



**Public Services
Foundation of Canada**

**Crisis in Correctional Services:
Overcrowding and inmates
with mental health problems
in provincial correctional facilities**

April 2015

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INTRODUCTION

Nearly eight years after the current federal government began implementing “tough-on-crime” legislation, some disturbing outcomes are becoming apparent. Perhaps the most worrisome aspect of this “law-and-order” agenda is the manner in which it reverses a decades-long trend of increasingly progressive Canadian correctional policy. While never perfect, Canada’s correctional system was until the past decade largely guided by a commitment to enacting policies that had at their core rehabilitation and community integration.

But a series of federal legislative initiatives has done significant damage to those foundational values, especially at the level of provincial justice systems. Two particularly disturbing trends include overcrowding in provincial correctional centres – which has reached a crisis point – and an increasing number of inmates who require mental health

Back into the dark

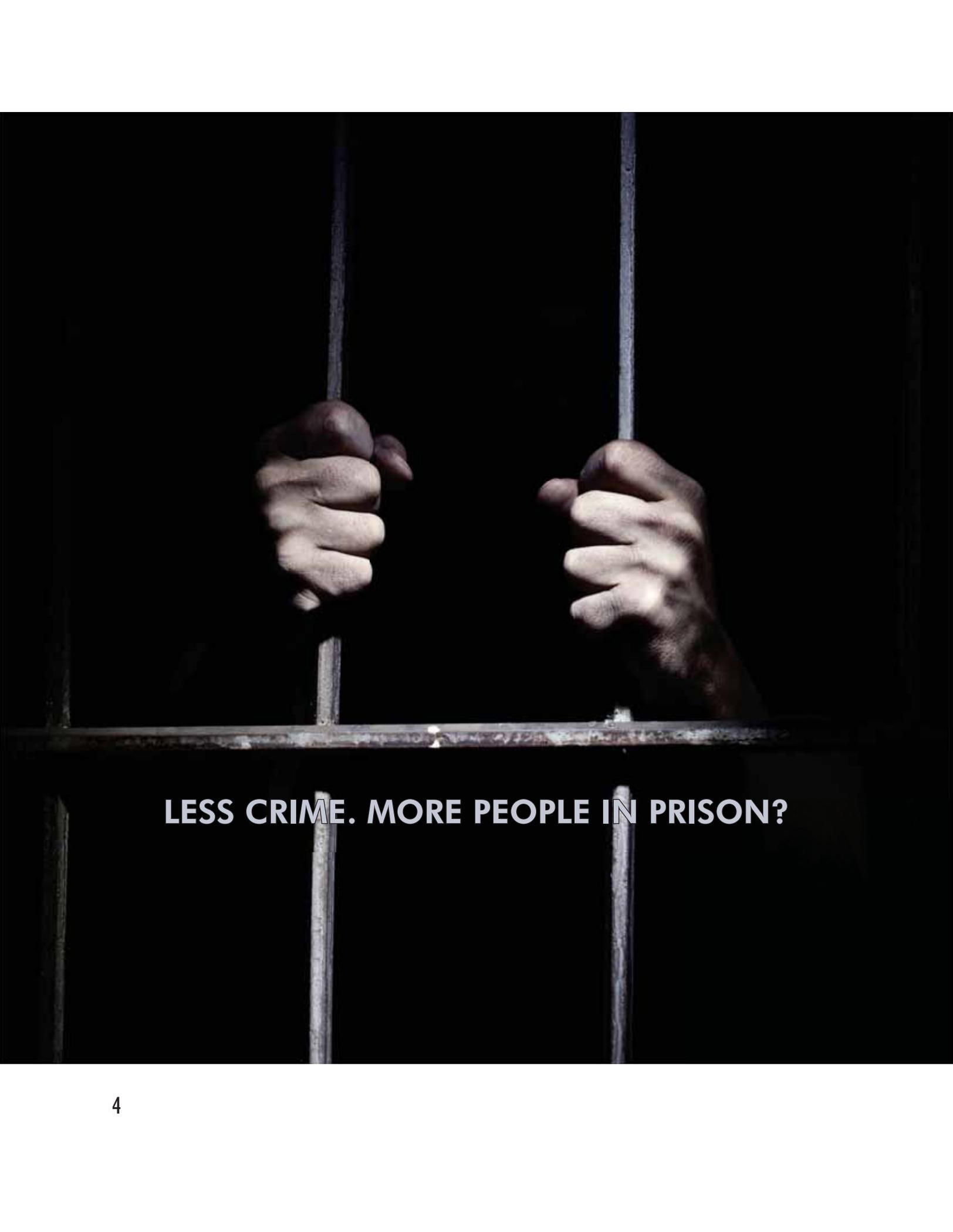
and addictions treatments that are simply not available. Both result in volatile and dangerous living and working conditions, posing greater risk for inmates as well as correctional officers.

Implementing federal laws of dubious value and necessity exacerbates these conditions. Despite decades of declining crime rates, correctional centres in Canada are housing more people than ever, and the economic and social costs are soaring out of control. New tough-on-crime laws appear to be grounded in simplistic populist appeals at a time when we need instead to develop and enact evidence-based criminal justice policy.

In many ways we have regressed from the policies of another Conservative government which, in 1992, under Brian Mulroney's leadership, introduced comprehensive and progressive correc-

tional reforms in their Corrections and Conditional Release Act (CCRA). The CCRA emphasized safe and humane custody and supervision as important cornerstones of correctional policy. But as we argue in this paper, generations of such correctional policy progress are slowly coming undone.

This paper represents the first in a series published by the Public Services Foundation of Canada that will address a wide range of problems in Canada's adult justice system. (We recognize more research is required on the youth system that is beyond the scope of this paper.) Most of our attention will be focused on the forgotten children of our national justice network: the provincial justice systems that often bear the brunt of federal decision making. It's at this level that relatively little literature has been produced in comparison to the federal system.

A high-contrast, black and white photograph showing a person's hands gripping vertical metal bars. The hands are illuminated from the side, highlighting their texture and the way they are firmly holding onto the bars. The background is dark, making the hands and the metallic texture of the bars stand out. The overall mood is somber and restrictive.

LESS CRIME. MORE PEOPLE IN PRISON?

The conundrum

Canada's adult correctional system currently faces a serious set of problems including, but not limited to, four salient issues:

- **Overcrowding**

The system is bursting at the seams. Federal and provincial correctional facilities quite simply have far more inmates than they are designed or staffed to hold. Accounts abound of double-bunking—housing twice as many inmates as the cell was built for—or even triple-bunking.

- **Mental health system of last resort**

The number of inmates with mental health or addictions problems has skyrocketed. As community-based mental health services have disappeared, far too many people with serious to severe mental health problems have been scooped up into the criminal justice system. Our jails have become the mental health system of last resort, an inhumane way to deal with people who need treatment and supports.

- **No intention to rehabilitate**

Our criminal justice system is not rehabilitating people. Incarcerated individuals are primarily serving out their time without access to any programs or assistance. The overwhelming majority of inmates at provincial institutions leave little changed from when they first went in. Indeed, it would be fair to conclude that a significant number leave jail more inclined to engage in future criminal behaviour.

- **Rising costs**

The costs of incarceration and the administration of justice have become enormous. Since 2002–03, the cost of correctional services at the provincial and territorial level has grown 47.9% to \$1.92 billion.¹

These realities appear to underscore a significant disconnect between the growth of incarceration rates and statistics on the number of people actually committing crimes. By all reports, Canada's crime rate has either been stable or declined every year for the past couple of decades.

According to police-reported crime statistics, Canada's contemporary crime rate is the lowest since 1969. This downward trend started in the early 1990s, and by 2013, the police-reported crime rate was 5,190 per 100,000, down 9 per cent from 2012.

Surveys that quantify Canadians' reporting of crime paint a slightly different picture. According to Statistics Canada,² the number of Canadians who reported being the victim of a crime in the past 12 months was essentially unchanged since 2004. Furthermore, aside from an apparent increase in property theft, the proportion of Canadians who reported being the victim of a crime has remained more or less stable since 1999.³

Presenting these facts is in no way intended to minimize the impact of crime in our lives, especially given that nearly 7.4 million Canadians—almost a quarter of the entire population – reported being the victim of a crime in 2009. Despite those significant numbers and the challenges they pose to individuals and society at large, they nonetheless fit without any contradiction into a context of stable to declining crime rates.⁴

How is it, then, that despite a decades-long downward trend in Canadian crime rates, justice system expenditures are dramatically increasing and overcrowding in correctional facilities is skyrocketing?

Advocating evidence-based responses to crime

For far too long, Canada's dominant approach to crime has been to oil squeaky wheels or respond to embarrassing gaffes with a short-term fix here or a small policy change there. More recently, we have seen an increase in ideological policies intended to challenge certain politicians and parties to pass the tough-on-crime litmus test.

But effective public policy cannot be grounded in a series of reactive measures largely meant to divert the media's critical eye following the exposure of anything from an error to a disastrous turn of events. By the same token, a responsible and effective criminal justice framework cannot be based on simplistic slogans and election hustings rhetoric.

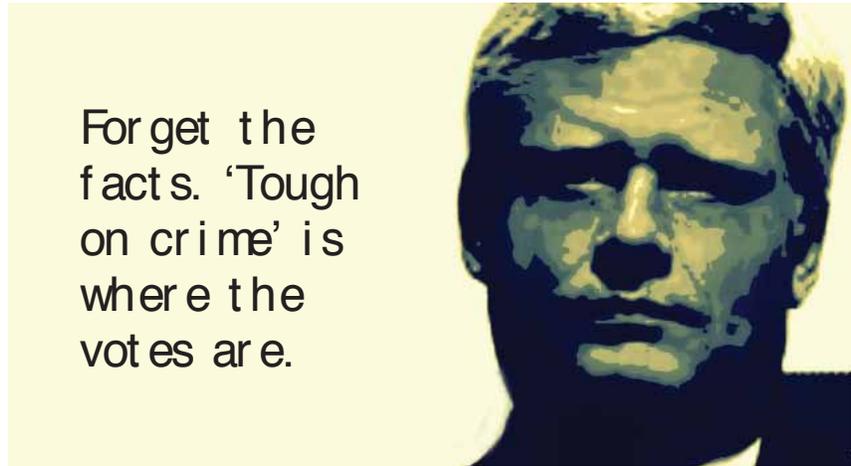
To effectively address the existence and prevalence of crime in Canadian society is not a guessing game. Nor is it, as some political leaders would posit, a choice of political or moral positions.

There is a growing body of research documenting success stories in the fields of crime prevention and criminal rehabilitation. We believe strongly that criminal justice policy must be firmly based on the kinds of research and studies that illustrate what works best for inmates, corrections workers, the criminal justice system, and society at large. Toward

that end, we strongly support an approach to confronting crime that entails the gathering and implementation of evidence-based and real-world tested approaches, combined with best practices from across the country and around the world that are informed by input from academics, policy makers, and front-line workers.

This approach is based on collecting the best data and statistics available to researchers and policy makers, from the specifics rates of incarceration and arrest records to broader social indicators. The value of victimization surveys in setting criminal justice policy, for example, cannot be underestimated.

Unfortunately, the past six years in Canada have witnessed significant cuts to research as well as reductions in the gathering and analysis of statistical data. The most public of these cuts was the federal government decision to end the long-form census; the subsequent loss of data that is no longer collected means all public policy—including that pertaining to criminal justice—will suffer.





The Canadian context

The protection of citizens is possibly the single greatest responsibility of government, one that covers a broad and diverse range of issues. While keeping the citizenry safe from war, pestilence and crime come to mind as central to this mandate, elements of social and economic protection can be included.

Governments pass laws to protect individuals and preserve social order while safeguarding the public from those individuals who transgress what are fundamental societal norms. To enforce those laws and administer justice, the government runs the criminal justice system, a sometimes confusing hodgepodge of rules and roles played by the police, the courts, the jails and numerous others.

