



**Canadian Police Association  
Association canadienne des policiers**

## **TOWARD SAFER COMMUNITIES**

### **SUBMISSIONS TO THE CORRECTIONAL SERVICE CANADA REVIEW PANEL**

**Appearance:** Tony Cannavino, President  
David Griffin, Executive Officer

**Date:** June 27, 2007

# FOREWORD

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These submissions are dedicated to the memory of the more than 500 victims of homicide, who, according to National Parole Board statistics, have been murdered by offenders on conditional release since April, 1975. These innocent victims include our fallen brothers and sisters who sacrificed their lives in the performance of their duties as police officers and peace officers, in their unselfish efforts to establish safer communities.

They are our heroes. We shall never forget them.

# INTRODUCTION

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The Canadian Police Association (CPA) welcomes the opportunity to present our submissions to the Correctional Service Canada Review Panel. As professionals who dedicate their lives to community safety and reduction of crime, our members share a keen interest in the role of Correctional Service Canada and the National Parole Board in Canada's justice system.

The CPA is the national voice for 56,500 police personnel serving across Canada. Through our 170 member associations, CPA membership includes police personnel serving in police services from Canada's smallest towns and villages as well as those working in our largest municipal cities, provincial police services, members of the RCMP, railway police, and First Nations police associations.

The Canadian Police Association is acknowledged as a national voice for police personnel in the reform of the Canadian criminal justice system. We are motivated by a strong desire to:

- Enhance the safety and quality of life of the citizens in our communities;
- Share the valuable experiences of those who are working on the front lines; and,
- Promote public policies that reflect the needs and expectations of law-abiding Canadians.

Our goal is to work with elected officials from all parties, to bring about meaningful reforms to enhance the safety and security of all Canadians, including those sworn to protect our communities.

## **CANADA NEEDS TO ADDRESS THE REVOLVING DOOR JUSTICE SYSTEM**

For over a decade, police associations have been advocating reforms to our justice system in Canada. In particular we have called for changes to bolster the sentencing, detention, and parole of violent offenders. The Canadian Police Association has been urging governments to bring an end to Canada's revolving door justice system. Chronic and violent offenders rotate in and out of the correctional and judicial systems, creating

a sense of frustration among police personnel, fostering uncertainty and fear in our communities, and putting a significant strain on costs and resources for the correctional and judicial systems.

The CPA welcomes the Correctional Service Canada Review as a positive first step in initiating meaningful and systemic reform to Canada's system of sentencing, corrections and parole. We are committed to working with the members of the Review Panel in advancing our shared goal for safer communities.

## **CANADA'S JUSTICE SYSTEM NEEDS A MAJOR OVERHAUL**

We contend that the time is long overdue to reform our criminal justice system. An independent review of Canada's Sentencing, Corrections, and Parole Systems remains a top priority for the Canadian Police Association. Among the proposals the CPA has advanced to the Minister and Members of Parliament:

- First Degree murderers should spend a minimum of 25 years in prison, not a club fed, with no eligibility for parole.
- Section 745 should be repealed, removing the so-called "faint hope clause" that has allowed 80% of applicant killers to obtain early release.
- In determining the level of security for serving sentences, an offender's criminal history and crime for which he is sentenced should be the predominant factor.
- Parliament should convene an independent public inquiry into Canada's sentencing, corrections and parole systems, for the purpose of identifying measures to provide meaningful consequences for offenders, reinforce public safety, and instil public confidence.
- Give victims greater input into decisions concerning sentencing, prison classification, parole and release.
- Tighten our laws and prison policies to protect Canadians from violent criminals.

Accelerated parole, conditional sentences, and concurrent sentences for crimes of violence, including crimes committed while on conditional release, are also issues of concern to our membership.

## **REPEAT OFFENDERS ARE A SERIOUS PROBLEM**

Police understand this intuitively, as we deal with these frequent flyers on a routine basis. Statistics released by the Toronto Police Homicide Squad for 2005<sup>1</sup> demonstrate this point:

Among the 32 people facing murder or manslaughter charges for homicides in 2006:

- 14 were on bail at the time of the offence;
- 13 were on probation;
- 17 were subject to firearms prohibition orders.

The revolving door justice system is failing to prevent further criminal activity by these repeat, violent offenders.

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<sup>1</sup> The Globe and Mail. "Repeat Offenders." Friday November 24, 2006

# CANADA’S CORRECTIONS MODEL

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<b>ARREST</b>
Upon being charged by police, an accused adult may be released into the community or held in custody awaiting trial, in a provincial/territorial correctional facility.
<b>CONVICTION</b>
If the accused person is found guilty in court, they may be:
<ul style="list-style-type: none"> <li>• Released into the community on time served.</li> </ul>
<ul style="list-style-type: none"> <li>• Sentenced to Community Supervision, under provincial/territorial probation or Conditional Sentencing.</li> </ul>
<ul style="list-style-type: none"> <li>• Incarcerated in a provincial/territorial facility, for sentences under 2 years.</li> </ul>
<ul style="list-style-type: none"> <li>• Incarcerated in a Federal Penitentiary for sentences of 2 years or more.</li> </ul>
<b>CONDITIONAL RELEASE</b>
Offenders are released back into the community under a variety of circumstances:
<ul style="list-style-type: none"> <li>• Escorted Temporary Absence Pass</li> </ul>
<ul style="list-style-type: none"> <li>• Unescorted Temporary Absence Pass</li> </ul>
<ul style="list-style-type: none"> <li>• Work Release</li> </ul>
<ul style="list-style-type: none"> <li>• Day Parole</li> </ul>
<ul style="list-style-type: none"> <li>• Full Parole</li> </ul>
<ul style="list-style-type: none"> <li>• Accelerated Parole Reviews</li> </ul>
<ul style="list-style-type: none"> <li>• Statutory Release (Federal offenders)</li> </ul>
<ul style="list-style-type: none"> <li>• Warrant Expiry</li> </ul>

The Canadian corrections model provides for discretion at all levels in the justice system:

- A police officer will first decide whether or not to lay a **charge**.
- A Crown Attorney determines whether or not to **prosecute**.
- Upon conviction the trial judge may impose:
  - An **Absolute Discharge** or **Conditional Discharge**.
  - **Community Supervision**.
  - **Incarceration** in a provincial or federal institution.
- Once an offender is incarcerated in a Federal institution, Corrections Services Canada (CSC) may release the offender into the community on a **Temporary Absence** pass (TA), which is either escorted by Correctional supervisors (ETA) or without supervision (UTA). These forms of release may occur prior to any formal parole eligibility and without any review of the offender's suitability by the National Parole Board. Offenders may be granted **unescorted temporary absence passes of up to 60 days in duration**.
- An offender may also be released into the community on a **Work Release Program**, which generally requires a return to custody or a halfway house each night. These forms of release may occur prior to any formal parole eligibility and without any review of the offender's suitability by the National Parole Board.
- Six months before becoming eligible for Parole, offenders are eligible for **Day Parole**. A decision to grant day parole is made by the National Parole Board<sup>2</sup>, following a review. A 1998 Consultation Report<sup>3</sup> by the Solicitor General of Canada noted that applications for Day Parole had reduced by 46% over the six years ending March 1996. It is apparent that offenders consider release programs administered by CSC to be preferable, or more likely to result in release, than the more onerous day parole requirements.
- Most offenders become eligible for **Full Parole** upon serving one-third of their sentence. The usual exceptions are persons serving life sentences or those with defined parole ineligibility periods.
- Offenders who are serving their first Federal sentence who have not been convicted of a violent crime or serious drug offence may be **released on day parole at one sixth of their sentence under Accelerated Parole Review (APR)**. The onus is placed on the National Parole board to establish why an offender should not be released on APR, based on information prepared by CSC. Predictably, APR is far

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<sup>2</sup> In Ontario, Quebec & B.C., Parole from provincial institutions is determined by the Provincial Parole Board

<sup>3</sup> *Towards a Just, Peaceful and Safe Society, The Corrections and Conditional Release Act Five Years Later, Consultation Paper 1998*, Solicitor General of Canada

less successful than day Parole and Full Parole, where the onus rests on the offender to demonstrate suitability for Parole.

- Those offenders not granted Parole are eligible for automatic **Statutory Release** at the two-thirds point in their sentence, except those sentenced to “life”<sup>4</sup> or indeterminate sentences. The *Corrections and Conditional Release Act (CCRA)* permits offenders to be held beyond their statutory release date under exceptional circumstances (high-risk violent/serious drug offenders), under the Detention provisions of the Act. Less than 10 percent of offenders who are eligible for Statutory Release are detained in this manner. The National Parole Board can only order detention where it has been referred by CSC. The Board has as a result, released offenders into the community despite reservations.

Fiscal constraint and the inappropriate or complacent application of discretion serves to reduce the effectiveness of the corrections model and increase the release of offenders into the community. Canadians are acutely aware that current sentencing and parole practices are inconsistent with public expectations, undermining public confidence in law enforcement and, more particularly, our entire justice system.

## COMMUNITY SUPERVISION

*“Supervision in the community is the final link in the offender reintegration process. It is the last point at which the system can directly influence or control offenders. It is also the point at which offenders are separated least from the public and therefore present the greatest risk to society.”*

*1999 Report of the Auditor General of Canada*

Efforts to control costs have resulted in a **system of breaks**, which favour the criminal element in our society:

- Reduced levels of enforcement and laying of charges by police.
- Reduced prosecutions by the Crown.
- Reduced reliance on incarceration by Trial Judges and increased pressures on the probation and parole systems.
- Reduced sentences.
- Increased efforts to release incarcerated offenders into the community.

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<sup>4</sup> “Life” Imprisonment is a misnomer, as most convicted first-degree murderers are eligible for parole review after 15 years (s.745), Day Parole after 22 years and full parole after 25 years. These thresholds are much lower for second-degree convictions. The reality is that convicted murderers are released into the community on TAs, UTAs, and Work Release Programs well before their Parole review and full parole eligibility is determined.

All of this translates to one, inescapable and undeniable conclusion:

*By the time the vast majority of offenders are sentenced to incarceration in a Federal institution, they have benefited from the leniency that permeates the entire justice system, and are the most violent, dangerous and/or hardened criminals in the justice system. Approximately 80 percent of federal inmates are serving sentences for violent crimes, compared to 58 percent in 1985. Canada's adult corrections model was designed for a population that is much different than that which is under CSC jurisdiction today.*

Over the past two decades the Courts have put proportionately less people behind bars, for shorter sentences. For those offenders sentenced to federal custody, there is an increased reliance on Community Supervision, although the capacity of CSC to adequately supervise offenders released into the community is strained.

CSC has even resorted to using students in internship programs to conduct supervision tasks, including interviewing offenders and writing evaluation reports. With limited, if any training, and no practical expertise, students can be easily intimidated, influenced or manipulated, and present serious liability concerns. Consider the case in November 2000, when James Hutchinson literally walked away from a volunteer student civilian escort while on a loosely escorted pass from his minimum-security institution. Hutchinson had been sentenced to life imprisonment for forcing two police officers to dig their own graves before being shot execution-style.

Despite these serious capacity gaps, Corrections Canada personnel have been under tremendous pressure to increase the proportion of offenders released into the community.

- In 1998, CSC personnel were informed that, *"The government, under our present Solicitor General, Andy Scott has indicated that by the year 2000 he would like to see 50% of our inmates in the institution and 50% of our inmates in the community."*
- CSC Commissioner Ingstrup writes, *"To reach a 50/50 split by year 2000 will be a professional challenge – but not at all unattainable."* He later informs his Deputy Commissioners that, *"The 50/50 split is our working hypothesis, based on the best information we have today. It is not an arbitrary or artificial target."*
- Successive Auditor Generals' reports have encouraged Corrections Canada to accelerate the preparation of offenders for parole at their first opportunity, citing cost implications.<sup>5</sup>

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<sup>5</sup> 1999 Report of the Auditor General, Chapter 1, Item 1.36  
1999 Report of the Auditor General, Chapter 1, Item 1.116, 1.118  
1999 Report of the Auditor General, Chapter 1, Item 1.119

- Currently, approximately forty percent of adults serving federal sentences (two years or more) are serving their sentence in the community.



