



CORRECTIONAL SERVICE CANADA

CHANGING LIVES. PROTECTING CANADIANS.



Reintegration of Indigenous Offenders

5th World Congress on Probation and Parole

Marie-Ève Zrihen

INDIGENOUS PEOPLES AND THE CRIMINAL JUSTICE SYSTEM IN CANADA



Impacts of Colonialization

Recognizing that is not a finite list, the below are some of the impacts and repercussions of colonialization:

CIRCUMSTANCES

Child Welfare and Sixties Scoop into Adoption System

Isolation/Marginalization

Residential School System

Family/Community Fragmentation

Dislocation and Dispossession

REPERCUSSIONS

Lack of or low level of formal education

Lack of or low level of connectivity with family/community

Poverty

Loss of, or struggle with, cultural/spiritual identity, including loss of language

Gang affiliation

Family or community history of suicide

Family or community history of substance abuse

Family or community history of victimization

Substance abuse

Depression

Racism/Discrimination

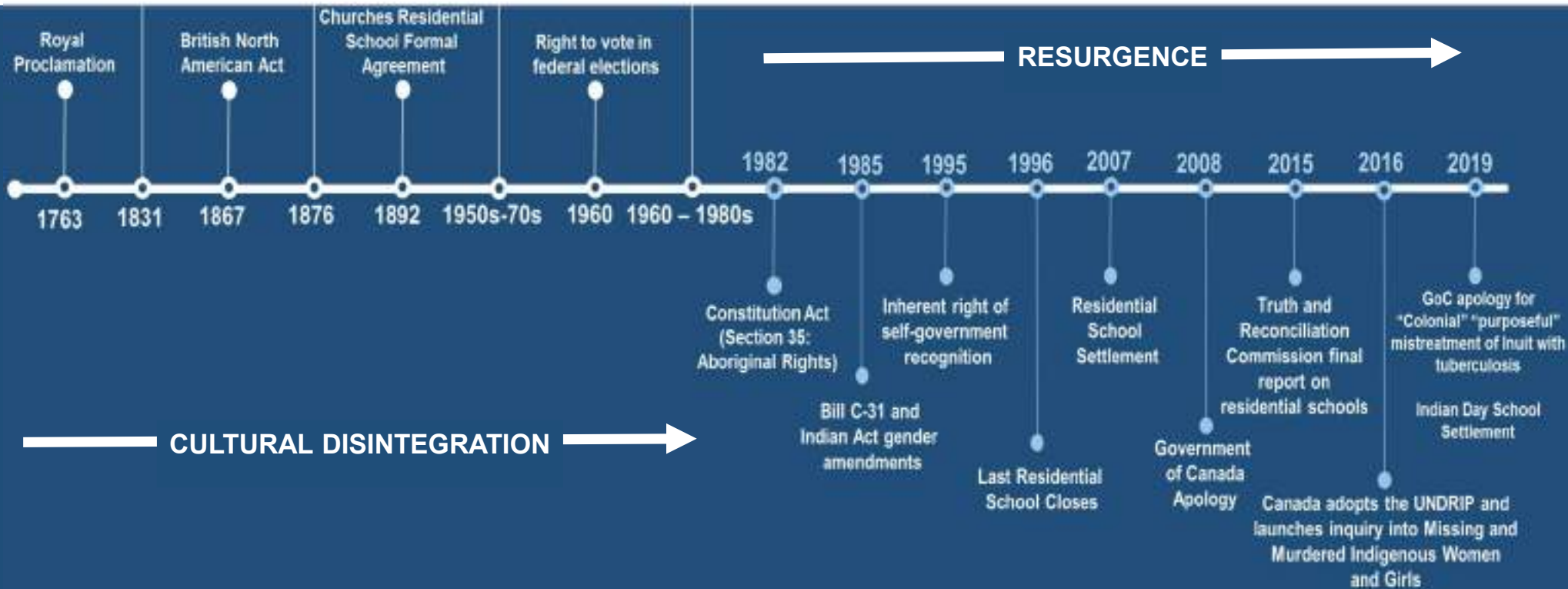
