Response of the
CORRECTIONAL SERVICE OF CANADA
to
SPIRIT MATTERS: ABORIGINAL PEOPLE AND THE CORRECTIONS AND CONDITIONAL RELEASE ACT
from the
CORRECTIONAL INVESTIGATOR
INTRODUCTION

On March 7, 2013, the Correctional Investigator released a Special Report *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act*.

Enhancing the Correctional Service of Canada’s (CSC) capacity to provide effective interventions for First Nations, Métis and Inuit offenders, as well as building and maintaining strong relationships with diverse partners are CSC’s key priorities and will remain a significant focus moving forward.

CSC is dedicated to continuing to address the needs of Aboriginal offenders in the federal correctional system and to ensuring that they can work towards rehabilitation in an inclusive and culturally sensitive environment.

CSC is actively pursuing strategies to provide effective, innovative and multi-faceted interventions for Aboriginal offenders, including the ongoing implementation of Pathways Initiatives, healing lodges and culturally appropriate correctional programs that provide a holistic approach to addressing criminal behaviour.

The *Corrections and Conditional Release Act* (CCRA) has been in place since 1992. In this time, CSC has undertaken a number of steps to ensure the needs of offenders are considered when pursuing section 81 and 84 provisions. CSC’s work over the past 20 years has resulted in an ongoing focus on enhancing capacities for Aboriginal offenders, and efforts to increase specialized resources and services across the federal correctional system.

CSC is dedicated to providing opportunities for offenders who choose to follow a traditional healing path while incarcerated and, as appropriate, to serve some of their sentence at a healing lodge and to reintegrate into Aboriginal communities. CSC will continue to carefully consider all options for extending and expanding its opportunities under sections 81 and 84 in conjunction with Aboriginal communities, where possible.
**Recommendation #1**

*CSC should create the position of Deputy Commissioner for Aboriginal Corrections to ensure that adequate co-ordination takes place between and among the various components of CSC, federal partners, and Aboriginal communities.*

In CSC’s governance structure, the Senior Deputy Commissioner (SDC) is the most senior advisor to the Commissioner on correctional matters. The SDC is directly responsible for the advancement of Aboriginal corrections within CSC and for providing leadership in integrating Aboriginal initiatives with the overall correctional agenda. In this function, the Aboriginal Initiatives Directorate (AID) supports the SDC from both a corporate and operational perspective. As such, the needs of First Nations, Métis, and Inuit offenders maintain a prominent position in CSC’s priority setting, policy, planning, resource allocation, operations, and decision-making processes.

The Service has a solid framework for effective dialogue with, and support from, Aboriginal people and Aboriginal communities through a number of Aboriginal committees that meet regularly with CSC at the national and regional levels. For example, the Commissioner and Senior Deputy Commissioner work closely with the National Aboriginal Advisory Committee and National Elders Working Group to foster positive working relationships and ensure a supportive milieu is in place for the healthy exchange of advice and guidance on all aspects of Aboriginal corrections. The Regional Aboriginal Advisory Committees are in place to support and strengthen relations between Aboriginal Communities and CSC’s five Regional Deputy Commissioners. The work of these advisory committees enables CSC to maximize engagement opportunities with Aboriginal people and communities in relation to CSC operations and policy in support of First Nations, Métis, and Inuit offenders.

CSC has continued to strengthen accountability measures for Aboriginal corrections with all members of its Executive Committee. In 2009-2010, CSC implemented its Strategy for Aboriginal Corrections Accountability Framework along with a Template for Results Reporting and Monitoring wherein results focussed activities are to be undertaken within CSC in order to achieve improved Aboriginal corrections results. Progress reporting against achievements of these established baselines continues and is monitored through bi-annual reports (Regional and Sector Head). Detailed attention to analysis and reporting on results enables CSC to closely monitor progress in relation to Aboriginal corrections. An integrated approach to Aboriginal corrections ensures accountability for Aboriginal offender results is shared by all executives within CSC.