## CHANGING OFFENDER PROFILE

CSC is facing serious challenges with changes to the offender population, such as<sup>6</sup>:

- *more with previous youth and adult convictions (approx. nine out of 10 offenders);*
- *more extensive histories of violence and violent offences (one in four offenders are serving time for homicide);*
- *more affiliations with gangs and organized crime (increased by 33% since 1997);*
- *serious substance abuse histories and problems (four out of five offenders);*
- *an increase in offenders with serious mental health disorders (12% male and 26% women);*
- *increasing over-representation of Aboriginal offenders (19% of the institutional population is now of Aboriginal ancestry, while less than 3% of the Canadian population is Aboriginal).*

At the same time, sentences being served by offenders are decreasing in length.<sup>7</sup>

<sup>6</sup> Public Safety Canada. "Fact Sheet: Correctional Service Canada." 2007  
< <http://www.ps-sp.gc.ca/media/nr/2007/nr20040420-2-en.asp> >

<sup>7</sup> Correctional Service of Canada, Research Bureau. "Special Report: The Changing Federal Offender Population" 2006. < [http://www.csc-scc.gc.ca/text/rsrch/special\\_reports/highlights-2006\\_e.shtml](http://www.csc-scc.gc.ca/text/rsrch/special_reports/highlights-2006_e.shtml) > (Attached under Appendix A)

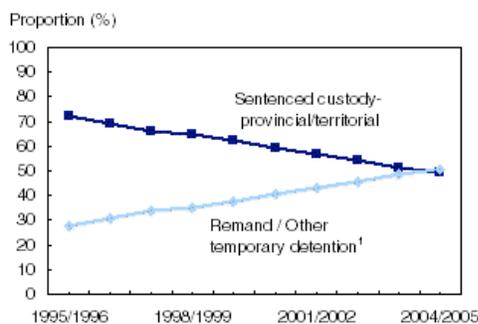
- More than 50% of new men offender admissions are serving sentences of less than three years and there has been an increasing trend since 1996/97 (from 34% to 55%, or +62%).
- 56% of new women offender admissions are serving sentences of less than three years and this trend has also been steadily increasing since 1996/97 (41% to 58%, or +41%).
- One-out-of-four men offenders in federal custody are serving sentences of less than three years while an equal proportion are serving life/indeterminate sentences. The growth in both sentence groups has been slow and steady and the gap between has widened considerably.
- More than one-third (36%) women offenders in federal custody are serving less than three years whereas about one-out-of-six (17%) are serving life/indeterminate sentences.

## MORE DEAD TIME

According to Statistics Canada, during the past 10 years, cases in Canada's adult criminal courts have become more complex and are taking more time to resolve:

*Cases involving multiple charges accounted for 51% of the adult courts caseload in 2003/04, up from 44% in 1994/95. In addition, the time required to dispose of court cases continued to grow. In 2003/04, on average, cases took 226 days compared with 137 days a decade earlier. Indeed, the average processing time for multiple-charge cases rose from 157 days to 236.<sup>8</sup>*

Adults held in remand or other temporary detention accounted for half of all adults in provincial/territorial custody in 2004/2005



1. Due to missing data for some years, other temporary detention data (i.e. immigration holds or parole suspensions) from British Columbia and Manitoba have been excluded.

In fact the proportion of offenders awaiting trial as compared to offenders serving provincial / territorial sentences (less than two years) has increased dramatically over the past decade. According to Statistics Canada, adults held in remands and other temporary custody now account for half of all adults in provincial / territorial custody.

Not only is remand custody placing tremendous burdens on provincial institutions, it is also impacting the proportion of sentences actually served in federal institutions. Often, judges are granting credit for twice the time served in remand custody to offenders when calculating sentences

<sup>8</sup> Statistics Canada. The Daily. 10DEC2004.

<<http://www.statcan.ca/Daily/English/041210/d041210c.htm>>

upon conviction. In some instances and jurisdictions this has been calculated at three times to time served in remand custody awaiting trial.

Not only does this shorten custodial periods for persons in federal institutions, it also limits access to, and time available for rehabilitative programs. Such programs are not available to those awaiting trial in remand custody.

## **ORGANIZED CRIME GANGS ARE RUNNING THE INSTITUTIONS**

*“Some of the challenges we have, of course, are the power and control issues that gang members will sometimes exercise through intimidation, extortion, and violence within the incarcerated and supervised community populations; incompatibilities and rivalries among various groups; drug use and distribution within the institutions; continued criminal links with outside criminal organizations; recruitment of new gang members and individuals to pursue extremist ideologies; the potential for intimidation, infiltration, manipulation, and corruption of staff, which is becoming a concern of ours; infiltration of CSC and our partners and service providers; gang leaders, through financial resources or external networks, attempting to interfere with correctional operations; and our maximum security capacity to address growing numbers of convictions for serious crimes that are gang-related, including weapons-related charges, which are beginning to create operational difficulties for us.”*

**Assistant Commissioner Ross Toller  
Correctional Operations & Programs  
To the House of Commons Standing Committee  
On Justice and Human Rights  
January 30, 2007**

According to Correctional Service Canada, membership in criminal organizations is on the rise in Canada's correctional facilities:<sup>9</sup>

*More than one-sixth of men offenders in federal custody have gang affiliations and this phenomenon has been dramatically increasing since 1997 (12% to 16%, or +33%).*

*One-tenth of women offenders in federal custody have gang affiliations and this has been increasing since 1997 (7% to 13%, or +85%).*

Aboriginal gangs now represent the largest type within CSC. As of December 10, 2006, there were 540 offenders identified as members or affiliates with aboriginal gangs. This

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<sup>9</sup> Correctional Service of Canada, Research Bureau. “Special Report: The Changing Federal Offender Population” 2006. < [http://www.csc-scc.gc.ca/text/rsrch/special\\_reports/highlights-2006\\_e.shtml](http://www.csc-scc.gc.ca/text/rsrch/special_reports/highlights-2006_e.shtml) >

is the criminal organization with the largest number of members within CSC. Ninety percent of these members are serving their sentences within the Prairie region.

Sylvain Martel, national president for the Union of Canadian Correctional Officers, told CPA delegates at our 2005 Legislative Conference that CSC's lax policies leave gang members "running the show" controlling the trafficking of narcotics and deadly weapons. While CSC claims that few offenders join gangs after they're incarcerated, Martel has suggested otherwise, insisting inmates join for status, privileges, and survival.