Intergenerational Trauma



Timeline

Mohawk Indian

Slaughter of Inuit





2016 Census Indigenous Community Portrait Quebec

41,730
Population 2016

33,825
Population 2006

13%
Population change

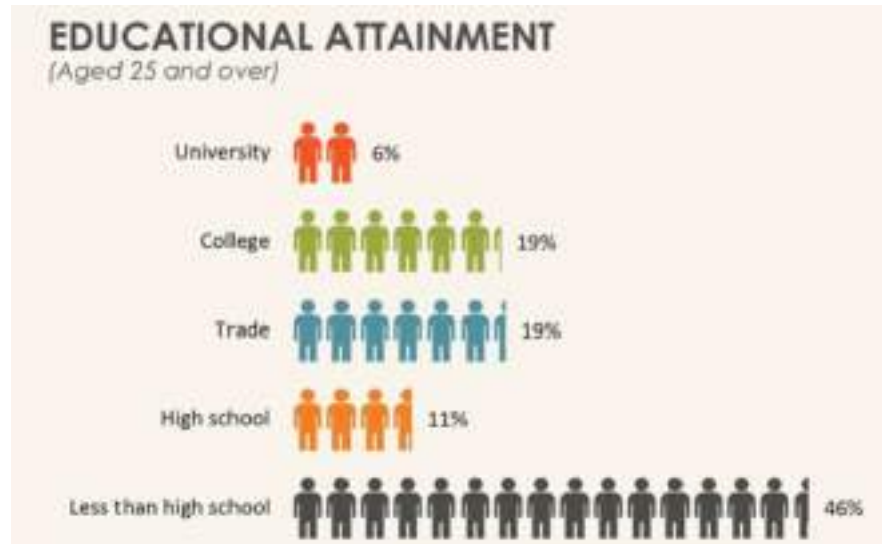
26
Median age

31%
Under age 15

17%
Aged 15 to 24

45%
Aged 25 to 64

7%
Aged 65 plus



LABOUR & EARNINGS

(Aged 15 and over)

53%

participation rate

43%

employment rate

20%

unemployment rate

45%

of workers worked full year, full time in 2015

\$20,571

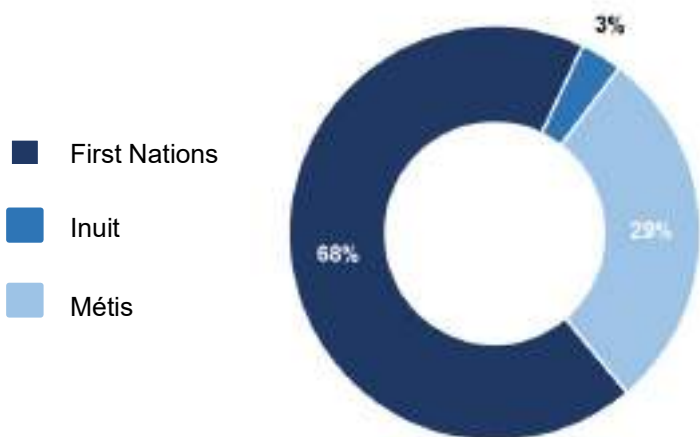
median employment income in 2015

https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/abpopprof/infogrph/infgrph.cfm?Lang=E&DGUID=2016A000224_OnR&PR=24



Indigenous People under CSC's Jurisdiction

Indigenous Offender Groups Under CSC Jurisdiction in 2019-2020



Indigenous men represent

26% of all men offenders.

This compares to 30% in 2018-2019 and 23% in 2017-2018.

Indigenous women represent

34% of all women offenders.

This compares to 42% in 2018-2019 and 33% in 2017-2018.



