Judicial Recommendations in the Sentencing Process: Myth or Reality?

Judicial Study Leave Report
The Honourable Mr. Justice Arthur Gans
2010-2011

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FOREWORD

As many of my Toronto judicial colleagues know, I believe that the Administration of Justice would be better served if more things associated with the litigation process were done electronically. To that end, I have been known to insist that counsel provide me with arguments and exhibits, let alone court filings, electronically and not in fossil form. As one senior Toronto lawyer has observed, I am a "technovangelist" and, like other zealots, often preach to an unreceptive audience or those who are already reading from the same e-book.

In order to maintain a consistent pattern of behaviour, I have prepared this paper to be read electronically, in the main, if not only. Hence, if one wishes to access the details described in the more than 100 footnotes and the material and documents therein referenced, one has to "point and click" to gain instant connectivity – and gratification – to the material and websites, where there is an abundance of useful, if not important, information.

To this end, I am indebted to Louise Hamel, Manager, Judicial Library Services for grasping the essence of this distribution modality and to Robert Tarantino, a law clerk with the SCJ at Toronto for making my well-intentioned imagination a reality.

I urge my Ontario judicial colleagues to give this process a whirl, particularly since all the material can be accessed through the Ontario Government Intranet network. To those other of you who may choose to struggle through this report, there are but few sites that cannot be accessed electronically, for which I apologize in advance. I am working on an alternative, if you remain interested.

Arthur Gans

Toronto, Ontario

March 18, 2011

ACKNOWLEDGMENT

I want to take this opportunity to state how privileged I was to have had the opportunity to participate in a Judicial Study Leave this past nine months or so. It unfolded in a manner which was beyond my expectations, for which I am truly grateful. And of course, it proceeded with the speed of light.

Over the past many months I worked, chatted with and learned from countless people, many, but not all of whom, were associated with or connected to the Corrections Industry, in the broadest sense of the term. I can't begin to thank all those people, including the many inmates who reside in many of Her Majesty's penal institutions with whom I met, who took the time and trouble to educate me about matters which were and, perhaps, are still beyond my ken and understanding. To thank everyone would occupy as many pages as my report, proper.

First, I would like to thank Chief Justice Heather Smith for granting me her permission, at first instance, and the Canadian Judicial Council for issuing its imprimatur for the project as originally conceived.

But that said, I could not have gained any understanding of the institutional framework known in the general sense as "Corrections" without the doors, literally and figuratively, being opened by Commissioner Don Head and Deputy Commissioner Ross Toller (Corrections Services Canada); Steven Small, ADM Adult Institutional Services and Susan Cox, Manager Offender Programs Unit (Ministry of Community Safety and Correctional Services); and all those who work with each of those individuals in their respective ministries and organizations.

I am also indebted to Dr. James Bonta (Public Safety Canada), Dr. Trevor Markesteyn (Manitoba Department of Justice) and Professor Anthony Doob (Centre of Criminology-University of Toronto) for their patience in educating me on basic matters of criminology about which I knew practically nothing when I started this project and for directing me to a welter of literature that assisted me in collecting together material upon which each had previously commented, the essence about which I had quickly misunderstood or forgotten.

I would like to acknowledge the SCJ present and former law clerks: Maija Martin and Robyn Switzer, for the primers they prepared over a year ago when I had no idea what shape this project would take; and Robert Tarantino, who did yeoman's service in editing my scattered thoughts and searching for and inserting the appropriate hyperlinks that have become a corner stone to this report. In the same vein, I want to thank Louise Hamel, Manager, Judicial Library Services for not only providing me with a lesson on hyperlinking, but who provided a portal through which one can gain access to the finished product.

Special mention goes to Janani Shanmuganathan, a JD/MA candidate at U of T, who foolishly agreed to shadow me for much of the past year and accompany me to many of the

institutions visited along the way. Her patience with my ramblings and her insight into "criminogenics," which she imparted to me during our long drives, were much appreciated.

On the counsel side, I would like to thank defence lawyers John Conroy, John Struthers, Patrice Band, and Paul Berstein for their input, as well as Crown counsel David Fisher, Howard Leibovich and Lorraine Prefontaine.

I would like to give a "shout out" to some of my judicial colleagues in both the OCJ and SCJ who steadfastly encouraged me throughout the course of this journey: Associate Chief Justice Cunningham, Justices Ferrier, Forestell, Glass, McMahon, Nordheimer, Stinson, Trotter, Bigelow, Chisvin, Feldman and Schneider. As well, I would like to acknowledge colleagues in other provinces including, Richard Leblanc, Anne Derrick, Patrick Healy, Lorna Dyke, and Beth Hughes. Thanks to all of you and others for your support and the "tips" imparted from your present and past lives.

My penultimate thanks goes to my mentor and guru, Justice David Cole who not only planted the seeds for this project, but ensured that I would have enough access to "easy" information, of which he is the central repository, to permit me to avoid the frustration of travelling, at times, through a bureaucratic and/or incomprehensible maze. His selfless counsel provided almost instantaneously - thanks to email and text messaging - proved invaluable throughout. He is, without question, the best resource anyone could ask for and played a huge part in this process during the study leave.

Finally, I want to thank the irrepressible Shelley Gans for indulging me these past many months. While no doubt she thought more often than not that I had taken leave of my senses with this seemingly bottomless undertaking, and was none too thrilled about the fact that I was underfoot more than she would have liked, monopolizing home phones and computers, she understood early on in the piece the importance that I placed on this project and supported me throughout. She can now have back her kitchen, computer room and the spare bedroom.

Arthur Gans

Toronto, Ontario

March 18, 2011 (the 14th anniversary of my appointment)

"There is always a well-known solution to every human problem ... neat, plausible, and wrong."[1]

INTRODUCTION

The imposition of a sentence at the conclusion of a criminal trial is probably one of the most challenging tasks a trial judge faces. The matter is particularly vexing for those of us who came to the job without experience in the criminal domain. Indeed, the difficulty of the task was best summarized by Chief Justice Lamer in *R. v. M. (C.A.)*, when he made the following observations:

> The determination of a just and appropriate sentence is a delicate art which attempts to balance carefully the societal goals of sentencing against the moral blameworthiness of the offender and the circumstances of the offence, while at all times taking into account the needs and current conditions of and in the community.[2]
>
> [Emphasis added.]

Our task in sentencing is made all the more difficult by the lack of information that we are provided with by many of the partners or stakeholders in the administration of justice. Our collective knowledge as judges about the penal institutions to which we are asked to sentence an individual, or the alternatives to incarceration that we are, arguably, obliged to consider,[3] are affected as a result.

The purpose of this paper is chiefly to alert my judicial colleagues, particularly those sitting in Ontario, to some of the sentencing and institutional problems of which I have become aware or had reinforced during my study leave. These include certain matters in respect of which I had pre-conceived (and erroneous) notions, or no sense or understanding at all.

In retracing the steps and stages of my study leave, I hope to illustrate the main problems of which I have become aware, and I will endeavour to outline some solutions and recommendations for change. While the primary focus of this paper will be on the disconnect and communication problems between the various players in the judicial system and those in the

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[1] H.L. Mencken, *Prejudices: Second Series, 1920* (New York: Alfred A. Knopf, 1920).

[2] *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500 at p. 566. Most recently, the Alberta Court of Appeal did an extensive review of the origins of Part XXIII of the *Criminal Code* and the issues surrounding the intersection of ss. 718, 718.1 and 718.2: *R. v. Arcand*, 2010 ABCA 363, [2010] A.J. No. 1383. A review of that case is beyond the scope of this paper, but cannot be overlooked in so far as certain of the sentencing tenets underscored by that decision might be seen to undercut the rationale for the conclusions of this author.

[3] *R. v. Proulx*, 2000 SCC 5, [2000] 1 S.C.R. 61.

corrections system, I will touch on several other subsidiary but related issues that arose during the course of my leave.

The format of this paper will follow the time-line of when the disclosure of systemic and institutional issues, if not problems, were made known or became apparent to me.

Part I will address the genesis of my study leave project and how my initial investigation changed course as a result of several revelations in the early stages of my leave. In this Part, I will draw attention to section 743.2 of the *Criminal Code*[4] and the fate of judicial recommendations once they leave the court room. I will also illustrate the effects on both provincial-time and federal-time prisoners.

Part II will address communication links and mis-links involving other justice stakeholders. I will outline issues of information gathering and transmittal between various Crown Law offices and appropriate authorities, the issue of plea bargains and the related information received by Corrections from the perspective of the defence, the role of Court Services in advancing statutorily described documents to Corrections, and the proactive role that judges can play.

Part III will address programming issues that are or are not present in penal institutions that I became aware of throughout the course of my study leave investigations. This Part will reveal some of my observations with respect to the administration of the sentence that we as judges determine.

Finally, Part IV will briefly examine a number of disparate topics that arose during my study leave including Aboriginal incarcerates, mental health and other special needs offenders, literacy and education in the jails, long-term and dangerous offender orders, women offenders, and the judges to jails program, which I highly recommend.

The overarching theme of this paper is the need to better integrate and facilitate the effective communication between all participants in the administration of justice with respect to sentencing, judicial recommendations, and the consequent administration of sentences affecting prisoners in our penal institutions – it's about filling the information gaps that presently exist. While I do not presume to have all of the answers to the concerns that I have discovered, I believe that raising these issues and altering my colleagues to them is a necessary first step.

[4] *Criminal Code*, R.S.C. 1985, c. C-46.

PART I – JUDICIAL RECOMMENDATIONS

1. Genesis

When I first conceived of the project for my judicial study leave, I planned to limit myself to an investigation of the recommendatory powers given to judges under section 743.2 of the *Criminal Code*. Initially, I wanted to learn whether and under what circumstances judicial recommendations were or were not being made, were or were not being followed, and if not, why not.

In other words, I wanted to determine whether our recommendations made their way only into the corrections "circular file" because they were ignored or because they posed too many problems for the Corrections officials – both at the Federal and Provincial levels.[5] However, both curiously and interestingly, the scope of my project changed markedly and early on, almost serendipitously.

Section 743.2 of the *Criminal Code* provides as follows:

> A court that sentences or commits a person to penitentiary shall forward to the Correctional Service of Canada its reasons and recommendation relating to the sentence or committal, any relevant reports that were submitted to the court, and any other information relevant to administering the sentence or committal.

As may be evident, this section mandates the Court, which term includes all levels of court, to forward to the Correctional Service of Canada ("CSC"): the reasons for sentence and the sentencing recommendations; any relevant reports received in evidence; and "any other information relevant to the administration of the sentence or the period of incarceration."[6] (Emphasis added.)

There is, arguably, a parallel but broader section found in the *Corrections and Conditional Release Act*,[7] which mandates the CSC to take "all reasonable steps to obtain" on its own s. 743.2-type material. Section 23 of the *CCRA* provides:

> 23. (1) When a person is sentenced, committed or transferred to penitentiary, the Service shall take all reasonable steps to obtain, as soon as is practicable,
>
> (*a*) relevant information about the offence;

[5] Throughout the course of this paper, I will use the term "Corrections" to refer to the Correctional Service of Canada and the Ministry of Correctional Services Ontario as a collective.
[6] David Watt & Michelle Fuerst, *Tremeear's Criminal Code*, 2011 annotated ed. (Toronto: Carswell, 2010) at 1593.
[7] *Corrections and Conditional Release Act*, S.C. 1992, c. 20 [*CCRA*].

(*b*) relevant information about the person's personal history, including the person's social, economic, criminal and young-offender history;

(*c*) any reasons and recommendations relating to the sentencing or committal that are given or made by

(i) the court that convicts, sentences or commits the person, and

(ii) any court that hears an appeal from the conviction, sentence or committal;

(*d*) any reports relevant to the conviction, sentence or committal that are submitted to a court mentioned in subparagraph (c)(i) or (ii); and

(*e*) any other information relevant to administering the sentence or committal, including existing information from the victim, the victim impact statement and the transcript of any comments made by the sentencing judge regarding parole eligibility.

[Emphasis added.]

Both section 743.2 of the *Criminal Code* and section 23 of the *CCRA* apply to an offender who receives a sentence or is committed to a penitentiary only, which begs the questions: What happens in the instance of someone who is sentenced to provincial time; and what happens to someone who is sentenced to "federal time" (in excess of two years), but due to time served on remand is "committed" or sent to a provincial institution to complete the balance of his sentence? I will cycle back to these issues later in this paper.[8]

When I first undertook a review of section 743.2 in isolation, as I had not yet uncovered and consequently considered section 23 of the *CCRA*, I focused only on a judge's ability to make recommendations for rehabilitation purposes in an effort to jump start the rehabilitation process. To that end, I was not paying particular attention to any other described "objective" designed to underpin the fundamental purpose of sentencing described in section 718 of the *Criminal Code*. I, like about 74% of Canadian judges recently interviewed for a study completed by Public Safety Canada ("PSC"), held – some might say – a Pollyanna view that rehabilitation should

[8] I suggest, in any event, that the CSC has a further obligation under section 23 to review the proceedings at which the offender was convicted at first instance, as well.

feature prominently in the sentencing calculus in the fond hope of eliminating or reducing the rate of recidivism.[9]

2. Revelations

I quickly learned that judges could only make institutional and programming recommendations and were not permitted to mandate the institution where the offender should or could spend his or her time to receive the treatment programs that I thought existed or might exist in any particular institution. Indeed, the early jurisprudence is clear that a sentencing court is without authority to specify the institution to which an offender might be sent, even for programming purposes. Furthermore, both the *CCRA*, which governs a federal incarcerate, and the *Ministry of Correctional Services Act*, which governs offenders serving their sentences in the Ontario provincial institutions, state that the mandating of a specific institution is an order of no force and effect.[10]

This prohibition does not mean that recommendations are not of any moment. Indeed, in *A Guide to Ontario's Ministry of Correctional Services Act*,[11] the learned authors made the following observation:

> Judicial recommendations for placement at a particular institution are given serious consideration along with other classification factors such as place of residence; community connections; employment pattern; domestic stability; treatment/program participation; medical/psychiatric history; security classification and admission criteria for Ministry; institutions and treatment facilities; inmate's level of security and programming requirements; specific correctional centre and treatment facility admission criteria; and requirement for French language services.

The bottom line is that a judge can make a recommendation, for example, that someone be sent to an "institution like the Ontario Correctional Institute ("OCI")," and add a further descriptor, if applicable "… where substance abuse programs are offered." This bit of word-smithing, which the Corrections people with whom I have spoken have signed off on, would not, in my view, run counter to the legislation or prevailing case law, and should give the Corrections people, particularly those in Ontario, some reasonable discretion and latitude for the appropriate placement of the offender.

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[9] Public Safety and Emergency Preparedness Canada, *Presentence Reports in Canada* by James Bonta *et al.* (Ottawa: Minister of Public Safety and Emergency Preparedness, 2005), online: Public Safety Canada <http://www.publicsafety.gc.ca/res/cor/rep/2005-03-pre-sntnce-eng.aspx>.

[10] *CCRA* s. 11; *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22, s. 17 [*MCSA*].

[11] Kenneth W. Hogg & Brian G. Whitehead, *A Guide to Ontario's Ministry of Correctional Services Act*, 2006 ed. (Markham, Ont.: LexisNexis Canada, 2006) at 42.

I also learned early in the piece that the Corrections people – which term I define to include the professional staff at both the federal and provincial levels, from the intake workers or classification officers, to the programmers and the probation officers and parole officers – welcome judicial recommendations and want to know what we judges are thinking and what our observations of the offender are and were at the time that the sentence was imposed.[12, 13] Indeed, at least on a provincial level, the recommendations can have an impact during the original classification process.[14]

What I learned, however, to my dismay, was that our recommendations were not making it to Corrections, unless specifically endorsed on a Warrant of Committal. Similarly, reasons for sentence were not being transmitted to the provincial institutions at all for offenders serving a sentence of six months or more. For federal prisoners, reasons for sentence were transmitted, generally, only over time, and well beyond, in many cases, the institutional classification period, which is designed to take place in the first 75 or 90 days of incarceration depending upon the offence for which the incarcerate was sentenced.[15]

In addition, and often of greater consequence, I learned that the other reports and documents of significance were not making it to the provincial institutions[16] and were hit and

[12] I visited 16 institutions over a five month period. I met and talked with all manner of Corrections officials from Corrections Officers on the units to Wardens (CSC) and Superintendents (MCS) and virtually every other class of employee in between. My discussions and interviews included conversations and meetings with teachers, social workers, liaison officers, and psychologists, by way of example. Because I am not a trained social scientist and was not inclined to record in detail and by date and time the interviews verbatim, I dare say that my conclusions from these discussions would "shock" researchers and would appear to be no more than anecdotal recollections of what was told me. That said, I am satisfied that my observations and the conclusions drawn accordingly are an accurate representation of what was told me. I have identified specific interviewees where appropriate and refrained from identifying other sources by name or title where requested.

[13] I would hasten to observe that there are those whom I interviewed who are of the view that when a judge is asked by counsel to make a recommendation, it is but to keep the sentence down as the prisoner has no real intention to avail himself of the programs offered institutionally. How a jurist can ferret out the earnest from the less than candid is but a mystery to me.

[14] Interview of George Christie, Program Advisor, Adult Institutional Services, MCSC, (10 December 2010).

[15] I have interviewed Toronto Court Services (SCJ) employees of long standing. The following information was provided to me: (1) documents mandated for provincial-time offenders are supposed to be sent by the court registrar to the remand/detention centre with the prisoner on the day of sentencing; (2) documents are not sent with a federal-time offender on the day he is sentenced, but are "batched" and sent to the Scarborough Information Retrieval Unit – and not the remand/detention centre – "about" once a week; (3) transcripts apparently are not routinely ordered for provincial-time offenders, regardless of length of sentence; and (4) transcripts for federal-time offenders are sent when completed to Millhaven. In fairness, the management of Court Services has recently commenced a review of the document transmittal process. From my observations this is very much a work in progress but a step in the right direction.

[16] The staff at the Ontario institutions advised me that they do not receive reports and exhibits at all. The Toronto Court Services staff told me that the court registrars are "trained" to send the relevant material with the provincial-time offender when he or she leaves the Courthouse. There is an apparent disconnect, which I was not able to wrestle to the ground. I was left to speculate on what happened to the errant documentation, as a result. That said, one senior Court Services official told me that the CS staff are obliged to follow the staff protocols and cannot make changes to the transmitted documents without an "order" or direction from the judge. I am satisfied from bitter

miss to make it to the penitentiaries and only after they were chased down, in many cases, by a wing of the CSC known as the Information Retrieval Unit ("IRU").[17] These reports and documents include agreed statements of fact, presentence reports ("PSR"), psychological and psychiatric reports, and even victim impact statements, all of which, I suggest, are mandated to be sent or provided by section 743.2 of the *Criminal Code*, if not sections 4 and 23 of the *CCRA*.