While CSC respects the OCI position on this recommendation, the Service continues to believe that the creation of an additional Deputy Commissioner position would add unnecessary bureaucracy and cost to the current governance structure. CSC has invested resources in more direct frontline operational programs and interventions designed to maximize the capacity of the field, regions, and sectors to collectively address the various challenges of Aboriginal corrections.
Recommendation #2

CSC should develop a long-term strategy for additional section 81 agreements and significantly increase the number of bed spaces in areas where the need exists. Funding for this renewed strategy should either be sought from Treasury Board or through internal reallocation of funds and amount to no less than the $11.6 million re-profiled in 2001 and adjusted for inflation.

CSC has a long-term strategy on Aboriginal corrections. This strategy is based on a continuum of care that begins at intake and continues until warrant expiry. This continuum of care recognizes the importance of a holistic approach along with specific interventions at each stage. In 2005-2006, CSC developed the Strategic Plan for Aboriginal Corrections, with the integration of the continuum of care throughout CSC as one of its three key recommendations. Healing lodges are one of the components of this strategy.

It is important to note that CSC’s mission is to prepare offenders for reintegration to the community as law abiding, contributing members of society. Although healing lodges are an important part of the Aboriginal continuum of care, the fact remains that they are considered correctional facilities within the meaning of the Act. Funding was re-profiled in 2003, with the knowledge and approval of Treasury Board, to support the establishment of programs, services and interventions that would better prepare offenders for reintegration throughout their sentence. As a result of this realignment of resources, Aboriginal offenders now have a culturally appropriate continuum of services that begins at assessment, and continues through to reintegration. One of the key initiatives in the continuum of care is the creation of Pathways Initiatives. As of December 2012, 25 Pathways Initiatives have been established, at all security levels and in men’s and women’s institutions. Pathways Initiatives are a critical part of the Aboriginal Corrections Continuum of Care designed to reinforce a traditional Aboriginal way of life through more intensive one-to-one counselling, increased ceremonial access, and an increased ability to follow a more traditional Aboriginal healing path consistent with Aboriginal traditional values and beliefs. As part of the continuum, Elders and Aboriginal Liaison Officers are available in all institutions, and Aboriginal Correctional Programs, Aboriginal Community Development Officers, and Aboriginal Community Liaison Officers are in place in all regions, ensuring that offenders have support throughout their sentence, not only when they are placed in a section 81 healing lodge. These investments were critical to ensuring support and interventions at every stage of an Aboriginal offender’s sentence.

Since 1995, five healing lodges were established under agreements pursuant to section 81 of the CCRA. CSC opened its first healing lodge in 1995. There are currently eight healing lodges: four healing lodges established under section 81, and four healing lodges established in partnership with Aboriginal communities, but operated by CSC. In 2011, in partnership with Native Counselling Services of Alberta under section 81, Buffalo Sage Healing Center, which provides 16 beds for Aboriginal women, was opened. In 2012 approval was given to expand bed capacity at O-Chi-Chak-Ko-Sipi, a section 81 facility, from 18 to 24 beds. Expansion to the bed capacity in the CSC operated healing lodges is also planned as part of CSC’s accommodation strategy.
The establishment of a healing lodge is a very lengthy process, and must take into consideration community support and capacity, CSC population requirements and available and appropriate resourcing levels. CSC strives to work in cooperation with the healing lodges to optimize their operations, promoting an Aboriginal healing environment while ensuring security measures are appropriate. CSC assesses, on an ongoing basis, its accommodation needs for its offender population. Healing centres are considered to be one of the available accommodation strategies and are included in these reviews. When additional needs are identified, CSC relies on its National Accommodation Plan to obtain the funding necessary to address these needs. CSC considers that it is important to ensure the long-term sustainability of these resources and it strives to do so, in cooperation with its partners.

