate population has declined by 30 (4.5%) from its peak of 696 on 2020-03-29

Graph 3: Indigenous Inmate Population by Week



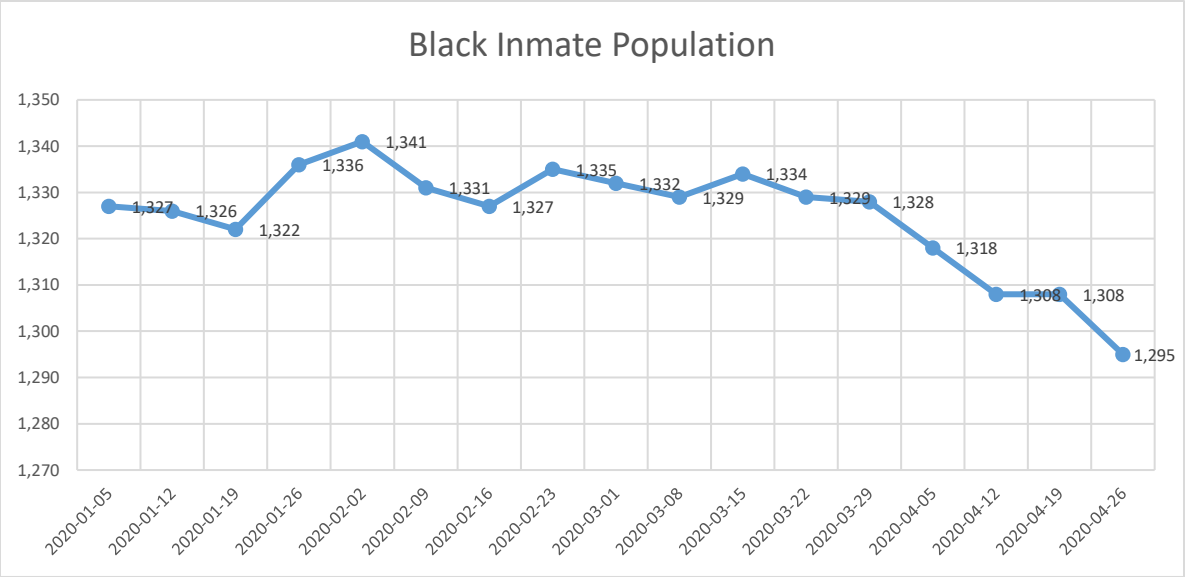
- The Indigenous inmate population has declined by 94 (2.2%) since 2020-03-08

Graph 4: Caucasian Inmate Population by Week



- The population of Caucasian inmates has declined by 206 (3.0%) since 2020-03-08

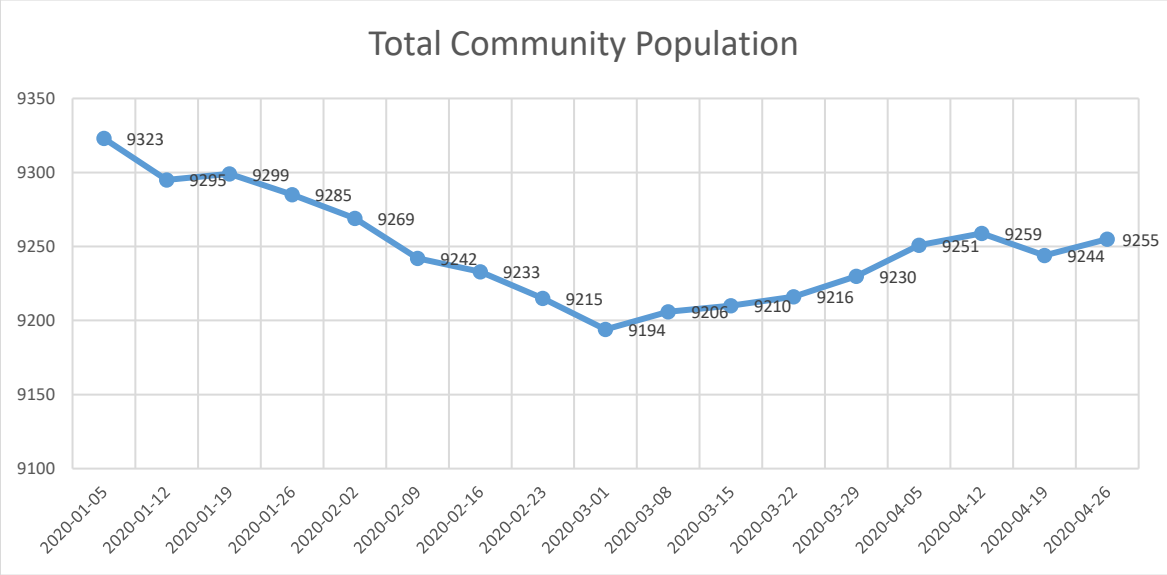
Graph 5: Black Inmate Population by Week



- The population of black inmates has declined by 39 (2.9%) since 2020-03-15

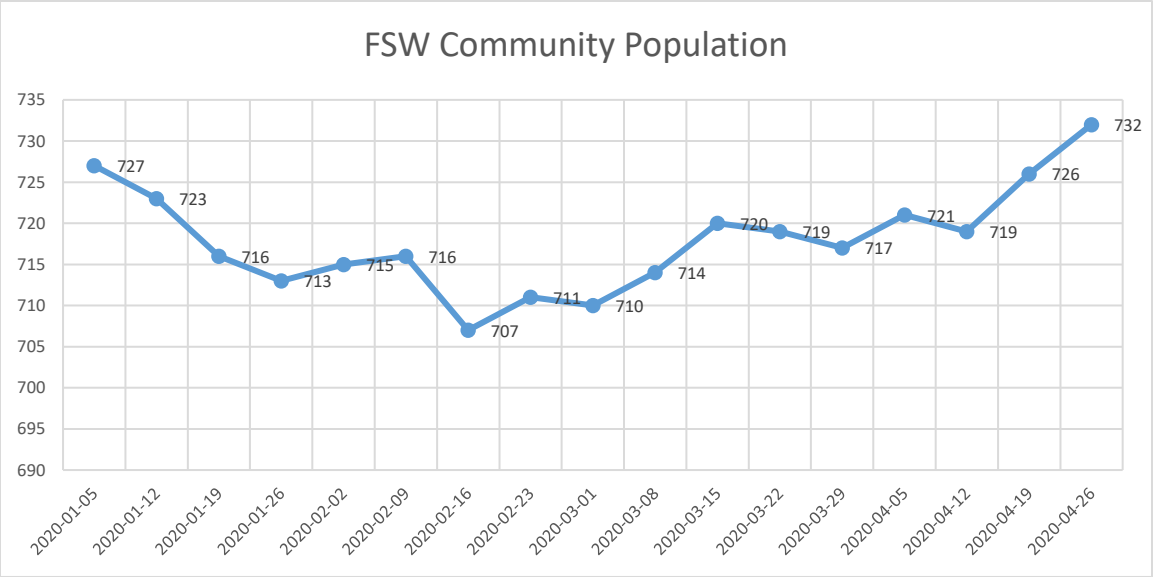
Section 2 – Community Population Trends

Graph 6: Total Supervised Federal Population by Week



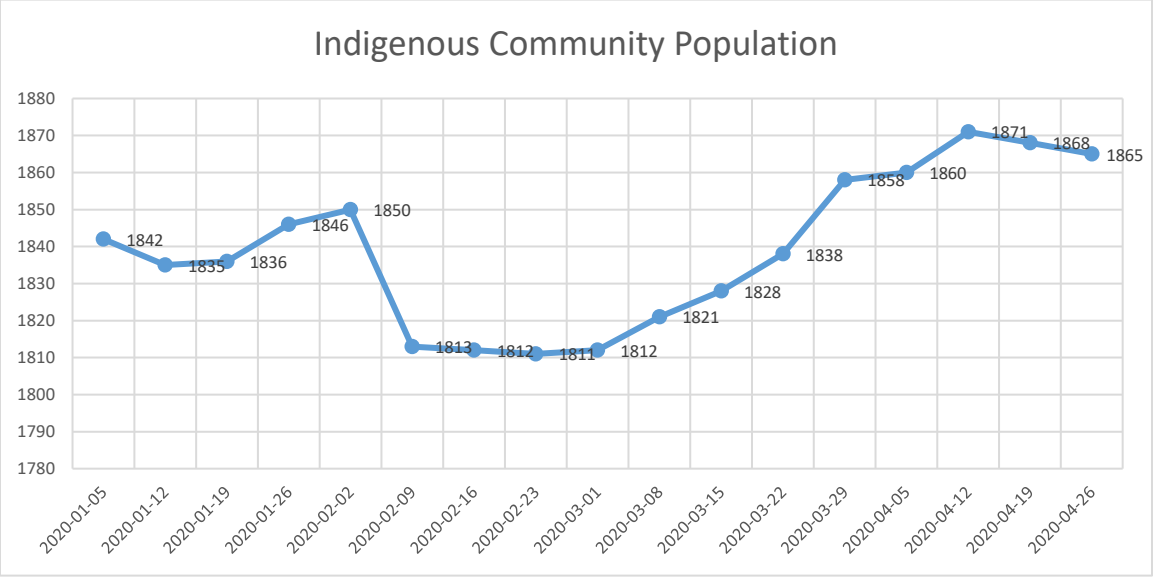
- The supervised population of federal offenders has increased by 61 (0.7%) since 2020-03-01