This revelation is made all the more curious, if not startling, when one looks at the rationale for the introduction of the above noted sections in the first place. Section 743.2 was introduced in the *Criminal Code*, in a somewhat different form, first in 1992 and in its present incarnation in 1995. Section 23 came into effect when the *CCRA* was created in June 1992. The *Criminal Code* amendment and the *CCRA* were passed in the wake of at least four notorious rape/murders involving Celia Ruygrok (a halfway house case worker), Christopher Stephenson (an 11 year old boy), Nina de Villiers (a recent university graduate), and Tema Conter (an unlucky lady who lived in an apartment near a federal halfway house).

I do not intend to review the facts giving rise to each of the horrific cases listed above. One can simply search their case histories online. The Ruygrok tragedy formed the subject-matter of a 1987 Task Force.[18] Suffice it to say that each of the murders was committed by an offender on parole or probation in circumstances in respect of which, arguably, each tragic event could have been avoided had there been better communications between the various justice stakeholders. Simply put, there was an appalling lack of information sharing between Corrections, on the one hand, internally and externally, and the Crown, police, community resources and Courts, on the other.

The recommendations that came from the inquest and the above noted Task Force called for improved communications at all levels and, of equal importance, changes to the *Criminal Code*, if not the introduction of the *CCRA*. They can best be summarized in the excerpt from the 1987 Ruygrok jury recommendations, set out below, which were adopted universally by the Task Force the same year:

> 1. Criminal Justice System
> A number of recommendations call for better cooperation and coordination among various components of the criminal justice system that fall under the authority of a variety of jurisdictions. This cooperation is fundamental to many of the improvements recommended.

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personal experience that judges and CS staff, generally, have no appreciation of the interplay of their respective tasks and duties. Training and education on both fronts is lacking or not of universal application. See *infra* note 24.

[17] The CSC has established IRUs in every jurisdiction where there is a Regional Reception Centre (i.e. a penitentiary that receives prisoners doing federal time and sentenced in the region that the Regional Reception Centre services). The mandate of the IRUs is best described in an internal publication. See Appendix A.

[18] Report of the Task Force to study the recommendations of the inquest into the death of Celia Ruygrok (Ottawa: Communications Group, Solicitor General Canada, 1987).

> 2. Information Collection and Communication
> There is concern that all relevant information be more effectively collected as early as possible in the sentence, synthesized into a meaningful case analysis and effectively communicated to all concerned parties in a timely fashion as the case progresses. This process begins with the reception phase which is of critical importance to the success of later stages of the case management process. It is dependent in part on receiving accurate and timely information from other components of the criminal justice system.[19]

As indicated, the applicable legislation was promulgated some few years after the hearings – after but modest debate in the House. One would have thought that the communications between the justice partners would have improved markedly and with dispatch. Regrettably, such was not the case.

In 1999, the then Auditor General made similar observations in its report to Parliament, basically noting that there was still a lack of timely information gathering and sharing on the part of Corrections, Justice, and the Courts. Part of the focus of this report was on the impact that the lack of information had on the classification process of prisoners. I would argue that the information is of equal importance for rehabilitation and housing, in general, and at the back end, when the offender comes before the National Parole Board or is released into the community.[20] But, alas, the problems surrounding communications and document flow exist today.

I have been to 16 different provincial and federal institutions in three provinces and have met with all manner of people working in Corrections from classification officers to case workers inside the institution and in the community. I have met with wardens, deputy superintendents, psychologists, and assistant deputy Ministers and many "head office" civil servants. As well, I have taken the opportunity to meet with prisoners with whom I have had long discussions covering a multitude of issues – from murderers to fraudsters and many in between. From the countless conversations I have had with these people, it is apparent to me that the lack of third party information in respect of the offender – both of a static and dynamic nature – is the bane of everybody's existence, at all levels of the process.

Put otherwise, the lack of recorded or transcribed reasons and judicial recommendations is but a small piece of the problem for reasons which may be self-evident to those in Corrections, but were not obvious to someone like me – and I dare say countless other section 96 judges – who did not practice criminal law at all or as a steady diet.

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[19] *Ibid.* at p. 3.
[20] Report of the Auditor General to the House of Commons (Ottawa: Minister of Public Works and Government Services Canada, April 1999), online: Office of the Auditor General of Canada <http://www.oag-bvg.gc.ca/internet/English/parl_oag_199904_01_e_10130.html>.

The fact is that 97% of all criminal cases are disposed of at the provincial court level. The other notable fact is that about 89% of all findings of guilt have been recorded as a result of a guilty plea. Overall, on a national level, between 59-65% of all accused that come before the courts, at all levels, enter a plea of guilty.[21] The net effect of the pleas of guilty and agreements by counsel mean that the underlying facts and the resulting sentences have been agreed to in advance of the plea. In many instances, the facts supporting a finding of guilt may be "sanitized" and watered down as a result of negotiations between counsel.

Hence, when a judge adopts the joint submissions of Crown and defence, the institutions get precious little by way of background information in respect of the offender, the issues and nature of the crime, the "raw" information in relation to the offender's antecedents or anything else that might be meaningful to the administration of the sentence or the committal of the offender. Such is the case unless the judge repeats the facts giving rise to the plea for the record, has the facts reduced to a transcribed agreed statement of facts, or reads extensively from the PSR or other reports, few of which generally occurs. It should be noted, in particular, that these steps are rarely taken in a busy provincial court where the much beleaguered judge must handle many pleas and sentences on a daily basis and with dispatch, and hardly has time to take a health break, let alone spend even 10 minutes crafting fulsome reasons for sentence.

A section 96 judge might be in a somewhat different position than a provincial court judge before whom most cases are processed, unless one is in Practice or Remand Court, or is squeezing in a guilty plea after a judicial pre-trial, for example. If a sentence is imposed after a trial, with a not guilty plea, many judges will take the time to craft reasons for sentence, if only to stand the test of appellate review.[22] In those reasons, more often than not, the sentencing judge will review the facts giving rise to the finding of guilt and the registration of a conviction.[23] At that point, there may also be some reference to the PSR and other reports received into evidence at the sentencing hearing. I am satisfied from the interviews conducted that those reasons, once transcribed and received at the institution are taken very seriously, as are the underlying reports upon which the final disposition is based, in whole or in part.

I have concluded, however, based on the numbers described above, and the fact that there is, more often than not, a time delay between the pronouncement of sentence and the transcription of a judge's reasons, that the actual reasons for sentence play but a secondary role in the information base that would be of assistance to the Corrections officials in the

[21] Interview of Craig Grimes, Chief Advisor-Criminal Justice, Canadian Centre for Judicial Statistics (30 November 2010). The statistical information varies depending on the manner in which the numerators and denominators are used by the collectors of the statistics.

[22] Section 726.2 of the *Criminal Code* provides that terms of the sentence and reasons shall be read into the record of proceedings. For reasons of judicial efficiency, detailed reasons are not generally provided in respect of a guilty plea.

[23] If the trial judge incorporates by reference the reasons for the initial judgment, this might create an added layer of reasons that have to make their way to Corrections.

management of the offender right through to probation and parole. Although I am not suggesting that the reasons for sentence are not of some import, particularly if they incorporate the agreed statement of facts and the submissions of counsel, I would observe, however, that the other material received by the sentencing court at the time of sentence would be of greater value to the institutions and to those involved in the administration of the sentence or committal.

That said, what does get to the institutions and under what circumstances?

3. Provincial-Time Prisoner

As was previously suggested, very little information and material other than a Warrant of Committal goes to the Ontario institutions, regardless of the "six month form" that judges are sometimes, though not universally, asked to complete by registrars or clerks.[24]

I discovered, albeit anecdotally, that the six month form and sometimes even the federal form are not used by all our Court Services staff, even though they can be downloaded electronically,[25] and might be available in the regional criminal court staffing offices, if not in each of the courtrooms. Indeed, the provincial form is not used in every region or in every SCJ or OCJ courthouse in the same region.[26]

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[24] This conclusion is based on conversations with Classification Officers at the "West," programming managers at OCI and CNCC, and others within the system. In fact, the officials at CNCC did a six month audit at my request, reaching back beyond the summer of 2010, and confirmed that the prisoner files were devoid of documentation but for the offender's CPIC report and police incident reports. That said, during my meeting with George Christie, a former classification officer, at MCS headquarters on 10 December 2010, I learned that if a pre-sentence report was completed for an offender before sentence, an electronic note of this would appear in the offender's Offender Tracking Information System file. A classification officer could then contact the PO office that prepared the report and have a copy sent to the remand/detention centre by email or fax for review before classification. I was not satisfied from discussions with other classification officers that this practice was universally followed.

[25] Ontario, Ministry of the Attorney General, *Criminal Forms and Publications*, online: Court Services Division Intranet Homepage <http://intra.csd.mag.gov.on.ca/English/page-1-548-1.html> (N.B. these links can only be accessed by those who are on the Court Services Division website and cannot be accessed by the public.):
Memorandum of Court to Correctional Service of Canada Superior Court Federal Time (2 years), CSO-743-2.1 <http://intra.csd.mag.gov.on.ca/English/Memorandum-of-Court-to-Correctional-Service-of-Canada-Superior-Court-Federal-Time-CSO-743.html>;
Memorandum of Ontario Court of Justice to Correctional Service of Canada (federal time-2 years), CCO-743.2.2 <http://intra.csd.mag.gov.on.ca/English/Memorandum-of-Ontario-Court-of-Justice-to-Correctional-Service-of-Canada-CCO-743.html>;
Memorandum of Court to Ontario Correctional Institution (2 years less 1 day) - Superior Court of Justice, CAS-M4 <http://intra.csd.mag.gov.on.ca/English/page-1-4316-1.html>;
Memorandum of Ontario Court of Justice to Correctional Institution (provincial time - 2 years less 1 day), CAO-M4 <http://intra.csd.mag.gov.on.ca/English/Memorandum-of-Ontario-Court-of-Justice-to-Correctional-Institution-CAO-M4.html>.

[26] I also heard from some judges across Canada who indicated that, while there is a protocol in place to facilitate the flow of documentation to CSC in their jurisdictions, there is no similar protocol for provincial-time offenders, even ones sentenced to a period of incarceration in excess of six months, as there seems to be in Ontario. I was not able to

The lack of meaningful information that has been filed with the Court affects the provincial system from intake to release into the community. In the first place, provincial-time offenders are in the institutions for, on average, 45 days for women and 65 days for men. The offender (male) first goes to a remand or detention centre, like Maplehurst or Toronto West, in the city or region of the court in which he was first sentenced. He remains in that institution for at least the first week before being sent to a corrections facility, like Central North or even a different wing of Maplehurst, to serve out the rest of his sentence. The initial classification is undertaken at the remand/detention centre in the first week of sentence. At that point, a standard assessment is performed where the risk, needs and responsivity of the offender are determined by a classification officer. The results of this assessment, together with some form of professional discretion, sometimes referred to as a "clinical override," will govern where the offender will spend the rest of his sentence to the release date.[27]

The classification officers I interviewed universally complained about the lack of information they receive when they first meet with the offender on intake and lamented that they would clearly welcome receiving "as much information as possible," a refrain I heard countless times. It would appear, however, that classification officers do have access, from time to time, to some elements of the Crown brief, including, police incident reports, if not the show cause synopsis. If that is the case, while some information is better than none, the receipt of the police incident report or show cause reports only, I would suggest, might skew the assessment of the offender's risk/needs analysis.

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conclude that the same situation exists in each province or territory since I did not receive responses from all provinces and territories.

[27] The assessment tool that is used (and developed) in Ontario is commonly referred to as The Level of Supervision Inventory ("LSI"). It is a quantitative risk-need assessment instrument used to identify an offender's risk of criminal behaviour in the future and his need for clinical services to avoid recidivism. It was first introduced by MCSC in the early 1980s. After 15 years of experience, it was modified into what is commonly referred to as The Level of Service Inventory – Ontario Revision ("LSI-OR") and has been employed routinely by MCS for all offenders coming under its jurisdiction. To that end, the classification system is a required assessment tool for all adult inmates, both in respect of the institutional classification – where and under what conditions an offender will serve out the sentence – but also in respect of release decisions undertaken by the Ontario Parole Board, if an offender is released into the community before his statutory release date.

While I do not presume to understand the theory behind this assessment tool, I understand that it is comprised of a 53 item checklist which is scored by the classification officer after the completion of an interview with the offender and a review of "…all documentation and records of the client, and completing a number of collateral contacts to verify the assessor's earlier findings." See Appendix B for the FORUM on Corrections Research.

I also understand that there can be a subjective element applied to each of the assessments where the assessor performs what is referred to as a "clinical override." In the clinical override, the classification officer contrasts the offender's actuarial risk level to the offender's specific risk/needs indicators and personal strengths. In that regard, a classification officer is obliged to consider certain other clinical issues, which include the offender's social, physical and mental health needs – or other non-criminogenic factors – which may go some distance in either modifying or endorsing the offender's overall risk level.

It would appear that in order to accomplish this clinical override, a classification officer would be better placed to make a more accurate call if provided with as much information as possible, even if limited to much of the same information heard by or filed with the trial judge during the sentencing portion of the proceedings.

That said, it should be noted that about 75% of all offenders who pass through a provincial remand/detention centre are repeat offenders – if not "frequent fliers" – and, hence, MCS classification officers usually have more than a modest dossier on each incarcerate. The Offender Tracking Information System ("OTIS") provides a significant amount of information in respect of each repeat offender, from information on how he comported himself while previously in custody, to notes from the offender's probation officer when released into the community. Indeed, a classification officer can also access, through another software application, the offender's previous assessment scores to see how the offender was ranked when previously or most recently assessed.

I was told, however, that the classification officers do not normally receive any psychiatric or psychological reports that might have been filed as an exhibit with the Court at the time of sentencing. Indeed, if the reports do somehow accompany the offender to the remand/detention centre at first instance, or to the correctional institute to which the offender is ultimately transferred, they are then filed away in the offender's health records and are not provided to the classification officers because there are real or imagined "privacy" issues.[28]

Putting the matter otherwise, if a judge is thinking about ensuring that an offender obtains programming at the institution, he or she should know that the time for a provincial-time prisoner to receive programming is really of the essence and the more information the MCS staff receive on an upfront basis, the better.[29]

4. Federal-Time Prisoner

The starting point for an inmate sentenced to federal time is seemingly not as critical an issue compared to an offender doing provincial time, unless the prisoner is on an accelerated parole track under the provisions of the *CCRA*, which may in any event have seen its last days.[30]

[28] I reference the concerns as "real or imagined" because I am of the view that security and risk issues should trump privacy issues. Indeed, I am of the view, from a practical point of view, that the chances of an offender taking issue with the Corrections officials reviewing a psychiatric report for classification purposes would be slim. In fact, section 23(3) of the *CCRA* should be a complete answer to that concern: "No provision in the *Privacy Act* or the *Access to Information Act* shall operate so as to limit or prevent the Service from obtaining any information referred to in paragraphs (1) (a) to (e)."

I would observe that a similar provision seems to exist under subsections 10(4) and (5) of the *MCSA*. Putting the matter otherwise, I believe there is statutory authority for the proposition that classification officers should be provided with access to an offender's complete record, including, and more particularly, psychological and psychiatric reports that were filed as exhibits at a sentencing hearing.

[29] Attached is a chart that demonstrates the timeline necessary for an offender to receive treatment at OCI. While the flowchart is demonstrative of the time needed for intense programming at OCI, it is also exemplary of the time periods that occur in different institutions when and under what circumstance documentation may or may not be received in the institution. See Appendix C for the OCI Timeline.

[30] Indeed, in a conversation with Dr. Brian Farell, Chief Psychologist, Millhaven, I learned that timely information becomes critical even before the assessment period is complete since CSC is mandated to lock in a penitentiary plan

The assessment process is first done at Millhaven for a central and eastern Ontario prisoner and at Stony Mountain for a western and northern sentenced offender – more probably than not an Aboriginal male – within up to 75 or 90 days after the time the offender is transported to Millhaven or Stony Mountain, as the case may be, depending upon the sentence for which he is sentenced.

But the information filed with the Court is still of importance to a federally sentenced offender, as well, because:

(1) He remains in a local remand/detention centre for the first 15 days of his sentence, unless he waives his right to release pending appeal. In the first week of sentence, the offender is seen by a local federal parole officer ("FPO") and an initial preliminary assessment is performed at that time. This assessment includes obtaining information that can be used both in respect of the creation of a prison plan and/or for the establishment of a post incarceration support system. Hence, if a PSR existed or the reasons for sentence had been transcribed which might include some information about the offender's antecedents, the FPOs with whom I spoke, indicated that this information would provide them with a helpful starting point.

(2) When it comes to classification, the federal classification officers perform an assessment of the offender's risk, needs and responsivity at the institution utilizing a federally designed assessment tool – again, often in the absence of meaningful court generated documentation.

From the documentation received from the IRU and other branches of CSC, I was provided with the following statistical breakdown in respect of the items described in section 743.2 of the *Criminal Code*:

(a) Reasons for Sentence (Judges' Comments)

Judges' reasons are received within 30 days after the prisoner reaches the reception centre or about 45 days after sentence in about 50% of the cases.[31] The balance of the reasons actually received by the institution arrives after requests are made by the IRU. To that end, 30% of the available reasons are received within the first 90 days of incarceration and before the

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for the prisoner even before the time elapses for the completion of the full assessment. Indeed, CSC issued a directive to all institutions in September 2007 internally mandating the timing of the creation of Correction Plans. A reading of the Directive indicates a need for externally prepared offender information as part of the classification process. Correctional Service Canada, *Correctional Planning and Criminal Profile*, Commissioner's Directive 705-6 (18 September 2007) [unpublished].

[31] By the term "Judges' reasons," I remind the reader that the transcript may very well not include the submissions of counsel or the agreed statement of facts on a guilty plea, which material should be ordered transcribed as it is often more informative than the brief reasons of the trial judge.

classification assessment is completed. However, it is noteworthy that the institutions do not receive 100% of judges' reasons/comments before an inmate is released from the institution after sentence. In fact, the overall collection success rate is pegged at about 94% for the two reception centres servicing inmates sentenced within the province of Ontario,[32] even though the unit employs a tickler system that routinely calls or writes each of the court offices to ensure that compliance is obtained.