Under the Constitution of Canada, only the federal government has the power to enact laws respecting criminal offences. National in scope and intended to be applied equally across the country, criminal laws are meant to regulate or maintain public safety, social order or morality while pinpointing those activities that, in general, would result in an individual going to jail. Although provincial governments do have the power to pass laws, they are not allowed to regulate criminal matters.

This split in provincial and federal powers is one of the defining attributes of the Canadian justice system. Determining which organization or level of government administers justice in Canada is a result of decades of negotiations and jurisprudence. For example, although the Royal Canadian Mounted Police (RCMP) is referred to as Canada's national police force, not all law enforcement falls under their purview. In practice, individual provinces and cities are responsible for the provision of policing, and some do employ the RCMP, even though the Mounties are under federal jurisdiction.

The division of powers and authority also carries right through the courts and corrections infrastructure. There are provincial/territorial and federal courts throughout the country, but the provincial/territorial and superior courts handle the great majority of cases coming into the system.

It is important to remember that all offenders in Canada enter the correctional system at the provincial level.

Canadian prisons are also run by a combination of federal and provincial/territorial authorities, though some custodial facilities house inmates who fall under both jurisdictions. In general, prison sentences of less than two years are served in a provincially/territorially run jail, while those jailed longer than two years are housed federally.

In addition, those who are awaiting bail, trial or sentencing (under what is known as “remand”) are confined in provincial/territorial institutions until sentence is delivered. Similarly, some individuals detained on immigration hold—for example, while they are pending deportation—will be kept in a provincial/territorial facility. Some provincial institutions have mixed remand and sentenced populations.

It is important to remember that all offenders in Canada enter the correctional system at the provincial level. Some, following sentencing, are then moved to a federal penitentiary. So while the severity of the offence will ultimately determine the length of sentence, and whether that sentence is served in a federal or provincial facility, all offenders will be held at a provincial jail for some length of time.

There is a wide range of correctional programs and services that are almost exclusively provided by provincial/territorial governments, including the great majority of probation and parole services.

This quick snapshot of the criminal justice system in Canada does not fully represent its complexity nor its multi-level interconnections. It does, however, illustrate a fundamental point: while the federal government passes criminal laws, most of the administration of those laws are handled by the provincial and territorial authorities.

Changes in a piece of legislation almost always have both the intended as well as unintended consequences, and laws passed at the federal level can have a disproportionate impact on provincial/territorial justice systems.

For example, in February 2010, the federal government implemented Bill C-25, the Truth in Sentencing Act (TSA). The TSA is intended to limit a sentencing judge’s discretion to apply credit to individuals for pre-conviction time spent behind bars. Prior to its implementation, many judges gave credit for pre-sentencing custody on a two-

for-one ratio: each day in pre-sentencing custody counted as two days served.

While ending this practice may have popular appeal, the Act's supporters appeared to have little appreciation for the systemic impacts that would result. When Parliamentary Budget Officer Kevin Page was asked to explore the cost impacts of the TSA he reported:

Changes to the criminal code, like TSA, will have significant operational and cost impacts on correctional institutions and services in provincial and territorial jurisdictions. The federal government may wish to inform other jurisdictions on their estimated fiscal impacts.

The provinces and territories are large players relative to the federal government in the provision of correctional services. Average headcounts are almost twice as large. Annual inflows are about 10 times larger if one excludes remands.

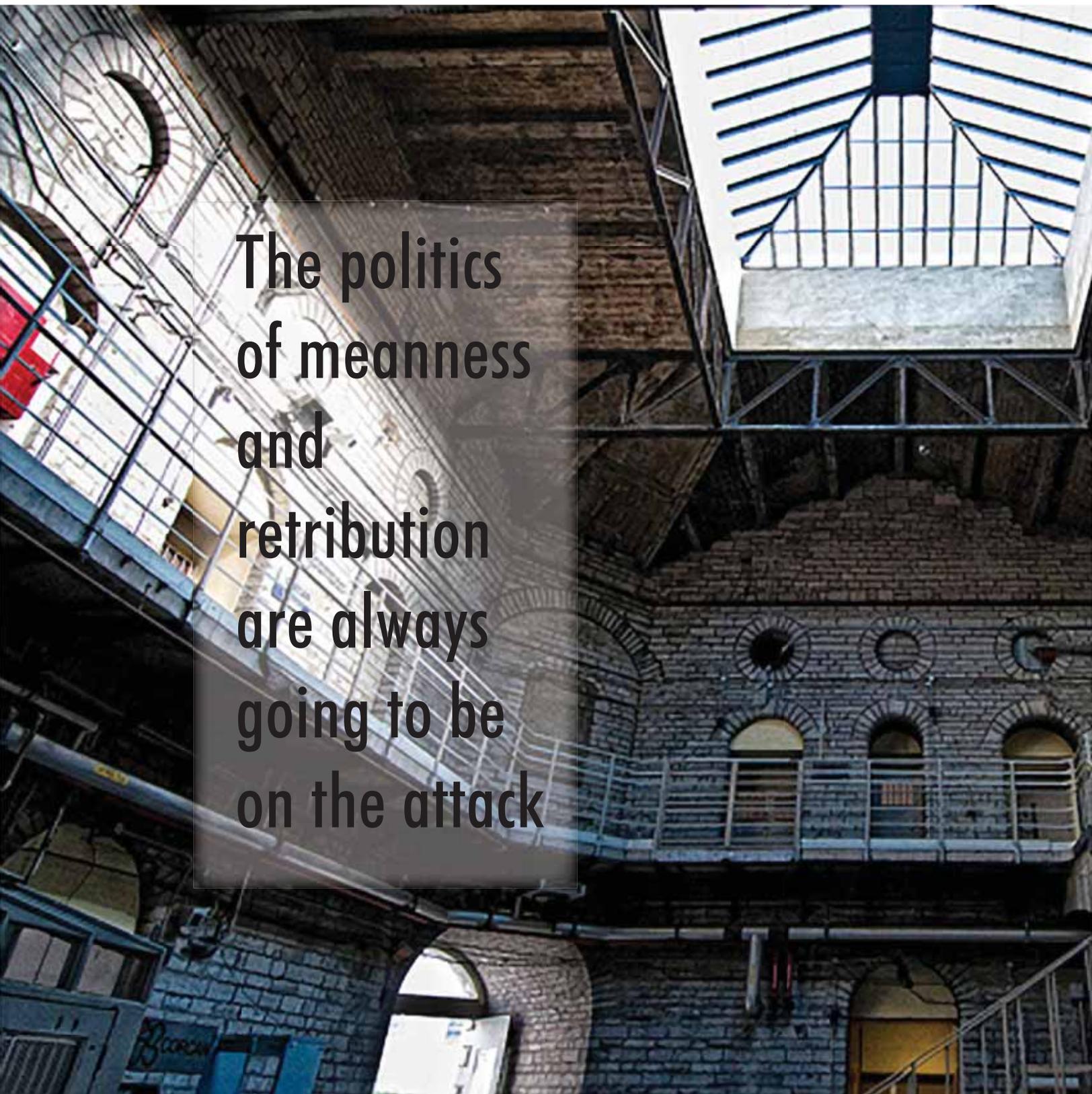
Based on a status quo environment, PBO estimates that the provincial and territorial share of total funding requirements will rise to 56% in 2015–16 from 49% in 2009–10 reflecting shifting proportions of sentenced versus remand and capacity constraints.⁵

Mr. Page estimated that while the federal cost of the TSA was expected to be about \$1.8 billion, the provinces would see a roughly \$6.2 billion increase in costs over five years.⁶

All too often, the federal government fails to take into consideration the budgetary or organizational capacity of a province or territory to address Criminal Code changes like the TSA and other Conservative initiatives. For provincial criminal justice systems already under stress, the added number and cost of offenders can push them to the breaking point.

Perhaps the tough-on-crime agenda's single greatest impact is the manner in which it has shifted the ideological underpinnings of how justice is administered in Canada. As a nation, we are moving further and further away from a focus on rehabilitation and community integration towards a system intended solely to incarcerate and punish.

Laws passed at the federal level can have a disproportionate impact on provincial/territorial justice systems.



The politics
of meanness
and
retribution
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going to be
on the attack

The late Ron Wiebe, a former warden at BC's Ferndale and Elbow Lake institutions, worried in his memoir *Reflections of a Canadian Prison Warden* that Canada's generally rehabilitative approach to corrections would come under attack:

But we are at a time in our history when the politics of meanness and retribution are always going to be on the attack because it serves political interests. It is difficult to maintain a good defensive posture while doing what's right, and not always to be led entirely by inquiry and public opinion. It's a fragile thing. It can change very quickly one way or the other; if we start creating a policy based on public opinion on any particular day, we could find ourselves in trouble.⁷

It would be inaccurate to claim that Canada's correctional system was without its share of problems prior to the 2006 election of the current federal government. However, it *would* be safe to say that we are moving away from a progressive approach to correctional policy, relying instead on a slow slide back to the "bad old days" of human warehousing and retribution.

Ironically, the Canadian government appears to be ignoring the fact that the tough-on-crime approach is being abandoned by some of its (formerly) strongest U.S. proponents. Decades of mandatory minimum sentencing, Three-Strikes laws, the war on drugs, and the pursuit of related law-and-order policies have not made Americans any safer. Instead, the U.S. boasts the highest incarceration rate in the world, with a prison-industrial complex marked by overcrowding, horrifying racial disparities, a rise in gangs, and skyrocketing incarceration costs.⁸

Even former newspaper publisher Conrad Black, who served time in a U.S. prison following a fraud conviction, has urged Canada to steer clear of the U.S. model, declaring: "It is a completely rotten system and the Canadian emulation of it, with reduction of rehabilitative features and physical separation of prisoners from family and visitors, and the certainty that native people will be the chief occupants of these new prisons, is insane and reprehensible."⁹

"But we are at a time in our history when the politics of meanness and retribution are always going to be on the attack because it serves political interests."

Ron Wiebe

Former warden

FERNDALE AND ELBOW
LAKE INSTITUTIONS IN
BRITISH COLUMBIA

The 3 Rs: Research, rehabilitation and recidivism

Prisons have always had, at their most basic level, a twofold purpose — punishment and rehabilitation. They are intended principally to incarcerate those whose crimes have been considered serious enough to warrant it. Society, and its citizens, are protected from the behaviour of these individuals, or criminals, by their isolation from the general population.

However, very few criminals serve life sentences. The vast majority of those who serve time in jail will be released back into mainstream society. The length of time served, of course, depends on the severity of the crime and on the inmate's behaviour while incarcerated.

A commonly held view is that jail time is comparable to a course of higher education for crime. Through interacting with other criminals some, more inexperienced offenders learn the “tricks of the trade.”

Perhaps more accurately, through living in a community almost entirely comprised of criminals, an individual learns to deal with his problems through violence or other inappropriate means. In many ways you must become a better criminal to survive.

For those inmates with mental health and addictions problems the environment is almost guaranteed to further exacerbate these problems. Reports of the increased use of segregation to isolate and protect these individuals adds further injury to their mental health issues.

Correctional officers who are overworked and working in understaffed facilities, can at best maintain some modicum of order in such an environment. Many offenders are released into the community more damaged and more criminally inclined than when they entered the institution.

Which brings us to the other purpose of incarceration — rehabilitation. The intended goal is to provide an individual offender with the necessary skills and abilities to avoid returning to criminal behav-

ious. Through a combination of social and educational programs, an offender will be able to return to society a more productive and law-abiding individual.

In North America, the belief in the rehabilitative possibility was widely accepted for a good part of the 20th century. Prison programs were developed and implemented with this intention. A wide range of college and university courses in Criminology were created to produce the staff and research that would best support this purpose.