This points to a significant and disconcerting gap between CSC Directives and policies and the actual practices at the institutional level. For example, CSC Directive 568-3:

*Recognizes that membership and association with a criminal organization shall be considered a significant risk factor and a serious threat to the safe, secure, orderly and efficient management and operations of our institutions and community operational units...*

*... CSC is to prevent members or associates of criminal organizations from exercising influence and power in institutions and in the community and to prevent actions and circumstances that enhance the image, prestige and status of criminal organizations by acknowledging their status or by conferring privileges and concessions.*

Yet, CSC personnel report that CSC Assessment processes for decisions relative to offender designation, programs and benefits, do not systemically address membership in criminal organizations. In addition, members of criminal organizations continue to occupy positions of influence, such as members of the inmate committees, grievance coordinators, etc.

Not only do gang members present significant challenges for CSC relative to correctional officer safety and security; they are less likely to participate in or benefit from rehabilitative programs.

CSC also lacks effective programs to deal with witness protection, informants or protective custody cases, as well as protecting other members of the population from intimidations by organized crime gang members.

## THE DRUG EPIDEMIC

The use of illegal drugs within Canada's correctional facilities poses serious health and security risks. In 2002, the Canadian HIV/AIDS Legal Network reported that Canadian prisoners are up to 70 times more likely to be infected with HIV than the average Canadian, and known cases of HIV/AIDS in federal prisons had increased by more than 35% in four years. The same report suggested 20% to 80% of prisoners were infected with Hepatitis C, compared with about 0.8% in the general population.

CSC claims to maintain a "Zero Tolerance Policy" with respect to illicit drug use can only be regarded as a complete and abysmal failure. Recently the CSC Commissioner issued a new National Drug Strategy aimed at bolstering CSC's "Zero Tolerance Policy", with the following stated purpose:

*The Correctional Service of Canada, in achieving its Mission, will not tolerate drug or alcohol use or the trafficking of drugs in federal institutions. A safe, drug-free institutional environment is a fundamental condition for the success of the reintegration of inmates into society as law-abiding citizens.*

However, those working within Canada's correctional system continue to question the capacity of CSC to achieve the policy objective, when resources directed at enforcement and detection are woefully inadequate.

The following three cases are the only seizures reported on the CSC web site for the first three weeks of June, 2007:

**KINGSTON, ON, June 19, 2007** - *Joyceville Correctional staff monitoring a visit between an inmate and his mother intercepted the offender in the visiting area this morning and found him to be in possession of 40 grams of marijuana and 8-80mg oxycotin pills with an estimated institutional value of \$4,640 The inmate will be charged by police and the visitor will be suspended from entering the institution. The Correctional Service of Canada has a zero tolerance policy on drugs in our facilities. As a result of effective intelligence information gathered at this site, and timely action by our correctional staff, a significant amount of illicit drugs have been prevented from entering our institution.*

**DRUMMONDVILLE, QC, June 13, 2007** - *At approximately 8:50 a.m. on June 9, 10, 2007, at Drummond Institution, a medium-security penitentiary, a large quantity of drugs was seized based on intelligence received. The drugs were found in five different objects, yielding a total of*

*51 g of cannabis, 102.6 g of hashish and 31.2 g of Dilaudil, worth a total of \$18,000 in the institution. The package was smuggled into the institution by a visitor during a community visit that the inmate was participating in.*

**DRUMHELLER, AB, June 8, 2007** - *The Security Intelligence Department at the Institution received information that drugs had been introduced into the institution. The K-9 Handler, Security Intelligence Officers and Correctional Officers investigated the information and found drugs in the possession of an inmate. The institutional value of the narcotics is estimated at approximately \$15,600.*

Recently, CSC managers told the House of Commons Standing Committee on Justice and Human Rights that CSC had adopted an “Intelligence Led Risk Management Model”. While intelligence gathering appears to be an integral part of CSC operational strategies and tactics to detect and intercept drugs, there is a significant gap in the organization’s capacity to actively enforce the CSC zero tolerance drug policy:

- The ratio of security intelligence officers (SIO’s) is approximately 1:250 inmates, or one per institution. The reality is that there are currently no security intelligence officers in the operational community settings.
- SIO’s are not properly trained to fulfil their mandate; over 50% have no formal training and half the positions within the institutions are unfunded.

How can CSC claim to have an “Intelligence Led Risk Management Model” when:

- CSC does not employ adequate Intelligence Officers and actually fund the positions in each institution?
- CSC does not incorporate a National Standards that recognizes basic training for Security Intelligence officers across the country, before they occupy such a position?
- CSC has not developed and deployed an Intelligence component within the community setting when;
  - Almost forty percent of the Federal Offenders under their jurisdiction are serving their prison term there?
  - The sources for illicit drugs within correctional institutions originate within the community, including visitors to institutions, contract staff, and compromised CSC personnel.
- CSC does not provide additional training to Correctional Officers to deal with Organized Criminal Gang issues?
- CSC does not maintain its liaison officer within the Criminal Intelligence Service of Canada (CISC)?

- CISC should be mandated to maintain liaison officers within each provincial criminal intelligence service office.

## **CLASSIFICATION**

The security classification assigned to offenders is a serious concern for victims of crime and police officers. Several high profile examples have underscored the perceived lack of proportionality for offenders convicted of serious violent crimes:

- In May 2000, two women convicted of second degree murder for stabbing Toronto Police Constable Bill Hancox, were being housed together in a "love shack" behind prison walls.
- Gary Fitzgerald, who murdered Huntsville OPP Constable Richard Verdecchia in 1981 by shooting him 8 times, was declared to have escaped the posh minimum security Ferndale Institute in 1999, when he failed to show up for a bed check.
- Allan McDonald was convicted of first degree murder in May 2000, for shooting OPP constable Thomas Coffin in the head at point blank range. Despite his crime and life sentence, he began serving his sentence in a medium security institution.
- After serving only six years for the first degree execution style murder of Sudbury Regional Police Constable Joseph MacDonald, and despite a record of disorderly and disruptive behaviour within the institution, Clinton Suzack was moved to William Head Institution in 2001. Located at the southern tip of Vancouver Island, William Head is described as an "Open Prison" with five communities, each consisting of four duplexes and one community building. Inmates at William Head can golf, fish, cook their own fish, play baseball and whale watch from the resort like oceanfront setting.

We consider current classification policies and legislative authorities to be inadequate; and inconsistent the seriousness of the offence.