As further evidence of a strong commitment to partnering with the Aboriginal community, CSC is entering into vocational and employment training partnerships with Aboriginal communities and other stakeholders. Some examples of the partnership initiatives we have undertaken to date include:

**Aboriginal Housing Demonstration Project** – CORCAN, a Separate Operating Agency within CSC, is partnering with Aboriginal and Northern Development, Canada Mortgage and Housing Corporation and various community and Aboriginal groups to build affordable, quality houses for Aboriginal communities.

**La Macaza Construction Project** – CSC- CORCAN partnering with l’Association sectorielle paritaire-Construction (ASP-Construction) on an Inuit-focused construction employment project in the Quebec Region. This project provides eight Inuit offenders with skills training and a Certificate of Qualification upon completion that is useful for gaining community employment on release.

**Muskeg Lake** - House building project in partnership with Muskeg Lake Cree Nation to build four “ready-to-move” houses in Riverbend Institution located in Prince Albert, Saskatchewan. Further similar projects are being explored with Muskeg lake Cree Nation and Sturgeon Lake Cree Nation.

**Mohawks of the Bay of Quinte (MBQ)** – Modular home building project in partnership with the Mohawks of the Bay of Quinte to provide affordable housing for residents while increasing the employability skills training of offenders. Offenders at Frontenac Institution in Ontario are doing the building with materials supplied by the MBQ.

These projects serve to demonstrate solid public safety results and solid and meaningful partnerships with Aboriginal communities while increasing the employability skills and the accountability of Aboriginal offenders. Aboriginal communities have indicated an interest in these types of arrangements, and CSC intends to increase its involvement in these partnerships. They provide employment skills to offenders, which they can use when they are released to the community. CSC continues to be committed to section 81 of the CCRA, but also remains open to alternatives such as those listed above, that Aboriginal communities identify as their priorities.

In summary, CSC feels that the investment in the continuum of care was the right investment, and a solid foundation of services exists in all regions, and throughout an offender’s entire
sentence. For these reasons, CSC is focusing its efforts on the community as part of its long-term strategy. The priority of the Strategic Plan for Aboriginal Corrections in the coming years is the development of strong and sustainable partnerships, resources and services that will support offenders upon release to the community.

**Recommendation #3**

*CSC should re-affirm its commitment to section 81 healing lodges by (a) negotiating permanent and realistic funding levels for existing and future section 81 healing lodges that take into account the need for adequate operating and infrastructure allocations and salary parity with CSC, and (b) continuing negotiations with communities hosted CSC-operated healing lodges with the view of transferring their operations to the Aboriginal community.*

Section 81 agreements are built on sound, respectful relations amongst its stakeholders. CSC and the community/organizations negotiate and come to a mutual agreement after a long and complex process. These agreements are reviewed and re-negotiated every five years factoring in elements such as audit and evaluation results.

Over the past decade, CSC has reviewed its funding levels and, where appropriate, changes were made in order to deliver effective correctional services for offenders. CSC will continue to review its funding and service level delivery, taking into consideration the Service’s current fiscal reality.

Discussions with communities are on-going. If communities are interested in having CSC-operated healing lodges transferred to their control, then further engagement would need to be initiated by the Aboriginal community where the healing lodge is situated. Communities must assess their own capacity and community interest and support in pursuing any related change to an existing agreement.

**Recommendation #4**

*In all negotiations, CSC should enter into the Memorandum of Understanding with the appropriate agency or First Nation leadership to ensure that the leadership and Elders are involved and considered in those negotiations.*

CSC is not in a position, nor should it undertake, to dictate to a community who it should include in its negotiations. It is the prerogative of the Band Council, and/or the leadership of the community or organization, as they are empowered to solicit the opinions of Elders during the negotiations and prior to finalization of the process. CSC respects the responsibility of First Nations and Aboriginal leadership to represent and consult their membership.