Graph 7: Total FSW Population by Week



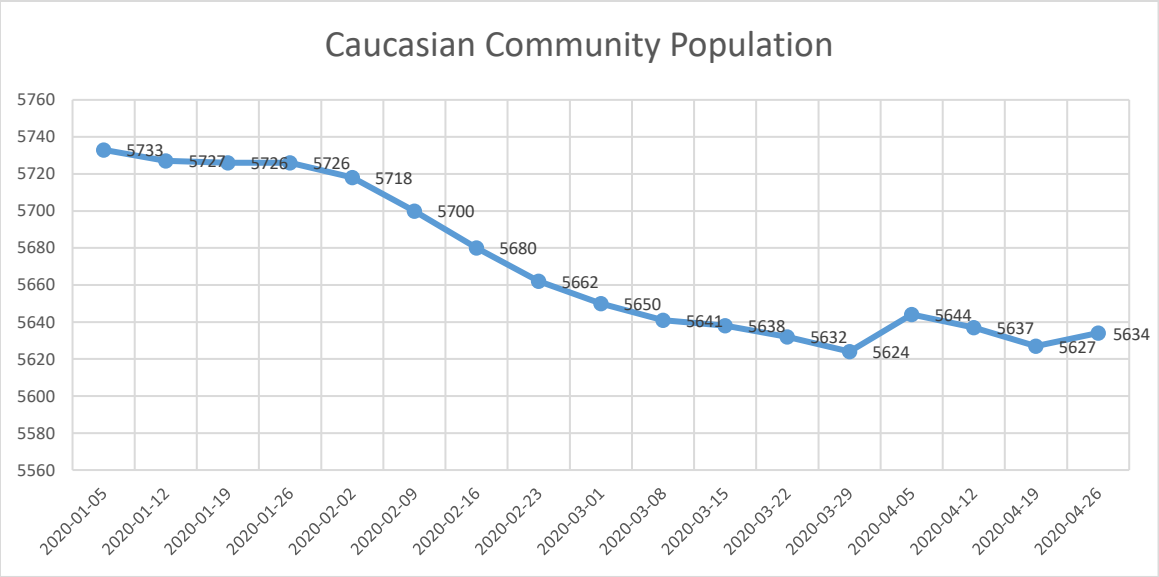
- The supervised FSW population has increased by 25 (3.5%) since 2020-02-16

Graph 8: Indigenous Supervised Federal Population by Week



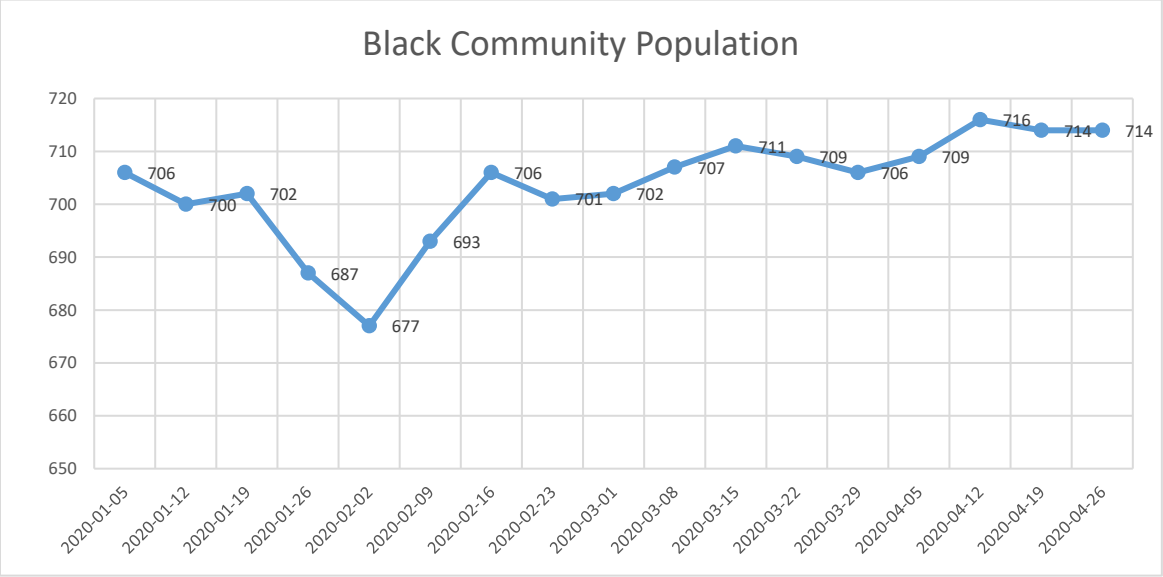
- The Indigenous supervised population has increased by 54 (3.0%) since 2020-03-01

Graph 9: Caucasian Supervised Federal Population by Week



- The supervised population of Caucasian offenders has increased by 10 (0.2%) since 2020-03-29

Graph 10: Black Supervised Federal Population by Week

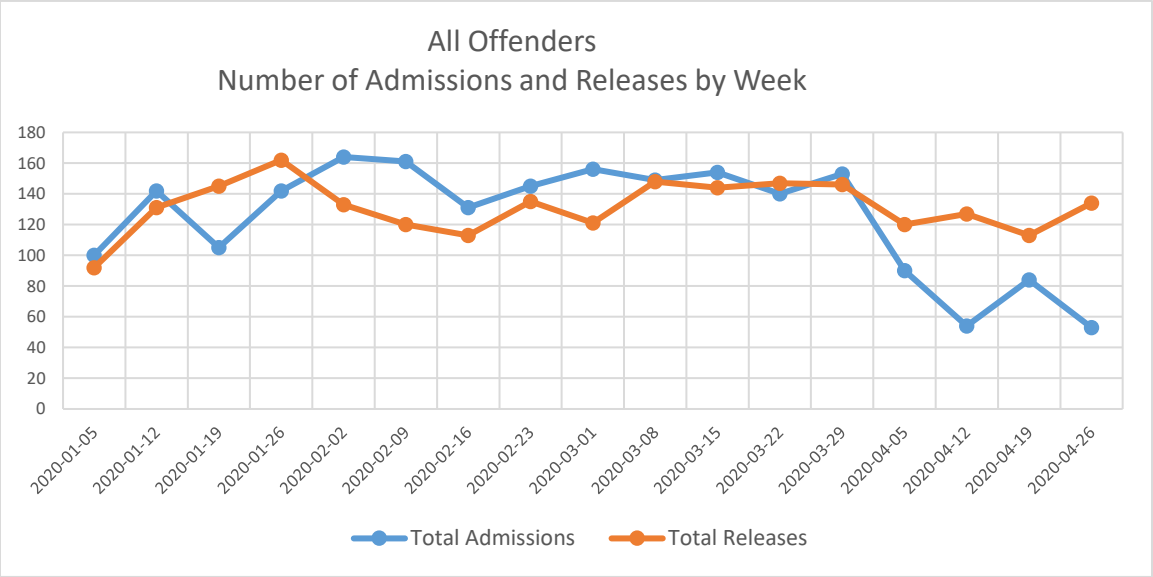


- The supervised population of black offenders has increased by 37 (5.2%) since 2020-02-02

Section 3 – Admission and Release Trends

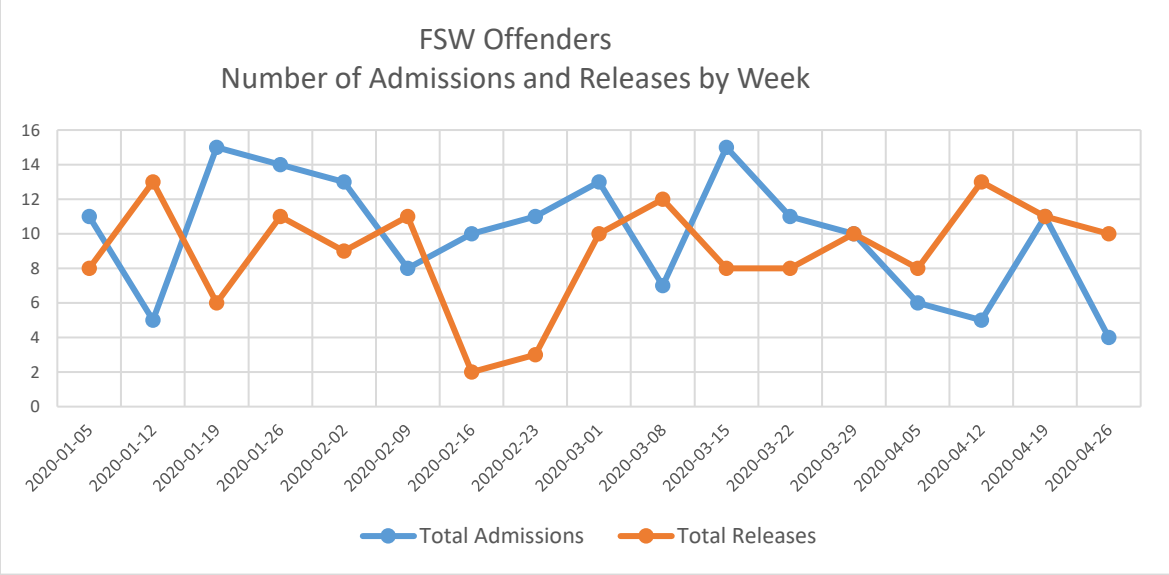
This section compares all admissions and releases for federal offenders by week.