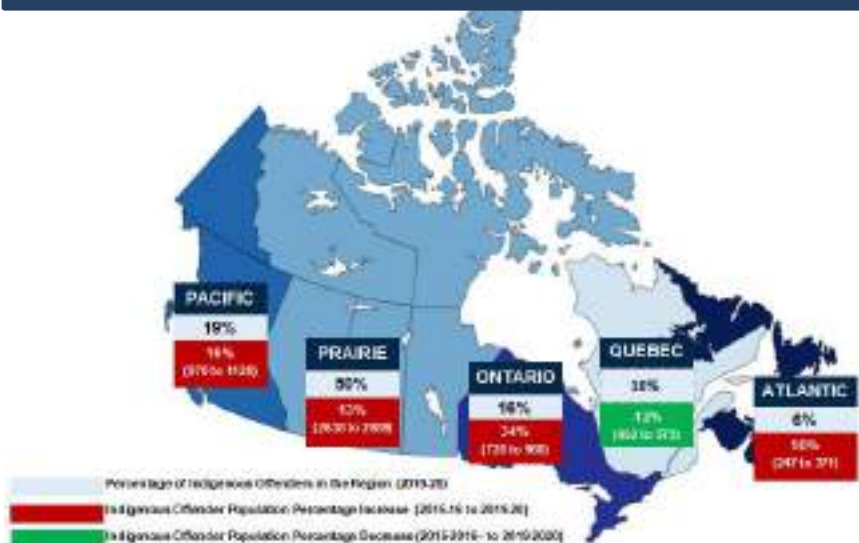
The **First Nations** offender population is the fastest-growing Indigenous group under CSC jurisdiction, having increased 17% (3,520 to 4,109) since 2015-2016. In comparison, the **Métis** offender population has increased 16% (1,473 to 1,721) since 2015-2016. The **Inuit** offender population, however, has seen a decrease of 14% (229 to 197) during the same period.



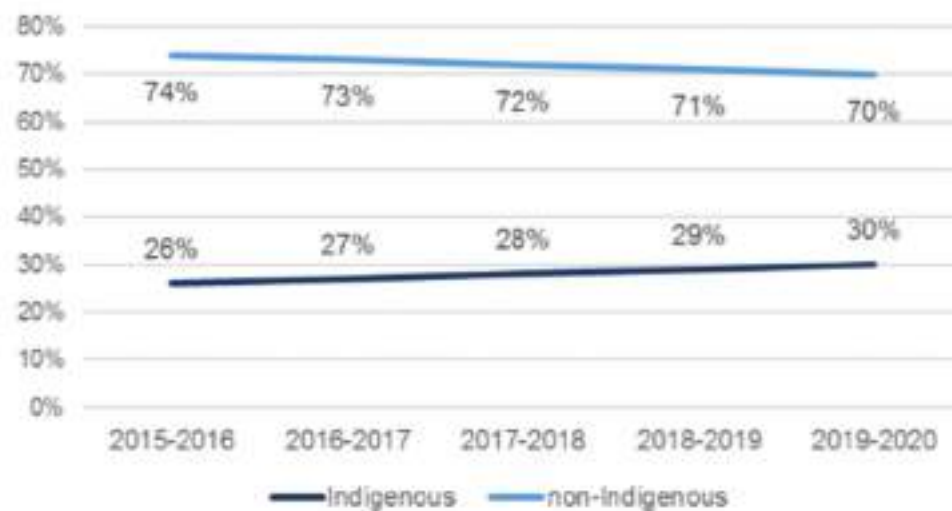
Population Profile

INDIGENOUS PEOPLE AND THE CRIMINAL JUSTICE SYSTEM IN CANADA

Indigenous Offender Population - Change from 2015-2016 to 2019-2020



Indigenous Offenders In Custody From 2015-2016 To 2019-2020



In 2019-2020, Indigenous offenders represented 30% of the population in custody. First Nations and Métis offenders were more likely to be incarcerated and supervised in the Prairie and Pacific Regions, compared to the Ontario and Quebec Regions for Inuit offenders.



Indigenous Offenders Under CSC Jurisdiction

Compared to non-Indigenous offenders, **Indigenous offenders** tend to:



Be younger



Be more likely to be gang-affiliated



Have previous exposure to trauma & violence



Serve shorter sentences



Be more likely to have substance use disorders

CRI

Have higher CRI ratings



Have higher education & employment needs



Have higher OSL ratings

NEEDS Overall

Indigenous offenders represent 2% of **LOW NEEDS** offenders, but 84% of **HIGH NEEDS** offenders.

Indigenous offenders represent 6% of **LOW RISK** offenders, but 60% of **HIGH RISK** offenders.

RISK Overall



A majority of Indigenous offenders had committed violent offences, but Inuit offenders were most likely to have committed a sex-related offence.