(b) PSRs

The reception centres receive something in the order of 25% of available PSRs within the first 90 days of incarceration. In the aggregate, they receive about 45% of available PSRs, meaning that more than 50% are not transmitted to the reception centre during the currency of an offender's sentence.[33]

(c) Psychological and Psychiatric Reports

Reception centres receive something in the order of 25% of available psychiatric reports and 12% of psychological reports. There is no pattern as to when the reports are received, i.e. before or after assessments have been completed.

(d) Victim Impact Statements

The experience with respect to victim impact statements roughly parallels the statistics in respect of the receipt of PSRs: half are received within short order of the offender's transfer to the reception centre, with most of the remainder coming within the 90 day classification period.

(e) The IRUs

There are eight IRUs operating across Canada, most of which are located within the regional assessment centre penitentiaries where a federal-time offender is first housed. I was able to make contact with officials in three IRUs across Canada, as well as visit the IRU that services the GTA – or more exactly, the "Golden Horseshoe." Notwithstanding what some provincial Court Services personnel told me about how sophisticated their own provincial systems are in so far as integrated justice is concerned, if the IRU unit in Toronto is any indication about the

[32] I was told at Stony Mountain that as of 22 November 2010 they were having particular problems getting information from the Thunder Bay courts, even though there had been direct communications between Court Services in Thunder Bay and Intake at Stony Mountain.

[33] I was never satisfied that the situation with respect of PSRs was as bleak as was represented on the print out I was sent. In the first place, while many judges request PSRs when contemplating a federal sentence, there are still significant numbers of offenders sentenced to federal time by way of plea bargain where there is generally no need for a PSR. Try as I might, I was not able to verify this statistic through an analysis on the intake numbers of prisoners at Stony Mountain, which institution ultimately – and for reasons that escape me – mandated me to bring a Freedom of Information Act application, which I was not inclined to do.

universality of electronic interface, we in Ontario are presently functioning with 'horse and buggy' technology in respect of provincial-federal document retrieval and transmittal.

No doubt, some jurisdictions are better than others in terms of document transmittal. However, exhibits and reasons for sentence generally get to the regional assessment institution only after the employees of the IRUs go either into the field and beat the bushes for the documents located with the various Court Service or Crown Law offices, particularly for the higher risk offenders (DO's and LTOs),[34] or write or email the various courts for the remaining available information over the next several months at periodic intervals. Once the documents are received by the reception centres, they are then scanned into the Offender Management System ("OMS") maintained by CSC. This system can be accessed by the regional assessment centre and any subsequent federal institution to which the offender may be sent during the course of his sentence.

Regrettably, there is no electronic interface between CSC and the other judicial stakeholders to permit the IRUs in Ontario and most other provinces, to obtain with great facility documents that may be lodged with the MTPS (local) or MCS (provincial corrections), notwithstanding the fact that many of those who work for the IRU throughout Canada are CSC employees or ex-RCMP. Indeed, the IRU office in Scarborough is shared with the MTPS, MCS and the ROPE Unit of the RCMP. Each level of "service" has its own computer and its own tracking system, none of which is linked to the other. Consequently, if the IRU staffing officer wishes, by way of example, to obtain a copy of a police report or an incident report, he must request the same from the MTPS officer, have it downloaded, copied, and then uploaded or scanned into the OMS system. He cannot obtain, by way of further example, a copy of a PSR that was initially created in the provincial system even though such would simply constitute the transfer of one electronic file to another electronic filing system.[35, 36]

[34] DOs and LTOs comprise a whole other area of inquiry about which an investigation in respect of the paper transmittal should be undertaken to determine if the demands of s. 760 are being complied with, routinely, if at all. This is particularly so where an LTO order is made but the offender ends up sitting only provincial time as a result of the credit given for pre-trial custody.

[35] At one point, I was advised by Court Services BC that they believed their system was accessible by the Pacific Reception Centre of CSC in Abbotsford, British Columbia. This information, as of mid-November, proved to be inaccurate. In conversations had with the Pacific Region IRU, I determined that there still was no interface between the two systems of document management and the IRU Pacific Region could not, in fact, access electronic copies of documents generated by Court Services BC. Since that revelation, I introduced the heads of the two units to each other and have not received any information as to whether or not the situation has changed since the introduction was made.

[36] I was told, however, by the professional staff at Grand Valley Institution, the federal prison for women in Kitchener, ON, that their document retrieval is significantly better than it is for men. They routinely receive a higher percentage of judges' comments and PSR/Gladue reports than was the experience with male offenders. But even that percentage of retrieval was far from perfect, as subsequently received emails suggested. The difference in the success rate on retrieval may be accounted for by the fact that there are significantly less women than men in the system and, as a consequence, less paper needs to be transmitted.

PART II – OTHER JUSTICE STAKEHOLDERS

5. Crown Attorneys

When I visited the Scarborough office of the IRU in October 2010, I was shown correspondence from an experienced Crown counsel who routinely appears before the SCJ in Toronto. This particular Crown, whom I interviewed after reviewing his correspondence, makes it a practice to collect together all material that is filed as an exhibit at the more "serious" sentencing hearing with which he and his colleagues are involved. It is his intention to have the material transmitted to the IRU as soon as practicable after the hearing. In fact, he routinely instructs junior Crown counsel with whom he works to do likewise and to ensure that all reports, transcripts and all other relevant material are sent to the IRU as soon as such becomes available.

In addition to this interview, I also met or had conversations with other senior Crown counsel attached to 720 Bay Street, both in the Policy Division and those charged with the responsibility of supervising the prosecution and management of dangerous, long-term and high-risk offenders. I make the following observations, as a result of these interviews:

(1) I was not able to determine whether the practice described above in respect of information gathering is one that is universally performed by the other borough Crowns who appear in the Superior Court at Toronto, or in other Ontario jurisdictions, for that matter.[37]

(2) I learned that there is no formal Crown policy that the information gathering and transmittal be done. It is a practice that seems to have been developed almost on an *ad hoc* basis through the efforts of certain individual Crown counsel, some of whom are now my judicial colleagues in Toronto. There does not appear to be a general policy guideline in respect of the transmittal of s. 743.2-type material, universally and across the board.

(3) I learned, however, that there are two policies in place, one in respect of high-risk offenders[38] and one in respect of spouse/partner offences.[39]

(4) There used to be a protocol, one that was instituted in 1994, shortly after the predecessor section of 743.2 was introduced, namely, s. 731.1. In that protocol, which for some reason has been removed or replaced by the two protocols

[37] I would observe that some of my current judicial colleagues in Toronto, who were Crowns in their past lives, followed similar practices of transmitting material to the institutions after sentence. They expressed surprise that this was not a universal practice.

[38] Ontario, Ministry of the Attorney General, Criminal Law Division, Practice Memorandum, *Re Dangerous, Long-Term and High-Risk Offenders* (Toronto: Queen's Printer for Ontario, 2 July 2008).

[39] Ontario, Ministry of the Attorney General, Criminal Law Division, Practice Memorandum, *Spouse/Partner Offences: Information Sharing with Probation and the Partner Assault Response Program in the Domestic Violence Court Program* (Toronto: Queen's Printer for Ontario, 31 March 2006).

> described above, the Crown Policy Branch acknowledged that the sharing of information was of particular importance in respect of "…offences involving particularly violent or dangerous offenders, first and second degree murder, or other violent offences *inter alia*, sexual assault where the accused has displayed a tendency to repeat the offence…."[40]

It is interesting to note the observations made by the draftsperson of the second listed policy, namely, the Spouse/Partner Offence Practice Memorandum, the synopsis portion of which provides as follows:

> The sharing of information within and among various sectors of the justice system has been identified as a necessary prerequisite to a coordinated approach to the prosecution of domestic violence. Some Crown Attorney's Offices have established a practice of sharing information with probation and parole and vice versa, a practice that should continue.
>
> This memorandum addresses the need to develop an administrative system or protocol in each Crown Attorney's Office to provide information to probation and the PAR program in domestic violence cases where the offender is ordered to attend the PAR program. Reference should be made to the policy and other practice memorandum on spouse/partner offences.

While the Crown Policy Branch has clearly addressed some of the issues described or considered in the Inquest that preceded the change in legislation, it would appear that the Crown Policy Branch of the Ministry of the Attorney General has not implemented a universal information sharing directive. In fairness, this may not be practicable having regard to the volume of cases that pass through all the Crown Law Offices in the province. Presumably, it was better thought to limit the scarce and available resources to spouse/partner offences and cases involving dangerous, long-term and high-risk offenders.

In any event, as indicated, the transmittal of documents from the Crown Law Offices to the appropriate authorities, whether to the institutions or the probation and parole offices, is still something of a discretionary act, which, by definition, creates its own problems. In addition, having regard to the correspondence I have examined, it would also appear that there is a significant time delay in the transmittal of information from the Crown Law Office, regardless of the diligence of the individual Crown, and the time after which the offender actually is sentenced to a period of incarceration.

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[40] Ontario, Ministry of the Attorney General, Crown Policy Manual, *Sentencing: First and Second Degree Murder and Other Crimes Committed by Especially Violent or Dangerous Offenders* (Toronto: Queen's Printer for Ontario, 15 January 1994) at 1.

That system might be better improved if the Crowns were provided with access to the MCS computer system to provide access to the transmittal information, and the transmittal information itself, electronically. Indeed, the proposition just expressed is not novel in any respect. From discussions held with senior Crown counsel in Manitoba, it would appear that the Manitoba Crowns have access to the Manitoba equivalent of OTIS, something from which Ontario Crowns would benefit.[41]

6. Defence Counsel

As previously indicated, much of the work of defence counsel is done in the Provincial Court and much of that time is spent doing pre-trial work, which more often than not results in a plea agreement. As one senior defence counsel told me, he has now become a "sentencing" lawyer as opposed to a "trial" lawyer.[42]

To that end, and as suggested above, some counsel devote a good deal of time and attention to the negotiation of an agreed statement of facts to which the offender will plead. Needless to say, if the negotiated, and often "sanitized," agreed statement of facts does not make it to the institution at the same time that the offender does, if at all, then much of the negotiation effort has been expended for not. This is of particular concern to the offender if certain planned expurgated information that would of necessity impact the initial classification does not make it to the cutting room floor and/or the classification officer is working from a copy of the "show cause synopsis." The offender is then left to deal with the allegations that are contained in the police incident report, which more often than not makes it to the institution – whether federal or provincial – and remains uncontested throughout the offender's period of incarceration. I have seen first-hand, at a National Parole Board hearing, how such information, which might contain untested and rank hearsay information, has featured prominently in the decision making process.

In my view, the Bar has a vested interest in knowing what information and material makes it to CSC, if not the provincial institutions, and at what point along the incarceration continuum. Of equal importance, I would suggest that the Bar has as much a duty to insure that any information which can assist Corrections in the administration of a client's sentence or committal is sent and received in a timely fashion.

To that end, I would urge counsel to follow one if not both of the following two courses of action:

[41] As was described to me by senior Crown counsel, this access proved advantageous when offenders were seeking enhanced credit for time served on remand. The Crown counsel were able to access the offender's record and deportment during the time of remand to determine whether or not the "arduous" conditions were as advocated by counsel for the offender in seeking enhanced credit.

[42] Meeting with Board members of the Criminal Lawyers Association, John Struthers and Patrick Band (7 December 2010).

(1) Ask the presiding judge to staple those documents that counsel wish to accompany the offender to the first remand/detention centre to the Warrant of Committal; or

(2) Send copies, on their own, of the relevant documents by fax or email to that institution, or the IRU, as well.

7. Court Services

Section 743.2 mandates the "court" to forward the statutorily described documents to CSC. The section is not only silent about the timing of the delivery of those documents, but does not specify upon whom the obligation to transmit the documents falls.

Court Services has developed a protocol embodied in a memorandum to each of CSC and Corrections Ontario, depending on the length of sentence. The appropriate memorandum is to be reviewed by each sentencing judge at the conclusion of the sentencing hearing, completed and signed thereafter. It is presumed by the judges interviewed that the Court Services staff would then collect the relevant material, order the requisite transcripts and insure that the entire package is transmitted to the appropriate institution.

From my discussions with countless OCJ and SCJ judges, I have determined that the practice is imperfect, differs from court to court and region to region. Some courts utilize the provincial-time form, when applicable, and others have never seen a form of that nature. Indeed, several judges interviewed, who have been sitting for some considerable period of time, observed that they have yet to see either form.

As best as I can determine through interviews with colleagues across Canada, Ontario is the only province that utilizes any form of memorandum in respect of offenders serving 'provincial' time in excess of six months. While there is evidence of a laudable effort to make the system of more universal application,[43] I would make the following observations:

(1) The provincial-time form is unduly complex. There is no apparent need for the second page of the form which provides boxes to list the offence with which the offender was convicted. That information needs to be inserted on the face of the

[43] Court Services Ontario – presumably having gotten wind of my project – prepared a memorandum in late November 2010 to the Criminal Offices across the Province "reminding" them about the importance of the Memoranda to Corrections and directed that the Memoranda and documents be prepared and transmitted with promptitude. I provided input to the Corrections Services folks, but have not heard whether my suggestions were considered. I did hear from Court Services staff at 361 University Avenue that the "reminder memo" was received by the Criminal Office, but no one seemed to understand its import or its importance. Regrettably, I have not been able to establish a continuing dialogue with the Court Services corporate managers.

Warrant of Committal, in any event, and to require something additional can confound matters;

(2) I am advised by the IRU in Toronto that if a judge is provided with and signs the "wrong" form for transmittal (i.e. a provincial-time form for a federal-time offender), a judge's order is subsequently needed to rectify the situation and permit access to the documents before the transmittal can even take place;

(3) My third observation is reduced to presently three ill-fated words: Integrated Justice System. To state the obvious, there are jurisdictions in Canada that operate electronic information systems, which while not perfect, at least allow for the orderly and timely transmittal of documents from one provincial ministry to another and access to electronic files by other justice stakeholders.[44]

Recalling, from the outset of this paper, H.L. Mencken's notion of an "easy solution," it seems to me that the situation could be improved upon with continuous and better training of the criminal court services staff – if only to impress upon Court Services Management the importance of the transmitted material. I am not convinced that such will take place in a timely or effective fashion, but believe that certain things could be implemented at this moment in time to ensure an orderly and expeditious transmittal of documents to the appropriate authorities:

(1) PSRs are prepared by POs in Word for transmittal in hard copy – as opposed to electronic form – to the Court, Crown and Defence. Notice of their preparation is "inserted" in OTIS, but the report can only be accessed by the classification officers if (a) they first check OTIS, (b) contact the PO or his/her office, and (c) have a copy emailed or faxed to the requesting classification officer. Like the LSI-ORs (the assessment tool results), the PSR could be "uploaded" onto an intra-governmental website, access to which could be similarly limited. If this system were implemented, a permanent electronic copy of the PSR could be made available to not only the "initial" classification officer, but for all those who subsequently come in contact with the offender while incarcerated or if he were to come in contact with the administration of justice yet again.[45]

Several provinces utilize some form of tracking system, like OTIS. As well, several provinces utilize a system where the PSR is prepared by the probation office, which can easily be transferred into the appropriate offender tracking

[44] I am told – and have seen a CD-ROM to this effect – that BC Court Services can interface with BC Corrections to the effect that the sentencing exhibits, including PSRs, can be sent to the appropriate provincial institution immediately on disposition with limited "human" handling. I was also advised that Manitoba Crowns have limited access to the Manitoba offender tracking system, which proved invaluable in the era of "enhanced credit" for pre-trial custody.

[45] I am assuming for purposes of this Mencken-solution that the PSR cannot itself be first prepared in OTIS, as I was once told, or uploaded into the system, as apparently occurs in some other provinces.

system by the simple transmittal of an electronic file. Manitoba, for example, utilizes a system where the PSR is automatically put into their provincial offender tracking system so it can be accessed at the provincial level immediately upon the sentence being pronounced.

(2) In the absence of an integrated transmittal system, which should be automatic, it would be my recommendation that the clerk/registrar of the court, immediately upon sentencing, scan or fax the documents marked as exhibits at the sentencing hearing to the appropriate provincial or federal intake bureau, which in the case of the federal system would be the IRU.[46] If the exhibits were transmitted immediately upon sentence, then the Corrections officials at both the provincial and federal levels would be able to access the documentation sent to them either electronically or in hard copy and be able to input the documents immediately thereafter into their respective offender tracking systems. The net result of this transmittal would be that the documents could be accessed, provincially by the classification officers and federally by the parole officers, before the classification or preliminary assessment is completed.

(3) The ordering of transcripts thereafter becomes something of a secondary exercise. In some jurisdictions, the mandate is to ensure that transcripts are prepared and signed off within 10 days of pronouncement.[47] In point of fact, as previously indicated, because most cases are disposed of through a guilty plea, the amount of information contained in judges' reasons is, by definition, limited and will be of limited use to the Corrections people, unless they are mandated to include submissions of counsel or agreed statements of fact. There is presently an initiative undertaken by Ontario Court Services to improve the turnaround time for the preparation and delivery of transcripts. The question remains in my mind as to whether or not this initiative will result in the best use of limited resources.

8. Judges

Until such time as a new system is introduced that will guarantee the timely flow of documents to the institutions and Corrections, I would suggest that judges play a proactive role in ensuring that the relevant documents – the mandated documents – are received in a timely fashion by the institutions.

First, I would suggest that those judges who can type should append their draft reasons for judgement and/or sentence to the Warrant of Committal, even though it is not an officially

[46] I have not been directed to a central intake for offenders sentenced to provincial time.
[47] British Columbia, New Brunswick and Nova Scotia.

transcribed version of the reasons. I would go so far as to suggest that judges append the reasons for conviction if they were prepared in a similar fashion and have not as yet been transcribed by their respective court reporters' office. Rest assured that this procedure will pass muster with at least CSC, from whom I have received the necessary assurances.[48]

Second, I would recommend that sentencing judges order that each of the relevant documents filed as exhibits be annexed to the Warrant of Committal or that they be placed in an envelope that is then annexed to the Warrant of Committal. Thereafter, it should be given to the authorities with the offender at the time that he/she is moved from the courthouse to the first remand/detention centre.