Graph 11: Admissions and Releases by Week – All Offenders



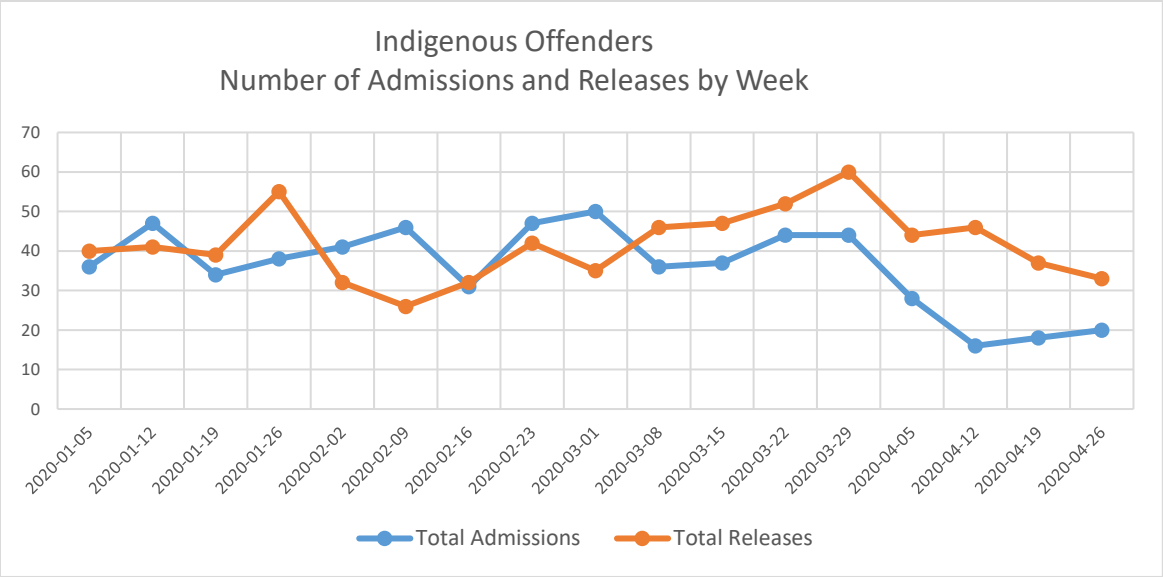
- Since 2020-03-29 the number of admissions per week has declined by 50% or more.

Graph 12: Admissions and Releases by Week – FSW



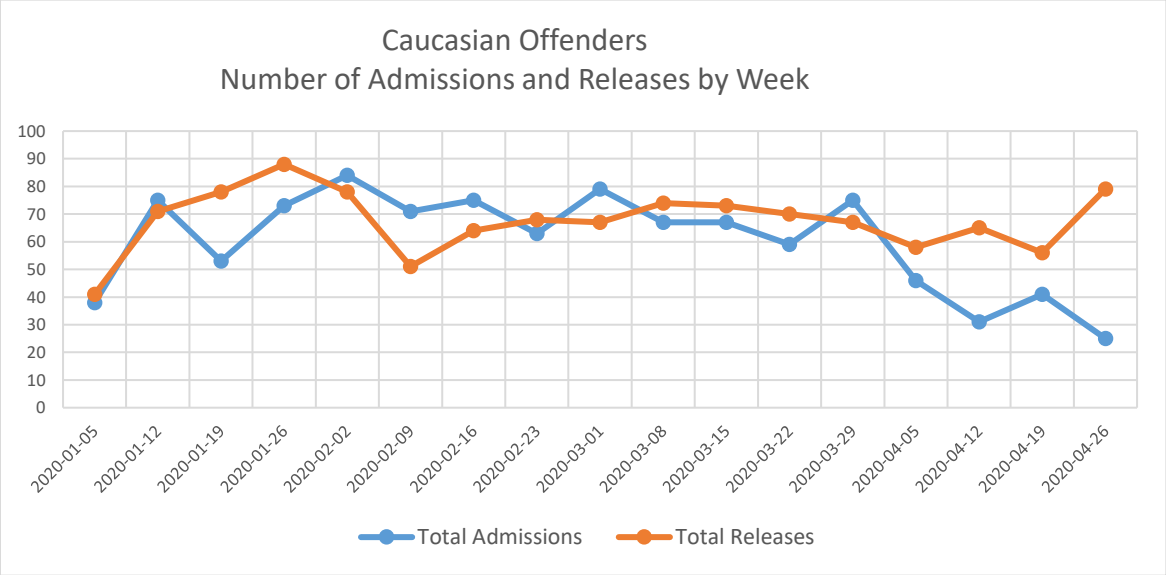
- The trends for this group fluctuate due to the small population.

Graph 13: Admissions and Releases by Week – Indigenous Offenders



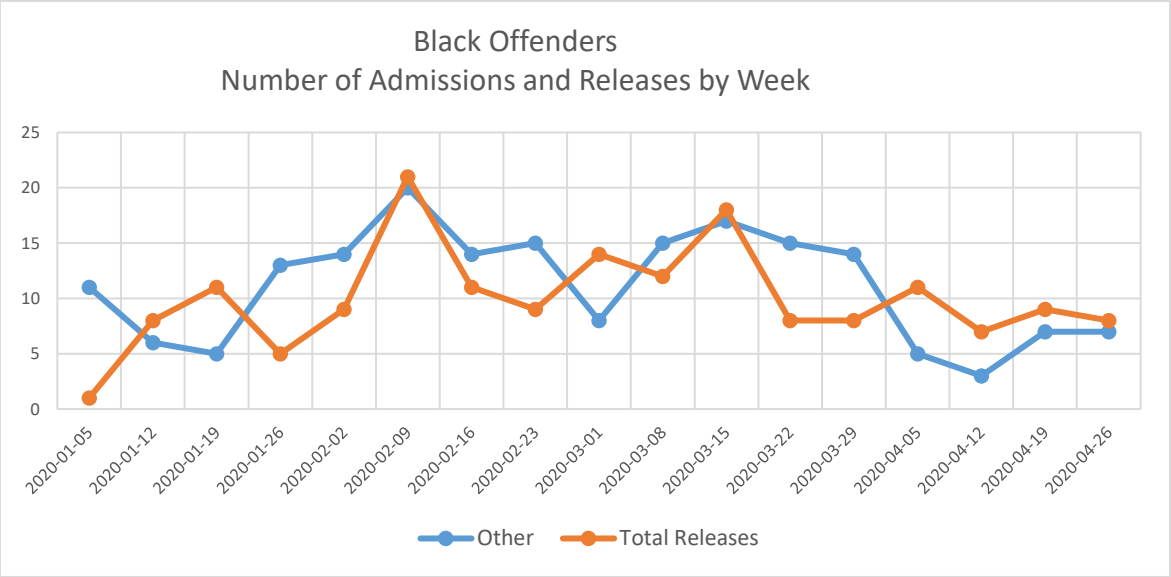
- The number of admissions for this group has declined since 2020-03-29

Graph 14: Admissions and Releases by Week – Caucasian Offenders



- The admissions for this group declined from a high of 75 a week on 2020-03-29 to a low of 25 a week 2020-04-26

Graph 15: Admissions and Releases by Week – Black Offenders



- Admissions for this group began to decline after 2020-03-15

Section 4 – Detailed Admission and Release Trend Tables

This section provides the detailed admission and release types.