Then, in the mid-1970s, a gradual shift in opinions around correctional policy started to take hold in the United States. Rehabilitation was increasingly seen as ineffective.

Emphasis was directed away from offender rehabilitation programming toward punishment in order to control recidivistic crime. The use of incarceration substantially increased in many jurisdictions and sentences of imprisonment became longer.¹⁰

This, strongly economic, viewpoint argued that stiff penalties for crime would deter others from committing them. As for those caught, the severity of the sentence would ensure that they would avoid repeating their actions.

This “common sense view” took strong hold among many politicians and commentators in the United States. This is the genesis of the tough-on-crime approach.

Given the importance of this shift in correctional policy, it would be expected that a sound and coherent rationale would have been presented—at least something based in empirical research.

Unfortunately, a number of researchers have pointed out the absence of any research or theoretical support for the deterrence approach. In 2002, a report from an exhaustive analysis of the research on sentencing and recidivism, funded by the Solicitor General of Canada, the authors wrote that “interestingly, no coherent empirical rationale has been posited to support the use of these strategies.”¹¹

More pointedly, the authors say that:

Rather, what passes as intellectual rigour in the sanctions field is a fervid appeal to common sense

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The notion is that “turning up the heat,” will magically change antisocial behavioural habits nurtured over a lifetime, and do so in relatively short order.

or vaguely articulated notions that somehow just the “experience” of a sanction, the imposition of so-called direct and indirect costs or “turning up the heat,” will magically change antisocial behavioural habits nurtured over a lifetime, and do so in relatively short order.¹²

What is surprising is that most research on recidivism rates and the severity of sentence has found either no positive effect or an actual increase in the number of offenders who reoffend following release from jail. While shorter prison sentences showed no effect on recidivism rates, sentences of longer than two years resulted in an average increase of seven per cent.¹³

The 2002 report suggests “there is some credence to the prison as ‘schools of crime’ perspective given that the proportion of low risk offender effects in each category in this particular analysis were very similar.” Furthermore, “if further research consistently supports findings of slight increases in recidivism then the enormous costs accruing from the excessive use of prison may not be defensible.”¹⁴

However, the research does show that well-designed intervention programs do have some efficacy in reducing the likelihood of a released offender committing another crime.

In summary, the addition of this body of evidence to the “what works” debate leads to the inescapable conclusion that, when it comes to reducing individual offender recidivism, the “only game in town” is appropriate cognitive-behavioural treatments which embody known principles of effective intervention.¹⁵

The Nordic model of corrections provides an example of how effective a rehabilitative approach to prison can be.

Scandinavian countries are often considered models of successful incarceration practices, particularly Norway which, at 20%, has one of the lowest recidivism rates in the world. Here, too, the focus is far more on rehabilitation and less on punishment.¹⁶

This lesson is being learned even in the heartland of tough-on-crime sentencing—the United States.

The good news is that the United States is already working toward reform at both the federal and state levels. In August 2013, Attorney General Eric Holder announced a change in Department of Justice policy so that low-level, nonviolent drug offenders, with no ties to large-scale organizations, gangs or cartels, will no longer be charged with crimes that carry, as he put it, “draconian mandatory minimum sentences.” Louisiana, Pennsylvania and 15 other states are currently taking part in the Justice Reinvestment Initiative, a data-driven program aimed at decreasing spending on corrections by reducing prison populations and increasing public safety, and saving taxpayers billions of dollars in the long run.¹⁷

Responding to the growing crisis in state correctional institutions, the National Conference of State Legislatures, a bipartisan organization supporting state legislators, convened a work group to look at the issue.

Sentencing and corrections policies should be designed with the goals of preventing offenders’ continued and future criminal activity. State approaches to sentencing and corrections have been characterized by traditional views that lean toward incapacitation or rehabilitation. More contemporary policies to reduce recidivism look to evidence-based strategies that hold offenders accountable, are sensitive to corrections costs, and reduce crime and victimization.¹⁸

Furthermore, they write that “effective crime prevention consists not only of state investments in early childhood and family services, but also corrections and sentencing policies that deter, treat and supervise offenders.”¹⁹

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MANDATORY ^{VOTE} MINIMUMS



IT'S ABOUT
THE WORDING
OF THE BILL...



The overcrowding crisis

Most correctional facilities in Canada currently house more inmates than they were designed for. In 2014, the Office of the Auditor General of Canada found that overcrowding in federal prisons was a serious problem.²⁰

It must be remembered that there are a range of shorter-term jails and lock-ups across the country. Most of these are managed by a municipal or provincial police force as well, in some regions, by the RCMP. Anecdotal accounts suggest that these facilities are experiencing their own overcrowding problems.

In most provinces, correctional facilities are also double- and triple-bunking inmates, but there is no centralized source of information on the overcrowding crisis in Canada's provincial jails. We must instead rely on internal reports from each province on inmate counts and the number of spaces in an institution. The following snapshots paint a picture of problems faced by provincial facilities across Canada.

British Columbia

In January 2015, British Columbia's Auditor General, Carol Bellringer, released an audit of the province's correctional facilities.²¹ Bellringer found that in 2013/2014, approximately 16,000 people were admitted into the province's jails. These inmates were almost equally divided between those who had been sentenced and those on remand (awaiting bail, trial or sentencing). The growth of the inmate population combined with the 2002 closing of 10 provincial facilities, has resulted in "extensive double-bunking in cells," the overwhelming majority of which had been built for single occupancy.

Bellringer also noted with significant concern:

Correctional centres in British Columbia are over capacity, operating at 140% occupancy on average with individual centres ranging from 107% to 177%. Prison overcrowding increases risks to both inmates

Prison overcrowding increases risks to both inmates and staff, and contributes to rising tension and the potential for conflicts.

and staff, and contributes to rising tension and the potential for conflicts. Although the Adult Custody Division regularly inspects, assesses risks, and monitors and reviews critical incidents, it cannot adequately demonstrate whether operating its prisons at these levels provides for safe custody.²²

The audit further found that despite increased capacity becoming available through planned expansion projects, the occupancy rate is still expected to be about 121 per cent by 2022/2023.

B.C. correctional officers report a serious increase in violence connected to the level of overcrowding. B.C.'s Parliamentary Secretary for Corrections, Laurie Throness, reported up to a 129 per cent increase in the incidence of violence within the province's correctional facilities:

1. VIOLENCE AGAINST STAFF

Over the past five years, there were a total of 211 assaults, 162 threats and 62 other incidents of violence against staff (including a combination of assaults, threats, fights and attempted assaults) across our nine institutions. In 2013, there were 45 assaults, which marks an increase of 18% since 2009. Threats exclusively have increased by much more. In 2009, there were 24 threats, but in 2013 there were 55 — a 129% increase.

On 203 other occasions over the past five years, assaults and threats of violence against staff took place indirectly when staff responded to an incident between inmates. In 2013, there were 54 such indirect assaults and threats — more than double the 20 events in 2009.

2. INTENSITY OF VIOLENCE AGAINST STAFF

Intensity can be measured by injury. Over the past five years, there were 413 staff injuries due to inmate-on-staff assaults or as a result of staff responding to an incident between inmates.

Twenty-four needed no treatment, 303 were treated on-site, 26 were treated off-site, and 60 were treated in-hospital.

3. VIOLENCE BETWEEN INMATES

Violence between inmates varies by institution. Remand centres and larger, sentenced facilities house more serious offenders and are more prone to gang activity. North Fraser

Pretrial Centre recorded 188 assaults in 2009 and 279 in 2013 — a 48% increase over five years. In comparison, Ford Mountain primarily houses sentenced sex offenders and inmates who have mental health needs, recording just eight assaults last year and 13 in 2009.²³

As difficult as it might be for most people to imagine, this account may be seriously under-representing the scope of the problem. BC Criminologist Neil Boyd conducted a study of the exposure of correctional officers to stressful incidents in the province's correctional facilities. In his report he found that:

More than 90 per cent had been exposed to blood, and more than 75 per cent to feces, spit and urine. Notably, more than 90 per cent had responded to requests for staff assistance and to medical emergencies, two-thirds had received a credible threat of harm from an inmate, almost 40 per cent had been hit by feces, urine, vomit, spit, more than one in four had been physically assaulted by an inmate, more than 80 per cent had responded to a serious injury to an inmate and almost 20 per cent had witnessed the death of an inmate.²⁴

This linked pattern of overcrowding and subsequent violence is becoming, as we shall see, an all too familiar pattern across Canada.

Alberta

There have been reports of severely overcrowded Alberta jails for more than a decade. In 2013, Alberta had more than 2,900 inmates being held daily in provincial correctional and remand centres, a 22.5 per cent increase over five years.²⁵

However, with the opening of a new remand centre in Edmonton, the situation in many facilities appears, for the most part, to be improving.

The \$569 million Edmonton Remand Centre can hold up to 2,000 inmates, with contingency plans to build additional housing units to hold 800 more if required. Prior to the new centre's opening, approximately 800 people were housed in the downtown remand centre, nearly three times the capacity of that building.

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Saskatchewan

According to a report by the Canadian Centre for Policy Alternatives (CCPA), Saskatchewan “boasts one of the most highly strained provincial prison systems in the country.”²⁶ Perhaps boasts is the wrong word in this context.

In April 2012, Saskatchewan’s provincial prisons had a total of 817 cells. Even with most cells double-bunked, the system is said to have the capacity to house 1,050 inmates. However, in 2011-12, there was an average daily count of 1,400 inmates in the province’s jails.²⁷

Overcrowding is not a new problem in Saskatchewan. According to the CCPA:

The province already built a 90-bed dormitory-style facility in Saskatoon in 2009 to deal with overcrowding issues and a growing prison population. In October 2013, the province opened 30 new cells in the Pine Grove Provincial Correctional Centre for women, and they have broken ground on a 72-cell expansion at the Prince Albert Correctional Centre. Even if all of these new cells are double-bunked — and plans suggest that they will be — the bed count still falls short of the average daily count.²⁸

The 2011 annual report by Saskatchewan’s Ombudsman, Kevin Fenwick, notes that:

With respect to the continuing problem of overcrowding in correctional facilities, we are very concerned that the current situation could go from bad to worse. Correctional centres in Saskatchewan already house almost twice as many inmates as they were designed for. With the recent passage of the federal omnibus crime bill, Bill C-10, this situation has the potential to deteriorate further. No one can predict with certainty how great the impact will be, but it would be naïve to suggest that the impact will be anything less than significant.

Some of the problems are obvious. Double-bunking is already common in cells that were designed for one person and there is the potential that three in-

mates may be squeezed into cells designed for one. Classrooms have been converted into dormitories. Entire sections of our jails that had been closed due to their age and poor condition, and should have remained so, have been re-opened because there is nowhere else to put the inmates.²⁹

\Fenwick further says, “The problem of overcrowding is not just about the humane treatment of prisoners. Overcrowding does pose serious health and safety risks for the inmates, but it also poses risks for the corrections workers tasked with supervising them.”

Manitoba

Manitoba ranks with Saskatchewan as having the most overcrowded provincial jails. According to the Manitoba Auditor General’s 2014 report:

Between 1990/91 and 2004/05, the Province’s average adult custody population grew from 989 to 1,147 offenders, an increase of 158, reflecting modest growth of 16% over these 15 years. But, as Figure 5 shows, in the 8 years from 2004/05 to 2012/13, it grew from 1,147 to 2,425 offenders an increase of 1,278, reflecting growth of 111%.³⁰

Despite efforts to create more space for inmates, overcrowding remains a persistent problem in Manitoba.

While the total adult custody population varies day to day, at times during 2012 it surpassed 2,500 offenders ... the Department spent \$182 million adding 651 beds to its adult correctional centres between May 2008 and May 2013. This increased the total rated capacity of centres by 52% (from 1,242 to 1,893 beds), and helped to reduce the level of overcrowding, but did not completely eliminate it. The total adult custody population was 147% of rated capacity on May 15, 2012, but this was reduced to 126% by May 15, 2013.³¹

Offenders were triple-bunked by putting floor mattresses on top of plastic platforms in cells already equipped with bunk beds.