## **THE NUMBERS GAME – CREATING A FALSE SENSE OF SECURITY**

The clever and manipulative use of statistics by CSC and National Parole Board (NPB) officials promotes a false sense of security. CSC reports that:<sup>10</sup>

- Approximately 36% of federal offenders will be convicted of a new crime within two years of completing their sentence, the majority receiving some type of provincial sentence.
- Approximately 11% of federal offenders return to federal custody within two years of sentence completion, of which 5% are for new violent convictions.

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<sup>10</sup> Public Safety Canada. "Fact Sheet: Correctional Service Canada." 2007  
< <http://www.ps-sp.gc.ca/media/nr/2007/nr20040420-2-en.asp> >

We believe that recidivism rates are not a true determinant of post-institution behaviour, for a number of reasons:

- Decreased supervision and contact by parole officers (as cited in a previous Auditor General's Report.)
- A reduction in the number of conditions requested by CSC for parole eligibility and thereby ordered by Parole Boards, reducing the likelihood of intervention; e.g. residency, gainful employment, abstention from drugs or alcohol, non-contact with known criminals, curfew, etc. While these conditions may seem trivial, they are indicative of successful re-integration into the community. An offender's failure to adhere to such conditions suggests that the offender is not likely to sustain rehabilitative efforts.
- Police officers are also unable to arrest and charge an offender who has breached a condition of his parole. Police are merely able to notify the parole officer, who makes the determination on whether or not to revoke or re-offend. Police should have the ability to arrest and charge offenders who they find to have breached their parole conditions.
- The use of shorter sentences, further reduced by credit for "dead time", serves to reduce time spent in the community and contributes to a perceived reduction in recidivism rates while under community supervision.
- The use of "revocation" of release as intervention, as opposed to the laying of new offences and charges for parole violation.

Unfortunately, the reporting of revocation and new offence information is neither mandatory nor transparent. There is limited assessment and consideration of the use and abuse of discretionary authorities available to CSC officials, including temporary absences, extended temporary absences, work release programs and travel permits.

We contend that the current measurements are inadequate in assessing performance, considering:

- 9 out of 10 inmates have prior youth and adult convictions,
- the increased proportion of violent offenders and criminal gang members,
- the use of shorter sentences with less time for rehabilitation,
- increased credit for pre-trial "dead time", and
- the fact that 50% of offenders refuse rehabilitation and 40 % of those who enter programs fail.

A performance measurement system, separate and independent of CSC and NPB, should be responsible for assessing the true success or failure of Canada's corrections and parole policies, with a longer term measurement of recidivism patterns (e.g. 2, 5 and 10 years).

## CONDITIONAL RELEASE

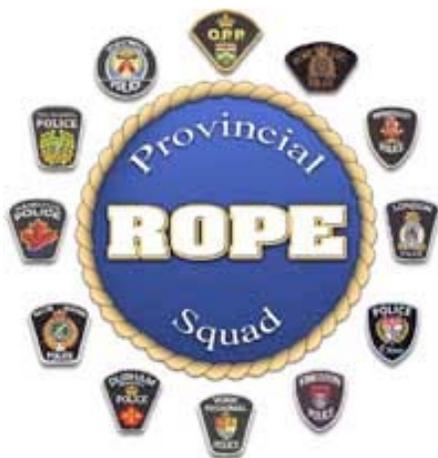
We are gravely concerned that the trends regarding conditional release of federal inmates into the community are inconsistent with the changing nature of the adult prison population:

- Inadequate conditions applied upon release, which should include residency, gainful employment, abstention from drugs or alcohol, non-contact with known criminals, curfew, etc.
- The use of travel permits to permit offenders to travel internationally for business, personal or compassionate grounds, rendering supervision impossible. These permits have included countries that do not have extradition agreements with Canada. Such permits thereby result in passports being granted to convicted federal offenders while on conditional release! International travel should not be permitted for offenders who are on conditional release.

Police officers are also unable to arrest and charge an offender who has breached a condition of his parole. Police are merely able to notify the parole officer, who makes the determination on whether or not to revoke or re-offend. The Criminal Code should be amended to create the indictable offence of breaching a condition of conditional release, enabling a police officer to arrest, without warrant, an offender found to be in breach of the conditions of release.

Offenders who re-offend while on conditional release often benefit from outrageous policies regarding parole eligibility which allow their prior and new sentences to be considered concurrently for the purposes of calculating parole eligibility. As an example, Claude Forget, who attempted to murder two Montreal Police Officers by shooting them in the head at point blank range, became eligible for parole within months of his convictions for attempted murder. His victims have been required to ride a roller coaster of parole hearing eligibility every two years since that time.

## REPEAT OFFENDER PAROLE ENFORCEMENT UNIT (ROPE)



The whereabouts of offenders who have violated the conditions of their release into the community is of considerable concern for police agencies. Currently, within the Province of Ontario there are over 725 offenders who are unlawfully at large from Provincial and Federal Correctional authorities.

In response to this concern and high profile incidents involving parole violators in the City of Toronto, the ROPE unit was formed in April 1997 by the Toronto Police Service to pursue offenders unlawfully at large

from federal or provincial institutions and community supervision programs throughout the Greater Toronto area. At the time, CSC was doing little, if anything, to address the more than 800 federal offenders unlawfully at large within Canada.

The Unit began to receive financial support from the Federal Solicitor General in 1998. In 2001, the province of Ontario expanded the program into a collaborative province-wide initiative that focuses on apprehending fugitives hiding in Ontario. The squad is comprised of members of municipal, provincial, regional and federal police services strategically located throughout Ontario.

In March 2002, in response to terrorist activities, the Provincial ROPE Squad was expanded to allow the formation of a Special Apprehension Team. The focus of the team is on high-risk fugitives that have been identified as being unlawfully at large or an escapee from a correctional facility and these individuals also have an outstanding immigration warrant for their arrest.

The Provincial ROPE Squad, since its inception had significant achievements in the apprehension of individuals deemed a risk to society. The Provincial ROPE Squad was responsible for the apprehension of 578 unlawfully at large individuals in 2006 alone, making a total of 2,471 apprehensions since the inception of the squad, December 1st, 2001.

The formation of the Special Apprehension Team is a partnership involving the sharing of resources with the R.C.M.P. The partnership with the R.C.M.P. Immigration Task Force allows a formidable relationship with Canada Border Services Agency (C.B.S.A.)