Table 1: All Offenders

Week Ending	Warrant of Commit	Revoked	Other	Total Admits
2020-01-05	67	32	1	**100**
2020-01-12	94	45	3	**142**
2020-01-19	76	29		**105**
2020-01-26	83	58	1	**142**
2020-02-02	117	42	5	**164**
2020-02-09	114	45	2	**161**
2020-02-16	101	29	1	**131**
2020-02-23	108	36	1	**145**
2020-03-01	104	52		**156**
2020-03-08	112	36	1	**149**
2020-03-15	106	48		**154**
2020-03-22	81	58	1	**140**
2020-03-29	73	80		**153**
2020-04-05	34	54	2	**90**
2020-04-12	24	29	1	**54**
2020-04-19	51	33		**84**
2020-04-26	29	24		**53**
Total	**1374**	**730**	**19**	**2123**

Week Ending	Day Parole	Full Parole	Stat Release	LTSO	Other	Total Release
2020-01-05	11	3	74	2	2	**92**
2020-01-12	50	1	78		2	**131**
2020-01-19	47	6	83	5	4	**145**
2020-01-26	59	6	86	1	10	**162**
2020-02-02	49	9	67	3	5	**133**
2020-02-09	51	3	60	1	5	**120**
2020-02-16	42	4	66	1		**113**
2020-02-23	43	4	85	1	2	**135**
2020-03-01	32	4	80	2	3	**121**
2020-03-08	67	1	76		4	**148**
2020-03-15	49	4	85		6	**144**
2020-03-22	46	5	89	1	6	**147**
2020-03-29	30	1	108	2	5	**146**
2020-04-05	34	4	75	2	5	**120**
2020-04-12	28	3	90	1	5	**127**
2020-04-19	42	3	63		5	**113**
2020-04-26	67	4	60		3	**134**
Total	**747**	**65**	**1325**	**22**	**72**	**2231**

- Warrant of committal admissions have declined significantly since 2020-03-15
- Releases have not shown a definite upward trend although day paroles did increase in the last two weeks

Table 2: FSW Offenders

Week Ending	Warrant of Commit	Revoked	Other	Total Admits
2020-01-05	7	4		**11**
2020-01-12	1	4		**5**
2020-01-19	13	2		**15**
2020-01-26	9	5		**14**
2020-02-02	12	1		**13**
2020-02-09	3	4	1	**8**
2020-02-16	9	1		**10**
2020-02-23	7	4		**11**
2020-03-01	7	6		**13**
2020-03-08	6	1		**7**
2020-03-15	9	6		**15**
2020-03-22	6	5		**11**
2020-03-29	7	3		**10**
2020-04-05		5	1	**6**
2020-04-12	4	1		**5**
2020-04-19	9	2		**11**
2020-04-26	3	1		**4**
Total	**112**	**55**	**2**	**169**

Week Ending	Day Parole	Full Parole	Stat Release	LTSO	Other	Total Release
2020-01-05	3		5			**8**
2020-01-12	9		4			**13**
2020-01-19	3		2	1		**6**
2020-01-26	5		5		1	**11**
2020-02-02	5	1	3			**9**
2020-02-09	8		3			**11**
2020-02-16	2					**2**
2020-02-23	1		2			**3**
2020-03-01	6		4			**10**
2020-03-08	8		3		1	**12**
2020-03-15	2		6			**8**
2020-03-22	5		3			**8**
2020-03-29	4		6			**10**
2020-04-05	3		5			**8**
2020-04-12	6	1	6			**13**
2020-04-19	9		2			**11**
2020-04-26	9		1			**10**
Total	**88**	**2**	**60**	**1**	**2**	**153**

- No clear trends have emerged for this group to this point in time

Table 3: Indigenous Offenders

Week Ending	Warrant of Commit	Revoked	Other	Total Admits
2020-01-05	21	15		36
2020-01-12	27	20		47
2020-01-19	21	13		34
2020-01-26	15	23		38
2020-02-02	27	12	2	41
2020-02-09	27	19		46
2020-02-16	21	10		31
2020-02-23	34	13		47
2020-03-01	31	19		50
2020-03-08	27	9		36
2020-03-15	16	21		37
2020-03-22	21	23		44
2020-03-29	15	29		44
2020-04-05	7	21		28
2020-04-12	9	7		16
2020-04-19	8	10		18
2020-04-26	9	11		20
Total	336	275	2	613

Week Ending	Day Parole	Full Parole	Stat Release	LTSO	Other	Total Release
2020-01-05	7		31	1	1	40
2020-01-12	11		30			41
2020-01-19	9	1	24	3	2	39
2020-01-26	13	1	36	1	4	55
2020-02-02	12		19	1		32
2020-02-09	4	1	18		3	26
2020-02-16	6		25	1		32
2020-02-23	8	1	32		1	42
2020-03-01	5		29		1	35
2020-03-08	19		26		1	46
2020-03-15	8	3	35		1	47
2020-03-22	7	1	41		3	52
2020-03-29	10		47	1	2	60
2020-04-05	4	2	33	2	3	44
2020-04-12	7		38		1	46
2020-04-19	8	1	26		2	37
2020-04-26	14		18		1	33
Total	152	11	508	10	26	707

- Warrant of committal admissions have declined significantly since 2020-03-22

Table 4: Caucasian Offenders

Week Ending	Warrant of Commit	Revoked	Other	Total Admits
2020-01-05	22	15	1	38
2020-01-12	49	24	2	75
2020-01-19	40	13		53
2020-01-26	46	26	1	73
2020-02-02	61	21	2	84
2020-02-09	52	18	1	71
2020-02-16	58	16	1	75
2020-02-23	44	18	1	63
2020-03-01	46	33		79
2020-03-08	47	19	1	67
2020-03-15	43	24		67
2020-03-22	32	26	1	59
2020-03-29	34	41		75
2020-04-05	18	26	2	46
2020-04-12	11	19	1	31
2020-04-19	24	17		41
2020-04-26	17	8		25
Total	644	364	14	1022

Week Ending	Day Parole	Full Parole	Stat Release	LTSO	Other	Total Release
2020-01-05	3	3	34	1		41
2020-01-12	30		39		2	71
2020-01-19	28	5	44		1	78
2020-01-26	39	3	42		4	88
2020-02-02	28	7	37	2	4	78
2020-02-09	23	2	24		2	51
2020-02-16	29	3	32			64
2020-02-23	23	3	40	1	1	68
2020-03-01	21	2	42	1	1	67
2020-03-08	31	1	39		3	74
2020-03-15	29		39		5	73
2020-03-22	25	2	40	1	2	70
2020-03-29	14	1	49		3	67
2020-04-05	24	1	32		1	58
2020-04-12	17	2	42	1	3	65
2020-04-19	29	1	24		2	56
2020-04-26	35	4	38		2	79
Total	428	40	637	7	36	1148

- Warrant of committal admissions have declined significantly since 2020-03-29
- Revocations have declined since 2020-04-05
- Day parole releases have increased in the last two weeks

Table 4: Black Offenders

Week Ending	Warrant of Commit	Revoked	Other	Total Admits
2020-01-05	10	1	11	**22**
2020-01-12	5	1	6	**12**
2020-01-19	4	1	5	**10**
2020-01-26	7	6	13	**26**
2020-02-02	9	5	14	**28**
2020-02-09	16	4	20	**40**
2020-02-16	12	2	14	**28**
2020-02-23	13	2	15	**30**
2020-03-01	8		8	**16**
2020-03-08	12	3	15	**30**
2020-03-15	16	1	17	**34**
2020-03-22	10	5	15	**30**
2020-03-29	10	4	14	**28**
2020-04-05		5	5	**10**
2020-04-12	1	2	3	**6**
2020-04-19	7		7	**14**
2020-04-26	2	5	7	**14**
Total	**142**	**47**	**189**	**378**

Week Ending	Day Parole	Full Parole	Stat Release	LTSO	Other	Total Release
2020-01-05					1	**1**
2020-01-12	4		4			**8**
2020-01-19	2		8	1		**11**
2020-01-26			5			**5**
2020-02-02	1	1	7			**9**
2020-02-09	9		11	1		**21**
2020-02-16	3		8			**11**
2020-02-23	3		6			**9**
2020-03-01	4	1	8		1	**14**
2020-03-08	6		6			**12**
2020-03-15	9	1	8			**18**
2020-03-22	3	1	4			**8**
2020-03-29	1		7			**8**
2020-04-05	4		7			**11**
2020-04-12	2		5			**7**
2020-04-19	2		6		1	**9**
2020-04-26	7		1			**8**
Total	**60**	**4**	**101**	**2**	**3**	**170**

- No clear trends have emerged for this group to this point in time

This is **Exhibit "H"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

A Commissioner, etc.