In that respect I would suggest, as well, that the sentencing judge note on the face of the Warrant of Committal, in big, bold letters, that he/she has appended the exhibits to the Warrant of Committal and that they must be conveyed or transmitted to the first institution for input into the offender tracking system in force at the institution at that moment in time. This suggestion will avoid the anecdotal information relayed to me by an IRU staffer who noted that he witnessed the separation of documents from the Warrant of Committal by the bailiff's or sheriff's officers, a statement with which MCS took issue when I tried to chase this "rumour" down.

In order, however, to accomplish this objective, it will probably be necessary to amend the form of Warrant of Committal to insert a space for judges' comments, recommendations or directives. Presently, the form of Warrant of Committal merely provides for the insertion of the charge, the conviction, and the ultimate sentence, with little room for anything else.[49] If sufficient space were provided, then a judge's direction in respect of the attached documents could be inserted and any other orders in respect to the sentence administration, including a judge's recommendations, could be provided as well.

While I appreciate the fact that certain of my judicial colleagues will balk at the idea that they undertake some form of administrative task, which arguably does not fall within their respective job descriptions, I would suggest that they could, notwithstanding their busy schedules, supervise the insertion of the directive described above and the document collection and transmittal to facilitate their timely delivery to the institutions.

[48] In June 2010, Ross Toller, the Deputy Commission – CSC – Ontario advised me that CSC would welcome this kind of attachment on "a more information, the better basis." I would suggest that the judge initial the pages from which he or she read and interlineate any changes in pen that occurred during the reading of the judgment aloud in court.

[49] Indeed, the forms of Warrant of Committal used vary from region to region in Ontario and, for reasons that I could not understand or explain, were not standardized.

PART III – PROGRAMMING

> *"Rarely is the sentencing court concerned with what happens after the sentence is imposed, that is, in the administration of the sentence. Sometimes it is required to do so by addressing, by way of recommendation, or in mandatory terms, a particular form of treatment for the offender."*[50]

The starting point to this section of the paper is s. 718 of the *Criminal Code*, which provides:

> The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions….

This section dovetails with the purpose section of the *CCRA*, if not part of the purpose section of the *MCSA*, which read:

> *CCRA*
>
> 3. The purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by
>
> > (a) carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and
> >
> > (b) assisting the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community
>
> *MCSA*
>
> 5. It is the function of the Ministry to supervise the detention and release of inmates, parolees and probationers and to create for them an environment in which they may achieve changes in attitude by providing training, treatment and services designed to afford them opportunities for successful personal and social adjustment in the community, and, without limiting the generality of the foregoing, the objects of the Ministry are to,
>
> > (a) provide for the custody of persons awaiting trial or convicted of offences;
> >
> > ...

[50] *R. v. Wust*, 2000 SCC 18, [2000] 1 S.C.R. 455 at para. 24.

(c) provide programs and facilities designed to assist in the rehabilitation of inmates;

I do not intend to engage in a theoretical discussion as to whether or not the stated purpose of sentencing found in s. 718 of the *Criminal Code* and the two "institutional" statutes set out above accurately encapsulate two fundamental but seemingly opposite approaches to incarceration, namely warehousing and rehabilitation. Much has been written on the subject by legal scholars far more capable of analyzing and distilling the law and literature on this somewhat controversial topic than am I.[51]

Nor do I intend to contemplate whether or not the recent decision of the Alberta Court of Appeal in *R. v. Arcand*[52] has breathed new or additional life into the retributive justice model of sentencing, one which has both its supporters and detractors.

In addition, I do not intend to debate whether or not the objectives of general and specific deterrence are met by an increase in incarceration rates, which appears to be one of the cornerstones of the current government's justice and public safety programs. These debates will continue to be waged as long as the social scientists can stay engaged, if not funded.[53]

Finally, I do not intend to discuss, in any great detail, the intricacies of the treatment/rehabilitation programs offered at either the federal or provincial institutions. This topic is beyond the scope of this paper.

In the following section I will attempt to highlight some aspects of programming that this former commercial litigator found interesting, if not surprising, in the fond hope that some of the mystery, if not the myths, can be stripped away.

9. Theoretical Assumptions

I am going to assume for purposes of the balance of this section of the report, as was argued by the late well-regarded Canadian criminologist/psychologist Dr. D.A. Andrews, Dr. James Bonta, and others, that the imposition of a criminal sanction without the provision of rehabilitative services will not succeed in reducing recidivism.[54]

I hasten to point out, however, that there are other well respected Canadian researchers, including Dr. Marnie Rice,[55] who hold the view that "the available evidence, when closely examined, does not yet provide a firm conclusion that we have developed effective treatments

[51] See for example: Kent Roach, "Searching for Smith: The Constitutionality of Mandatory Sentences" (2001) 39 Osgoode Hall L. J. 367.
[52] *Supra* note 2.
[53] Clayton S. Ruby, *Sentencing*, 7th ed. (Markham, Ont.: Lexis Nexis, 2008) at 16; *R. v. Gladue*, [1999] 1 S.C.R. 688, 133 C.C.C. (3d) 385; and *Proulx*, *supra* note 3.
[54] D.A. Andrews *et al.* "Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis" (1990) 28 Criminology 369.
[55] Formerly, the head of Research at the Oak Ridge Institution, Mental Health Centre, Penetanguishene.

for adult offenders."[56] To enter into this debate is not only beyond the scope of this paper, but is a task that after but seven months exposure to the literature, as complex as it is, and the leading scholars in the area, as generous with their time as they were, which I do not presume to be capable of tackling.

Again, I am going to assume for purposes of this paper that correctional rehabilitation programs – at least longer term programs – are effective in reducing recidivism. How effective they are and under what circumstances or limitations is something about which I will hazard to comment based upon, admittedly, my limited exposure to the area.[57]

10. Lack of Information

Very few, if any, sitting judges have any knowledge of what programs are offered by either level of institution—federal or provincial. None of us knows with any certainty what institutions offer what kind of programming and how long an offender needs to be sentenced before he/she can benefit from any particular form of programming, let alone how long an offender must be in the institution before he/she can avail him or herself of programming, in and of itself. In other words, we have basically a nil information base and unless we care to make the requisite inquiries, our sentencing recommendations will be little more than guess work.

But, what are the requisite inquiries and of whom should they be made? Regrettably, I have no easy answer to the questions posed for a myriad of reasons:

(1) I have learned from discussions with Legal Aid Ontario that the certificate issued to counsel does not extend to the sentencing end of the process beyond the attendance in court to speak to sentence. Hence, little or no assistance should be expected of defence counsel to voluntarily search for and obtain reasonable information in respect of programming suitable to the risk and needs of the offender;

(2) At the risk of seeming unfair, I dare say that the Crown is more interested in the warehousing model of sentencing than anything else and is not generally

[56] Marnie Rice and Grant Harris, "The Treatment of Adult Offenders" in David M. Stoff, James Breiling, & Jack D. Maser eds., *Handbook of Antisocial Behaviour* (Toronto: John Wiley & Sons Inc.: 1997) at 432. Dr. Rice recently delivered a paper to International Association for the Treatment of Sex Offenders (IATSO), this past summer to the same effect, a copy of which she kindly shared with me this past October.

[57] Correctional Service Canada, *Compendium 2000 on Effective Correctional Programming*, online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/rsrch/compendium/2000/index-eng.shtml>. CSC and Public Safety Canada ("PSC") and their associated websites are repositories of a wealth of information, beyond merely statistics on offenders and offender populations. CSC, together with the Ministry of Supply and Services Canada published a multiple CD-ROM tome entitled "Compendium 2000." This opus contains 20 plus articles by leading criminologists/psychologists who cover a wide range of topics dealing with many issues surrounding corrections and the delivery and effectiveness of programming. It is well worth a perusal.

motivated – or equipped – to hunt down information on appropriate programming;

(3) At the further risk of incurring the wrath of my judicial colleagues, a sentencing judge can access some of the available information on programming from the MCS intra-governmental website[58] or the CSC website.[59] Unfortunately, there are obvious limitations to this type of "independent" study, the least of which is the fact that such might be looked askance by the Court of Appeal.[60] However, directing counsel to the MCS website would not be of any benefit because, at present, the information to which reference is made below can only be accessed through an intra-governmental website, to which access is limited to those on the government network. But even directing counsel to the CSC site, which is chock full of interesting information and detail, will not provide any information on what programs are then being offered, at what institutions, when and whether the offender on a classification basis has any chance of being admitted to a particular institution for any such programming. Basically, the only information that can be obtained that would have any bearing on the sentence would not even be available at 3000 ft. and would therefore be of limited assistance;

(4) In so far as a provincial-time offender is concerned, probably the most efficacious way of obtaining meaningful information on what programming is offered, where and when, would be to ask for a "focused or targeted PSR," a concept introduced by several judges sitting in the OCJ. In that situation, a judge, on notice to Crown and Defence, could direct the PO to determine the availability of programming in respect of a particular issue the judge believes might be tackled (e.g. substance or spousal abuse). The judge would/should ask the PO for the time and other relevant parameters for the offering of and acceptance into any particular program, both in an institution and in the community. With suitable direction, the PSR that is ultimately prepared should provide the Court with sufficient information on the nature of the programming sought, the time necessary to qualify for the programming, assuming the offender is a suitable candidate, and the length of sentence necessary to achieve the desired end;[61]

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[58] Ministry of Community Safety and Correctional Services, *Core Programs* (Ontario: Queen's Printer for Ontario, 2008), online: Ministry of Community Safety and Correctional Services <http://intra.mcs.gov.on.ca/content/core_programs/01_overview.asp?NavBar=main&ID=555> (N.B. this link can only be accessed by those who have access to this Intranet website and cannot be accessed by the public.)

[59] Correctional Service Canada, *Programs*, online: <http://www.csc-scc.gc.ca/text/prgrms-eng.shtml>.

[60] See for example: *R. v. Hamilton* (2004), 72 O.R. (3d) 1, 186 C.C.C. (3d) 129 (C.A.).

[61] If a judge wants to send someone to OCI, for example, that institution requires the offender to be in residence for a minimum of six months after application is made for the program from the remand/detention centre. That means the total sentence has to be in the range of eight months to account for institutional delay, as it were, and remission. See Appendix C for the OCI Timeline.

(5) If the Court is unsure of the particulars provided and needs further information, a Court Liaison Officer – POs normally seconded to the OCJ, at least in the GTA – could be asked to come to the sentencing hearing to provide the necessary information, if only to fill in the gaps in the knowledge base;

(6) When all else fails, Corrections officials have told me that they have, from time to time, been asked to come and testify when a judge needs more detail on programming that is not otherwise available from the sources described above. In point of fact, because hearsay evidence is admissible at a sentencing hearing,[62] a judge can direct counsel to contact the programming officials at MCS or CSC, as the case may be, to provide a snap-shot of the programming that is then being considered. From the interviews conducted, I am advised that Corrections officials have been contacted in the past for information about programming, including, but not limited to the nature of the program and the likelihood of acceptance into a particular program from a timing and a risk/needs point of view;

(7) While I am indebted to the MCS management for all the help they provided me during the last nine months, I must commend them for responding with dispatch to a request I made to have them up-date, electronically, a Reference Guide to Ontario Corrections, which seemed to have disappeared from sight almost two decades ago.[63] This resource guide is more than a good starting point in providing sentencing judges with a quick overview of which institutions presently do what, when and under what circumstances. I dare say it will prove a valuable tool for all the justice partners as it has or will be distributed or is available electronically to judges of the OCJ, SCJ, Crown Law Offices and the Criminal Lawyers Association.[64, 65]

11. Short-Term Programming

Ontario, like all other jurisdictions in Canada, has undergone a dramatic change in the composition of its inmate population in the last decade. Today, 65-70% of the average daily population of close to 8,800 individuals is composed of incarcerates being held on remand. The sentenced population is comprised of male offenders who on average serve but 65 days, and

[62] *Criminal Code*, *supra* note 4 at s. 723(5).

[63] I stumbled on the 1992 version of the Guide when my former colleague, Denise Bellamy, "bequeathed" me her copy of the booklet upon her retirement in August 2010. Apparently, the department of which she was then manager when she was Counsel to the MCS had prepared the booklet for distribution to MCS staff and judges of the Provincial Court.

[64] Ministry of Community Safety and Correctional Services, *A Reference Guide to Ontario Corrections* (Ontario: The Ministry, 2011). Double click icon for Guide: 

[65] George Christie, Program Advisor for the MCS and formerly a classifications officer, prepared a PowerPoint presentation describing in detail the initial classification process. George Christie, *The Classification Process Within Ontario Correctional Facilities* (24 February 2011). Double click icon for Presentation: 

female offenders who spend about 45 days in an institution. Those serving sentences in excess of six months constitute about 8% of the male and 4% of the female sentenced population. The charts below provide an interesting picture of this past year's provincial institution population. [66]

Institutional Sentences – Males – 2009/10

Total Sentence Length	Number of Male Admissions to Custody	Percentage of Total Male Admissions to Custody
3 months or less	21,730	77%
3 to 6 months	2,629	9%
6 to 12 months	1,475	5%
Over 12 months	753	3%
Federal	1,648	6%
Other	0	0%
TOTAL	**28,235**	**100%**

Institutional Sentences – Females – 2009/10

Total Sentence Length	Number of Female Admissions to Custody	Percentage of Total Female Admissions to Custody*
3 months or less	2,601	86%
3 to 6 months	192	6%
6 to 12 months	104	3%
Over 12 months	29	1%
Federal	101	3%
Other	0	0%
TOTAL	**3,027**	**100%**

* Please note, due to rounding, the category percentages may not add up to the total

This dramatic change in the "face of corrections" means that more of the MCS annual budget is being spent on the admission and discharge of the incarcerated population – the housing, clothing and feeding of remand and short term offenders – than long-term inmates and respective programming. It does not take a degree in finance to conclude that programming in its broadest sense has to take a back seat to other more pressing institutional needs. While I did not see evidence of a suspension in programming in Ontario – even temporary – due to budgetary constraints, as has happened in some provinces, there is little doubt that its impact has been felt in the overall delivery.

Ontario programming is based upon the principles associated with the risk/needs and responsivity model of treatment.[67] Andrews and Bonta have determined that higher risk offenders benefit the most if treatment is of sufficient intensity. They, and others, have also

[66] Susan Cox, Manager of Offender Programming, MCS, *Ontario Institutions and Programs in a Nutshell* (29 September 2010).

[67] D.A. Andrews & James Bonta, "Rehabilitating Criminal Justice Policy and Practice" (2010) 16(1) Psychol. Pub. Pol'y & L. 39 at 44-45. At its simplest, the risk principle looks at who should be treated, the need principle is concerned with what should be treated, and the responsivity principle addresses how intervention should take place.

concluded, by contrast, that treatment delivered to low risk offenders may increase the likelihood of a negative outcome, a proposition which I previously thought was counterintuitive.[68] That having been said, I understand that for effective programming, if not deprogramming, an offender would of necessity have to be in an institution for a period in excess of six months, as is mandated by OCI, for example.

Hence, and as is demonstrated in *Ontario Institutions and Programs in a Nutshell*,[69] the programming that is offered to short term sentenced inmates is at an orientation and introductory level only. Because the Ontario core programming is modular in design, the more intensive programming that is available to longer term incarcerates can be offered during a period of probation that can be grafted on to the incarceration period of the sentence.

From interviews with community and institutional probation officers I have learned that the "standard" probation order term "...to take such programming as the probation officer deems appropriate" is not a meaningless condition and should not be omitted. Indeed, the POs interviewed have, without exception, forcefully noted that when a judge attempts to wade into their domain by misdirecting or misidentifying treatment or programs, about which they might have some information, these forays often turn out to be counterproductive.

POs are charged with the responsibility of determining what programming would be the most effective for the offender with whom they are working. This knowledge is based, in part, on a risk/needs/responsivity assessment that they themselves have done or to which they have access, which will ultimately impact the recommendations made by the PO. In addition, and of equal importance, the POs will know what programs, those they deem appropriate, are, will or might shortly be available in the community.

12. Pre-Sentence Reports

I cannot leave the provincial arena without discussing the use of PSRs by sentencing judges and the controversy that has arisen in those jurisdictions where the reports contain a risk/needs assessment.

The starting point for this commentary is found in the national survey – the first of its kind – undertaken by Bonta and others of Judges, Crowns, POs and Defence counsel.[70] The survey results are interesting: 68.3% of judges thought that PSRs should contain a risk assessment, with 87.4% generally expressing satisfaction with the reports; Crown attorneys more than defence counsel were content with the reports (83.7% vs. 64.5%); and Crowns were

[68] *Ibid*, p 45.
[69] *Supra* note 66. This document was excerpted from an email sent to me by Susan Cox, Manager Offender Programming, MCS (29 September 2010).
[70] *Supra* note 9.

overwhelmingly in favour of the inclusion of risk assessments (75.5%), with an opposite view being expressed by the defence (22.6%).

Justice David Cole, in two different papers, has discussed and articulated concerns that he has with the reports.[71] He hypothesises that: (1) those preparing the reports lack sufficient training in the use and application of the risk/needs assessment tool; (2) the tool has certain cultural biases that might skew the results against recent immigrants; (3) the assessors/POs might overuse the discretionary or professional override, where the risk will be elevated unnecessarily because of the nature of the predicate offence with which the subject offender has been convicted; and (4) the use of the tool might lead to a "trumping" of the fundamental principle of proportionality.

He makes the following compelling argument in respect of the last mentioned point:

> Several Canadian commentators have drawn attention to the potential that risk assessment information placed before a judge may lead to the imposition of a sentence "[dis]proportionate to the gravity of the offence and the degree of responsibility of the offender". This is usually expressed in terms that the judge (a) may impose a type of penalty more harsh than that merited by the offence (b) may impose a longer punishment than that merited by the offence or the offender, or (c) may impose conditions of a community sentence more onerous than merited by the offender and the offence.[72]

As the table set out below suggests, there is a high degree of concordance between the recommendations contained in the PSR and the sentence ultimately meted out.[73] Some defence counsel have expressed the concern to me that because some jurists seem to place too much weight on the PSR, the function of an independent sentencing judge might be usurped by the POs, which could have a devastating effect on the offender.

Table 9 - Community Placement and Treatment Recommendations by Offender Risk (%)

	Risk Level (n/n)		
Recommendation/Outcome	**Low**	**Medium**	**Low**
Community Recommendation	95.0 (19/20)	56.0 (28/50)	44.0 (11/25)

[71] Justice David P. Cole & Glenn Angus, "Using Pre-Sentence Reports to Evaluate and Respond to Risk" (2003) 47 Crim. L.Q. 302; Justice David P. Cole, "The Umpires Strike Back: Canadian Judicial Experience with Risk-Assessment Instruments" (2007) 49(4) Can. J. Crim. & Crim. Just. 493.
[72] Cole, "The Umpire Strikes Back" *ibid.* at p. 505.
[73] *Supra* note 9.