The Auditor General's report also provided some noteworthy insights into what overcrowding means for the living and working conditions of inmates and correctional officers alike:

As overcrowding has persisted despite increasing bed capacity by 52% since 2008, in order to house offenders the Department [of Justice] has:

- double-bunked offenders in what were previously single-occupancy cells.
- quadruple-bunked offenders in what were previously double-bunked cells.
- added dorm-style bunk beds to recreational and program space (gym space and space used for training and treatment programs).
- placed offenders in temporary holding cells, originally intended only for reception because of their smaller size.
- triple-bunked offenders (when necessary) by putting floor mattresses on top of plastic platforms in cells already equipped with bunk beds.

The Auditor General's report went on to note the following broader systemic impacts:

- reduced rehabilitative, training, educational, and recreational programming for offenders.
- less space and time for visitors, including family and lawyers.
- greater challenges in keeping the large and growing number of different gangs apart, as per Department practice.
- more frequent transfers of offenders between correctional centres to relieve overcrowding pressures, leading to higher costs for transporting offenders.
- greater mixing of remand (charged, but not yet convicted or sentenced) and sentenced offenders.
- offenders spend more time in their cells for safety and security reasons.
- less offender privacy.
- increased tension, leading to greater risk of security incidents.
- more labour issues related to the more stressful work environment.

- more overtime.
- senior management time and attention is overly focused on finding places for offenders.
- greater risk of disease.³²

Department data showed the number of “serious incidence” security events in 2012 totaled 2,552 43% higher than the 1,783 security events reported for 2009.

Ontario

The word crisis best describes the state of Ontario’s correctional facilities. A significant number of the province’s jails are aging institutions that are inadequate for housing the numbers and categories of inmates coming into the system. In addition, there are barely enough staff to maintain order, much less provide rehabilitative programs. Multiple violent incidents are happening daily.

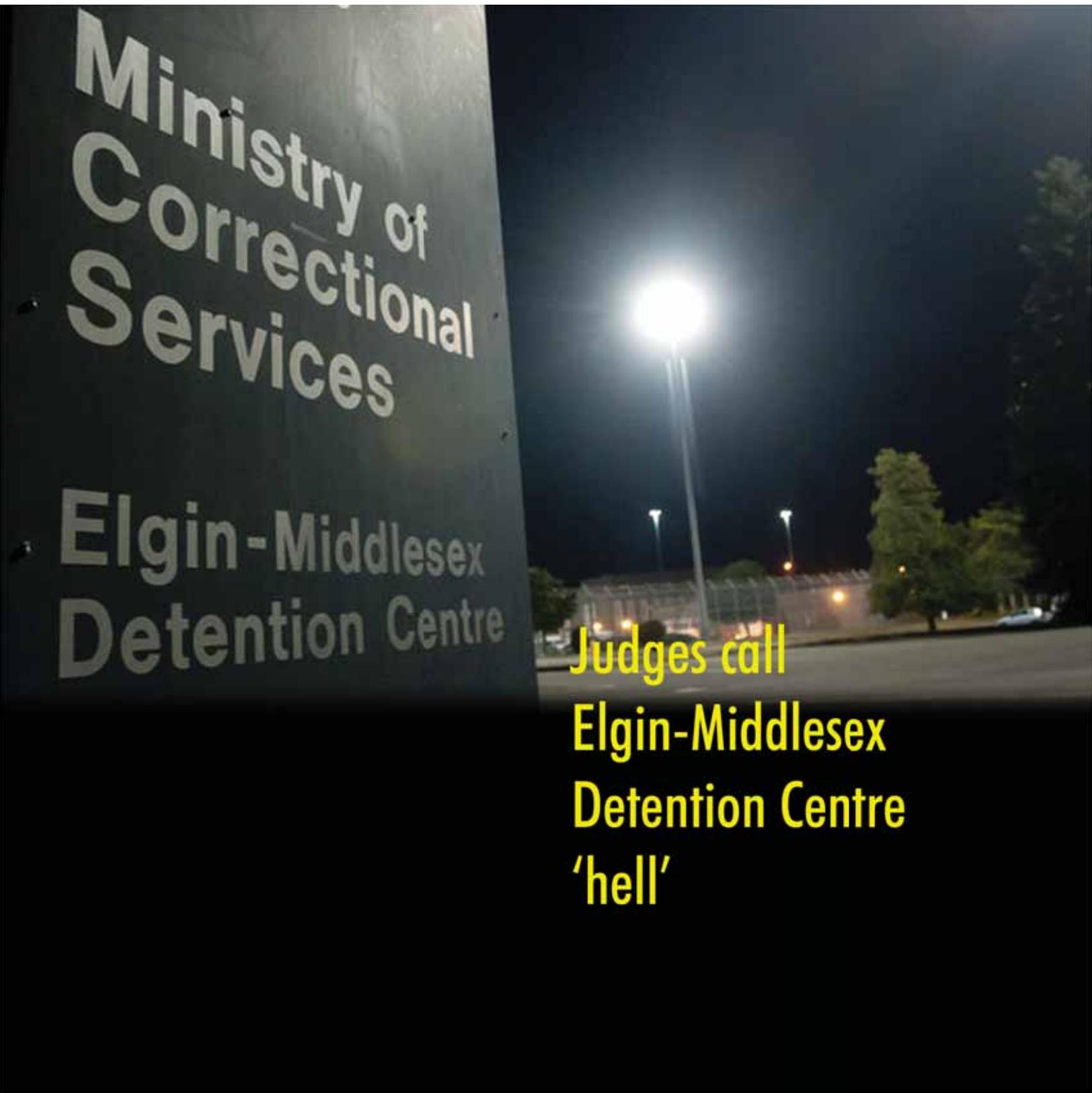
The Ministry of Community Safety and Corrections reveals that on an average day in 2012, 14 of Ontario’s 29 jails held more prisoners than they were designed for. In that same year, the reported province-wide capacity hit 98.5 per cent, matching the previous peak of 2008/09. However, this figure was only slightly higher than the average rate in the intervening four years.

Unfortunately, there is a significant disconnect between the province’s official stated capacity for current facilities and the numbers the buildings were originally designed to hold. Some retrofitting of older institutions has resulted in the Ministry of Community Safety and Correctional Services significantly increasing their capacity figures, while double-bunking has become commonplace in facilities not designed to accommodate such crowded living arrangements.

As a result, these institutions have, like their provincial counterparts above, witnessed dramatically increased rates of violence in the past couple of years. An investigation by Global News reported that inmates in Ontario’s jails are:

caught in a penal system whose violence-related crowding is even worse than depicted on paper: Older prisons retrofitted to hold many more inmates than their original design capacity are more likely to be

Older prisons retrofitted to hold many more inmates than their original design capacity are more likely to be scenes of brutality.



Judges call
Elgin-Middlesex
Detention Centre
'hell'

scenes of brutality, analysis of numbers obtained through access-to-information requests reveals.³³

The murder of an inmate at the Elgin-Middlesex Detention Centre, and a subsequent class action suit brought against the institution, have placed the crisis in Ontario's jails before the media and public.

Built in 1977 with an intended 208-inmate capacity, Elgin-Middlesex underwent renovations to increase capacity to 382. On average, however, over the past 5 years, it has held 420 inmates in custody.

Staff and inmates at Elgin-Middlesex view the overcrowding problem in this facility—as with others similarly bulging at the seams across the province—as contributing to a volatile living and working environment. Global News reported that:

Between 2008 and 2013 there were almost 1,200 reported violent incidents at the facility, according to the province, making it one of the five most dangerous jails in Ontario.

The Central East Correctional Centre in Lindsay, which at 1,000 has more than double the London jail's average inmate population, had just over 1,400 violent incidents in that time period.

Our analysis shows that provincial jails built before 2000 have significantly higher instances of both overcrowding, compared to their original design capacity, and inmate violence.³⁴

The news story goes on to reveal that in 2013 there were approximately 3,000 reported prisoner-on-prisoner assaults, a major increase from the 2,300 incidents reported five years earlier.

Another Ontario facility facing crisis is the Ottawa-Carleton Detention Centre (OCDC). Built in 1972 to hold 176 inmates, the OCDC has housed on average 567 inmates over the past five years, but is not considered to be overcrowded because its capacity is reported to be 585. However, both staff and inmates see OCDC as dangerously overcrowded, a conclusion supported by the reported number of violent incidents by inmates—1,770—over a five-year period.

Provincial jails built before 2000 have significantly higher instances of both overcrowding and inmate violence.

The situations in the institutions mentioned here are symptomatic of a provincial system in crisis.

It's a similar story at Milton, Ontario's Maplehurst Correctional Centre. While the jail has an official capacity of 1,144 inmates, it was originally designed to hold 420. Unsurprisingly, 1,950 violent incidents were reported during a five-year period at Maplehurst.

Global News drew a "direct relationship between crowding, in relation to a facility's original capacity, and violence rates."³⁵

The situations in the institutions mentioned here are symptomatic of a provincial system in crisis. Incidents in these jails have received media attention, while many other institutions are similarly in crisis without being subjected to outside scrutiny.

A reflection of the growing problems in these jails is the increased use of lockdowns to bring critical situations under control. Reports from staff indicate that a combination of high inmate counts and low staffing creates volatile situations where a general lockdown is the only safe course of action.

Ontario's Ombudsman, responding to complaints by inmates of assaults by correctional officers, reported that:

Correctional officers told us one of the primary causes of conflict is chronic overcrowding of inmates—two or even three to a cell (known as double- or triple-bunking). Senior officials at various institutions echoed this concern. One deputy superintendent suggested there might be a direct correlation between high inmate counts and incidents of use of force. Another said overcrowding often leads to the application of force against inmates.

The problem of overcrowding in correctional facilities has been the subject of judicial consideration in sentencing of inmates, numerous media reports, and was addressed in the Ontario Auditor General's 2010 annual report. Our Office has been aware of this issue for many years. Over the past four years, we received almost 200 complaints about crowded inmate living conditions.³⁶

The 2010 Ontario Auditor General's report, referenced by the Ombudsman above, pointed out:

The Ministry's transformation strategy, launched in 2004/05 with plans to eliminate 2,000 beds by 2007/08 and save \$60 million annually, had not produced the anticipated results. Adult Institutional Services had almost 1,000 more inmates than when the strategy was introduced, and Ontario's correctional institutions were operating at 100% capacity. They were overcrowded and at increased risk for inmate disturbances, labour-relations issues, and health-and-safety problems for staff and inmates. The Ministry predicted at that time that it might be short 2,000 beds by 2010/11.³⁷

Inmate assaults against staff skyrocketed from 321 to 855: an increase of more than 250%.

The problems in Ontario's jails were compounded when the Ministry imposed a hiring freeze, contributing to the potent combination of under-staffed and overcrowded facilities that is linked to dangerous levels of inmate-on-inmate violence.

Of particular concern is the dramatic increase in assaults committed by inmates against staff. According to an August 13, 2014, memorandum from the Ministry to the union representing correctional officers, between 2010 and 2013, inmate assaults against staff skyrocketed from 321 to 855.

Québec

Québec's correctional system has not been immune from the crisis of provincial overcrowding. As the Corrections Ombudsman of Québec's 2013/14 report found:

Prison overcrowding in Québec has been growing steadily for at least a decade. For example, occupancy levels increased from 108.3% in 2010–2011 to 122.8% in 2013–2014. In its 2012–2013 Annual Report, the Québec Ombudsman detailed the many harmful effects that overcrowding has on detainees, including repeated transfers from one facility to another.