COVID-19 Update for Federal Corrections – June 19, 2020

Introduction

This report assesses the situation, trends and developments for COVID-19 in federal corrections. It serves as an update of my initial status report of April 23, 2020.[1] This update has three sections:

1. A statistical overview of COVID-19 in federal corrections, as of June 19, 2020.

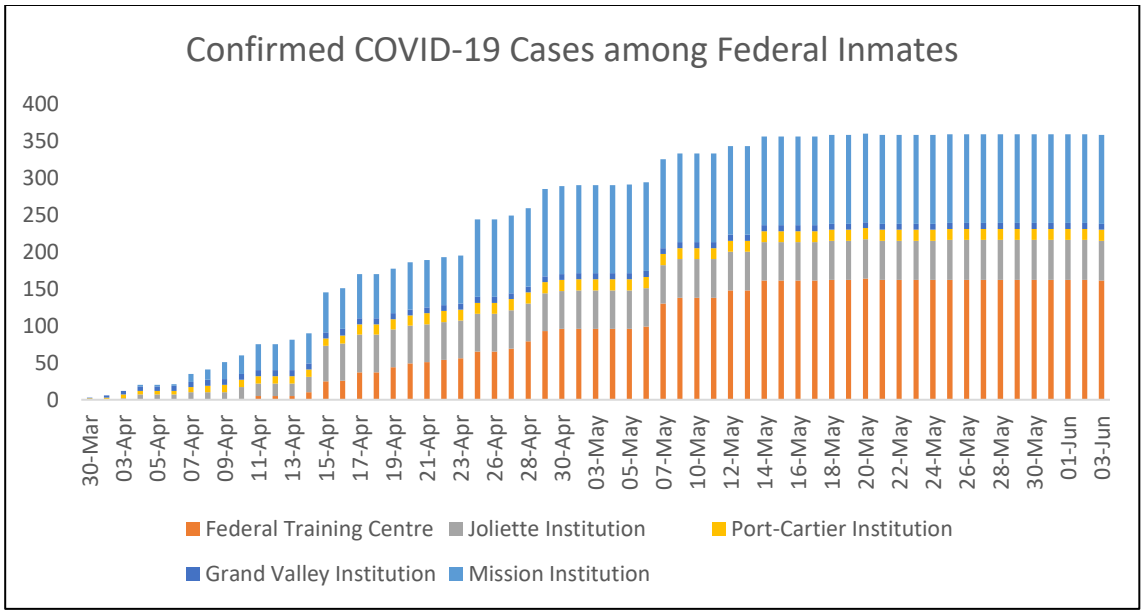
2. Demographic profile of federal inmates who have tested positive for COVID-19 over the course of the pandemic.

3. Assessment of CSC business resumption plans and priorities for shaping the 'new normal' in federal corrections, including easing of restrictions.

1. Statistical Overview

As of June 19, 2020, there is just one known active case of COVID-19 among federally sentenced inmates. Overall, since the start of the pandemic, there have been 360 confirmed cases of COVID-19 among federal inmates, representing approximately 2.7% of the total inmate population (n= 13,245). The outbreak is still contained to five penitentiaries, three of which have undergone mass testing as recommended by this Office – Mission (Pacific), Joliette prison for women (Quebec) and the Federal Training Centre (Quebec).

[1] See, Office of the Correctional Investigator, COVID-19 Status Update (April 23, 2020) https://www.oci-bec.gc.ca/index-eng.aspx

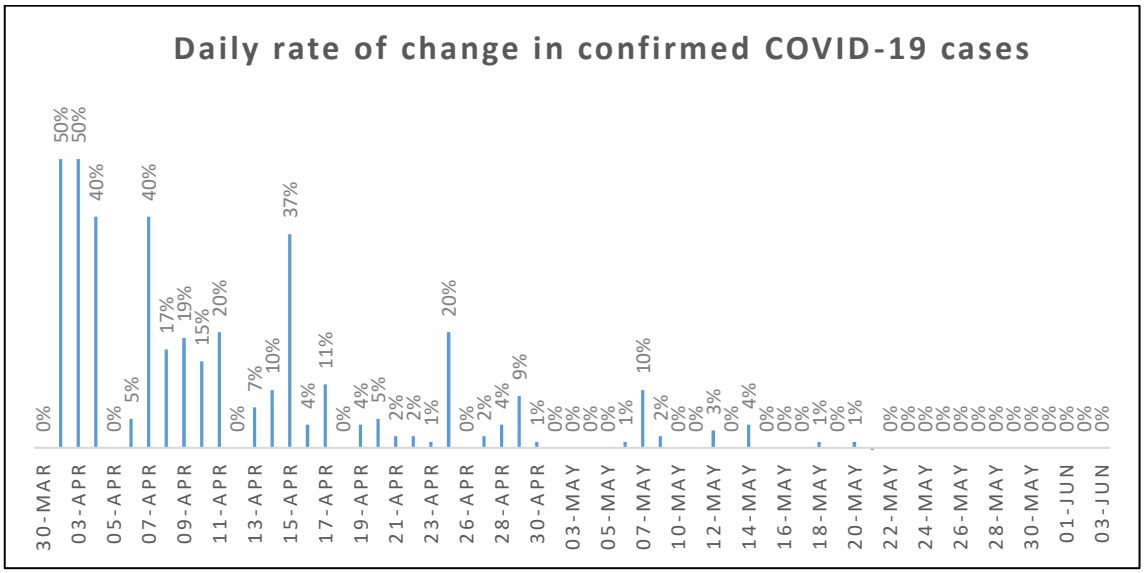


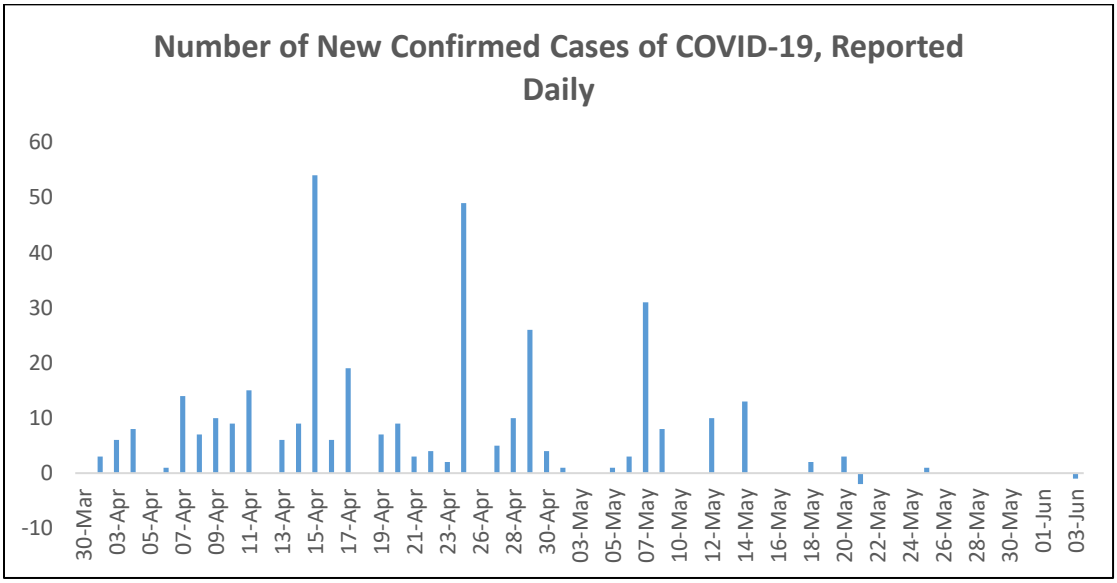
To date, close to 1,300 COVID-19 tests were administered in federal correctional facilities (almost 10% of the total inmate population). There have been two inmate deaths attributed to the disease.[2] The second and still latest COVID-related inmate death occurred on May 3 at the Federal Training Centre. It serves as a tragic reminder that we are dealing with a potentially deadly disease. The fact that this Quebec facility also houses a high proportion of aging and elderly individuals (approximately half of the population is over 50 years of age) amplifies the need for caution and vigilance among CSC staff and administrators.

Incidence data indicates that the total number of confirmed COVID-19 cases among federal inmates appears to have stabilized and is holding relatively stable since the end of April. Indeed, there have been relatively few new daily-confirmed cases from about mid-May onward. In fact, the daily rate of change in confirmed cases of COVID-19 has continued to drop over the course of the pandemic. From April 29 onward, the rate of change in positive cases has remained between 0-1% (with the exception of the 10% spike on May 7, which appears to be due to mass-testing from the week prior). At the time of writing, Joliette and the multi-level facility at the Federal Training Centre (FTC),

[2] For updated COVID-19 test results in federal correctional facilities, including total number of positive cases (recovered and active) see https://www.csc-scc.gc.ca/001/006/001006-1014-en.shtml. CSC's decision to publish this data and to maintain a live record through the pandemic is a best practice in public transparency and accountability.

though not reporting any new cases in weeks, are still considered outbreak sites until confirmed otherwise by regional health authorities.





Though CSC does not publicly report the number of staff infections, I understand that the majority of these cases are also now considered resolved or recovered. Overall, these trends and developments are positive and indicative of the mobilization of tremendous effort, commitment and resolve of CSC staff and management in recent

months to flatten the curve in federal corrections. Though I urge CSC to remain vigilant, like the rest of Canadian society, I believe it is also time to shift focus and begin the phased and prioritized process of restoring services, programs, rights and other statutory obligations that were interrupted or suspended as preventive measures by the pandemic. The third section of this update addresses these issues.