The Provincial ROPE Squad implements an awareness strategy to ensure the public is alerted to offenders who are unlawfully at large and pose a high-risk to public safety. The campaign solicits leads to help locate and apprehend wanted persons.

The work and investigations conducted by Provincial ROPE members are an excellent example of proactive, crime prevention and intelligence-led policing initiatives that enhance public safety.

## **SUMMARY – CANADA’S CORRECTIONAL SYSTEM**

- The profile of Canada’s prison population has changed, with an increased and significant proportion of violent and sexual offenders who require increased supervision and intervention.
- At the same time Courts are imposing shorter sentences, further reduced by the increased application of credit for “dead time”; time spend in remand custody awaiting trial. 56% of federal offenders are serving less than three years (total).
- While there is an increased emphasis on community supervision and rehabilitation;
  - Shorter in custody terms reduces the opportunity for rehabilitation.

- 50% of offenders refuse to participate in rehabilitation programs, and 40% of those who do are not successful.
- CSC has serious capacity gaps between stated policy objectives and actual practices relative to significant security issues such as suppression of criminal gang organizations, drug tolerance, and the monitoring of offenders released into the community.
- Current legislative and policy frameworks for Corrections and Parole were designed for a less violent prison population are no longer consistent with current realities and public expectations.
- Performance measurement results lack independence, objectivity and relevance, and are inadequate.

# OBSERVATIONS & RECOMMENDATIONS

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1. ***The availability and effectiveness of rehabilitation programming and support mechanisms in institutions and in the community post release, including the impact on recidivism and any legal framework issues.***
  - 1.1. The system is already strained beyond capacity.
  - 1.2. The increased use of community sentencing alternatives has meant that only the most violent and repetitive offenders are sentenced to a Federal term. The pressure to increase the proportion of Federal inmates on community release programs translates to an increase in the number of violent and higher risk individuals into our communities.
  - 1.3. Offenders who commit serious, recurring, yet “non-violent” offences continue to benefit from the leniency in the system and the reluctance to enforce, prosecute, convict, sentence, incarcerate and detain. Examples of “non-violent” offences include driving offences such as dangerous or impaired driving, auto theft, fraud, embezzlement, harassment, and break and enter.
  - 1.4. The Corrections system, and its population, is systematically by-passing the requirements for the parole process, through inadequate information and delays, in favour of the more expedient and CSC controlled Temporary Absence programs. The gatekeeper role should be returned to its rightful guardians, the National Parole Board.
  - 1.5. Despite an offender’s blatant refusal to participate in rehabilitation programs and repeated aggressive conduct within the institution, offenders are eligible for automatic release, in the form of Statutory Release, at the two-thirds point in their sentence. The National Parole Board can only consider detention if recommended by CSC. The Board has no discretion to detain offenders based upon their judgement of the facts. This is unacceptable.
  - 1.6. Accelerated Parole and Statutory Release should be abolished. These measures have proven to be less successful at reintegration of offenders into society, with up to 40 percent of offenders reported to re-offend. The mechanisms circumvent the role of the Parole Board and have proven to be less successful than Day Parole and Full Parole. All release into the community should be subject to determination by the National Parole Board.
  - 1.7. Additional legislative processes are required to deal with violent and dangerous offenders who are to be released into the community at Warrant Expiry, and present a significant risk to re-offend.

- 1.8. Require all non-medical emergency Temporary Absences to be determined at the discretion of the National Parole Board, based upon criteria determined by the National Parole Board, independent of CSC. The onus should be placed on the offender to establish that they qualify for release into the community.
  - 1.9. Community Supervision is inadequate and requires additional attention and resources. Volunteers, including persons with criminal records, are being drawn upon to provide this function. This lacks integrity and accountability, and should be eliminated.
  - 1.10. Persons who have been ordered deported from Canada and await determination by Immigration authorities should not be eligible for Conditional Release.
  - 1.11. Persons who re-offend while on conditional release should not become eligible for earlier parole for the new conviction by virtue of their prior criminal record and penal status. This offers little deterrence for offenders released into the community.
  - 1.12. Section 745 remains a significant concern for police officers, victims and family members in this country, and should be repealed.
  - 1.13. Offenders who commit more than one murder or serious sexual assault should receive consecutive parole ineligibility periods.
  - 1.14. The judiciary has proven to be unwilling to impose discretionary parole ineligibility periods, despite statutory authority.
  - 1.15. Sentencing reforms are required to place greater emphasis on offender's rehabilitation capacity, rehabilitation needs, and program requirements criteria at the time of sentencing, to ensure that sentences are of sufficient duration to achieve desired and mandated rehabilitation outcomes.
  - 1.16. Mandatory Minimum Sentences for serious violent offences to ensure adequate, effective and comprehensive rehabilitation programs.
  - 1.17. Satisfactory completion of mandated rehabilitation programs should be required for conditional release consideration.
2. ***The availability and effectiveness of work programs, including impact on recidivism;***
    - 2.1. Decisions to release offenders into the community for work programs and other temporary forms of release should be independent of CSC and determined the National Parole Board.
3. ***The initial placement of offenders convicted of first- and second-degree murder;***

- 3.1. First Degree murderers should spend a minimum of 25 years in prison, not a club fed, with no eligibility of parole.
  - 3.2. Section 745 should be repealed, removing the so-called “faint hope clause” that has allowed 80% of applicant killers to obtain early release.
  - 3.3. The requirement of the *Corrections and Conditional Release Act* that offenders be held in the “least restrictive setting” should be removed and replaced by “appropriate level of intervention”, taking into account the nature and seriousness of the offence, the offender’s prior record, and the offender’s pattern of behaviour while in custody and or prior conditional release.
- 4. *CSC’s approach to the location of its Community Correctional Centres and Parole Offices in urban areas;***
- 4.1. Include police in the consultation and planning processes to assist in the:
    - 4.1.1. Identification of vulnerable areas, such as school zones, day care centres and parks which present risks for sexual offenders and drug traffickers.
    - 4.1.2. Consideration regarding proximity to other law enforcement facilities to assist with emergency deployment and safety concerns.
    - 4.1.3. Contingency planning for on site arrests and public safety issues.
- 5. *CSC’s ability to deal with parole violations, and with frivolous and vexatious grievances by offenders;***
- 5.1. The Criminal Code should be amended to create the indictable offence of breaching a condition of conditional release, enabling a police officer to arrest, without warrant, an offender found to be in breach of the conditions of release.
  - 5.2. CSC discretion with respect to the handling of breaches of conditional release or other serious occurrences should be removed. All breaches and occurrences should be reported to NPB for determination.
  - 5.3. The successful Ontario ROPE program should be expanded by the Minister of Public Safety into a collaborative national policing initiative that focuses on apprehending fugitives hiding across Canada. The squad should be comprised of members of municipal, provincial, regional and federal police services strategically located throughout the country.
  - 5.4. Eliminate international travel and access to passports for offenders on conditional release.
- 6. *CSC’s plans to enhance services for and support to victims;***