The number of inter-institutional transfers increased by 16.6% (from 29,291 in 2012–2013 to 34,154 in 2013–2014). Some of these transfers had nothing to do with overcrowding, notably in cases of court ap-

When a cell must serve double capacity, the consequences are lack of air, dirt, violence and tensions.

pearance and release. However, the purpose of the vast majority of the transfers was to relieve overcrowding in prisons bursting at the seams and to assign inmates to other detention centres.³⁸

The excerpts below from the Québec Ombudsman's 2012–2013 report provide important insight on the impact of overcrowding on the province's correctional facilities:

Prison overcrowding is not a recent phenomenon. In its 2006–2007 annual report, the Québec Ombudsman noted that the capacity of Québec's detention facilities had long been exceeded and that overcrowding had been steadily growing for years. It has many causes, including a large number of offenders in preventive custody, an increase in people declining release on parole, mass arrests following large-scale police operations, and tougher sentencing ordered by the federal government.

This year has seen violent demonstrations in some detention facilities. While in some cases overcrowding was to blame, the Québec Ombudsman found that this was not always the case.

The main consequences of overcrowding as ascertained by the Québec Ombudsman are the deterioration of prison conditions, lack of privacy, tension between detainees and with staff, an increase in transfers from one facility to another, wrong classifications, medical appointment postponements and staff exhaustion. One of the subjects covered by the Québec Ombudsman's special report on services for detainees with mental disorders, submitted in 2011, was the effect overcrowding has on this particularly vulnerable group.³⁹

The Ombudsman pointed out that overcrowding was being addressed with double- or triple-bunking of inmates, an inadequate response that increases safety risks for both prisoners and staff.

Another solution the Department found to increase prison capacity was to house two or even three inmates in cells designed for one.

When a cell must serve double capacity, the consequences are lack of air, dirt, violence and tensions.

New Brunswick

Prison overcrowding was a serious problem in New Brunswick until the opening of two new facilities in 2011 added space for another 150 custodial inmates. For example, in 2009–2010, a daily average of 457 inmates were held in spaces that could only accommodate 402.⁴⁰ As of 2013–2014, the average daily count of 431 inmates appeared to be better accommodated by the province’s maximum capacity of 546 beds.⁴¹

However, there are reports that on some days, the daily count was much higher than the average of 431, and the provincial Department of Corrections predicts that the current ability to provide adequate space for the offender population will not last. The department’s 2011–2015 Business Plan recognizes that:

Two new adult facilities are scheduled to open in the fall of 2011 and this will increase bed capacity. However, offender population forecasts suggest that, even with the new institutions, overcrowding will continue to be a challenge.⁴²

Prince Edward Island

Prince Edward Island (PEI) is one of the most beautiful places in Canada. When people think about the Island, bucolic images are usually what come to mind. However, as with the rest of Canada, there is crime on the Island and the need for the administration of justice.

There are three correctional institutions on PEI: two adult (male and female) and one youth. The province’s correctional facilities house prisoners on remand and those serving both provincial and federal sentences. Changes to federal legislation have had a disproportionate impact on the province’s correctional system.

In 2010, the Provincial Correctional Centre (located in Sleepy Hollow) built a new wing adding 48 beds to the jail. Previously the facility had 80 beds and had frequently experienced an overcrowd-

Changes to federal legislation have had a disproportionate impact on the correctional system in Prince Edward

Incarceration costs PEI more than 18 times as much as house arrest: \$55,000 a year compared to \$3,000.

ing problem. Reports are that the facility often held as many as 30 inmates more than it was built for.

However, the relief from overcrowding was short-lived. In 2011, Doug Currie, Justice Minister at the time, reported that as a result of stricter federal penalties there had been a 30 per cent rise in admissions in the province. So, while the facility was intended to:

House about 80 inmates full-time, with 48 beds designed to be used by weekend inmates. But those beds are being put into service to house full-time prisoners, and sometimes even those haven't been enough. There are 146 beds in the province, and at times they've been used to hold as many as 162 prisoners.⁴³

For a small province the costs associated with this increase and the implementation of federal legislation is considerable. For example, the Parliamentary Budget Officer's report on the Truth in Sentencing Act reported that in 2008, if the legislation had been in place, there were 2 offenders in the province who would have been incarcerated instead of on house arrest. While house arrest costs approximately \$3,000 a year the cost of incarceration would have been more than \$55,000 for both.

As the current Justice Minister Janice Sherry told the media in 2012:

Our bed days in Prince Edward Island have increased 30 per cent over the last year, so when you look at the implications of Bill C-10, we are certainly recognizing the fact that there will be impacts.

Seventy per cent of the people who are serving time in our criminal justice system are dealing with alcohol-drug addiction or serious mental illness.

If those dollars that we will now be spending to incarcerate people could have been used in preventative programs in our communities to help individuals with these types of issues, what a difference we would make.⁴⁴

One of the problems in the Island's correctional system is the high number of intermittent sentences handed out. This frequently

means that weekends will see a large influx of inmates exacerbating any overcrowding problem.

One advantage the province's correctional facilities have is that they are relatively small community based institutions. This appears to mitigate, somewhat, the tensions that arise in overcrowded conditions. There appear to be proportionately fewer critical incidents or acts of violence in these facilities than elsewhere in the country.

Nova Scotia

According to the Nova Scotia Department of Justice (NSDJ), the total average daily count of inmates has increased by 21 per cent over a 5-year period. The greatest increase for those housed in the province's correctional facilities was for remand purposes.

During 2009–2010, there were in total 431 inmates in the province's 5 jails, a number that jumped to 523 for 2013–2014. As of March 2014, there were 554 beds in the province's adult facilities (9 per cent of them allotted for female offenders).⁴⁵

With the province's jails at approximately 94 per cent capacity on average, it is clear that on some days these facilities are most certainly overcrowded. Indeed, of those 554 beds, almost two-thirds are in the Central Nova Scotia Correctional Facility (CNSCF). In a dynamic reminiscent of the capacity figures employed in Ontario, the NSDJ claims that the CNSCF has a capacity of 370 inmates, even though the facility was originally designed for 272. The new figure represents an increase of 136 per cent over the intended capacity for the building, a discrepancy that can be accounted for by the normalization of double-bunking.⁴⁶

CNSCF correctional officers report that problems with overcrowding contribute to a highly volatile and dangerous environment inside the jail. On February 15, 2014, concerns about an unsafe work environment led to a work stoppage at the facility. The Halifax Chronicle Herald story about the stoppage reported that:

There were 18 incidents, ranging from shoving and pushing matches between offenders and guards to serious assaults at the jail in February, justice officials said.

Concerns about an unsafe work environment led to a work stoppage at the Central Nova Scotia Correctional Facility in 2014.

A female corrections officer in Nova Scotia suffered broken facial bones when assaulted by a male prisoner on remand, awaiting trial on two counts of attempted murder.

The most serious involved a female corrections officer who suffered broken facial bones when she was assaulted by a male prisoner who's behind bars awaiting trial on two counts of attempted murder.

Fellow inmates pulled the offender off the guard to stop the attack, several sources said. The victim was knocked unconscious, and was treated and released from hospital.

Overcrowding at the facility remains a chief concern for the union members and their safety, said the union leader. Heads of the union locals representing the officers and nurses at the jail met about the issue Monday, a day before sitting down with justice officials.⁴⁷

The 2014 year would prove to be a particularly difficult one in Nova Scotia's correctional facilities. From key informant interview, conducted by the Public Services Foundation of Canada (PSFC), there were 38 assaults of staff by inmates in 2014.⁴⁸ Furthermore, there were more than 242 inmate on inmate assaults. Of these attacks the majority took place at CNSCF (29 staff assaulted and 217 inmates).

The 2015 year appears to be on track to surpass the 2014 year. Between January and March of 2015 there were more than 9 staff assaulted in CNSCF, with at least 25 inmates assaulted by other inmates.

Correctional officers in the province report that, under these conditions, the use of segregation is growing. At the CNSCF institution inmates were placed in segregation more than 170 times in 2014. In the first two months of 2015, inmates at CNSCF were placed in segregation more than 15 times. Unfortunately, the PSFC lacked access to a wider range of incident report data for Nova Scotia. It remains to be seen how these figures have changed over the past decade.

Newfoundland and Labrador

Conditions in Newfoundland and Labrador correctional facilities have been a matter of some concern for decades. In 2008, the Department of Justice report on the province's correctional

system, *Decades of Darkness: Moving Towards the Light*, was intended to provide a roadmap for modernization and upgrading of Newfoundland and Labrador's jails.⁴⁹

Decades of Darkness quotes many of the statistics originally published in the Auditor General of Newfoundland and Labrador's 2008 Annual Report, which found that in 2005–2006 and 2006–2007, the province's facilities were at 99 per cent capacity. However, the two largest prisons in the province—Her Majesty's Penitentiary (HMP) and the Labrador Correctional Centre (LCC)—were at slightly more than 110 per cent capacity.⁵⁰

It is noteworthy that HMP, the largest institution in the province, was built in 1849 with 64 cells. In 1944 and 1945, two additions to the facility increased capacity, and subsequent growth in the prison population resulted in successive additions. As of 1981, HMP was home to 96 cells,⁵¹ but both 2008 reports credit HMP with a capacity of 145 inmates.

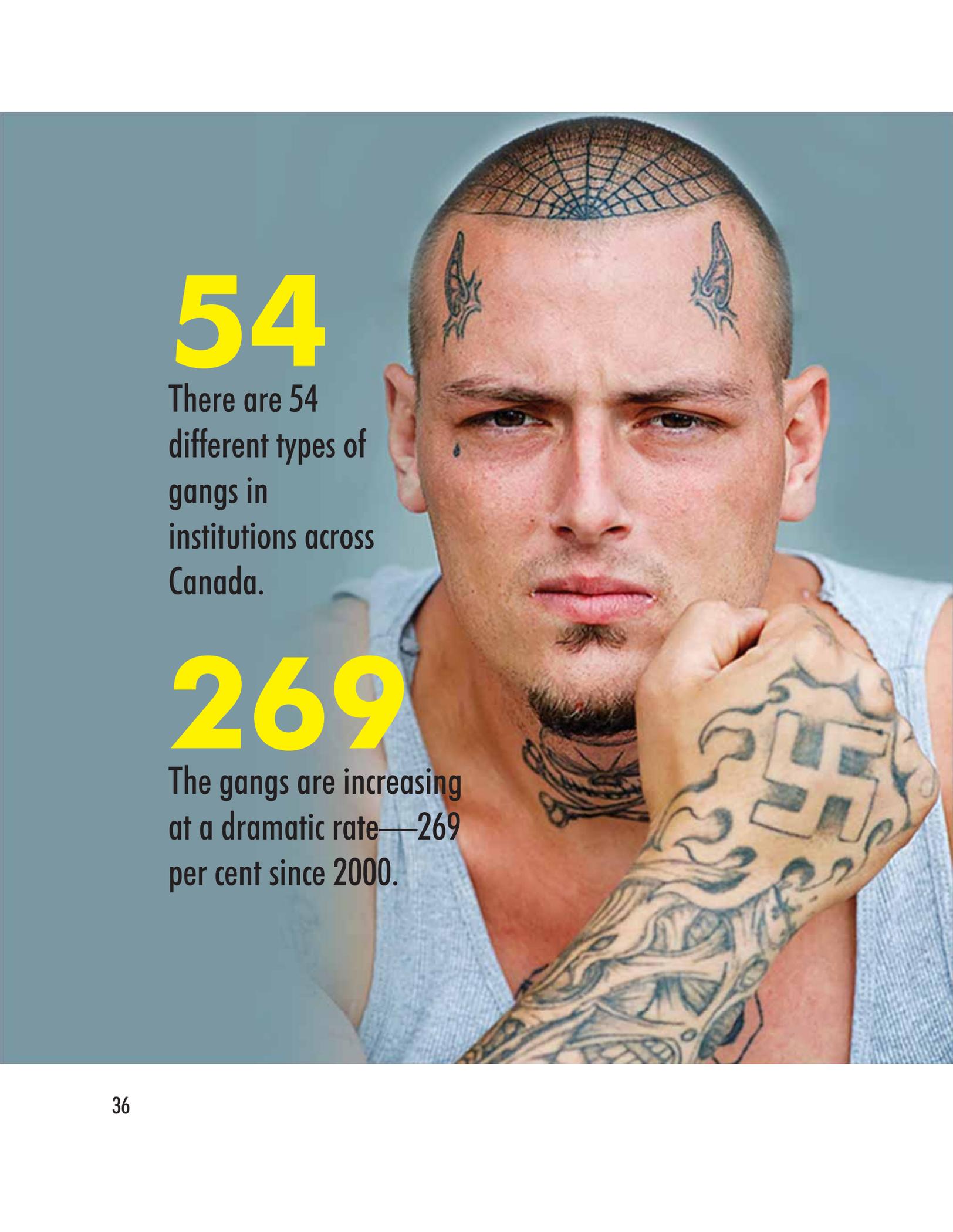
By all accounts HMP is in an extreme state of disrepair (*Decades of Darkness* cites crumbling and dirty infrastructure), with some critics arguing the building has deteriorated almost beyond repair.⁵²

While the province continues to cite the 2008 *Decades of Darkness* report in its strategic plans, it appears that there has been little progress increasing their correctional facilities' capacity.