2. Demographic Profile of Inmates Who Have Tested Positive for COVID-19

The following is a general profile of demographic and sentencing characteristics of inmates who tested positive for COVID-19 since the start of the outbreak (n=344).[3]

As shown in Table 1, the majority of cases involved White/Caucasian (61.6%) males (83%) housed in medium security facilities (86%). Quebec region has experienced the highest number of COVID-19 cases. The average age of those infected was 45.7 (median age = 46), with ages ranging from 21 to 83. Most individuals who tested positive for COVID-19 were serving their first federal sentence and had an average sentence length of 3.69 years. The majority of individuals were classified as high risk (79%) and/or high need (76%). Approximately 17% of individuals had a flag on their file indicating the presence of mental health concerns; however, given data quality/consistency issues associated with flags, this number is likely an under-estimate of need.

It should be noted that there is an over-representation of Inuit inmates who contracted the virus, compared to their representation in the incarcerated population. Specifically, while Inuit individuals account for less than 1% of the total incarcerated population, they represent 5% of all COVID-19 cases in federal corrections. The majority of positive COVID-19 cases involving Inuit inmates occurred at one Quebec institution.

[3] Office analysis is based on N=344 vs. CSC reported data N=360.

Table 1. Population profile of inmates infected with COVID

	# (Median)	%
Average Age	45.7 (46)	-
Gender		
Male	284	83
Female	57	16.6
Other	-	<1
Ethnicity		
White/Caucasian	212	61.6
Indigenous	74	21.5
Black	20	5.8
Other	38	11
Security Classification		
Minimum	26	7.6
Medium	297	86.3
Maximum	16	4.7
Average Sentence Length (years)	3.69 (2)	-
Sentence Number	1.58 (1)	-
Region		
Quebec	221	64.2
Pacific	112	32.6
Ontario	7	2
Atlantic	-	<1
Prairie	0	0
Risk level		
High	272	79
Medium	66	19
Low	6	1.7
Need level		
High	260	75.6
Medium	76	22
Low	8	2.3

Note: Indigenous ethnicity category includes First Nations, Inuit, and Metis individuals. Ethnicity "other" category includes thirteen categories with numbers too small to provide in the table.

Though average age among those infected appears elevated (perhaps to be expected), no other demographic factor stands out in this profile. COVID-19 is an

indiscriminate disease, though we know that the elderly, immuno-compromised and individuals with an underlying health condition are more vulnerable. In closed, high-risk transmission environments like a prison, much depends on how, when and where the disease was first introduced into the institution and what steps were taken to contain it. As I have said previously, the fact that outbreaks were limited to just five institutions is itself remarkable, but we need to better understand why these five, and not others. A site-by- site epidemiological review of federal inmates who contracted COVID-19 would be extremely beneficial in shoring up CSC's pandemic defences and response, and is even more necessary and urgent in light of the risk for a second wave of the virus.

I recommend that the CSC conduct a COVID-19 epidemiological review before September 2020.

3. Shaping the 'New Normal' in Federal Corrections

CSC has recently convened a high-level internal working group overseen by a Steering and Advisory Committee. Its mandate is to shape the 'new normal' in federal corrections by providing national plans, framework and guidance for how and when to return CSC to full operations. With respect to easing of restrictions imposed by CSC to control and contain the virus, including lockdowns, suspension of visits, limits on out of cell and yard time, CSC "will begin with those that support our legislated mandate and pose the lowest health and safety risks." The principles guiding this "phased and gradual" restoration of interventions, programs and services will be "dynamic, adaptive, coordinated, collaborative and transparent."

The planning assumptions, principles and risk management framework governing the implementation of the new normal in corrections seem reasonable. The public needs and has a right to know how and when CSC intends to resume 'normal' operations, including when the easing of restrictions at each site will occur. Ultimately, as the planning documents make clear, CSC will "decide which measures can be eased, maintained or if additional restrictions are needed." I believe there is room and need for public scrutiny in this exercise, including some degree of Ministerial oversight or government accountability.

I recommend that CSC's '*Shaping the New Normal*' plans, priorities and principles, to the fullest extent possible, be made accessible and available to the public, including posting of meeting minutes and Records of Decisions of the various planning and working groups on CSC's public website.

As the situation stands today, restrictions imposed by the pandemic show little sign of abatement. Indefinite lockdowns or extended periods of cellular isolation continue at many facilities, even those that have not experienced an outbreak. Ongoing monitoring by my Office indicates pent-up frustration and rising tension in a number of facilities. My Office is looking for an overall lifting of restrictions on conditions of confinement and a return to some kind of 'normality' in institutional routines, including opportunities for more out of cell time as a matter of priority. It is important to acknowledge that a number of statutory obligations, including programs, services and even basic human rights, were suspended, violated or withdrawn as temporary emergency measures to deal with the pandemic. In some affected institutions, public health authorities imposed restrictions that included near total cellular confinement, and even denial of fresh air exercise. It needs to be said that some of these restrictions reach beyond measures or controls contemplated in either domestic or international law. Public health emergencies must be managed within a legal framework. Rights need to be respected and restored.

Other priority areas of concern for my Office include the Structured Intervention Units or SIUs. These units, which replaced administrative segregation shortly before the outbreak, were intended to provide an enhanced level of services and interventions, increased out of cell time and more opportunities for meaningful human contact for those who require separation from others because of safety or security concerns. Unfortunately, through the course of this pandemic, SIUs have largely returned to their former function, as places of near total isolation and deprivation. Elders and chaplains, not considered an essential or critical service by CSC, have not been able to provide in person spiritual counsel to their clients since the start of the pandemic. Access by phone or videoconference has been negligible. This situation is unacceptable. Independent Chairpersons (ICPs) have not heard or adjudicated serious disciplinary cases in months and it is not acceptable or legal for this function to continue to be assumed or ignored by CSC. For prisoners, the pause in programming has had a freezing effect on release planning and community reintegration. These critical services and interventions must be

restored without further delay. Overall, as in the wider community, the gradual resumption of services, while continuing to adhere to public health guidance, will have a positive impact on coping and conditions behind bars.

I welcome the fact that external infection prevention and control inspections have now been completed by public health authorities at most penitentiaries, a measure that I called for in my initial COVID-19 update. These audits undoubtedly hold valuable lessons and good practices and identify gaps or vulnerabilities with respect to preparedness at the site level.

The results of external infection prevention and control audits/inspections are a matter of public interest and therefore I recommend that they be publicly disclosed.

Going forward, these reviews could also help CSC identify those who met or could have benefited from priority release (either for health or vulnerability reasons or to meet earliest parole eligibility dates), a notable shortcoming thus far in CSC and the Parole Board's response to the pandemic. Even as new admissions and total population counts declined through April and May, there was no corresponding increase in the number of releases through this time. The population decline noted since the start of the pandemic is mostly attributable to the fact that the courts have not been functioning or sending individuals to federal custody in usual numbers.

The public release of numbers showing a decline of approximately 700 inmates (about 5% of the total inmate population) since the start of the pandemic would benefit from being placed in their full and proper context. Warrant of committal admissions are down about 500 cases since when the pandemic was declared. The federal inmate population is decreasing largely because of the drop in admissions and fewer revocations rather than any major increase in releases.[4] My Office anticipates that when the courts start sitting again that there will be a significant increase in warrant of committal admissions.

In anticipation of the pandemic, greater and closer collaboration between CSC and the Board could have been expected. There simply was no advanced, coherent or

[4] Day parole releases are slightly up in the last six weeks. There is also an uptick in compassionate releases.

concerted effort or plan in place to thin the federal prison population in order to slow the transmission of COVID-19 in federal corrections. Many provincial correctional authorities led the way in this regard, with no apparent or lasting impact on public safety. The federal response in this respect has been slow, contradictory, confused and deficient. This is a situation that can be easily resolved now that the virus spread has appeared to have been contained and before the expected next wave.

Finally, in terms of next steps and priorities for my Office, as soon as it is safe to do so, I intend to conduct short, but targeted inspections of institutions in the Ontario and Quebec regions, visits that can be completed by same day travel. These inspections will target priority areas and concerns addressed above, including a review of business resumption plans and progress in restoring services at the site level.