Community Sentence	90.0 (18/20)	71.4 (35/49)	48.0 (12/25)
Treatment Recommendation	70.0 (14/20)	68.0 (34/50)	68.0 (17/25)
Court Ordered Treatment Condition	73.7 (14/19)	70.0 (28/40)	69.6 (16/23)

While I understand the concerns repeated above, I am nevertheless mindful of the fact that a sentencing judge does have an obligation to consider whether or not an offender will pose an endangerment to the community, if a conditional sentence is sought.[74] Indeed, that concern is amplified significantly where the Court is called upon to seek alternatives to incarceration when sentencing an Aboriginal offender.[75] In that regard, speaking for myself, I would welcome a risk assessment from a PO, even in narrative as opposed to actuarial form, so that I can make a well reasoned decision, taking all matters led in evidence into consideration.

13. Federal-Time Sentences

As previously indicated, I have been to 16 different institutions during my study leave, 10 of which fell under the auspices of CSC.[76] The institutions I visited ranged from the ever-frightening Assessment Unit of Millhaven to the low risk security of Beavercreek in the Gravenhurst area, as well as Kwikwexwelhp, an Aboriginal Healing village in Mission, B.C. I am not sure I can adequately describe all that I saw, heard and smelled during these open visits with which I was provided, particularly since I was not permitted to take pictures if only to keep the institutional differences clear in my head.

A thumbnail sketch of some of the information with which I was provided is contained in an excerpt from a Public Safety Canada Power Point presentation.[77]

- $2.2B annual budget in 2009-10
- 15,400 staff

[74] *Criminal Code*, *supra* note 4 at s. 742.1.
[75] *Ibid.* at s. 718.2(e); *Gladue*, *supra* note 53.
[76] I did not include a "drive-by" of two closed prison farms, one in the Kingston area and the other located outside the property line of Stony Mountain Institution north-west of Winnipeg. I was able to view two, arguably, valuable institutions – so say many CSC senior employees – which now lie fallow, with large farm implements rusting *in situ*.
[77] Public Safety Canada, *Corrections and Conditional Release in Canada: A General Primer* (Ottawa: Her Majesty the Queen in Right of Canada, 2010), online: Public Safety Canada <http://www.publicsafety.gc.ca/res/cor/rep/2010-03-nt-bkgr-eng.aspx>. This document covers some ancillary matters, including Public Safety Canada, National Parole Board, and the Office of the Correctional Investigator. It also provides a reasonable primer on some of the issues associated with the Dangerous Offender and Long Term Offender sections of the Code.

- 7.5% of CSC staff are Aboriginal
- 85% working in institutions and the community
- National Headquarters in Ottawa
- 5 Regional Headquarters
- 57 institutions, 16 Community Correctional Centres, 71 parole offices and 9 Aboriginal healing lodges
- 13,286 inmates in institutions as of March 31, 2009, plus 7,087 offenders under community supervision
- 90% have a previous youth or adult conviction
- 80% have histories of substance abuse
- Serious mental health disorders among 13% of male and 29% of female populations at admission
- 1 in 6 males and 1 in 10 females have gang affiliations
- 18% of the incarcerated offender population is age 50 or over
- 60% serving short (4 year and <) sentences
- 24% serving life or indeterminate sentences
- Average cost of keeping an inmate incarcerated is $99,205 (2008-09)
- Average cost of maintaining an offender in the community is $24,825 (2008-09)

While I do not want to be seen to be taking issue with some of the statistics published by CSC, I find it interesting that the numbers shown in the last two bullets are markedly at odds with the costs described in the information contained in a 2009 Report of the Office of the Correctional Investigator.[78] The MCS number for the annualized cost of housing an incarcerate at CNCC, for example, is $160,000 per annum, which leads me to conclude that the numbers from the Office of the Correctional Investigator are more representative of the actual cost than

[78] Howard Sapers, "Sentencing and Corrections: Sentencing Theory Meets Practice" (Presentation delivered at the Canadian Institute for the Administration of Justice 2010 Annual Conference, 15 October 2010) [unpublished].

Double click icon for the Presentation: Sapers Sentencing and Corrections.pdf See Appendix D for the average offender maintenance costs.

not.[79] Whatever the true numbers are, it is clear that the cost of incarceration is significant and dramatically greater than the cost of supervising an offender in the community.

Again, I do not intend to analyse the programs offered at the federal institutions. They are as varied as the institutions themselves. CSC uses a standard risk assessment tool called Statistical Information on Recidivism ("SIRS"), which the literature suggests is a predictor of recidivism. This tool, which is tied to static as opposed to static and dynamic variables that are the hallmark of the provincial tool described above, has been used for almost 30 years in the federal system to "...assess the differential impact of treatment on offenders with different base risk levels."[80]

While I don't pretend to understand why CSC limits its assessments as described above, particularly since one of the creators of the LSI tool is the director of research for PSC, apparently the lack of use of dynamic factors was a well documented limitation to the risk/needs assessments undertaken in the federal institutions.[81] As best as I can determine, the CSC now employs a dynamic risk analysis, which takes into consideration education/employment, substance abuse, marital and family relations, personal and emotional orientation, community functioning, associates/social interactions, and attitude.

As indicated, while the CSC website contains information on the core programs offered to inmates, including core programs geared to aboriginal incarcerates, the availability of particular programming at any institution at any moment in time is not displayed and is clearly not predictable. Again, as best as I could determine, "timing" is the primary factor governing whether or not and when an offender will receive treatment or programming:

(a) Where in the cycle of a sentence an offender is (most programming will be offered to offenders during the last third of the sentence);

(b) Whether there are sufficient offenders within a particular institution to warrant the provision of a particular program;

(c) Where in the institutional chain an offender finds himself (high, medium and low risk institutions);

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[79] That said, I leave it to the reader of this report to fasten on what they might find of interest. Other statistics and general and specific information can be accessed through the websites of CSC and PSC.

[80] Correctional Service Canada, *Yes SIR! A Stable Risk Prediction Tool* by Robert Cormier (FORUM on Corrections Research, January 1997), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/pblct/forum/e091/e091a-eng.shtml>.

[81] Correctional Service Canada, *Expanding the Recidivism Inquiry: A Look at Dynamic Factors* by Edward Zamble (FORUM on Corrections Research, 1993), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/pblct/forum/e053/e053i-eng.shtml>; Correctional Service Canada, *The Dynamic Prediction of Criminal Recidivism: A Three-Wave Prospective Study* by Shelley L. Brown (FORUM on Corrections Research, 2002), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/pblct/forum/e141/e141f-eng.shtml>.

(d) How close an offender is to making application for parole (offenders are driven to take programming in order to satisfy their corrections plan and "persuade" the NPB of their acceptance of responsibility).

Interestingly enough, during my visit to two institutions in the Pacific Region, I learned that CSC has recently rolled out a modular version of its core programs, which is designed to avoid many of the timing problems described above. Under this system, an offender can, theoretically, take a program at any institution into which he cascades – a term used to describe a movement to lower risk-rated institutions – and need not wait in the queue for the commencement of a program in his last "home" institution. This concept is presently being piloted and the assessment of its effectiveness has to yet to be reported on.

PART IV – MISCELLANEOUS TOPICS

This section of the paper will be devoted to several disparate topics, each one of which could occupy a complete judicial study leave. While none of the topics initially formed the subject matter of my study, they are matters and issues of concern for those in Corrections that came up time and again, particularly when I visited institutions where the issues were front and centre and very evident. Again, I do not intend to weigh in on any one of the issues in great detail, but merely to alert the reader to their existence, provide some "links" to further material and to underscore the fact that Corrections is not simply a matter of dealing with a homogenous group of incarcerates. The variables that creep into the institutional system are many, if not staggering.

14. Statistics

As indicated at various times throughout this paper, the statistics that are available through the various Corrections websites can be overwhelming. Detailed information can be accessed through MCS and CSC on a wide range of topics. But the information that is provided by the Canadian Centre for Justice Statistics ("Juristat") – a subset of Statistics Canada – provides social scientists with an unending supply of relevant information. Indeed, every time I review Juristat statistics I pick up something else about which I previously had little or no information.

For example, as a s. 96 judge, I am basically insulated from dealing with Administration of Justice offences and the imposition of a penalty in respect of same. But, in point of fact, as the

table below demonstrates, 24% of all *Criminal Code* prosecutions for 2008-2009 involved Administration of Justice offences, from fails to appear to breaches of condition.[82]

Of equal interest is the *Corrections and Conditional Release Statistical Overview, 2009*, which is a report prepared by Public Safety Canada-Portfolio Corrections Statistics Committee.[83] This report, arguably, contradicts or at worse, calls into question certain recent statements made by the PSC Minister as to the suggested necessity to build more penal institutions.

Table 2
Cases by age of accused, adult criminal court, Canada, 2008/2009

	Total cases	Age group									
		18 to 24		25 to 34		35 to 44		45 to 54		55 plus	
Offence category	number	number	percent	number	percent	number	percent	number	percent	number	percent
Total offences	**383,846**	**117,533**	**30.6**	**107,205**	**27.9**	**87,271**	**22.7**	**51,753**	**13.5**	**20,084**	**5.2**
***Criminal Code* total**	**336,569**	**99,612**	**29.6**	**94,935**	**28.2**	**78,475**	**23.3**	**45,834**	**13.6**	**17,713**	**5.3**
Crimes against the person	**91,128**	**23,228**	**25.5**	**25,983**	**28.5**	**23,362**	**25.6**	**13,283**	**14.6**	**5,272**	**5.8**
Homicide	252	109	43.3	69	27.4	50	19.8	19	7.5	5	2.0
Attempted murder	159	59	37.1	46	28.9	28	17.6	17	10.7	9	5.7
Robbery	4,294	2,051	47.8	1,203	28.0	702	16.3	281	6.5	57	1.3
Sexual assault	3,851	765	19.9	909	23.6	1,012	26.3	666	17.3	499	13.0
Other sexual offences	1,901	290	15.3	483	25.4	530	27.9	342	18.0	256	13.5
Major assault	20,633	6,741	32.7	5,988	29.0	4,558	22.1	2,493	12.1	853	4.1
Common assault	36,185	8,231	22.7	10,592	29.3	9,825	27.2	5,445	15.0	2,092	5.8
Uttering threats	17,929	3,763	21.0	4,951	27.6	5,069	28.3	3,032	16.9	1,114	6.2
Criminal harassment	2,917	426	14.6	762	26.1	880	30.2	598	20.5	251	8.6
Other crimes against the person	3,007	793	26.4	980	32.6	708	23.5	390	13.0	136	4.5
Crimes against property	**90,297**	**29,866**	**33.1**	**25,106**	**27.8**	**20,657**	**22.9**	**11,143**	**12.3**	**3,525**	**3.9**
Theft	37,962	11,018	29.0	9,926	26.1	9,218	24.3	5,778	15.2	2,022	5.3
Break and enter	11,195	4,450	39.7	3,207	28.6	2,391	21.4	968	8.6	179	1.6
Fraud	13,986	3,929	28.1	4,382	31.3	3,473	24.8	1,689	12.1	513	3.7
Mischief	13,611	5,533	40.7	3,787	27.8	2,574	18.9	1,331	9.8	386	2.8
Possess stolen property	11,616	4,232	36.4	3,245	27.9	2,562	22.1	1,194	10.3	383	3.3
Other property crimes	1,927	704	36.5	559	29.0	439	22.8	183	9.5	42	2.2
Administration of Justice offences	**80,820**	**26,177**	**32.4**	**24,442**	**30.2**	**18,573**	**23.0**	**9,265**	**11.5**	**2,363**	**2.9**
Fail to appear	4,875	1,657	34.0	1,444	29.6	1,091	22.4	541	11.1	142	2.9
Breach of probation	29,871	9,312	31.2	9,447	31.6	7,052	23.6	3,350	11.2	710	2.4
Unlawfully at large	2,330	616	26.4	765	32.8	642	27.6	264	11.3	43	1.8
Fail to comply with order	35,104	11,501	32.8	10,241	29.2	7,936	22.6	4,216	12.0	1,210	3.4
Other administration of justice offences	8,640	3,091	35.8	2,545	29.5	1,852	21.4	894	10.3	258	3.0
Other *Criminal Code* offences	**17,823**	**6,103**	**34.2**	**4,839**	**27.2**	**3,547**	**19.9**	**2,175**	**12.2**	**1,159**	**6.5**
Weapons offences	9,556	3,583	37.5	2,537	26.5	1,675	17.5	1,119	11.7	642	6.7
Prostitution	1,584	225	14.2	426	26.9	450	28.4	290	18.3	193	12.2
Disturb the peace	1,795	687	38.3	429	23.9	359	20.0	233	13.0	87	4.8
Other offences	4,888	1,608	32.9	1,447	29.6	1,063	21.7	533	10.9	237	4.8

[82] Statistics Canada, *Adult Criminal Court Statistics, 2008/2009* by Jennifer Thomas (Ottawa: Minister of Industry, 2010), online: Statistics Canada <http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11293-eng.htm>.
[83] Public Safety Canada Portfolio Corrections Statistics Committee, *Corrections and Conditional Release Statistical Overview, 2009* (Ottawa: Public Works and Government Services Canada, 2009), online: Public Safety Canada <http://www.publicsafety.gc.ca/res/cor/rep/2009-ccrso-eng.aspx>.

Table 2
Cases by age of accused, adult criminal court, Canada, 2008/2009 (continued)

Offence category	Total cases	Age group									
		18 to 24		25 to 34		35 to 44		45 to 54		55 plus	
	number	number	percent	number	percent	number	percent	number	percent	number	percent
***Criminal Code* traffic offences**	**56,501**	**14,238**	**25.2**	**14,565**	**25.8**	**12,336**	**21.8**	**9,968**	**17.6**	**5,394**	**9.5**
Impaired driving	44,821	11,062	24.7	11,171	24.9	9,613	21.4	8,311	18.5	4,664	10.4
Other *Criminal Code* traffic offences	11,680	3,176	27.2	3,394	29.1	2,723	23.3	1,657	14.2	730	6.3
Other federal statute offences	**47,277**	**17,921**	**37.9**	**12,270**	**26.0**	**8,796**	**18.6**	**5,919**	**12.5**	**2,371**	**5.0**
Drug possession	15,380	6,939	45.1	4,152	27.0	2,453	15.9	1,521	9.9	315	2.0
Drug trafficking	12,387	4,416	35.7	3,602	29.1	2,453	19.8	1,478	11.9	438	3.5
Youth Criminal Justice Act and Young Offenders Act	1,177	1,167	99.2	6	0.5	2	0.2	2	0.2	0	...
Other federal statutes	18,333	5,399	29.4	4,510	24.6	3,888	21.2	2,918	15.9	1,618	8.8
Population[1]	**26,380,345**	**3,206,673**	**12.2**	**4,502,191**	**17.1**	**4,874,087**	**18.5**	**5,275,286**	**20.0**	**8,522,108**	**32.3**

1. Population estimates as of July 2008. Coverage for Adult Criminal Court Survey data as at 2008/2009 is estimated at 95% of adult criminal court caseload.
Note: Due to rounding, percentages may not add to 100. Age is the age of the accused at the time of the offence. Excludes 9,061 (2.3%) cases where age of the accused was unknown or under 18 at the time of the offence. In Quebec, most drug offences are recorded under residual federal statutes, resulting in an undercount of drug possession and drug trafficking cases and an overcount of residual federal statute cases.
Source: Statistics Canada, Canadian Centre for Justice Statistics, Adult Criminal Court Survey.

15. Aboriginal Incarcerates

As the last mentioned report demonstrates, Aboriginal individuals are disproportionately represented in correctional institutions in Canada, particularly in the western provinces and in the territories.[84] This phenomenon has increased in the last 14 years, in spite of the introduction of s. 718(2)(e) and its interpretation by the Supreme Court of Canada in *Gladue*. In 2009, for example 17.1% of federal and 25% of provincial and territorial prisoners were Aboriginal even though they represent about 4% of the adult Canadian population.[85]

These institutional demographics are startling particularly when one visits a western institution, where the presence of the Aboriginal population is readily apparent. There are a raft of institutional issues created by this over-representation, one of which is the fact that many Aboriginal inmates are members of different gangs who have to be housed in separate units, if only to maintain institutional peace.

There are also issues surrounding the design and provision of suitable Aboriginal oriented programming, concerns that each of MCS and CSC have attempted to meet head-on in their core programs. An overview of the CSC initiative can be seen in the *Strategic Plan for Aboriginal Corrections*, which indicates that Corrections is not simply paying lip service to the concerns now long since identified.[86]

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[84] *Ibid.* at pp. 52-58.
[85] Correctional Service Canada, *The Changing Federal Offender Population: Aboriginal Offender Highlights 2009* (Ottawa: Correctional Service Canada, 2009), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/rsrch/special_reports/ah2009/ah2009-eng.shtml>. This report seems to suggest that the number of Aboriginal admissions rose to 20% in 2009, but remained at the 18% level as at May 2010. Statistics can be confusing, if not misleading.
[86] Correctional Service Canada, *Strategic Plan for Aboriginal Corrections: Innovation, Learning & Adjustment, 2006-07 to 2010-11* (Ottawa: Correctional Service Canada, 2010), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/prgrm/abinit/plan06-eng.shtml>.

Janani Shanmuganathan, a J.D. and M.A. (Criminology) candidate with whom I had the privilege of working this past year, has hypothesized that notwithstanding the creation and existence of Aboriginal-specific rehabilitation programmes, there are institutional issues – if not systemic biases – that militate against the effectiveness of this type of programming.[87] Since the programs have only recently taken flight, particularly in the modular format described above, the issue will have to be revisited.

16. Mental Health and Other Special Needs Offenders

In 2009, CSC statistics indicated that about 11% of all federal offenders had a mental health diagnosis at admission. Broken down, this statistic is comprised of 21.8% female and 10.4% male offenders. These numbers can be contrasted, for what it might be worth, with the information contained in the 2009-2010 Annual Report of the Office of the Correctional Investigator, which I have set out below:

> According to internal CSC documents, 35% of the male offender population in the Atlantic Region receives some mental health service. In the Pacific Region, a recent CSC file review indicates a prevalence rate of 37% for male offenders presenting some form of mental health problem (anxiety, mood, psychotic or conduct disorder) or cognitive deficit. Female offenders are more likely to present with a mental health condition than their male counterparts. In the Pacific region, the mental health prevalence rate for women offenders is estimated to exceed 50%. There can be little doubt that these numbers represent a daunting challenge to the Correctional Service.[88]
>
> [Emphasis added.]