Part of the capacity problem is related to a jurisdictional dispute between the province and the federal government, which uses HMP to house federal inmates. Both parties acknowledge that something must be done to either renovate or replace the facility, but have failed to reach an agreement on who should foot the bill.

The provincial government had made commitments to proceed with building a new jail. However, as a result of changes in world oil prices, there are questions whether they will act on these commitments.

Part of the capacity problem is related to a jurisdictional dispute between the province of Newfoundland and Labrador and the federal government.



54

There are 54 different types of gangs in institutions across Canada.

269

The gangs are increasing at a dramatic rate—269 per cent since 2000.

The growth of gangs

As Canadian prisons become increasingly over-crowded, we are also seeing a rising number of criminal gangs in these facilities. According to a report obtained by the Canadian Broadcasting Corporation, federal prisons have seen a 44 per cent jump in gang members over the last five years.⁵³

The CBC also found that there are 54 different types of gangs in institutions across Canada. Street gangs represented the largest proportion, and are increasing at a dramatic rate—269 per cent since 2000. The largest increase was in Aboriginal gangs in the prairie provinces.

However, there are reports that this listing of 54 different types of gangs under-represents the reality. In some of Canada's major cities, most notably Toronto, the number may be much higher.

While many inmates were gang members prior to entering the correctional system, there is evidence of extensive member recruitment once in custody. Overcrowded conditions hamper the institutions' ability to keep gangs separated from each other and to limit recruitment possibilities.

While data regarding gang membership in provincial facilities is not readily available, it is likely that these rates are even higher than in the federal system. Anecdotal accounts suggest that this is a major problem for most provincial correctional institutions.

Guards across Canada describe a system under siege, with tough street gang members recruiting young offenders and preying on the mentally ill, with offenders fighting drug abuse and psychiatric illnesses adding to the danger, with no money to handle the growing population of Natives.

Tough young gangsters with no respect for authority are a particular problem in provincial jails, guards say.

“The population inside has changed a lot,” says Monte Bobinski, a 22-year correctional officer in Alberta and a health and safety official with the public service union.⁵⁴

The presence of gangs has also been connected to an increase of inmate-on-inmate violence, as well as to the smuggling of contraband material into correctional facilities.

In developing a strategy to counter the growth of gangs behind bars, there is a clear need for greater coordination between federal and provincial correctional systems. Unfortunately, front-line staff frequently report a strong reluctance to sharing information among different enforcement agencies.

The growing problem of remand

One of the major contributing factors to overcrowding in Canadian correctional institutions is the growing number of people on remand. According to Statistics Canada, the number of people on remand in Canada outnumbered sentenced offenders from 2005–2010.⁵⁵ There is no evidence to suggest that this trend has substantially subsided.

Remand is the “temporary detention of a person while awaiting trial, sentencing or the commencement of a custodial disposition. According to the Criminal Code, adults and youth can be admitted to remand for a variety of reasons, including to ensure attendance in court, for the protection or safety of the public or to maintain public confidence in the justice system.”⁵⁶

All individuals held on remand are housed in a provincial or territorial correctional facility. The number of adults in Canada

on remand has grown by more than 80 per cent since 2000–2001 while, overall, the sentenced population has declined by approximately 9 per cent over the same period.

The Canadian Civil Liberties Association notes that:

- On an average day in 2012/2013, there were 25,208 people behind bars of provincial and territorial jails; 54.5% of these people were in pre-trial custody, legally innocent, awaiting trial or determination of bail.
- Over the past 30 years, the pre-trial detention rate has tripled; 2005 was the first time Canada's provincial and territorial jails held more people who were legally innocent than they did sentenced offenders.⁵⁷

However, there is considerable variation in the provincial/territorial rates of pre-trial incarceration across the country. At 66 per cent, Manitoba has the highest proportion of those held under pre-trial detention, Ontario has approximately 60 per cent, and Prince Edward Island has the lowest ratio of pre-trial to sentenced population: 18 per cent.⁵⁸

Remand figures also expose a range of equity and social justice concerns. For example, although Aboriginal people represent less than 4 per cent of the general population, they comprise up to 25 per cent of all admissions to remand (with Aboriginal women making up an astounding 37 per cent of females awaiting trial or sentencing). Evidence also shows the remand population is similarly over-represented by members of other ethnic and racialized communities.⁵⁹

Another frightening trend is the growing proportion of individuals with mental health or addictions-related issues spending time under pre-trial detention. A study conducted by the John Howard Society in Ontario found that of those granted bail, 70 per cent had issues with alcohol or drugs, 40 per cent reported current mental health issues, 31 per cent had both mental health and substance abuse issues, and approximately one-third were homeless. Overwhelmingly, these individuals' bail conditions included abstaining from alcohol or drugs.⁶⁰

Such conditions of release tend to generate a "set up to fail" dynamic for those suffering from addictions. Unable to refrain from drug or

On an average day in 2012/2013, there were 25,208 people behind bars of provincial and territorial jails; 54.5% of these people were in pre-trial custody, legally innocent, awaiting trial or determination of bail.

Screening for mental health or addictions problems is rare. The indeterminate nature of the time spent in remand, and the frequent trips to court, make accessing or completing programs quite difficult.

alcohol use, they inevitably breach their conditions and are returned to custody to await trial or sentencing. Failure to comply with conditions is the most common reason for adult admissions to remand.

Other bureaucratic and legal problems in the criminal justice system contribute to the growing numbers of Canada's prison population. (Many of these problems have been covered well elsewhere, and so only a brief summary is presented here.)

Among those issues, as the John Howard study points out, is the increased demand by courts for sureties to supervise accused persons granted bail. (Sureties are individuals who pledge to the court that they will ensure an accused abides by the conditions of their bail, with the risk of losing an often sizable amount of money if the accused breaches one or more conditions.) Even though the demand for sureties is considered a more onerous condition by the courts, their usage has become widespread.

Demands upon those who act as sureties today are high: sureties are required to make sure that the accused person attends all court appointments, complies with all of their conditions of bail, and does not commit a new offence, otherwise they risk forfeiting a specified amount of money.⁶¹

Many individuals are unable to identify a family member, friend, or organizational representative who could act as a surety, and therefore find themselves held in remand for longer than is often reasonable.

Meanwhile, as the nation's courts struggle with backlogs and a lack of resources the length of time that individuals spend in remand has increased significantly. As cases become more complicated there are increasing delays in the length of a trial, which further taxes an overburdened court system.

According to Statistics Canada, the biggest increases were in Nova Scotia and New Brunswick, where the median number of days spent in remand was 2 to 3 times higher in 2008–2009 than it was in 1999–2000.⁶²

By all accounts time spent in remand is quite stressful for the accused. While separate facilities exist across the country for remand

and sentenced populations the overcrowding problem has resulted in a significant number becoming mixed facilities. As such, people in remand for a minor offence can be in close contact with someone in custody for a much more serious crime.

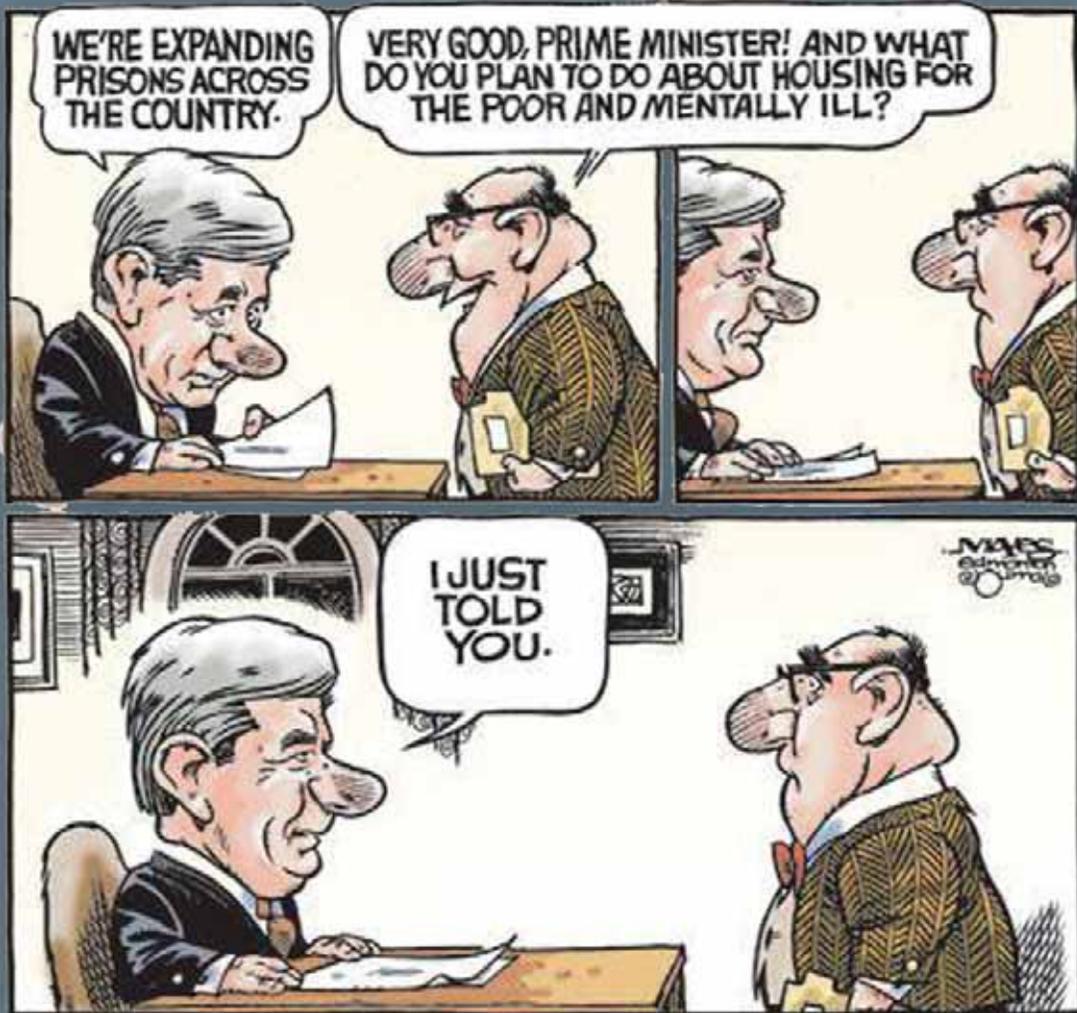
Screening for mental health or addictions problems is rare. The indeterminate nature of the time spent in remand, and the frequent trips to court, make accessing or completing programs quite difficult.