Indigenous Offenders and Conditional Release

- Indigenous offenders:
 - Served the highest proportion of their sentences prior their first federal full parole release
 - Lowest full parole grant rate over 5 years
 - are the most likely to be released from an institution on statutory release or at warrant expiry;
 - are the least likely to successfully complete day or full parole or statutory release.
- Indigenous offenders have their parole revoked without an offence at a much higher rate compared to non-Indigenous offenders.

Source: Performance Monitoring Report 20 17-18

source: CSC, Data based on all releases that occurred in FY 2016-17



INDIGENOUS PEOPLES AND THE CRIMINAL JUSTICE SYSTEM IN CANADA:

CORRECTIONS AND CONDITIONAL RELEASE ACT (CCRA) AND JURISPRUDENCE



CSC Priorities

- Safe management of eligible offenders during their transition from the institution to the community, and while on supervision
 - Safety and security of the public, victims, staff and offenders in institutions and the community
 - **Effective, culturally appropriate interventions and reintegration support for First Nations, Métis and Inuit offenders**
 - Effective and timely interventions in addressing mental health needs of offenders
 - Efficient and effective management practices that reflect values-based leadership in a changing environment
 - Productive relationships with diverse partners, stakeholders, victims' groups, and others involved in support of public safety
-



Integration of Gladue factors

When an Indigenous person is charged with a crime, the Judge must apply **Gladue principles**.





The Gladue Principles

When making a decision that relates to an Indigenous offender, the decision-maker must consider:

- The unique systemic or background factors which may have played a part in bringing the particular Indigenous offender before the courts; and
- The types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular Indigenous heritage or connection.

See *R. V Gladue* para 66



Systemic and Background Factors Identified in the Gladue principles

- History of dislocation such as residential school experience;
 - Unemployment due to lack of opportunity or options;
 - Lack of education;
 - History of substance abuse;
 - History of systemic and direct discrimination;
 - Poverty;
 - History of foster care;
 - Experience of racism;
 - Community breakdown; and
 - History of family violence and/or substance abuse.
-



CCRA and Indigenous Federally-Sentenced Persons

The *Corrections and Conditional Release Act* requires the Correctional Service Canada and the Parole Board of Canada to be responsive to Indigenous federally-sentenced persons.

For CSC S. 4(g):

Correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and **be responsive to the special needs of women and Indigenous peoples**, as well as to the needs of other groups of offenders with special requirements.

For PBC s. 151(3):

Policies adopted under paragraph (2)(a) must respect gender, ethnic, cultural and linguistic differences and **be responsive to the special needs of women and Indigenous peoples**, as well as to the needs of other groups of offenders with special requirements.



Guiding Principles for Indigenous Corrections

The CCRA requires CSC to be responsive to the unique needs of Indigenous federally-sentenced persons.

Section 79

Indigenous peoples of Canada has the meaning assigned by the definition *aboriginal peoples of Canada* in subsection 35(2) of *the Constitution Act, 1982*

Section 79.1 (1) and (2)

Systemic and background factors must be taken into consideration when making a decision and cannot be used to increase risk

Section 80

CSC shall provide programs designed particularly to address Indigenous offenders' needs

Section 81

Ministerial agreement with an Indigenous governing body or any Indigenous organization for provision of correctional services

Section 82

Establishment of the National Indigenous Advisory Committee

Section 84

CSC provides Indigenous communities with the opportunity to participate in the release planning process of an Indigenous inmate



Bill C-83

for Indigenous Federally- Sentenced Persons



Increased "meaningful human contact" with an Elder



Promotes Indigenous communities' self-determination by ensuring sufficient community resources



Consideration of *systemic and background factors unique to Indigenous offenders* in all correctional decision making and programs



Offenders will be seen daily by a healthcare professional



There will be interventions for their participation that are based on an individualized approach and will include skills-based modules and activities



The goal is to provide the offender with the tools they need to get them back in a mainstream inmate population as soon as possible, and to prevent a return to an SIU



Indigenous Social History (ISH) – Systemic and Background Factors



An individual's social history, when examined, provides context on the **direct** and **indirect** systemic and background factors that may have impacted the individual and contributed to their current circumstances.