As the Correctional Investigator, Howard Sapers, noted mental health issues loom large on the CSC radar, as he first expressed the year before. But the problems – from staffing to housing – are, regrettably legion. One need only walk in the mental health ranges of certain CSC institutions to see the enormity of the problem, which is almost Dickensian. And I have not even described the unique issues surrounding Oak Ridge or the forensic unit at CAMH, both of which institutions I have visited over the past year and a half.

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[87] Janani Shanmuganathan, "The Overrepresentation of Aboriginal Offenders in Prison: A Focus on Post Incarceration" (2010) [unpublished].

[88] Office of the Correctional Investigator, *Annual Report of the Office of the Correctional Investigator 2009-2010* (Ottawa: Minister of Public Safety, 2010), online: Office of the Correctional Investigator <http://www.oci-bec.gc.ca/rpt/annrpt/annrpt20092010-eng.aspx>.

While I do not have statistics in respect of the number of offenders doing provincial time who have mental health issues, there is no doubt that the issue is ever present at the provincial level, otherwise there would have been no need to build the St. Lawrence Valley Correctional and Treatment Centre (St. Lawrence Valley).[89] This facility, which was built in 2003 on the campus of the Brockville Mental Health Centre, is a secured setting hospital run jointly by the Royal Ottawa Health Care Group and MCS. It is a multi-story 100 bed "specialized correctional facility for mentally disordered offenders."

There are also other special needs offenders – beyond those who suffer from serious mental disorders. Corrections officials have only recently started to come to grips with the particular institutional needs of these inmates, the issues in respect of which are equally as vexing as any others previously identified. My exposure to this issue was only in passing, limited to learning that there is an International Institute on Special Needs Offenders & Policy Research (Canada), which recently held a conference on the treatment of special needs offenders in September 19–22, 2010.[90]

From my review of the program at the last conference, it is apparent that the OCJ, under the leadership of Chief Justice Annemarie E. Bonkalo, and her colleagues, including Justice Richard Schneider, are in the forefront of the issues associated with this recently identified Corrections problem.

17. Literacy and Education

When I first met with MCS senior field staff in April 2010, before my study leave officially started, I was told by one staffer that the literacy rate among provincial inmates was not 50%,[91] a figure that, had I thought about it, I would not have found startling, but for the fact that there are relatively few in-institution teaching facilities and none in remand centres. In other words, while there are no longer any teachers in the employ of MCS, it does have agreements with Boards of Education in some counties and districts in which the institutions are located to provide teaching staff. These programs are only offered to sentenced inmates and those on remand can only access educational programming by correspondence course, a not terribly satisfactory alternative.

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[89] St. Lawrence Valley provided me with a power point that suggests that on any given day there are some 446 sentenced offenders who suffer from a serious mental illness. This number translates to about 15% of the sentenced inmate population. See also: Kirk Makin, "Why Canada's prisons can't cope with flood of mentally ill inmates" *Globe & Mail* (21 January 2011), online: Globe & Mail <http://www.theglobeandmail.com/news/national/why-canadas-prisons-cant-cope-with-flood-of-mentally-ill-inmates/article1879501/singlepage/>. In this article Kirk Makin suggests that the number of sentenced offenders who suffer from a serious mental illness reaches 25%.

[90] The International Institute on Special Needs Offenders and Policy Research (Canada), *2010 International Conference on Special Needs Offenders* (Niagara Falls, Ont.: 19-22 September 2010), online: The International Institute on Special Needs Offenders and Policy Research (Canada) <http://www.specialneedsoffenders.org/>.

[91] I was, however, not able to chase the number to ground.

In so far as CSC statistics are concerned, a 1998 report concluded that the inmate population in federal institutions is the poorest educated in the country; that more than 2/3 do not have a high school education; and that on average, the literacy level is below grade eight.[92]

Needless to say, both levels of Corrections consider literacy and numeracy critical components of their respective core programs. They both acknowledge that literacy, in particular, is important for post release success.

While certain institutions had an impressive array of classrooms and educational, if not vocational, programs, it did not strike me as a universal construct.[93] In other words, there appeared to be institutional differences in educational programming and facilities, the rationale for which was never made clear to me. I also couldn't understand why one provincial institution (CNCC-Ontario) couldn't wait to brag about its computer technicians program, while another provincial institution, albeit in another province (Headingly-Manitoba), which had received federal funding to launch a similar program, literally kept the success of its program subterranean.

Speaking about institutional differences, I don't understand why certain institutions are able to successfully partner with industry outside and inside the institution, while others at the same security level had little in the way of vocational training. For example, the CORCAN program, a CSC program which teaches employment training and "employability skills" was widely hailed as creating benefits to the inmates and institutions alike, was not universally endorsed. I also saw but isolated instances of similar type programming at the provincial level, although I would suggest that the limited average stay might prevent such programs from being rolled-out on a wider scale.

18. Long Term and Dangerous Offender Orders

I do not intend to review the mandate to Courts and judges described in s. 760 of the *Criminal Code.* In addition, in 2008, CSC prepared a presentation which was delivered at an NJI conference, which is informative in its own right.[94]

Suffice it to say that judges at all levels of court when making an LTSO, in particular, where a sentence is being imposed for the predicate offence, have to be mindful of the problems that the arithmetic associated with the sentence can cause. In this respect, if credit for time served

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[92] Correctional Service Canada, *A Two-Year Release Follow-Up of Federal Offenders who Participated in the Adult Basic Education (ABE) Program* by Richard Roe (Ottawa: February 1998), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/rsrch/reports/r60/r60e-eng.shtml>.

[93] Fenbrook on the Federal side, and CNCC on the provincial side.

[94] Shandy-Lynn Briggs, *Managing Long-Term Supervision Orders* (Presentation delivered at the NJI Criminal Law Seminar, March 28, 2008), online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/jusppt-eng.shtml>.

is to be given, then the judge should ensure that the offender is not free to walk out of the courthouse that day or shortly thereafter unless the High Risk Offender Unit and/or the local federal parole office have both been put on notice. Recently, both offices were compelled to go into "containment" mode when offenders were poised to walk out the courthouse door without appropriate monitoring and controls.

19. Women Offenders: Vanier and Grand Valley

While I intend to close this portion of the report with an endorsement of the Judges to Jails program now being offered by the National Judicial Institute, I can't leave this section without urging all sitting judges to visit one or both of Vanier Centre for Women ("Vanier") and Grand Valley Institution for Women ("Grand Valley"). As one might expect, the issues surrounding the incarceration of women inmates are different than the housing of male offenders in similar security risk institutions.[95]

I hasten to observe that I found my visit to Vanier very disturbing, through no fault of the institutional programming and other professional staff, who were of great assistance in providing insight into the operation of this facility. Vanier, which was created under the Harris government, is a throw-back to the bad-old days of incarceration. It is a structure that takes on the characteristics of the adjoining building, Maplehurst Correctional Centre. Simply put, it is a far cry from the institutional framework that was once known as Vanier, a facility originally constructed next to OCI in Brampton and along the lines of what has been done in Grand Valley.

The professionals at Vanier informed me that the physical plant is simply not conducive to gender responsive programming to meet the needs of women in conflict with the criminal justice system. According to 2009 statistics, property and administration of justice offences accounted for 62% of the annual admissions. I was told that the literature supports the view that property offences are often fuelled by poverty and that a period of custody does little to ameliorate a woman's ability to provide safe, affordable housing and basic needs for themselves and their families. Often, a woman will lose what little she does have as a result of incarceration. In addition, approximately 70% of the women in custody are parents. Grief, loss, shame, and

[95] For further reading on issues related to women offenders see: Stephanie Covington, "Women and the Criminal Justice System" (2007) 17(4) Women's Health Issues, Editor's Commentary; Stephanie Covington, "The Relational Theory of Women's Psychological Development: Implications for the Criminal Justice System" in Ruth T. Zaplin, ed., *Female Offenders: Critical Perspectives and Effective Interventions, 2nd Edition* (Sudbury, MA: Jones & Bartlett Publishers, 2007); Stephanie Covington, "A Woman's Journey Home: Challenges for Female Offenders" in J. Travis and M. Waul, eds., *Prisoners Once Removed* (Washington, DC.: The Urban Institute, 2003); B. Bloom, B. Owen, and S. Covington, "Gender Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders." National Institute of Corrections, 2003, online: National Institute of Corrections <http://nicic.gov/Library/018017>.

guilt are ever present emotions of the population, leading to the conclusion that the impact of maternal incarceration on children is incalculable, if not horrendous.

While I have put as an appendix both an institutional profile and a description of the programming offered at the institution to this paper,[96] it is evident that despite the value of the available programming, I was told that the critical piece for the institution is to connect women to their own communities so that they can have a voice, if not an investment, in their future. This type of connectivity, I was told, helps promote positive, sustainable lifestyle changes. While it was suggested that it is unequivocal that lack of financial independence and violence are the two most substantive issues that women face, in order to break out of this dependent cycle women need the opportunity to experience success through their own responsible choices. Ironically, it is the period of incarceration that apparently serves to connect a woman incarcerate to her community, as opposed to the community providing the inmate with a supportive framework to avoid conflict with the criminal justice system in the first place. This suggests something of a misplaced deployment of scarce resources.

Grand Valley, on the other hand, which opened in 1997, was created by CSC in partial response to the Arbour Report, *Justice Behind the Walls*, a report which focused on the 1994 events that occurred in Prison for Women in Kingston.[97] This multi-level security institution, which I was told is more like the pre-Harris Vanier, was designed for 127 women,[98] who are housed, for the most part, in communal setting dormitories/cottages.[99]

While no doubt this institution will garner significant press in the wake of the Ashley Smith Inquest, which is underway as I prepare this report, it was not a facility where one could conclude that the sentencing objective of rehabilitation could not be achieved. Putting it otherwise, CSC has attempted to learn from the events described in the above report.

On February 2, 2011, CBC Radio aired an episode of *The Current* looking at the issue of mandatory minimum sentences and the effect on women, which provides further context for the particular issues facing female incarcerates in Ontario.[100] Further criticism of the Harper government's "Roadmap to Strengthening Public Safety" can be found in a series of articles

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[96] Milton-Vanier Centre for Women, *Offender Profile* (2009); Milton-Vanier Centre for Women, *Programming* (2010). See Appendix E.

[97] Louise Arbour, *Commission of Inquiry into Certain Events at the Prison for Women in Kingston* (Ottawa: Public Works and Government Services Canada, 1996), online:
Elizabeth Fry <http://www.elizabethfry.ca/arbour/ArbourReport.pdf>; and
Justice Behind the Walls <http://www.justicebehindthewalls.net/resources/arbour_report/arbour_rpt.htm>.

[98] On the day that I was there, there were 136 inmates (10 November 2010).

[99] Correctional Service Canada, Grand Valley – Institutional Profile, online: Correctional Service Canada <http://www.csc-scc.gc.ca/text/facilit/institutprofiles/grandvalley-eng.shtml>.

[100] Anna Maria Tremonti, *Women's Prisons* (2 February 2011), online: CBC Radio <http://www.cbc.ca/thecurrent/episode/2011/02/02/womens-prisons/>.

written by Conrad Black, the most recent of which was published in the National Post on March 12, 2011.[101]

20. Judges to Jails

It is my view that one of the most important courses offered by the NJI to judges sitting in both levels of criminal court in its vast array of excellent programs is the one that was offered last spring in the Kingston area. Not only were the institutional visits worth the price of admission, but the insights provided by the teaching staff, under the steady hand of Justice David Cole, which included Corrections, PSC and community professionals, were of equal importance to the other substantive law programs.

I would urge the CJC to ensure that this course becomes a mainstay for all new judges, even if run on a reduced basis, with but a few visits to local remand/detention centres and to certain selected institutions if only as part of the annual provincial programs. I am advised that the next course is planned for mid-October 2012 in the Kingston area. That said, I would recommend that the programme be run in the Abottsford, B.C. area, where there is a cluster of institutions, including those which have programs specifically for Aboriginal incarcerates not offered in Eastern Canada.

While no doubt I was given better exposure to the institutions than might occur in a group setting, having my own individually designed and often warden-guided tours, there is no doubt that a sitting judge would benefit from seeing the institutions to which we must send offenders, even if achieved through osmosis.

I would also observe that the representatives with whom I met and spoke, both provincially[102] and at CSC, would, universally, welcome an opportunity to come and speak to judges at their home courts or at the provincial conferences, if only to provide the judiciary with some understanding of the issues that seem to plague them – and us – on a daily basis.

That said, I would urge the provincial and territorial corrections officials to publish, even if in electronic form, a reference guide for judges and counsel alike. This guide, which could be as simple as a listing of the provincial/territorial institutions, together with the programming offered where and when, can be accomplished and maintained without too much difficulty. It

[101] Conrad Black, "Prisons should be repair shops, not garbage dumps", *National Post* (12 March 2011) online: National Post <http://fullcomment.nationalpost.com/2011/03/12/conrad-black-prisons-should-be-repair-shops-not-garbage-dumps/>.

[102] I made contact with and spoke to, if not met, programming officials in all 10 provinces and in each of the territories. I cannot thank them enough for the time that each spent with me and the material that was provided as a consequence.

would be a good start to breaking down the information silos that I found exist between critical players in the administration of justice.

CONCLUSION

21. One Last Reflection

As I indicated on more than one occasion in this paper, I was given the opportunity to meet with inmates in most of the institutions I visited, particularly when I undertook my own tours. I found these meetings very informative, not only because they gave me an opportunity to meet with incarcerates one on one, but because I was able to pose questions that gave me insight into the institutions not otherwise available through the eyes of the staff.

One of the most revealing discussions I had was with Bonnie McAuley, a woman of a certain age, who had been residing at the pleasure of Her Majesty for just short of 15 years. Ms. McAuley had been convicted of conspiracy to murder her husband along with her son from a previous marriage. This well spoken woman, who entered the institution with a nursing diploma, obtained a further degree in sociology from Queens while institutionalized.

At no time did she complain to me about being "wrongfully convicted," although she suggested that the trial judge, Justice James Chadwick, now retired, was as surprised as she was that the jury had returned a verdict of guilty. She was, interestingly enough, exceedingly laudatory of the trial judge, whom she observed was more than fair with his charge. She was also very complimentary of her appellate counsel, Brian Greenspan, for whom she had the highest regard even though her appeal was dismissed.[103]

When, after an hour's visit with her and two other inmates, I rose to leave, she was quick to come around the table to thank me for taking the time and trouble to come to Grand Valley to listen to her and the others. She then wished me "good luck" with my project, about which we had talked.

It was an exchange or moment which, in the final analysis, and for reasons that I cannot quite pin down, made the entire undertaking worthwhile.

[103] *R. v. McAuley* (1997), 32 O.R. (3d) 217, 113 C.C.C. (3d) 314 (C.A.).

APPENDICES

Appendix A – Information Retrieval, Correctional Service of Canada (Ontario Region)

OUR MANDATE IS FROM THE CORRECTIONAL CONDITIONAL RELEASED ACT AND THE CRIMINAL CODE SECTIONS 743-2 AND 760 TO COLLECT ALL RELEVANT INFORMATION ON OFFENDERS SENTENCED FROM 2 YEARS TO LIFE

Relevant Information Includes

Police Reports - current

Police Reports - priors

Young Offender Information

Court Transcripts

Reasons for Sentencing

Victim Impact Statements

Psychological Reports

Psychiatric Reports

Pre-Sentence Reports

Your Information Contributes to

Case Investigations
Criminal Profiles
Security Classification
Correctional Planning
Program and Security Decisions
National Parole Board Decisions

Correctional Service of Canada supervises all Federal Offenders while incarcerated and while under supervision in your community

Canada Revised 2007-09-30

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MILLHAVEN INSTITUTION
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5775 BATH ROAD
BATH, ONTARIO
K0H 1G0

INFORMATION RETRIEVAL
Greater Ontario and Nunavut District
Millhaven Institution
Office 613-351-8179
Fax 613-351-8541
Toll Free Fax 866-890-6083
GEN-ONT-IRU@csc-scc.gc.ca

INFORMATION RETRIEVAL
CENTRAL ONTARIO DISTRICT
C/O BAIL AND PAROLE
2440 LAWRENCE AVE, EAST
SCARBOROUGH, ONTARIO
M1P 2R5

INFORMATION RETRIEVAL
Central Ontario District
Office 416-615-2350
Fax 416-615-2353
GEN-ONT-IRC@csc-scc.gc.ca

Correctional Service of Canada
Website - **www.csc-scc.gc.ca**

INFORMATION RETRIEVAL

CORRECTIONAL SERVICE OF CANADA
ONTARIO REGION

Appendix B – FORUM on Corrections Research

Research to practice: Applying risk/needs assessment to offender classification

Effective classification is critical for the success of any correctional agency. With shrinking financial resources for government, increased scrutiny of correctional practices and greater demands for public safety, the process of making decisions about offender placement, treatment and release becomes even more important.

An offender classification system is only as good as the tools used to make the classification decisions. Moreover, the validity of the tools must be established in terms of the classification decisions to which the tools are applied, not some other interesting, but irrelevant, criteria such as diagnosis or underlying personality constructs.[2]

Postsentence correctional classification is undertaken to help correctional practitioners make decisions about their clientele in four basic areas: the institutional security level for the offender during incarceration, the release of an offender to the community via such mechanisms as parole or temporary absence, the amount of supervision that is appropriate in the community and the referral of an offender to work, academic, program or treatment options. The ultimate goal is to maximize public and institutional safety and to minimize the offender's illegal or otherwise antisocial behaviour in prison and in the community. To achieve both these goals in the most cost-effective manner, it is important for any offender classification system to focus on the risks, needs and responsivity of its clientele.[3]

Ontario has had considerable experience with the use of risk/needs assessment in its classification process, beginning in the early 1980s with the Level of Supervision Inventory (LSI).[4] The LSI is a checklist of 53 items that are scored in binary, or 0-1, format by a trained assessor after conducting an intensive interview with the offender, reviewing all documentation and records of the client, and completing a number of collateral contacts to verify the assessor's earlier findings.