Canada's prisons are becoming the mental health service of last resort

The incidence with which people suffering mental health and addictions problems come into conflict with the justice system is a serious, multi-faceted problem, one already noted by a number of urban police forces. This trend is being felt throughout the criminal justice system, from the cop on the beat to the probation officer.

Psychiatric institutions have been closing over the years, and the mentally ill ... have now found that the correctional system has become the institution of last resort.⁶³

For example, in 2007, the Vancouver Police Department produced a report on the criminalization of people with mental health problems, *Lost in Transition: How a Lack of Capacity in the Mental Health System is Failing Vancouver's Mentally Ill and Draining Police Resources*.⁶⁴ The study documented a growing problem of people with mental illnesses who, unable to find adequate mental health services, were subsequently falling



through the social safety net, often winding up in the criminal justice system.

When Vancouver police revisited the report in 2010, they found that, despite efforts to address the problem, they continued seeing a worrisome increase in the incidence of officers dealing with people with mental health or addictions problems. They estimated that mental illness contributes to 21 per cent of all incidents handled by their officers, and 25 per cent of the total time spent on calls where a report is written. In the 1990s, the department had only 1.5 full-time employees assigned to handle those plagued by mental health and addiction problems; by 2013 it had risen to 17 full-time employees.⁶⁵

The toll that incarceration takes on individual inmates with mental health problems is immense. Jailing people who need support and treatment runs so contrary to Canadian human rights values that most Canadians would be amazed to learn that it happens as routinely as it does. The case of Ashley Smith, a young woman with mental health problems who committed suicide while held in a federal correctional institution, has received a considerable amount of attention over the past 8 years (details about her tragic case can be found in Appendix 1).

Ashley Smith's case shone a much-needed spotlight on the systemic issues that come into play when someone who, requiring therapeutic intervention, instead runs afoul of the law, and winds up in the prison system.

The dramatic increase in prisoners who, like Ashley Smith, are unnecessarily criminalized is reflected in Corrections Services Canada (CSC) data showing the proportion of federal offenders with mental health needs, identified at intake, has doubled between 1997 and 2008. The Correctional Investigator's breakdown of those figures indicates:

- 13% of male inmates and 29% of female inmates were identified at admission as presenting mental health problems.
- 30.1% of women offenders compared to 14.5% of male offenders had previously been hospitalized for psychiatric reasons.

- CSC computerized mental health screening at admission indicates that 62% of offenders entering a federal penitentiary are “flagged” as requiring a follow-up mental health assessment or service.
- Offenders diagnosed with a mental illness are typically afflicted by more than one disorder, often a substance abuse problem, which affects 4 out of 5 offenders in federal custody.
- 50% of federally sentenced women self-report histories of self-harm, over half identify a current or previous addiction to drugs, 85% report a history of physical abuse and 68% experienced sexual abuse at some point in their lives.⁶⁶

Research has also indicated that more female inmates have had previous hospitalizations for mental illness (30.1 per cent) than their male counterparts (14.5 per cent). CSC data also indicates that among the female population:

- 50% of prisoners have histories of self-harming behaviour.
- Over 50% have current or previous addictions to drugs.
- 85% have history of being physically abused and 68% have a history of being sexually abused.⁶⁷

While a considerable amount of research has documented this problem in the federal correctional system, there has been far less research conducted on inmates with mental health problems in the provincial systems. This serious knowledge gap is most concerning, especially since the provincial systems house significantly higher numbers of inmates struggling with mental health or addictions problems.

In Ontario, the Ministry of Community Safety and Correctional Services (MCSCS) indicated that in 2008, 15 per cent of inmates required a clinical intervention for mental illness. As would be expected, mental illness is more prevalent in the remand population, where mental health alerts have increased by 44.1 per cent in the last decade.⁶⁸

British Columbia’s Ministry of Justice estimates that more than half of offenders (56 per cent) admitted into the province’s corrections system have a substance abuse and/or mental health problem.⁶⁹

As stated above, a significant challenge in ascertaining the scope of the issue is the absence of data on the prevalence of people with mental health problems in provincial correctional facilities. A report by Centre for Addiction and Mental Health identified the need for better screening and assessment practices.

In order to accurately identify who is in need of assistance and what type of services that they need, effective screening and assessment practices are required. While the CSC has recently implemented improved admissions screening, the Schizophrenia Society of Ontario (2012) found that screening practices in provincial and federal institutions are generally inadequate and inconsistent.⁷⁰

The response to accused or convicted offenders with mental health or addictions problems in provincial justice systems varies widely across the country. Some jurisdictions have mental health courts intended to screen this population out of the correctional system, while other provinces have dedicated units and facilities to respond to these special needs inmates.

However, it is generally agreed that the demand for programs and treatment is much greater than what is available. There are numerous reports from across the country where segregation (solitary confinement) or lockdown is used to isolate and contain inmates with mental health or addictions issues. But segregation is the worst possible response to the overwhelming majority of inmates with these problems.

Perhaps most concerning are reports of existing mental health units not being utilized, or being under-utilized, as a result of lack of staffing or as a cost-saving measure. For example, the authors have been told that the Toronto South Detention Centre has a dedicated mental health unit that administration has so far refused to open. Similarly, infirmary beds in a number of Ontario jails are not being made available to inmates in need.

Unfortunately, none of this is new. Indeed, there have been numerous media reports over the years describing how the lack of services and supports for people with mental illnesses or addictions has led to a disproportionate number of them ending up in the criminal justice system.

We must stop using our police and jails as the default treatment option for people with mental illnesses.

In November 2008, a Federal-Provincial-Territorial Working Group on Mental Health (FPT WGMH) was struck to examine the problem. The WGMH was tasked, in consultation with the Mental Health Commission of Canada (MHCC), to develop a Mental Health Strategy for Corrections in Canada.⁷¹ While far from a panacea for addressing these problems, it could represent a significant step forward at all levels of Canadian correctional policy and practice.

Throughout this discussion, it is crucial to remember that people with mental illnesses are not necessarily committing more crimes. Rather, it's the lack of services and supports, designed to provide them with stability, that is leaving so many out in the cold, where they often come into conflict with the law by default.

The combination of poverty, a lack of affordable medications, no housing, and a shortage of treatment options all contribute to the matrix of factors that find an individual suffering mental illness being captured by the criminal justice system.

That involvement with a prison system where they often do not receive the treatment and support they need may result in more severe iterations of their illness. Behind bars, they are often targets of violence and abuse. Given the tension and multiple potential triggers posed by prison, these inmates can also present a threat to other inmates and workers in the system. Options for life after incarceration become more difficult, and relations with family and friends also become more strained.

We must stop using our police and jails as the default treatment option for people with mental illnesses. Our governments must act swiftly to address the serious deficiencies in the delivery of mental health services to ensure these vulnerable Canadians get the treatment and support they need on the outside, rather than being warehoused in correctional facilities.

It is in this regard that the MHCC's 2012 Changing Directions Changing Lives, Mental Health Strategy for Canada must be considered alongside any discussion of supporting people with mental health and addictions problems who find themselves in conflict with the law.⁷²

Justice being applied unequally?

While there has been long-standing criticism of the racial and ethnic biases in Canada's justice system, it does not appear to have changed the disproportionate numbers of a variety of ethno-cultural groups who remain behind bars.

In particular, the over-representation of Aboriginal men and women in correctional centres is an indictment of the Canadian justice system that tells us something is deeply wrong in how our society treats Aboriginal people.

Although they make up approximately 4 per cent of the Canadian adult population, Aboriginal people accounted for more than one-quarter (28 per cent) of admissions to sentenced custody in 2011–2012. Furthermore, Aboriginal adults accounted for 25 per cent of admissions to remand and 21 per cent of admissions to probation and conditional sentences.⁷³

This over-representation of Aboriginal adults was much more pronounced among women than men. For example, Aboriginal women accounted for 43 per cent of female admissions to provincial/territorial sentenced custody and 37 per cent of women admitted to remand.⁷⁴

The disproportionately high number of Aboriginal adults admitted to provincial/territorial sentenced custody was much greater in Ontario and the western provinces than in the Atlantic provinces and Québec. For Ontario and the west, the proportion of Aboriginal adults admitted to sentenced custody was six to nine times higher than their representation in the general population.⁷⁵

In 2010–11, Canada's overall incarceration rate was 140 per 100,000 adults. The incarceration rate for Aboriginal adults in Canada is estimated to be 10 times higher than that of non-Aboriginal adults.⁷⁶

Clearly, the higher rate of incarceration for Aboriginal peoples in Canada is an important and complex question.⁷⁷

The incarceration of Aboriginal people and visible minorities rose sharply, while the numbers of Caucasian inmates actually fell.

The over-representation of Aboriginal people in Canada's correctional system has been the subject of international condemnation. Following a 2013 research mission to Canada, James Anaya, the UN Special Rapporteur on the Rights of Indigenous Peoples, commented:

Given these dire social and economic circumstances, it may not come as a surprise that, although indigenous people comprise around 4 per cent of the Canadian population, they make up 25 per cent of the prison population. This proportion appears to be increasing. Aboriginal women, at 33 per cent of the total female inmate population, are even more disproportionately incarcerated than indigenous individuals generally and have been the fastest growing population in federal prisons.⁷⁸

Aboriginal people are not the only over-represented ethno-cultural group in Canada's correctional system. The 40th Annual Report of the Office of the Correctional Investigator, introduced into Parliament in November of 2013, reported that:

Recent inmate population growth is almost exclusively driven by increases in the composition of ethnically and culturally diverse offenders. Over the past 10 years, the Aboriginal incarcerated population increased by 46.4% while visible minority groups (e.g. Black, Asian, Hispanic) increased by almost 75%. During this same time period, the population of Caucasian inmates actually declined by 3%. Nearly one-in-four visible minority inmates are foreign-born, many practice religious faiths other than Christianity and a number speak languages other than English or French.⁷⁹

While the diversity of the inmate population may reflect demographic trends in Canadian society, some groups nonetheless remain over-represented. According to the Correctional Investigator "9.5% of federal inmates today are Black (an increase of 80% since 2003/04), yet Black Canadians account for less than 3% of the total Canadian population."⁸⁰

Once again, data from provincial correctional systems is far less available than from the federal system, and access to data varies between provinces. In addition, the custody rates for people of different ethno-cultural backgrounds also vary significantly between provinces.