- **Direct** factors include those which the individual experienced personally, e.g. attending residential school. The direct impacts of attending residential school may present as loss of language, culture, traditions, etc.
- **Indirect** factors are those which the offender did not experience personally. For example, an individual's parents may have attended residential school. The indirect impacts may still be a loss of language, culture and traditions, but may also include family fragmentation, early exposure to substance abuse, etc.

Bill C-83 ensures that in every decision affecting an Indigenous offender, their systemic and background factors are considered and used *only* to assess offender's needs – **not their risk**.



Elder Intervention



Through **traditional cultural and spiritual interventions**, Elders assist offenders to **address the factors stemming from their social history**, which have may have contributed to bringing them in conflict with the law.

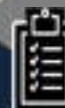


CSC contracts with approximately **140 Elders/Spiritual Advisors** to provide spiritual, ceremonial and counselling support and teachings to First Nations, Métis, and Inuit offenders wishing to engage in the Indigenous Continuum of Care

IN 2019-2020,
**78 % OF
INDIGENOUS
OFFENDERS**
IN CUSTODY RECEIVED AN
**ELDER/SPIRITUAL ADVISOR
REVIEW** AT SOME POINT IN
THEIR SENTENCE



Elder reviews assist CSC in better understanding the systemic and background factors specific to individual offenders, and to support the development of healing components of their Correctional Plan.



Elders/Spiritual Advisors participate in the **provision of correctional interventions to Indigenous offenders**. As part of the case management team, they contribute to the case management process by providing **Elder Reviews** that detail information about the offender's systemic and background factors and provide an overview of the progress that the offender has made



Recognizing Indigenous Expertise: Elder-led Cultural and Spiritual Services

The Role of the Elder

The role of the Elder is to provide spiritual and cultural support to Indigenous offenders and to assist CSC staff in understanding Indigenous spirituality:

- Review of an offender's circumstances so they can be used in the management of the offender's case.
- Increase awareness of ceremonies, ceremonial objects, traditional medicines, protocols, and sacred grounds.

Why is this Important?

CCRA s. 83(2) requires CSC to **“take all reasonable steps to make available to Indigenous inmates the services of an Indigenous spiritual leader or elder.”**



What Are We Doing?

- Ensure that Indigenous offenders have access to spiritual and cultural services.
- Ensure that Elders contribute to public safety through the counselling, teachings and ceremonial services provided to First Nations, Métis and Inuit offenders who are following a traditional healing path.
- Approximately 140 Elders across the country provide services to offenders, and spiritual support and advice to the Institutional Heads regarding ceremonies including offenders' access to ceremonial objects and traditional medicines within the institution.



Sections 81 & 84:

A Positive Reintegration Strategy for Indigenous Offenders

Sections 81 & 84 of the CCRA - Indigenous Community Engagement

To address the disproportionate incarceration of Indigenous offenders, CSC encourages Indigenous communities to use the full potential of the CCRA, specifically Sections 81 and 84.

- Indigenous offenders released from a Healing Lodge (with a minimum security level) have a lower percentage of return to federal custody 5 years post-WED than those released from other CSC institutions.
- Section 84 participants are less likely to return to custody than non-participants.
- Section 84 participants remain in the community longer prior to their first suspension.

Section 81 - Enhancements

CSC remains committed to fostering nation-to-nation partnerships with Indigenous Peoples:

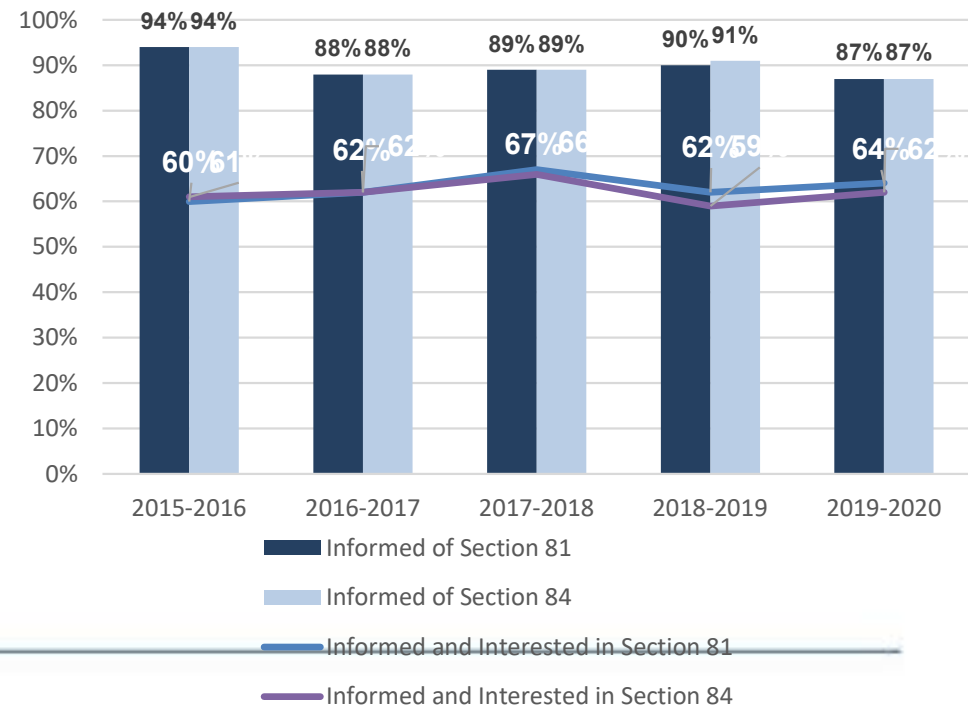
- Strengthened funding model for Section 81 agreements
- Enhanced policy framework to remove potential barriers in the application process

Section 84 - Enhancements

Increasing the engagement of Indigenous communities in planning the release of Indigenous offenders is critical to the achievement of better correctional outcomes for Indigenous offenders:

- Increased community staff complement
- Increased funding to contract with Indigenous organizations to provide community reintegration support to offenders upon release

Indigenous Offenders Informed and Interested in Section 81 and 84





Sections 81 & 84:

A Positive Reintegration Strategy for Indigenous Offenders

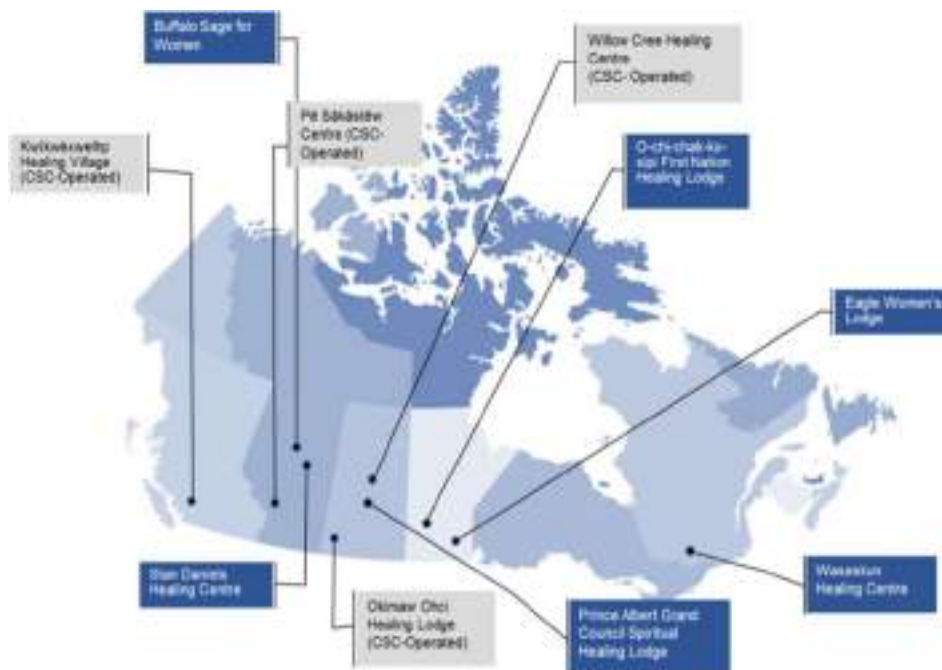
Truth and Reconciliation Commission Calls to Action (CTA), Call to Action #35:

Call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system

Healing Lodges offer services and programs to Indigenous offenders in environments that honour and incorporate Indigenous Peoples' traditions, beliefs, and practices. Interventions, including Elder and Spiritual Advisor services and ceremonies, are provided to Indigenous offenders with the goal of addressing the factors that led to their incarceration. Healing Lodges respond to the disproportionate incarceration of Indigenous Peoples, ensuring that the treatment of offenders is focused on effective rehabilitation and part of building a renewed nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.