The LSI has been the subject of numerous studies in institutions,[5] halfway houses[6] and the community.[7] It has been shown to be reliable and predictive of possible offender recidivism.[8] It has also displayed an important dynamic validity component, predicting appropriately the changes in recidivism as criminogenic needs are increased or decreased.[9] This characteristic sets the LSI apart from many of the earlier tools that focused primarily or exclusively on static historical facts, such as the Statistical Information on Recidivism (SIR) Scale.[10]

Although tools focused on static historical facts may be easier to score, it is our view that instruments based totally on the offender's past are less helpful to correctional administrators for two main reasons. First, they neglect many of the present circumstances of an offender, which are also relevant to reoffending,[11] thus limiting their ultimate predictive utility. Second, they provide no instruction or direction for the type of management and treatment of an offender which is most likely to bring about positive change, therefore limiting their capacity to help staff lower an offender's degree of risk.[12]

Introducing the LSI-OR

After 15 years' experience with the LSI in the community with probationers and parolees, Ontario decided to update it and expand its use to all offenders under its mandate. The Level of Service Inventory - Ontario Revision (LSI-OR), as it is now called, is a required assessment for all adult inmates undergoing any institutional classification or release decision, for all young offenders both in secure and open custody and for all probationers and parolees. The LSI-OR is readministered every six months and for any subsequent client-related decision.

Initiated in January 1996, this new policy for the LSI-OR is helping the Ministry unify its correctional practice. The policy contributes to increased continuity of care because all staff members are now using a common instrument, working from a common theoretical rationale and basing decisions on a common empirical database in the management, treatment and supervision of their offenders.

To get to this position, however, a large-scale training exercise was required. Designed by Don Andrews, in consultation with ministry resource people from the field, staff training and policy divisions, a series of intensive, two-day training sessions was provided to more than 800 employees.

Although the LSI-OR has maintained the same general format, data collection procedures and scoring system as the LSI, it differs from its predecessor in a number of important ways. Don Andrews worked with a team of ministry staff to decide on the innovations and to design the new test protocol.

Modifications were made only after a review of the risk assessment literature and the meta-analytic studies of the last decade.[13]

A reanalysis of data on the LSI items and extensive consultations with representatives of the many stakeholders in the process (correctional managers, probation officers, prison staff, professional associations, parole board members and staff, support staff and policy makers) was also done. Eight major changes were made to the tool.

1. The LSI-OR has fewer items than the original LSI. After eliminating the accommodation and recreation sections and some individual items that were redundant, the instrument now has 43 items (instead of 53), grouped into eight categories or subscales.
2. The concept of client strength or protective factors is introduced, consistent with the developmental literature on children at risk. These strength factors are not simply the absence of risk factors and may add unique predictive power to the assessment process.[14]
3. In addition to the routinely scored "general" risk/needs items, a list of supplementary or "specific" risk/needs items is used. Because of their infrequent occurrence but their potential for great clinical importance when they are present, these items may be used to override the actuarial-based risk level.

4. Greater attention is given to the eight category or subscale scores and the clinical profile these scores produce. By plotting a risk/needs graph after completing the assessment, the correctional practitioner may more easily make the links with programming, supervision and case management.
5. The number of risk levels has been increased from three (low, medium and high) to five, by subdividing low and high risk into low and very low, and high and very high. Ultimately, the number of risk levels in any scale or instrument is decided arbitrarily by the developer or the agency using it. Such a decision usually depends on confidence in the instrument's ability to discriminate between groups on the basis of small differences in scores. Numerous LSI studies have demonstrated a nice linear relationship between the number of risk items present for an offender and that offender's probability of recidivism. An accurate scheme with few levels of risk classification essentially gives up some of its important predictive validity. Therefore, a five-level system of risk was used so the decision maker or case manager would be working with a more precise, and consequently more accurate, system of offender classification.
6. The concept of the clinical override is given more prominence: every assessment must include a review of the risk level generated by the general risk/needs indicators in conjunction with the specific risk/needs indicators and the client's strengths. The assessor is then required either to endorse or modify the overall risk level on every assessment.
7. The introduction of a section devoted to "other clinical issues" (such as social, health and mental health needs) marks an important addition to the traditional offender risk/needs assessment process. A humane and caring correctional agency cannot overlook these non-criminogenic needs. Moreover, attending to them can have an indirect impact on other treatment areas through the responsivity principle (see 8, below).
8. A section on "special responsivity considerations" has also been needed. Responsivity, Andrews' third principle of effective correctional treatment,[15] is the least understood and the most seldom applied. Only recently has it begun to receive the systematic attention and research it deserves.[16] Although not technically part of the risk/needs assessment in that they are not counted in the risk score or level, two added sections on "other clinical issues" and "special responsivity considerations" must be considered in the broader case management of the offender. They may also have an indirect impact on an offender's changing risk level. This occurs because the responsivity of a client often has a moderating effect on interventions that are otherwise appropriate and because responsivity can be affected by successfully addressing a non-criminogenic need, which in turn increases the effectiveness of the intervention. To take an extreme example, providing a hearing aid to a hearing-impaired offender may affect the offender's responsivity because of the greater potential for communication as well as increased motivation from appreciating the service provided. Increased responsivity can then affect subsequent intervention and, finally, the offender's risk. A hearing aid by itself, however, would have no impact or, worse, would improve an offender's ability to be a good thief.

The LSI-OR also includes a number of supplementary pages for text related to offence information, case notes and discharge summaries, as well as sections for administrative decision making and sign off. Again, these in-house, ministry-specific administrative sections were introduced to maximize the connection between the offender's risk/needs assessment, the practitioner's case management and the administrator's decision making.

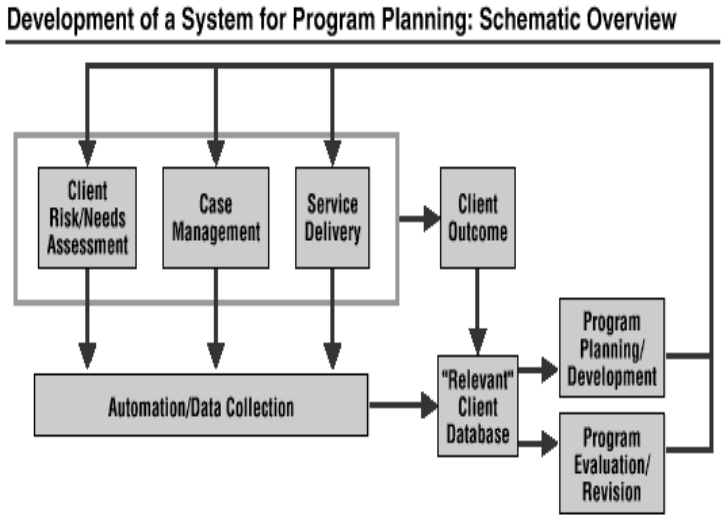
Ontario's experience with the LSI-OR

Summary data on the LSI-OR are routinely entered by field staff on the Ministry's Offender Management System (OMS), which was modified to include these data. Incorporating a risk/needs component into the offender database serves three principal functions. It allows the Ministry to monitor important client characteristics so programming and facilities can be designed to meet the needs of the clientele and, thereby, accommodate the characteristics of the offender population on more than just security. It also provides a relatively easy mechanism for continued research on the instrument. Finally, it allows system-wide establishment of quality assurance.

Earlier empirical research[17] and recent field consultations revealed that the quality and accuracy of individual assessments can deteriorate with time and in the absence of continued training and supervision.

Following Colorado's example,[18] where detailed examinations of large databases revealed a small, but bothersome incidence of scoring anomalies, the Ministry established a policy of flagging impossible or extremely unlikely scores or score combinations for further investigation, correction or clarification. Similarly, when aggregated data on a group of offenders from a specific location are inconsistent with the norms for that particular client group, the anomaly is brought to the attention of the local manager. The relationship between risk/needs assessment, case management, an empirical database and program design, evaluation and modification is illustrated schematically in Figure 1.

Figure 1



In the first nine months of implementation, LSI-OR data have been collected on more than 26,000 offenders. Some descriptive statistics are provided below. Sentenced inmates score considerably higher than probationers or parolees (see Figure 2). Young offenders score consistently higher than adults, regardless of gender or sentence type, and males tend to score higher than females (see Table 1). What is particularly interesting is that even though the distribution of scores differs for various offender groups, (especially inmates and probationers) the recidivism rates for any given score remain very similar, indicating that whether a given number of risk/needs items is present for an inmate or for a probationer, the likelihood of recidivism is virtually the same (see Figure 3).

Figure 2

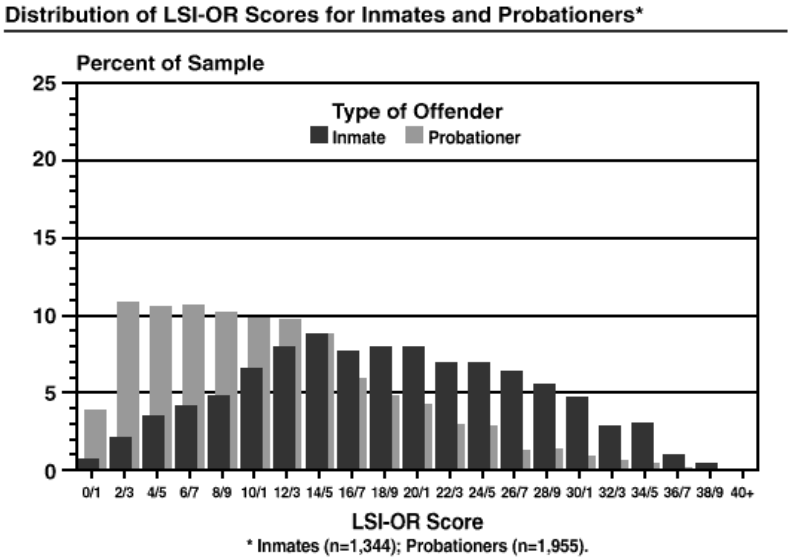
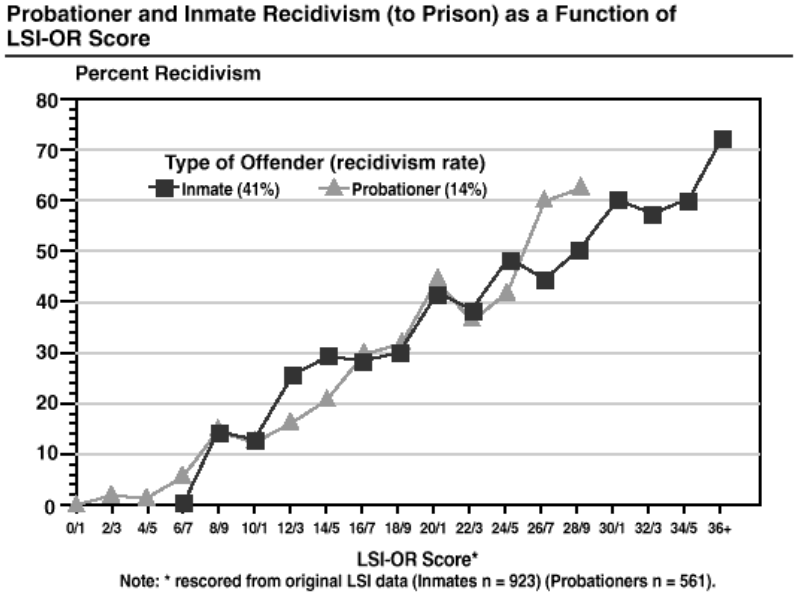


Figure 3



Including more detailed information on the Ministry's OMS has also provided an opportunity to examine the use of the professional override. Initially, there was concern that the fear of underestimating a client's risk (making a "false negative" error) would far outweigh concern about overestimating a client's risk (making a "false positive" error) because of the vastly different consequences of each and the inherently cautious mindset these differences instill in correctional practitioners. To date, the use of the override has not been excessive, nor has it been applied more frequently to increase an offender's risk category.

Table 1

Average LSI-OR Scores for inmates, Probationers and Parolees by Age and Gender *						
Sample	**Inmates**		**Probationers**		**Parolees**	
	(n)	**Average Score**	**(n)**	**Average Score**	**(n)**	**Average Score**
Young offenders	172	23.48	356	13.32	0	
Male	171	23.46	304	13.54	0	
Female	1	26.00	52	12.02	0	
Adult offenders	1 172	18.07	1 639	10.95	58	11.36
Male	1 111	18.07	1 380	11.13	56	11.30
Female	61	18.00	259	10.00	2	13.00
All offenders	1,344	18.76	1 995	11.37	58	11.36
Male	1 282	18.79	1 684	11.56	56	11.30
Female	62	18.13	311	10.33	2	13.00
Note: * all records from LSI-OR implementation phase (January 1996)						

Approximately 88.6% of the risk levels have been left unchanged. Use of the override was divided fairly evenly between decisions to classify upward by increasing the risk level (6.2%) and decisions to classify downward by lowering the risk level (5.1%). Most reclassifications were to the adjacent level of risk although some were over two-to-four levels, usually because certain ministry policies require automatic or administrative overrides. Current analyses are looking at whether the strengths and added concerns correlate with the override and, if so, which ones.

Users have been quite accepting of these changes to the original LSI. Probation and parole officers have been particularly encouraged by the changes that reflected their concerns. While hundreds of recommendations were recorded during the field consultations, and not all could be accommodated, many of the more popular themes, such as the specific risk/needs items, are found in the LSI-OR. Many suggestions contradicted each other, however. For example, some staff requested greater simplicity in the instrument, while others called for more details and a more comprehensive or complex tool.

At the institutional level, acceptance of the LSI-OR has been more varied, partly because it has a wider range of applications in the prison setting and partly because risk/needs assessment had not previously been part of the inmate classification process.

Because the LSI-OR has been linked with offender recidivism, however, its application to inmates in conjunction with parole, temporary absence and electronic monitoring programs has been received quite well by practitioners and the Ontario Board of Parole. Although administration of the LSI was not a routine requirement for these programs, it was often used by professional staff on a voluntary basis.

The administration of the LSI-OR as part of the inmate classification process has been greeted with some scepticism for a few reasons. Some staff confuse the concept of risk to reoffend with the security level of an institution, perhaps because both classification schemes have traditionally used the same terminology of "maximum," "medium" and "minimum." Second, inmates score higher on the LSI-OR in comparison to probationers (Table 1), resulting in a high percentage rated as high risk. This is sometimes automatically translated into maximum security.

When staff members come to this conclusion on a particular offender, they may decide that the assessment instrument is in error. However, such a view overlooks the twofold value of using the LSI-OR as part of the institutional classification process. First, it provides an index of the client's risk to reoffend, which in itself is important for any kind of community-based decision or activity. Equally important, it profiles the offender's criminogenic risks and needs, which should then be considered not just in terms of institutional placement but also in terms of assignment to the appropriate programs and services once the offender has been placed in a facility.

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2. D.A. Andrews, J. Bonta and R.D. Hoge, "Classification for Effective Rehabilitation: Rediscovering Psychology," Criminal Justice and Behaviour, 17 (1990): 19-52. See also M.S. Motiuk and L.L. Motiuk, "Offender Classification: The Predictive Accuracy of the Megargee MMPI-Based, LSI and SIR Systems," Paper presented at the Canadian Psychological Association Annual Convention (Quebec City, 1992).

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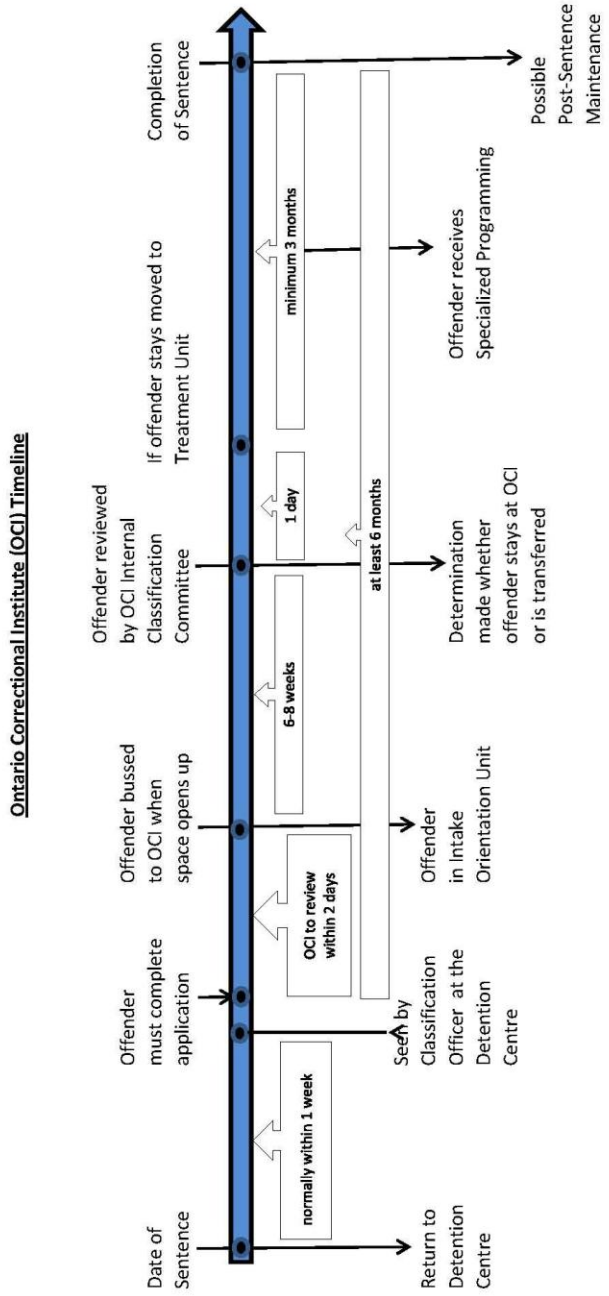
15. Andrews, Bonta and Hoge, "Classification for Effective Rehabilitation."

16. See September 1995 edition of Forum on Corrections Research. See also S. Kennedy and R. Serin, Treatment Readiness and Responsivity: Contributing to Effective Correctional Intervention, Workshop presented at the 4th Annual Research Conference of the International Community Corrections Association (Austin, Texas, 1996).

17. L.L. Motiuk, "Antecedents and Consequences of Prison Adjustment: A Systematic Assessment and Reassessment Approach," Unpublished doctoral dissertation (Ottawa: Carleton University, 1991).

18. B. Bogue, "The ABC's of Implementing a New Risk/Need Assessment System on a State Wide Basis," Paper presented at the International Association of Residential and Community Alternatives' Third Annual Research Conference (Ottawa, Ontario, October 1996).