- 6.1. As the proud sponsor of the Canadian Resource Centre for Victims of Crime, the CPA supports the Centre's recommendations to the Panel relating to enhancing services and accountability to victims of crime. (Appendix A)
  - 6.2. We believe that offenders should be held accountable for the offences they commit. Each victim is equally important. Unfortunately, the current sentencing and conditional release provisions do not recognize this principle. The lives of subsequent victims become meaningless when our justice system fails to provide additional consequences for subsequent murders or sexual assaults. This presents a significant issue for police officers, as murder suspects being pursued by the police have nothing to lose by taking another life, including that of a police officer, as the sentence and parole ineligibility period will not change.
  - 6.3. Victims and families of victims have limited voice in the determination of conditional release and parole decisions. Their rights to access information are fettered by agency discretion. The CPA applauds the government's recent decision to appoint a Federal Victims Ombudsman.
  - 6.4. CSC policies should prohibit access to such services from offenders who may be considered victims of crime within the institution.
- 7. *CSC's efficiency in delivering on its public safety mandate – identifying barriers and opportunities for savings including through physical plant re-alignment and infrastructure renewal;***
- 7.1. "Risk assessment" tools are constantly being reformed to exploit the mathematical probabilities and hard dollar costs of community release versus incarceration. Unfortunately, such clinical analysis fails to incorporate the real human costs of those "small percentage" of cases that result in tragic consequences; violence and/or death.
  - 7.2. Require Corrections Canada to provide detailed annual reports of all offences committed and/or revocations of release while offenders are on conditional release of any kind.
- 8. *CSC's operational priorities, strategies and plans as defined in its business plan;***
- 8.1. Current legislative and policy frameworks for Corrections and Parole were designed for a less violent prison population are no longer consistent with current realities and public expectations.
  - 8.2. Performance measurement results lack independence, objectivity and relevance, and are inadequate.
  - 8.3. A performance measurement system, separate and independent of CSC and NPB, should be responsible for assessing the true success or failure of

Canada's corrections and parole policies, with a longer term measurement of recidivism patterns (e.g. 2, 5 and 10 years).

**9. *Current challenges with respect to safety and security in institutions, including those related to reducing illicit drugs and combating violence, and requirements for the future;***

9.1. CSC must close the gaps between its stated policy directives concerning Criminal Organizations and zero drug tolerance, and actual operational practices within institutions.

9.2. Members of criminal organizations should be prohibited from occupying positions of influence with institutions.

9.3. The CSC "Intelligence Led Risk Management Model" should include:

9.3.1. Deploy adequate Security Intelligence Officers and properly fund the positions in each institution.

9.3.2. Mandated National Training Standards for Security Intelligence Officers.

9.3.3. Develop and implement a comprehensive community intelligence capacity.

9.3.4. Adequate training to Correctional Officers to deal with Organized Criminal Gang issues.

9.3.5. Liaison officer within the Criminal Intelligence Service of Canada (CISC) and within each provincial criminal intelligence service office.

9.4. Effective programs to deal with witness protection, informants or protective custody cases, as well as protecting other members of the population from intimidations organized crime gang members

**10. *CSC's capacity to deliver, including its capacity to address infrastructure rust out, maintain basic safety and security in institutions and communities, meet its basic policy and legal obligations; and adapt to the changing offender profile;***

10.1. The National Parole Board must be satisfied it has received sufficient information to make informed decisions concerning an offender's release into the community, prior to making a decision.

10.2. Increase resources and parole officers dedicated to community supervision.

10.3. Reinvest savings that have been achieved through community release into the parole/community supervision process.

10.4. Require persons convicted of new crimes while on conditional release to complete remaining sentence and two-thirds of any new sentence.

- 10.5. Eliminate conditional release eligibility for persons convicted of offences three times while on conditional release of any kind (except medical emergency Temporary Absences).
- 10.6. Repeal Sections 745, 746, and 747(2) of the Criminal Code.
- 10.7. Offenders who commit more than one murder or serious sexual assault should receive consecutive parole ineligibility periods.
- 10.8. All federal offenders who are released conditionally into the community should be required to provide a DNA sample for inclusion in the DNA databank prior to release.

The following items included within the Panel's mandate are of significance to this review and the credibility of CSC moving forward:

*The availability and effectiveness of programs and services for Aboriginal offenders;*

*Review the recommendations made in the report Moving Forward with Women's Corrections;*

*The availability and effectiveness of mental health programs and services in institutions and in communities.*

The Canadian Police Association does not have the requisite expertise or experience with these issues to provide recommendations on these important issues.

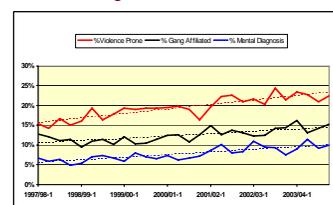
# The Changing Federal Offender Population

## Profiles and Forecasts, 2006

by Research Branch

### Highlights

Profile Changes of Federal Admissions



- Steadily falling and/or stable violent crime rates, declining new admissions and successful reintegration efforts have resulted in a general decline of the Canadian federal offender population.
- Since 1997, the federal population of men in-custody decreased 12% (from 13,825 to 12,158), however, historical times series analysis projects this group to increase by 245 offenders (or 2%) over the next 5-years (a net annual average increase of less than one-half of one percent).
- The federal population of women in-custody increased 22% since 1997 (from 331 to 403). Although population forecasting models are still under development for this group, women in-custody is expected to increase.
- The number of Aboriginal men in federal custody decreased 4% (from 2,342 to 2,239).
- Profiles were developed both for admission flows and for in-custody snapshot populations using a standard template. The full report compares two sets of profiles: two federal admission cohorts, representing all Warrant of Committal admissions during Fiscal Year (FY) 1996/97 and 2005/06, and; two snapshots representing the in-custody federal population counts on March 31<sup>st</sup> 1997 and 2006. Separate analyses are provided of the trends for federal men and women, Aboriginal men and Non-Aboriginal men, and regions. Data for the comparisons were obtained from the new Climate Indicator and Profile System (CIPS) currently being developed by the Research Branch for the Correctional Service of Canada.