However, CSC will continue to work closely with the Aboriginal communities to maximize opportunities for inclusion in the negotiation of each section 81 agreement.
**Recommendation # 5**

*CSC should re-examine the use of non-facility based section 81 agreements as an alternative to healing lodges, particularly in those communities or regions where the number of Aboriginal offenders may not warrant a facility. The results of this examination would form part of CSC’s overall strategy for section 81.*

Non-facility-based section 81s are available to Aboriginal communities. However, any use of section 81, including this option, requires the involvement, consent, and interest of an Aboriginal community, as well as the consent of an offender, where his or her care and custody are involved. This type of information is normally provided to communities that express an interest in section 81 by Aboriginal Community Development Officers.

CSC is committed to strengthening our communication about this option with potential Aboriginal communities as part of our overall section 81 communications and outreach activity. We will also consult with the Aboriginal advisory bodies to determine the best mechanism to communicate the range of options as part of section 81.

**Recommendation # 6**

*CSC should thoroughly review the process for section 84 releases with the goal of significantly reducing red tape and accelerating the process.*

CSC firmly believes that success in the community is directly tied to community support and encourages Aboriginal families and communities to engage in the section 84 release planning process as early as possible. All offenders are informed of opportunities under section 84 at intake. While the section 84 process may be viewed as lengthy and complicated, a formal process is required to ensure the offender consents, the community is able to express its willingness and interest in pursuing a section 84 release plan including the responsibility this entails, and to protect the privacy of all those involved including the victims.

It is important to recognize that section 84 is a mechanism for involving the community in the release planning process; however, there are many elements that contribute to a successful release and these include housing, employment, family and community supports and access to counselling and programs. Developing a release plan, in partnership with an Aboriginal community, requires that these and other elements are considered and put in place as appropriate. For the Parole Board of Canada to grant a release under section 84 of the CCRA, certain expectations must be met.

Taking these elements into consideration, CSC will review its process for section 84 releases, in consultation with its advisory bodies, Aboriginal community representatives, and offenders, with a goal of ensuring the process is respectful and responsive.
Recommendation #7

CSC must expand its staff training curricula to include in-depth training about Aboriginal people, history, culture, and spirituality for all staff, including training in the application of Gladue principles to correctional decision-making. This training should not be “one-offs”, but rather ongoing training provided throughout an employee’s career.

CSC is in the process of revising the Parole Officer Induction Training (POIT) to incorporate Aboriginal case management considerations including the use of Aboriginal social history (Gladue). This training is scheduled for delivery in 2013-2014.

Similarly, this year, the Parole Officer Continuous Development (POCD) training focussed on Bill C-10 training, and ensured that Aboriginal case management was part of this training. CSC has developed and implemented a Train-the-trainers program, this year, and the trainers are now delivering training focussed on Aboriginal case management. The Aboriginal focussed curriculum provides staff with the required tools by following an Aboriginal offender throughout his/her sentence and highlighting the various interventions and considerations that relate to the case management processes. The training curriculum includes the consideration of the offender’s Aboriginal social history in decision-making processes. Both the POIT and the POCD meet CSC National Training Standards.

A training module is currently being developed, following a Canada-wide consultation of CSC staff and Elders, on the consideration of Gladue principles in CSC decision-making processes. The intent is to deliver this training in 2013-2014, with particular emphasis being placed on regional trainers being trained as trainers on how the offender’s Aboriginal social history is to be considered and the subsequent documenting of the consideration process, including restorative alternatives. Some training has been piloted in 2011-2012, and following a review of the results, sectors will determine the best method of delivery. CSC is committed to ensuring that this training moves forward.

Aboriginal Initiatives Directorate (AID) is also providing Aboriginal Perceptions Training (APT). AID maintains a group of trainers from across the country able to deliver this training. This is an in-depth training session (three days) designed to enhance staff recognition and understanding of the factors that have influenced Aboriginal people’s perceptions of the Canadian Criminal Justice System, the reasons for Aboriginal over-representation in federal institutions, and the value of healing as central to the work of Aboriginal corrections both in the institutions and in the community. This training addresses Aboriginal history, culture, spirituality, and traditional justice systems. This training also focusses on the consideration of the Aboriginal social history in CSC decision-making processes.