This is **Exhibit "I"** to the
Affidavit of Lisa Kerr,
affirmed before me by videoconference
July 16, 2020

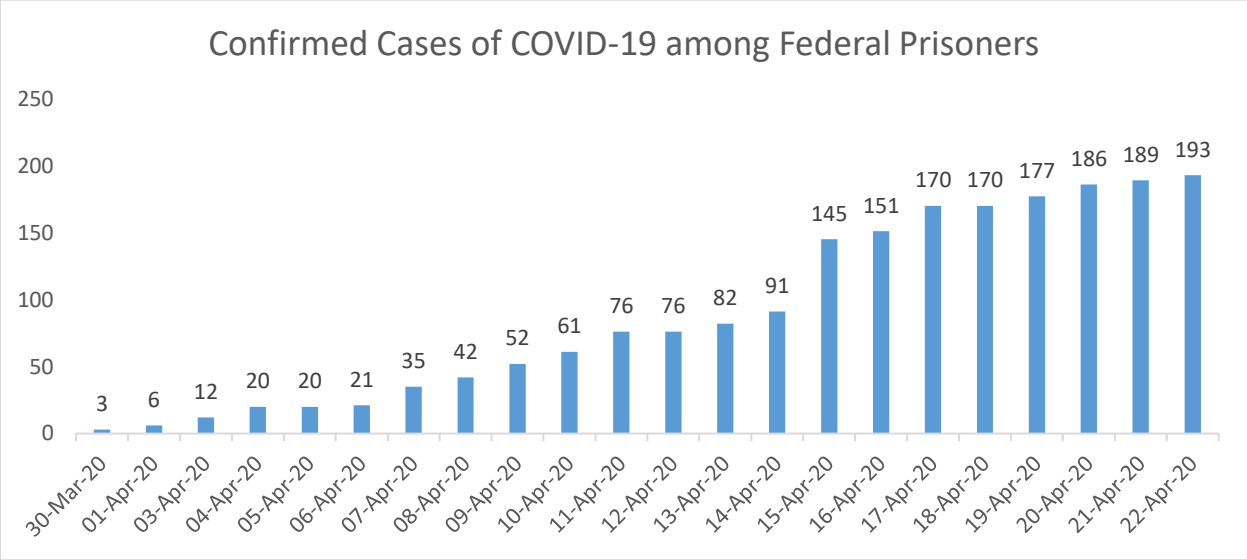
A Commissioner, etc.

Office of the Correctional Investigator **April 23, 2020**

COVID-19 Status Update

Current Situation

As of April 23, 2020, there are 193 confirmed cases of COVID-19 in federal penitentiaries, representing 1.4% of the total inmate population (n = 13,869). Five of 43 penitentiaries have experienced or are currently managing an active outbreak. Infection rates reflect transmission trends found in the general community, with outbreaks in penitentiaries located in Quebec, Ontario and British Columbia. There are currently no active COVID-19 cases in federal prisons in the Prairie and Atlantic regions of Canada.



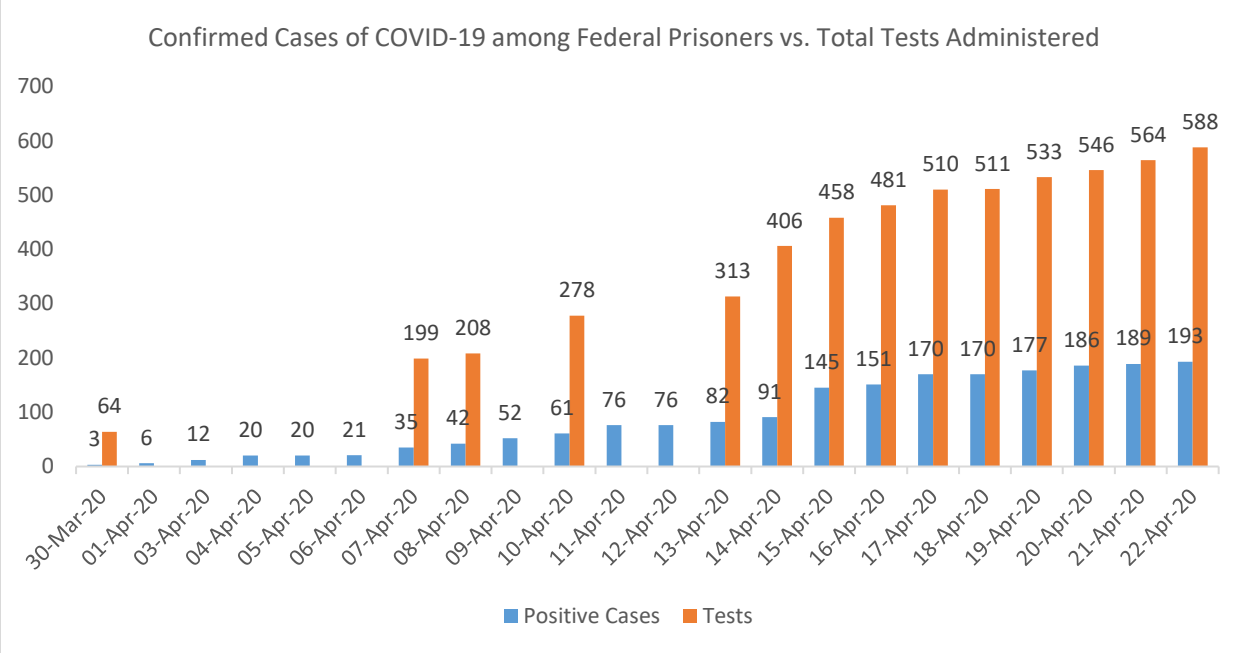
Affected Institutions

Institution	COVID-19
Mission Institution (British Columbia)	65
Federal Training Centre (Quebec)	54
Joliette Institution for Women (Quebec)	51
Port-Cartier Institution (Quebec)	15
Grand Valley Institution for Women (Ontario)	8

According to data maintained but not publicly released by the Correctional Service of Canada (CSC), even though there are 193 confirmed cases of COVID-19 contraction, there are close to 400 inmates flagged as being under some form of medical isolation, a term which expansively incorporates five categories:

1. New Warrant of Committals/Returns to Federal Custody Inmates.
2. Inmates with symptoms of influenza or COVID-19.
3. Inmates with diagnosed COVID-19 (laboratory or clinical diagnosis).
4. Inmates diagnosed with other viral illness such as influenza.
5. Inmates who are close contacts of other inmates (for example, on the same range).

CSC data further confirms that 588 federal inmates have been tested for COVID-19, representing roughly 4% of the total inmate population. The congruence between number of inmates tested and positive results is high, approximately 33%. Testing continues across the country as do medical isolation placements (not limited to facilities experiencing an outbreak) where early or presumptive indicators of infection appear to be present or in instances where other precautionary or separation measures dictate. It is still too early to say whether infection numbers and rates have peaked, but the cumulative and rising number of recovered cases to date (n = 45) and the overall lengthening of the period between doubling of cases are encouraging developments in flattening the transmission curve of this disease behind bars. To date, only one inmate has succumbed to COVID-19, though a number of cases have required hospitalization.



As we have seen in COVID-19 outbreaks in long-term care facilities, stopping the introduction of this virus once it is introduced from the outside in places where people live in shared but confined spaces has proved immensely challenging. On March 31, CSC issued national instruction (*Principles: COVID-19*), which included suspension of all visits. All transfers, except emergency, were discontinued. Prison gyms, libraries and other communal spaces were closed as preventative measures. Programs were suspended. Communal serving and eating were stopped, where feasible. Modified routines were implemented across the country, with a set of restrictions on out of cell time generally ranging from 2 to 4 hours. These routines remain largely in place at 38 non-affected institutions across the country.

At institutions experiencing an outbreak, the daily regime is much more restrictive and onerous. Daily access to the yard and fresh air exercise have been extremely curtailed, offered only every second day, half hour twice per week or sometimes simply suspended outright. For those under medical isolation, time out of cell is limited to just 20 minutes per day.

Additional and separate COVID-19 guidance was issued to all CSC staff members. All non-essential staff are working from home. Staff movement on and between units is restricted. Community contact is to be minimized. Elders and Chaplains are not on site

providing their services. National direction for staff indicates that soap and hand sanitizer were to be made available to everyone, though the Office has subsequently confirmed that inmate access to the latter has been denied on the basis of its high alcohol content, even though bittering agents can be added to the mixture. But even with all these measures in place and despite some contradictions and inconsistencies in their application (protective masks initially issued only to staff and inmates being an obvious example), practicing safe physical distancing in a prison context is to expect the impossible. It is remarkable that the virus has been contained to five penitentiaries.

Update on Office Activities and Emergent Findings

As an independent oversight and ombudsman body, my Office continues to provide an essential public service and critical activities through this pandemic. We remain vigilant, engaged and accessible. At a time when prisons are closed to the wider public, my Office is committed more than ever to shine a light on Canada's prisons. Though visits by staff to institutions remain suspended, Investigators are in contact with their assigned institutions on a weekly, and, in some instances, daily basis. Collaboration at the site level has been generally very good. The Office continues to take calls from inmates, engage directly with members of Inmate Welfare Committees and follow up on complaints. Investigators have reached out and have managed to speak with a few infected inmates only in Quebec Region so far in an attempt to hear first-hand accounts of how they are being treated. Investigators are collecting data, tracking cases and monitoring incidents.