#### Changing Length of Sentence:

- More than 50% of new men offender admissions are serving sentences of less than three years and there has been an increasing trend since 1996/97 (from 34% to 55%, or +62%).
- 56% of new women offender admissions are serving sentences of less than three years and this trend has also been steadily increasing since 1996/97 (41% to 58%, or +41%).
- One-out-of-four men offenders in federal custody are serving sentences of less than three years while an equal proportion are serving life/indeterminate sentences. The growth in both sentence groups has been slow and steady and the gap between has widened considerably.
- More than one-third (36%) women offenders in federal custody are serving less than three years whereas about one-out-of-six (17%) are serving life/indeterminate sentences.

#### Changing Offence Categories:

- More than one-out-of-four (25%) men offenders in federal custody are serving sentences for homicide, one-third for robbery, one-sixth for sex offences and nearly one-quarter for drug offences. The proportion of men homicide offenders has increased from 22% in 1997 to 25% in 2006 whereas the proportion of men sex offenders has decreased from 22% in 1997 to 17% in 2006.
- More than one-quarter (29%) of women offenders are serving sentences for homicide, one-quarter for robbery, 2% for sex offences and one-quarter for drug offences. The proportion of women homicide offenders has decreased from 37% in 1997 to 29% in 2006 whereas the proportion of women robbery offenders has significantly increased from 21% in 1997 to 27% in 2006.

#### Changing Initial Custody Level:

- More than one-out-of-ten of new men offender admissions are initially rated as requiring maximum-security (13%) while more than one-out-of-four are rated minimum-security (30%). There is an increasing trend for maximum designations since 1996/97 (6% to 13%, or +117%).
- 11% of new women offender admissions are initially rated as requiring maximum-security while one-half (53%) are initially rated as minimum-security and there is an increasing trend for maximum designations since 1996/97 (4% to 11%, or +64%).

#### Changing Criminal Associations:

- More than one-sixth of men offenders in federal custody have gang affiliations and this phenomenon has been dramatically increasing since 1997 (12% to 16%, or +33%).
- One-tenth of women offenders in federal custody have gang affiliations and this has been increasing since 1997 (7% to 13%, or +85%).

#### Changing Mental Health:

- More than one-out-of-ten men offenders in federal custody have been identified at admission as presenting mental health problems and this proportion has risen since 1997 (7% to 12%, +71%).
- One-out-of-five women offenders in federal custody were identified at admission as presenting mental health problems and this proportion has also risen since 1997 (13% to 21%, +61%).

## **Canadian Resource Centre for Victims of Crime**

### **RECOMMENDATIONS TO CSC REVIEW PANEL**

4 June 2007

1. CSC must provide registered victims information updates regarding the offender's rehabilitative efforts throughout the duration of his incarceration. This information should be inclusive of all aspects of the Correctional Plan, including institutional conduct, rehabilitative programming/assessments, psychological evaluations, educational upgrading, and employment (within the institution or work release programs). This information must be provided to victims where the offender is making positive progress or not.
2. CSC must inform victims in advance of an offender's transfer to another prison, and the reasons behind the transfer.
3. CSC must approve disclosure to victims when an offender is released into the custody of the Canada Border Services Agency (CBSA) at warrant expiry or any time prior to warrant expiry date. Victims need confirmation the offender is deported, confirmation of where they are deported to, if not deported, reasons why, etc...
4. CSC must inform victims in cases where there is a mental health diagnosis, particularly if there are personal safety concerns involving the victim.
5. CSC must inform victims when their offender is participating in work release programs, regardless of whether it occurs in the community where the victim now resides.
6. CSC policy that requires those offenders convicted of murder to remain in a maximum-security institution for at least the first two years of their life sentence be kept. Amend the *CCRA* requirement to hold offenders in the "least restrictive setting" by removing it and replacing it with the "appropriate level of intervention".
7. CSC be required to advise a community before opening a parole office or CCC, so that the community may have a chance to voice their opposition. Where possible, these offices and facilities should be located in industrial areas.
8. Remove CSC discretion with respect to handling breaches of parole conditions or other significant occurrences. The National Parole Board must always be informed of breaches and offenders brought before the Board to answer for their breaches.
9. CSC must inform victims what an offender did to breach/violate conditions of parole, reasons why parole has been suspended or why an offender has been returned to custody.

10. CSC must inform victims what an offender was charged with or any convictions while on conditional release or unlawfully at large.
11. Amend the *CCRA* to abolish Statutory Release and replace it with earned parole.
12. The criteria for detention is incredibly high, thus the *CCRA* should be amended to give the National Parole Board authority to detain an offender without a referral from CSC.
13. Amend the *CCRA* to recognize the tremendous emotional toll on victims in facing an annual detention hearing, perhaps by allowing a paper review where there have been no significant changes in the case. It should be similarly amended regarding the two-year review for murderers.
14. Amend the *CCRA* to ensure that all conditional release decision-making power for offenders serving life sentences rests with the National Parole Board. Victims must be informed of all conditional releases from the institution, regardless of whether it occurs in the community where the victim now resides.
15. CSC policy be amended to require a security escort for conditional releases of lifers.
16. Amend CSC and NPB policy to require a Board of Investigation be convened following the commission of an offence by a federal offender on conditional release. The panel chosen to investigate must include a victim or victim advocate and the investigation must be completed without delay. Reports must be provided to victims without portions blacked out to protect the privacy of the offender.
17. CSC create dedicated victim service officers to work with registered victims by providing an expansion of information (as listed in recommendations number 1-5) needed in order for the victim to gain knowledge of the progress an offender has made (or lack thereof) throughout incarceration and to provide a sense of security.
18. Create a mechanism whereby the CSC and/or NPB can, with regard to high-risk offenders who reach warrant expiry, appear before a judge to seek a restrictive order of sorts (perhaps creation of provision under *CCRA* of designation similar to Long-term Offender status, or in extreme cases, Dangerous Offender status).