For example, in Ontario in 2011–2012, the total number of institutional admissions of Aboriginal peoples was 8,332 people (11.7 per cent of the total admissions), while those identified as Black totalled 9,080 (12.7 per cent of the total).⁸¹

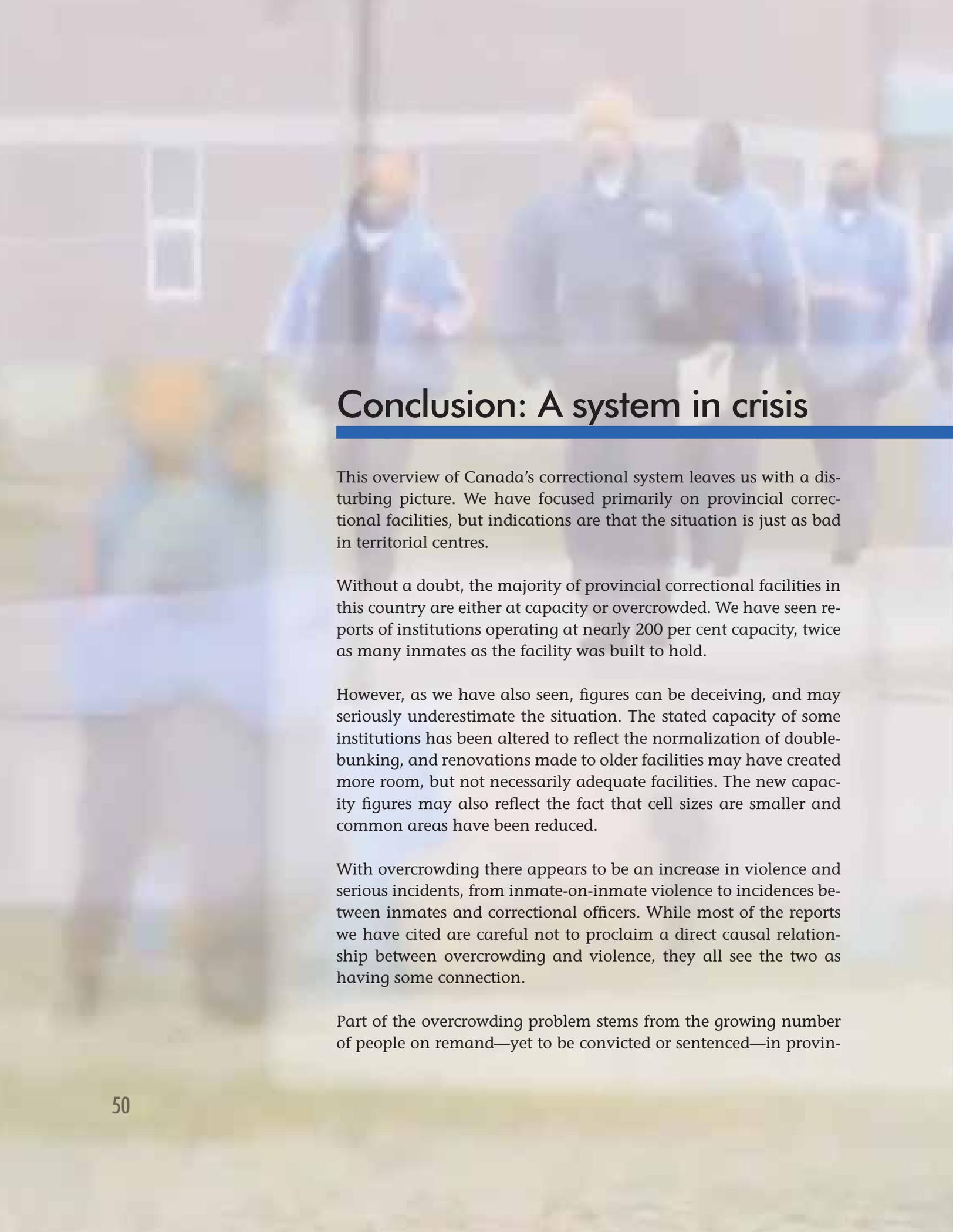
Of the 2,562 inmates in British Columbia on March 1, 2013, there were 84 people identified as Black (about 3 per cent of the provincial correctional population). However, when looking at all non-Caucasian and non-Aboriginal inmates, the number jumps to approximately 296, or more than 10 per cent of the entire provincial corrections population.⁸²

The cultural diversity of provincial correctional facilities is an issue that requires more research. An equally important consideration is the ethno-cultural diversity of the staffing complement of provincial correctional systems.

A related issue we feel compelled to highlight and follow-up with further research and discussion is the inordinate amount of time spent in remand for those facing terrorism-related allegations. For example, a group of individuals held under the Immigration and Refugee Protection Act's security certificate spent between 21 months and 7 years in remand without being charged. More recently, a number of individuals who have been charged with terrorism-related offences can likely expect, given the complexity of their cases, to spend a considerable amount of time in remand.⁸³

The United Nations 2012 *Report of the Committee against Torture* expressed serious concerns about the security certificate regime and the potential for indeterminate detention of those accused of terrorism-related offences.⁸⁴

Individuals held under security certificates spent between 21 months and 7 years in remand without being charged.



Conclusion: A system in crisis

This overview of Canada's correctional system leaves us with a disturbing picture. We have focused primarily on provincial correctional facilities, but indications are that the situation is just as bad in territorial centres.

Without a doubt, the majority of provincial correctional facilities in this country are either at capacity or overcrowded. We have seen reports of institutions operating at nearly 200 per cent capacity, twice as many inmates as the facility was built to hold.

However, as we have also seen, figures can be deceiving, and may seriously underestimate the situation. The stated capacity of some institutions has been altered to reflect the normalization of double-bunking, and renovations made to older facilities may have created more room, but not necessarily adequate facilities. The new capacity figures may also reflect the fact that cell sizes are smaller and common areas have been reduced.

With overcrowding there appears to be an increase in violence and serious incidents, from inmate-on-inmate violence to incidences between inmates and correctional officers. While most of the reports we have cited are careful not to proclaim a direct causal relationship between overcrowding and violence, they all see the two as having some connection.

Part of the overcrowding problem stems from the growing number of people on remand—yet to be convicted or sentenced—in provin-



cial correctional facilities. In this environment, the rehabilitative function of these facilities is pretty much non-existent. The resources are simply not there to provide programming.

We have also seen that there are ever greater numbers of people with mental health or addictions problems entering our correctional facilities. A significant number of these people will be housed under remand, only to be returned to the community without treatment or options that will keep them out of the kinds of conflict that led them into the criminal justice system in the first place.

Our jails are not meant as treatment centres for people with mental health or addictions problems. Indeed, we cannot imagine how traumatic such an experience must be for such individuals, and being subjected to segregation or locked down as a response to their illnesses only serves to exacerbate an already inhumane situation. As the case of Ashley Smith demonstrates, this creates a recipe for truly tragic consequences.

Something needs to change in Canada's correctional facilities. This report was intended to shed light on what is a growing crisis. It is hoped that it will provide a starting point for a national dialogue on how to move forward in creating a correctional system that reflects the values and human rights concerns of Canadians.

Recommendations



- 1.** Restore Statistics Canada's long-form census to provide accurate information on the incidence of crime in Canadian society.
- 2.** Improve and expand on the ability of Statistics Canada to compile data and report on provincial justice systems.
- 3.** Develop and implement a national system of data collection on offenders in the provincial/territorial correctional systems.
- 4.** Restore federal funding to research on corrections.
- 5.** Convene a national commission to examine and report on Canada's correctional system at both the federal and provincial/territorial levels.
- 6.** Federal government should create a number of targeted transfers to support the modernization of provincial/territorial correctional systems.
- 7.** Develop and implement national standards on adequate and safe ratios on correctional officers to inmate populations.
- 8.** Develop and implement national guidelines on the appropriate size of correctional facilities, including standards pertaining to cell size and allotted space for inmates.
- 9.** Strive to move to a more community-based system of corrections with small-

er sized facilities providing for closer contact between inmates and home.

10. Develop and implement national standards for the use of segregation.

11. After consultation with appropriate stakeholder organizations, develop and implement national standards and training for correctional officers, including course modules on dealing with mentally ill and addicted offenders.

12. Expand the job scope for correctional officers to include more therapeutic and rehabilitative functions, including the dispensing of prescribed medication.

13. The federal government should dedicate funds to help with the implementation, for both federal and provincial institutions, of the 2010 Mental Health Strategy For Corrections in Canada: A Federal-Provincial-Territorial Partnership.

14. The federal government should work with its provincial and territorial counterparts for the full implementation of the 2012 Mental Health Strategy as formulated by the Mental Health Commission of Canada. In particular, those recommendations (as quoted below) from the strategy that require immediate attention are:

Reduce the over-representation of people living with mental health problems and illnesses in the criminal jus-

tice system and provide appropriate services, treatment and supports to those who are in the system.

- 2.4.1 Increase the availability of programs to divert people living with mental health problems and illnesses from the corrections system, including mental health courts and other services and supports for youth and adults.
- 2.4.2 Provide appropriate mental health services, treatments and supports in the youth and adult criminal justice system, and ensure everyone has a comprehensive discharge plan upon release into the community.
- 2.4.3 Address critical gaps in treatment programs for youth and adult offenders with serious and complex mental health needs.
- 2.4.4 Increase the role of the “civil” mental health system in providing services, treatment and supports to individuals in the criminal justice system.
- 2.4.5 Provide police, court and corrections workers with knowledge about mental health problems and illnesses, training in how to respond, and information about services available in their area.⁸⁵

15. Develop supports and resources to be available for correctional officers or inmates suffering from post-traumatic stress disorders (PTSD).



APPENDIX 1

The case of Ashley Smith

ASHLEY SMITH⁸⁶ started showing challenging behaviours at an early age. Her family sought help from local and provincial social service agencies. She was admitted to a diagnostic and treatment facility in March 2003, but was discharged due to her behaviour.

This discharge may have been premature, and could possibly have been the key missed opportunity to assist this young girl and her family before she entered the criminal justice system.

Ashley appeared repeatedly before the juvenile courts and eventually received a closed custody sentence to the New Brunswick Youth Centre (NBYC) in December 2003. While at NBYC, she incurred 50 additional criminal charges, most of them related to her response to efforts of correctional or health professionals to prevent or stop her self-harming.

She spent extensive periods of time isolated in that facility's Therapeutic Quiet Unit (i.e. segregation). In January 2006, Ashley turned 18, and so any future criminal conviction would result in an adult sentence.

She was again in criminal court in October 2006 for offences committed against custodial staff, and this time received an adult custodial sentence. An application was approved to have her remaining youth sentences treated as adult custodial sentences.

The merged adult sentence was more than two years, so she was transferred to Nova Institution for Women—a federal penitentiary—on October 31, 2006. Ashley adjusted poorly to federal incarceration, and the behaviour demonstrated while in youth custody persisted in the adult environment. Since commencing her term at Nova Institution, she had been housed continuously under administrative segregation (solitary confinement).

The only periods when Ashley was not in administrative segregation were when she was at CSC's Regional Psychiatric Centre (Prai-

ries Region) and L'Institut Philippe-Pinel de Montréal. Over 11.5 months, she was involved in approximately 150 security incidents, most related to her self-harming behaviours. These incidents consisted of self-strangulation, some incidents of head-banging, and superficial cutting of her arms.

Staff had to frequently enter her cell and use force to stop her behaviour. This often involved the use of physical handling, inflammatory spray, or restraints. Ashley usually fought the staff. In less than a year, Ashley was moved 17 times within and between three federal penitentiaries, two treatment facilities, two external hospitals, and one provincial correctional facility.

Nine of the 17 moves were transfers across four of the five Corrections Services Canada regions. The majority of these transfers had little or nothing to do with Ashley's needs.

Each transfer eroded her trust, escalated her behaviours, and made it increasingly more difficult for the Correctional Service staff to manage her. Ashley usually did not cooperate or consent to assessment, and she continued with her maladaptive, disruptive, and self-injurious behaviours. She was certified four times under the Mental Health Services Act of Saskatchewan and four times under the Mental Health Act of Ontario.

The fact that it was necessary to have her certified eight times in less than one year of incarceration should have demonstrated the urgent need for a comprehensive mental health assessment. On October 19, 2007, at the age of 19, Ashley Smith was pronounced dead in a Kitchener, Ontario, hospital.

She had been an inmate at Grand Valley Institution for Women (GVI) where she had been kept in a segregation cell, at times with no clothing other than a smock, no shoes, no mattress, and no blanket. During the last weeks of her life, she often slept on the floor of her segregation cell, from which the tiles had been removed. In the hours just prior to her death, she spoke to a Primary Worker of her strong desire to end her life.



Ashley Smith died by self-inflicted strangulation on October 19, 2007, while under suicide watch in custody at the Grand Valley Institution for Women in Kitchener, Ontario. Guards were under orders not to intervene.

**No man is an island,
Entire of itself.
Each is a piece of the continent,
A part of the main . . .
Each man's death diminishes me,
For I am involved in mankind.
Therefore, send not to know
For whom the bell tolls,
It tolls for thee.**

— John Donne

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