Inuit Awareness training was provided to Ontario, Atlantic and Quebec regions, where the majority of Inuit offenders are housed. Evaluation forms were completed by participants and preliminary results are positive and encouraging. NHQ will explore options for expanding the delivery of this training in fiscal 2013-2014.
**Recommendation #8**

*CSC must resolve the issues faced by Elders in both institutions and healing lodges to ensure that their primary concern and responsibility is the healing of Aboriginal offenders. Further, CSC should set realistic standards of service, caseloads, and payment for Elder services. CSC should be responsible for reporting on progress made in achieving those standards as part of its Management Accountability Framework.*

CSC is in agreement that the Elders’ primary concern and responsibility should be the healing of Aboriginal offenders. To this end, CSC has fostered diversity in its approach by having Elders who specialize in offenders’ programming needs, Elders who are exclusive to the Pathways Initiatives, and Elders that offer spiritual services in institutions. This capacity ensures that those offenders who require a culturally appropriate program have more intensive support through Elders and are recognized as part of the program delivery component. Programs are offered in every region. Through its 25 Pathways Initiatives, offenders have access to intensive healing and intervention. CSC has established resource indicators, so that every institution, regardless of the numbers of Aboriginal offenders, has appropriate access to Elders services. CSC negotiates and enters into contracts with Elders in order to provide the appropriate level of services.

CSC has recently reviewed and revised the majority of its case management policies to reflect more precisely the role of the Elder within CSC. In addition, Elders are consulted, as is the National Elders Working Group (NEWG), in relation to standards of service, caseloads, and payment of Elder services. CSC has reinforced with the field that Elders are not expected to write reports, and that their key responsibilities are to assist in the healing process of Aboriginal offenders, offering counselling and support to those who request their services.

With respect to the Management Accountability Framework and as this is part of CSC’s Strategic Plan for Aboriginal Corrections, CSC sees no need to report on this outside of its existing accountability mechanisms.

**Recommendation #9**

*CSC should partner with Aboriginal collectives, be they Tribal Council, Métis, or Inuit organizations or urban associations to develop protocols for section 84 releases into their respective communities. These protocols, possibly based on the MLSN model, would define the relationship between CSC and Aboriginal communities and set in place a process for accepting and monitoring released offenders under section 84.*

CSC supports the establishment of solid working relationships with Aboriginal communities and organizations. To support more work in this area, CSC has created Aboriginal Community Liaison Officer positions to support the relationship building process. The Aboriginal Community Development Officers continue to work with communities and offenders in the establishment of section 84 release plans.

CSC has protocols in place with a number of First Nations and Tribal Councils for section 84 release planning in their respective communities and territories. CSC has also undertaken
discussions with many Inuit communities and their mayors to establish relationships and future agreements with these communities.

Ideally, the community’s participation should begin when the offender enters the federal correctional system. Good release planning involves the community from the beginning and outlines the activities the offender will pursue not only within the institution environment but also during the portion of the sentence that will be served in the community. In normal circumstances, in a section 84 process, CSC works closely with the Aboriginal community (i.e. Chief, Band Council, or Mayor (Inuit communities)). Each release is considered on a case-by-case basis thereby ensuring focus on the specific community and on the specific needs of the offender. Release plans are developed in collaboration and with the consent of the offender.

**Recommendation #10**

*CSC should work with Aboriginal Christian, Inuit and other identifiable communities to develop section 81 agreements where warranted.*

When Aboriginal communities or organizations approach CSC for the purpose of negotiating a section 81 agreement, religious affiliations are not part of the process. However, CSC will entertain section 81 proposals from any Aboriginal organization or community. It should be noted that CSC develops release plans under section 84 with Aboriginal organizations as well as other organizations to support an offender on release. This may include an Aboriginal Christian or other Christian organization, depending on the offender’s particular needs.