Healing Lodges operate in two ways:

- Those managed by an Indigenous governing body or Indigenous organization under section 81 of the CCRA (see map adjoining)
- Those operated by the CSC in close collaboration with Indigenous communities (see map adjoining - CSC-Operated)





Section 81:

A Positive Reintegration Strategy for Indigenous Offenders



Truth and Reconciliation CTA - Call to Action

Progress to Date

Section 81 Funding Arrangement

CSC strengthened the Section 81 funding arrangement to better support agreement holders' operations and to respond to the needs of Indigenous communities/organizations managing Healing Lodges. This new funding formula, which has been deemed fair and respectful by agreement holders, applies to all existing and new Section 81 agreements.

Publicly available information on Section 81 Agreements

Publicly available information on Section 81 agreements has been updated on CSC's external website to clarify how Indigenous communities or organizations can submit expressions of interest to enter into a Section 81 agreement.

Section 81 Agreement Renewal

In 2018, CSC renewed its agreement with the Native Counselling Service of Alberta. As part of this renewed agreement, there are 12 additional beds at Buffalo Sage Wellness House in Alberta to support the reintegration of women offenders.

BUFFALO SAGE WELLNESS HOUSE (BSWH) SECTION 81 HEALING LODGE PROCESS REVIEW

Results from the offender interviews indicated that the women found BSWH to be a positive, empowering, and supportive environment that allowed them to have increased self-confidence, to heal and gain a better understanding of themselves and their past, and to feel empowered to change.





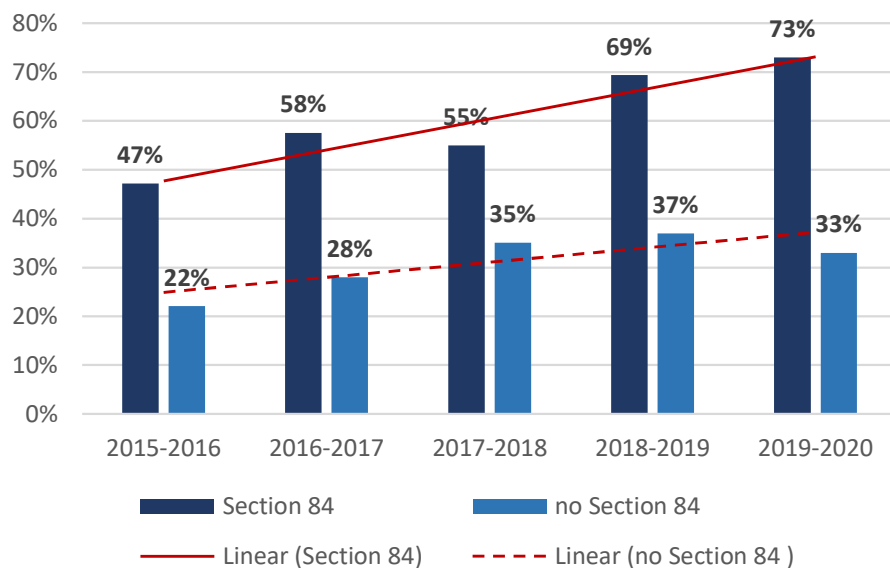
WASESKUN Healing Center





Section 84: A Positive Reintegration

Percentage of Offenders Acquiring a Discretionary Release at the Time of their First Release Date with a Section 84 Release Plan



84 – The Path Home

At year-end 2019-2020, **37%** of Indigenous Offenders had a Section 84 Release Plan prior to first release. This represents a decrease compared to previous years:

2018-2019: **38%** 2017-2018: **43%** 2016-2017: **41%**

In 2019-2020, the percentage of Indigenous offenders with an established CCRA Section 84 release plan was slightly lower than the established target due to a change in process. In July 2018, an online tool, called *84-The Path Home*, went live to prompt case management teams to take the next required steps in the Section 84 process. This new process resulted in an initial decrease of Section 84 plans.