Since mid-March, the Office has received nearly 500 complaints from inmates. To be expected, more than 25% of the issues brought forward to the Office over this time period are COVID-related. Complaints and allegations range from staff not wearing proper protective gear or not practicing safe physical distancing to loss of yard time, lack of access to programs, chaplaincy and overall restrictive routines and conditions of confinement.

The Office continues to closely monitor incident trends (e.g. self-harming, attempted suicides, and overdoses) that are often indicative of how imprisoned people adapt or cope with prolonged and uncertain periods of idleness, extended cellular confinement or lockdown. Conditions approaching or even surpassing solitary confinement (23 hours

in cell) are hard on mental health. I would encourage the Service to closely monitor the overall health and resiliency of the inmate population, including quickly responding to what appear to be clusters of self-injury at some non-affected sites. While I appreciate that the Service's over-riding priority is containing and controlling this virus, there appears to be an overall spike in incidents involving unusual or non-compliant inmate behavior at a number of sites, including disciplinary problems, protests, threats against staff, assaults on inmates, hunger strikes and other disturbances. The fact that all hearings by Independent Chairpersons in serious disciplinary cases have been suspended through COVID-19 remains a source of concern.

On the issues of testing and providing masks/facial coverings to inmates, I have recommended that all inmates and staff at institutions experiencing outbreaks be tested (Letter from the Correctional Investigator of Canada to the President of the Public Health Agency of Canada) and that masks be provided to inmates as an additional protective measure. These recommendations, which have been accepted by the Government, are consistent with public health measures in the rest of Canada. At the same time, mandatory testing and provision of masks to inmates (not just staff) recognizes that the spread and severity of COVID-19 infection in settings such as prisons and long-term care facilities is far more likely to be serious and widespread. Even still, the equivalency of care principle demands that the same measures and protections recommended by national public health authorities should be provided to the inmate population. For an outbreak to end, a facility must remain free of any COVID-19 cases for a period of 28 days (the sum of two incubation periods of the virus) after the onset of the first symptoms (or date of diagnosis) in the last confirmed case. As good prison health is also good public health, we cannot afford to leave anybody behind in the fight against this pandemic.

With respect to institutions experiencing COVID-19 outbreaks, conditions of confinement are extremely difficult. For affected or suspected cases, medical isolation is akin to a public health quarantine order. For infected inmates it means as little as 20 minutes out of cell time each day, and, on instruction of local public health authorities, even denial of access to the yard or opportunity for fresh air exercise. These conditions obviously violate universal human rights standards and though perhaps justifiable in context of a public health emergency, the stark choice for many infected inmates comes

down to taking a shower, or making a call to a lawyer, my Office or a family member. Even still, fundamental human rights and dignity adopted through a public health emergency must be respected.

It is very troubling that some infected inmates at Mission Institution have been subjected to periods of 24-hour lock-up with no access to phones, fresh air, lawyers or family members. Holding detained people incommunicado with the outside world in conditions of solitary confinement is a violation of universal human rights safeguards, and can never be considered justifiable, tolerable or necessary in any circumstance. To date, none of the 65 inmates infected with COVID-19 at Mission Institution have made or been able to contact my Office.

The practice of placing or housing infected with presumptive cases in medical isolation ranges, living units or so-called "COVID houses" (for women inmates) remains deeply concerning and perhaps speaks to prevailing limitations in resources, staffing and infrastructure. Though restrictions are gradually being eased at some affected institutions, including opening up of the yard and more time on the living units for the general population, daily routines and conditions in institutions where COVID-19 is present remain extremely depriving.

I continue to engage regularly with the Commissioner, Minister, media and senior levels of the federal public service. On April 16, I visited Port Cartier institution, which is the site of a major COVID-19 outbreak. I did not take the decision to drive to or visit this remote facility lightly. I chose to inspect this facility because it was the first institution to experience an outbreak, and simultaneously report a major incident related to COVID-19 that included deployment of the Emergency Response Team. In truth, it took a number of weeks for my Office to secure proper Personal Protective Equipment and thus be in a position to safely visit an affected institution. Donning protective gear and my temperature duly taken before entry, I personally witnessed the challenges of how one maximum-security institution was managing after the first presumptive inmate infection there was detected on March 26. I was well-received by staff and was impressed by the Warden's leadership. The resolve and dedication of front-line essential staff who literally put their lives on the line to serve is deeply commendable. At this facility, 150 of 200 of front-line Correctional Officers were sent home for 14 days by local public health authorities in an effort to contain the spread of the contagion.

More than 30 staff have been infected. Eight Correctional Officers from three different Quebec institutions were called in to assist as an emergency measure. Though still severely under-resourced, remaining staff have stepped up to provide essential services; some have volunteered to help out in the kitchen. The local community has also responded by donating much-needed sanitizing equipment. The solidarity and coming together of a tight-knit community in a time of need were genuinely heartening to witness.

Through these extraordinary circumstances, some general best practices have emerged, first and foremost among them include daily and frequent checks by registered health care staff. To CSC's credit, mitigating measures have been introduced at all prisons, including extension of phone and video-visitation privileges, increased access to canteen and snacks, and, in some institutions, provision of televisions and/or radios for inmates that lack them in their cells. Inmate pay has also been restored to pre-COVID levels, in line with interventions I have made to the Commissioner and Minister of Public Safety. It is a sign of the times that some prison industries are retooling to fabricate protective facial coverings. These measures recognize the extraordinary circumstances, but also the resiliency and adaptability of staff and inmates alike living or working under the constant threat of contracting a potentially deadly disease.

Concluding Observations and Recommendations

I would offer three concluding observations and two recommendations based on my recent institutional visit, which are confirmed by findings across a number of sites. First, it is not clear that CSC was resourced or fully prepared to deal with this pandemic when it eventually and predictability was introduced from the outside. Though CSC prepares for seasonal influenza each year, with all respect COVID-19 does not behave like a normal virus. At Port Cartier, prior to March 26th, there was just one registered nurse, one part-time physician and one psychologist on staff to care for 175 inmates, many of whom have underlying mental and/or chronic physical health conditions. Following the outbreak, two nurses were subsequently deployed to fill existing vacancies, but the capacity and contingencies to manage what had become a full blown health crisis were, by this time, quickly overwhelmed. This is also the experience at other penitentiaries that are dealing with outbreaks. There is much that we do not know about this virus, but speed and preparedness appear to be essential ingredients in containing its spread.

We knew from outbreaks in other countries that COVID-19 hits vulnerable people and closed settings hard, fast and indiscriminately.

Secondly, linked to my first observation, CSC's infection prevention and control (IPC) protocols and procedures need to be independently verified, audited, inspected and tested by outside expert bodies as a matter of emergent priority. There is an urgent requirement for an external audit of IPC procedures to be conducted, including cleaning, hygiene, staff awareness, education and training. Local and/or national public authorities need to visit, inspect and confirm that federal institutions have the capacity, resources, staffing and equipment to deal with an outbreak, when or if it occurs. Though it is encouraging that these inspections are occurring at some institutions experiencing an outbreak, it is important that IPC verification by an independent expert body is completed at all sites to provide assurance that CSC is prepared and that policy and procedure is consistent with appropriate public health guidance.

I recommend that local, provincial or national public health authorities immediately visit, inspect and verify that proper infection prevention and control procedures are in place in all federal penitentiaries in Canada.

Thirdly, it is clear that a pandemic of this nature, which has affected multiple sites at different times, cannot be managed or controlled centrally. Even through multiple outbreaks, there has been a general lack of proactive and regular information-sharing from CSC. The Service has not been as transparent or responsive through this crisis as it should be. A centralized (and often sanitized) approach to crisis communications does not serve the public interest well; indeed, top down command-and-control hierarchies can easily contradict or conflict with the direction of local public health authorities. In most cases, Wardens or their Deputies are best positioned to provide timely information and give accurate updates to concerned local communities, staff, families and other stakeholders. More than ever, this is a time to decentralize rather than control communications.

I recommend that CSC enhance its public communications during this crisis, including allowing Wardens (or their Deputies) to address the media on a regular basis to provide real-time information, updates and situation reports through the course of this pandemic.

Finally, going forward, my Office will continue to do what we do best. In a time like this it is important that the substance of our work is known and communicated widely, especially considering the lack of information released by CSC to the public so far. My office will consider conducting exceptional visits, as required and consistent with directives of local public health authorities. In due course, I expect restrictions to be gradually lifted at non-affected sites. The imposition of any new restrictions related to COVID-19 will be vigilantly monitored to ensure they have a legal basis, are necessary, proportionate, respectful of human dignity, and restricted in duration. Finally, my Office will continue to seek the advice and expertise of national public health authorities and bring forward concerns and issues as they arise.

Dr. Ivan Zinger
Correctional Investigator

April 23, 2020

Court File No. T-539-20

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

**APPLICATION RECORD
VOLUME 3 OF 5**

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