The EXCOM Sub-Committee on Indigenous Corrections has identified Section 84 Release Plans as one of its eight areas of priority. For the next two years, the Sub-Committee will work towards the full implementation of the 84-Path Home Tool, address the inconsistent application of the flag through OMS enhancements and review the S. 84 planning process for opportunities to streamline it.

In 2019-2020, 73% of Indigenous offenders with a Section 84 release plan acquired a Discretionary Release at the time of their First Release. This compares to 33% of Indigenous offenders who did not have a Section 84 Release Plan.



2017 National Indigenous Plan: A Framework to Transform Indigenous Corrections

Why: Operating Context

- Indigenous over-representation persists despite legislative and program efforts to find alternatives to incarcerations
- 2016: Office of the Auditor General (OAG) audit report, *Preparing Indigenous Offenders for Release*

What: Areas of Focus

The **National Indigenous Plan** incorporates guidance from the OAG and the National Indigenous Advisory Committee (NIAC), and is the foundation of the collective renewal of CSC actions at ALL levels

How: National Indigenous Plan

1. Promotes an integrated Indigenous approach to correctional interventions and consideration of Indigenous Social history at each decision point in an offender's sentence
2. Supports the creation of **Indigenous Intervention Centres** to address specific needs **immediately at intake** and continuing **throughout the offender's sentence**



Indigenous Intervention Centre Model: Progress to Date

IICs are operating across the country, covering all institutions for women and seven institutions for men.



522

Indigenous offenders in Custody (12.6%) were flagged for participation in the Indigenous Intervention Centre stream (with an Active Flag Status). This represents a **50% increase** in the number of Indigenous offenders flagged for participation in IICs from 2018-2019 to 2019-2020.

100%

of Indigenous offenders at an IIC successfully transferred to a Healing Lodge in 2019-2020.

49%

of Indigenous offenders at an IIC had a Section 84 Release Plan prior to first release at year-end 2019-2020, compared to 37% of the overall Indigenous population.



Indigenous Continuum of Care

Why: Operating Context

- Endemic Indigenous Over-Representation in Federal Corrections.
- The specific needs and profiles of Indigenous offenders are well-documented in the literature which supports the need for culturally-relevant interventions.
- The *Corrections and Conditional Release Act* (CCRA, 1992) established the legal framework that mandates the provision of culturally-appropriate correctional interventions.

What: Areas of Focus

Grounded in Indigenous culture and spirituality, the Indigenous COC augments what was already provided within CSC, including:





Indigenous Continuum of Care



CSC'S approach to Indigenous Corrections is based on the Indigenous Continuum of Care Model which begins at intake, is then followed by paths of healing while in custody, and ultimately leading to the reintegration of Indigenous offenders into the community.

The Model provides the flexibility necessary to respect the diversity of First Nations, Métis and Inuit peoples. It also accounts for the significant provincial/territorial variations in cultures, traditions and languages and the diverse needs and capacities of rural, urban, remote and northern communities to support reintegration.

Community-based research has demonstrated that reconnection with culture, family, and community are key factors in the safe reintegration of Indigenous offenders.



Indigenous Continuum of Care

Anijaarniq Inuit Strategy

2009 -
2010

CSC developed a Northern Corrections Framework in order to effectively address the unique needs of Northern offenders and in particular, Inuit offenders.

2014

CSC developed the Anijaarniq Holistic Inuit Strategy to ensure that Inuit offenders have the support and resources they need to return and remain in society as contributing members of their families and communities.

Guiding Principles of the Anijaarniq Inuit Strategy



Inuit offenders should be **housed and supervised** in their home communities if they wish to be.



Meaningful **partnerships with Northern communities** to shape the Inuit strategy.



The Inuit Continuum of Care must address **offender risks and needs** to ensure successful reintegration.



Culturally Relevant Activities

- Carving, sweat lodges, season change ceremonies, sharing circles, drumming, garden, traditional food, Inuktituk classes, schooling, jewelry making ...





RELEASE AND SUPERVISION STRATEGIES

- Culturally adapted alternatives
 - Consultations
 - Community
 - Resources (Native friendship center, Ivirtivik, Kativik school board)...
-



The Path continues...

- Orange Shirt day
- National day for truth and reconciliation / Truth and reconciliation week



- Employee representation
-



THANK YOU

Marie-Ève Zrihen