Appendix C – OCI Timeline



1. Offender has immediate access to core programs at OCI (House Meetings, Peer Reviews, Case Conferences) and all volunteer programs
2. Specialized treatment programs include Substance Abuse, Emotion Management, Relationships Without Violence & Sexual Offending
3. Access to specialized treatment programs typically occur during offender's last three months at OCI

Appendix D – Average Offender Maintenance Costs

Women	$343,810
Men (Maximum Security)	$223,687
Men (Medium Security)	$141,495
Men (Minimum Security)	$140,527
Community Correctional Centre (CCC)	$85,653
Parole	$39,084
Average	**$162,376**

Appendix E – Vanier Centre for Women

***Offender Profile* (2009)**

During 2009, the average daily count at Milton-Vanier Centre was 293, down 4.9% from last year. The decrease in the average count was driven by a 20.3% drop in the average number of offenders serving a provincial straight sentence. The average remand count (217) was also down from 2008, but the decrease was much smaller (2.7%). At 74.1%, remands accounted for the majority of the 2009 population. The sentence population made up 18.8% of the total, and the remaining inmates were primarily immigration holds (12) or federal offenders (3). Overall, Milton-Vanier Centre operated at 95.9% of capacity in 2009.

There were a total of 4,594 intakes to Milton-Vanier Centre during 2009, down 8.7% from the previous year. New, or "from the street" admissions accounted for 4,439 admissions (down 9.0% from 2008); transfers in accounted for 155 intakes. In contrast to the "new" admissions, transfers in were up by 1.3% from 2008. The majority of "new" admissions were remands, at 88.7% (3,939), followed by admissions on sentence to incarceration – 353 (8.0%), immigration holds – 88 (2.0%), and National Parole violations – 34 (0.8%).

In total, 3,200 offenders accounted for the 4,594 intakes to Milton-Vanier Centre, yielding an average of 1.4 intakes per person. Most offenders (74.2%) were admitted once during the year, 16.3% were admitted twice, 4.9% were admitted three times, and 4.6% were admitted four or more times. One offender was admitted nine times during the course of 2009.

The average age of offenders admitted was 34.6 years. Offenders under 20 years accounted for 5.1% of admissions; offenders 60 years and over made up 1.2% of admissions. The oldest offender admitted during 2009 was 76 years old.

Most offenders (84.4%) spoke English as their primary language, and nearly two-thirds of offenders (62.8%) indicated they were single. Just under half (44%) of those admitted indicated that they were employed at the time of admission. Three-quarters (75.3%) of offenders admitted in 2009 were born in Canada. For the 24% who were not born in Canada, there were 125 countries in the list of birthplaces. Three percent of offenders were born in Jamaica, 1.5% were born in the USA, 1.4% were born in the United Kingdom, and 1.1% were born in China. 84.7% of offenders were Canadian citizens.

Education information was available from OTIS for just under half (47.6%) of the intakes to Milton-Vanier Centre in 2009. For those where information was available, the average level of education achieved was Grade 11. 10.2% had not completed Grade 9 (3.2% had not completed elementary school), 29.1% had completed high school, and an additional 10.3% had completed high school and had some level of post-secondary education, ranging from some college or university to post-graduate education.

Special Needs/Supervision Concerns

Based on alerts recorded on OTIS:

- 26.9% of admissions had one or more mental health alerts
- 14.4% had one or more suicide alerts
- 41.5% had one or more substance abuse alerts
- 1.6% (74) were identified as having a physical disability
- 38 (0.8%) were identified as being developmentally delayed
- 30 (0.7%) had a gang affiliation alert
- 6.6% had a partner abuse alert

Remand Admissions

Offences resulting in a remand admission to Milton-Vanier Centre in 2009 continued to be fairly evenly divided between offences against the person (25.2%), offences against property (25.7%), and administration of justice offences - fail to comply, fail to appear, unlawfully at large, etc. - (24.4%). Drug offences accounted for 15.5% of remand admissions, and weapons offences accounted for 4.0%.

The average length of time on remand was 22.4 days, (up more than a day from 2008) with 50% of remands lasting less than a week. Fewer than 2% of remands lasted 6 months or more.

Sentences to Incarceration

In total, there were 1,632 sentenced "admissions" to Milton-Vanier Centre during 2009, a decrease of 5.7% from last year. Sentenced admissions include direct admissions on sentence, transfers in from other institutions, or sentences where the initial admit reason was remand.

Of the 1,632 sentenced admissions, 54 (3.3%) were sentenced to federal time, 1,511 (92.6%) were sentenced to provincial straight time, 64 (3.9%) were sentenced to intermittent time, and 3 (0.2%) were admitted on fine default.

At 34.0%, property offences accounted for the highest proportion of sentences to incarceration, followed by administration of justice offences (27.8%), offences against the person (13.2%), drug offences (12.1%), traffic/driving offences (5.0%), and morals offences (2.9%).

The average length of aggregate provincial sentence was 42.7 days. Among offenders sentenced to provincial straight time, and who were not transferred in from another facility, the average aggregate sentence was 34.1 days. Among those on provincial straight sentences who were transferred in from another facility, the average aggregate sentence was 211.0 days. Offenders on intermittent sentence had an average sentence length of 54.3 days.

Court Appearances

There were 9,909 court "outs" from Milton-Vanier Centre during 2009, a decrease of 6.4% from the previous year. Most court appearances were made at College Park Court (35.0%), followed by Old City Hall Court (15.9%), and Brampton Court (14.4%), Hamilton Court (10.5%), St. Catharines Court (5.3%), and Kitchener Court (5.1%). Court appearances were primarily for bail hearings (62.5%) or hearings (31.2%).

In addition to "in-court" appearances, there were 3,036 video court appearances at Milton-Vanier Centre in 2009, a decrease of 12.5% from last year. Most video court appearances were for College Park Court (25.5%), followed by Hamilton Court (22.3%), St. Catharines Court (17.4%), Kitchener Court (7.7%), Brampton Court (6.4%) and Old City Hall Court (5.2%).

***Programming* (2010)**

About the Institution

The Vanier Centre for Women in Milton was opened in 2003 as the only exclusively female institution within the jurisdiction of the Province of Ontario. The centre was initially populated from the women who moved as a result of the closure of the Vanier Centre for Women in Brampton and the women's units at Metro West and Hamilton Wentworth Detention Centres. Vanier has capacity for 333 remanded and sentenced female offenders from a catchment area that extends throughout the Province of Ontario.

The Vanier Centre employs approximately 300 staff. About 115 of these are full-time Correctional Officers and 50 unclassified Correctional Officers. Other staff works in Health Care, Social Work, Psychology, Chaplaincy, Classification, Maintenance, Offender Records, Administration and other areas.

On any given day, approximately 320 women are in custody at Vanier. Generally, 58% of these women are remanded and the other 42% are sentenced (10% of which are sentenced to intermittent custody).

There are approximately 100 new admits weekly. Releases average about the same and are broken down as:

- 50- released at court
- 25 – sentenced satisfied
- 25 – bail, immigration, parole, transfer, temporary absence

When admitted, the women are immediately seen by an Admit Officer who inputs relevant information (including suicide assessment) into the Offender Tracking Information System (OTIS). Prior to being moved to a housing unit, each woman is then seen by an admitting nurse where critical issues such as withdrawal, medication needs, emotional stability and health concerns are assessed and addressed.

Once the admit process is completed, the women are sent to a unit where classification staff complete an assessment and determine which unit is the most suitable to meet the woman's needs. Housing possibilities include:

- Maximum security unit (remanded/sentenced/special needs)
- Medium security sentenced unit
- Medium security remand unit

Once the woman is settled into her unit, she has access to programming. What is available to her depends on the level of security and whether she is present to participate. For example, a fully sentenced woman has greater access versus one who is leaving the Institution to attend court.

Violence against women and lack of economic independence are arguably two of the most significant issues experienced by women. Women in conflict with the law face additional burdens and barriers such as separation from children, PTSD, and elevated health concerns. Research suggests that there are three major processes that serve to facilitate empowerment of individuals

- Skill Building
- Self-efficacy
- Consciousness raising

It is also understood that women enter the criminal justice system with unique needs and women's experiences are not the same as men's. The Vanier Centre for Women is committed to providing programs that empower women by building skills, a sense of self-efficacy and consciousness raising, while understanding that their needs and experiences are unique and often surround past trauma. Programming is both gender responsive and culturally competent that embraces a continuous learning environment and understanding of changing social realities.

Core Programs

Skills For Better Living

"Skills for better living" is designed to help women:

- Learn strategies to keep them grounded in the institution, and in the community,
- Recognise problems they may have, which could be contributing to offending,
- Develop basic tools to aid in everyday living.

Each session is one hour in length. Certificates are issued by the institution for the completion of each session.

Skills For Better Living components:

1. Thoughts to Actions: We cover the "behaviour chain" (thoughts >lead to> feelings >> thoughts >> behaviour >> consequences). We discuss how people's behaviour is not random, but instead, purposeful; people do things to get their needs and wants met. We talk about how people's thinking affects their behaviour. In particular, we look at common "thinking errors" (minimising, denying, blaming).

2. Introduction to Self Care: The focus is on women's need to take better care of themselves. We talk about why self-care is important, and what makes it difficult. We brainstorm different strategies for self care (usually ranges from personal hygiene, to exercise, to relaxation techniques…), and together we do a breathing exercise and create "Coping Cards," on which the women can make their own self-care plan.

3. Effective Communication: We discuss what effective communication is, and why it's important both in the community and in the institution. We look at the behaviour chain, and how people's thoughts & feelings can affect how they communicate. We also discuss listening skills… in particular blocks to listening and giving and receiving feedback effectively.

4. Coping with the Effect of Trauma: This is a very general session on coping with trauma, and the woman are not encouraged to talk about their own experiences. For the most part the session focuses on finding/learning relaxation exercises or grounding techniques to help women to learn how to cope more effectively with the impact of trauma. We also discuss what trauma is, the different ways it can impact on people, & why it's important to find healthy coping strategies.

5. Problem Solving: First we look at how to determine when a problem exists, and then a 7-step problem-solving model is introduced. Together, the group goes through most of the steps by applying it to an example problem.
6. Substance Use: A very introductory session on substance use, during which we talk about all levels of substance use, and the reasons why people may be in each category. We also discuss how to determine if substance use is (becoming) a problem, and what different treatment options are out there for those who want to seek next steps.

7. Goal Setting: During this session we talk about the difference between believing that life is like a roller coaster or a staircase, and how having those beliefs will affect someone's choices, and ultimately their goals. We look at the behaviour chain, and at how someone chooses to set a goal will affect her behaviour. We also look at the characteristics of good goals (STOPCAR: **S**pecific, **T**ime bound, **O**wned, **P**ractical, **C**onstructive, **A**nnounced, **R**ecorded).

8. Planning for Discharge: We spend the session discussing why it's important to have a discharge plan, what the elements of a good discharge plan are, and what could happen to someone if she doesn't plan for discharge. We do this mostly by looking at an example case.

9. Supportive Relationships: We discuss what a supportive relationship is, how someone can benefit from supportive relationships, and how to start developing them. There is a focus on how supportive relationships need to be two-way-streets, and so developing supportive relationships is also about developing certain qualities in one's self as much as it is looking for/nurturing these qualities in others.

10. Anger Management: We look at "What is Anger," and how people become angry (anger cycle). We discuss the differences between anger management vs. anger mismanagement, and brainstorm different, healthier ways to cope with anger. We also discus the behaviour chain with regards to how people's feelings can affect their behaviour.

11. Being an Effective Mother: The focus on this session is to identify what skills, personal qualities, & behaviours are necessary/useful to help women to be more effective mothers. We discuss what can impact a person's ability to parent (i.e. learned behaviour, substance use/abuse, abusive relationships), and go through tips for being a more effective parent. We also discuss where a person can access parenting help in the community.

12. Finding Employment: In this skill we discuss the skills, knowledge, and resources needed to successfully find appropriate employment. We discuss how to choose the right jobs to apply for, creating/updating resumes & cover letters, identifying skills & work history,

how to act in an interview, and working out semantics (tax forms, pay, staff discounts, benefits vacation…) with one's new employer.

13. Maintaining Employment: In this session we first identify the differences in the skills required to find & then to keep a job. Some suggestions are offered in what to consider in looking for work. The remainder of the session goes into the skills requires/useful in keeping a job. Skills we highlight include getting along skills, how to cope with a job you don't like, knowing employers' expectations, and understanding the connection between work & crime. We also discuss avoidable reasons for being dismissed from a job.

14. Healthy Body Image: Women are given general information about the importance of having a healthy body image. Body image can be linked to past trauma as well as current media portrayals. For many women, poor body image affects how they see themselves, which in turn has an impact on their interaction with others, the use of substances and the ability to cope with emotions. Views on body image are shaped by four factors – parental attitudes towards a changing body (puberty); sexual abuse; culturally determined attitudes of physical acceptability; and attitudes of the peer group. This presentation invites the women to look at their lifestyle choices and consider the impact of seeing themselves in a new way.

15. Understanding Self-Harm: This session provides the women with an understanding of what constitutes self-harm. Since past trauma is a significant issue for women, they need to be aware of the triggers, which provoke a self-harm situation. They also need to be aware that there are four self-harm stages involved and what to do if they find themselves in one of them. Forms of intervention are introduced that correspond with each stage so that the activity can be understood and hopefully averted. The women are also provided with coping strategies and new coping behaviours. When facilitating this session, it is important to watch the women for increased levels of agitation or becoming upset. This may signify that she is being triggered by the discussion and intervention is needed.

16. Understanding Feelings: This session gives participants introductory information about what is a feeling, how to identify our feelings, accept our feelings, identify the difference between negative feelings and negative behaviour. The focus then turns to healthy ways to manage feelings.

17. Recognizing Abusive Relationships: This session gives the women introductory information about what constitutes abuse in a relationship, different types of abuse, healthy versus abusive relationships and provide referral information and assistance. The focus is to assist women in identifying abusive behaviour in their relationships and

provide suggestions to stay safe. It is very important to be inclusive of heterosexual and lesbian relationships. It is also important to remember that some of the women in the group may have been abusive themselves and to be prepared to frame their issues accordingly.

18. Changing Habits: In this session, the focus is on how habits develop and how to change them. Many women have difficulty understanding that the habits they've formed have negative consequences on their lives. They are often unaware of the problem and how badly it is affecting them and their families. Once the person has identified a problem behaviour and decided to change a habit, there needs to be commitment and a plan in place so that they can develop new habits.

19. Setting up a Budget: This session is designed to provide the women with information and skills about how to learn to budget their money. Lack of money or the inability to spend it wisely is one of the major contributing factors for why people break the law. Awareness is maintained that many participants are living on fixed incomes through disability or welfare and have little money to budget except for covering the basics.

20. It's a Gamble: This session is intended to give participants general information about gambling, dispel some of the myths about luck and gaming, explore the impact of gambling, identify how people can determine if they have a gambling problem and provide treatment resources. Since gambling affects the individual but almost always other family members, friends, etc. the usefulness of this session is not only for the women but also for people they know.

Change is a Choice

The programmes offered within the "Change is a Choice" series include *Substance Use*, *Anger Management*, and *Connections*. All "Change is a Choice" programmes are introductory, educational programmes which are designed to help women to decide for themselves if they have a problem in their lives and to give them the tools to start making changes, should they decide that they need and/or want to make those changes.

Anger Management (5 sessions, 6 hours)

Topics and Concepts discussed during these sessions:

- Anger as an acceptable, natural, normal feeling, which everyone experiences.
- The expression of anger for women being socially less acceptable than for men.

- Ways people respond to anger (Aggressive, Passive, & Assertive)
- Ways people express anger (Explosive, Masked, and Chronic).
- Where anger is learned (home, school, friends, peers, media…)
- Women's cycle of anger (Anger >> Crying >> Aggression >> Guilt >> Anger…)
- The Cycle of expressed anger people learn, and then use throughout life.
- How our bodies respond to anger (physiological responses)
- The relationship between anger management problems and substance use.
- Good things & Not-so-Good things about changing an anger pattern
- Ways women can learn to better manage their anger
- Where women can look to seek next steps.

Substance Use (4 Sessions, 5 hours)

Topics and Concepts discussed during these sessions:

- Types of Substances (uppers, downers, all-rounders)
- Levels of Substance Use (non-use, experimental, social/occasional, habitual/harmful, dependence)
- Effects & side-effects of different substances
- Good things & Not-so-Good things about using substances
- Reasons Women Use
- How to know if you have a problem
- Substance Use is a problem when it affects: family, social life, finances, legal status, work/studies, and/or health
- Reasons women may have difficulties seeking next steps
- Good things & Not-so-Good things about changing a substance use pattern
- Philosophies of treatment facilities
- Types of treatment options
- Where women can look to seek next steps

Connections or Anti-Criminal Thinking (5 Sessions, 6 hours)

Looks at people's behaviour, and why people do the things they do. We talk about the different things that affect people's choices, and how women can find new "thinking tools" to help them to change their behaviour, should they decide to make a change.

Topics and Concepts discussed during these sessions:

- What people want out of life
- The Behaviour Chain (Thoughts >lead to> Feelings >> Behaviour >> Consequences)
- "Life is a Balancing Act": People should try to balance getting their needs & wants met with the consequences they must face because of their actions
- "How a person thinks about a situation affect the choices she makes in life"
    - How our perspective can affect our thinking and our choices
    - How our feelings & mood can affect our thinking and our choices

        - HALT (Hungry, Angry, Lonely, Tired)
    - How our assumptions can affect our thinking and our choices
    - How our attitude can affect our thinking and our choices
    - How our beliefs & values can affect our thinking and our choices
- Handbag of thinking tools: changing old, perhaps obsolete thinking tools with new, healthier ones
- Automatic thoughts: how to be more aware of them and change them
- 7 step problem solving model
- Which path to choose: 6 Steps to offending
- 4 Steps to changing thinking
- Good things & Not-so-Good things about changing our thinking and behaviour
- Good things & Not-so-Good things about staying the same
- Healthy Lifestyles

Taking Control: Making Healthy Choices (formerly Violence Awareness)

This six-session program is intended to help women identify and increase their understanding of woman abuse, the effects of woman abuse, practical ways and means to identify abuse in relationships, ways to manage risk and increase their safety in abusive relationships. The women who participate in this program are either sentenced or on remand. As a result they may attend only one, several of all of the sessions.

This program examines issues associated with violence in intimate relationships, namely forms and tactics of woman abuse and the effects of woman abuse on women and children. The program further explores and compares the indicators where power and control are present in relationships and indicators of healthy and equal relationships. Safety planning components are a key element of every session.

Dialectical Behavioural Therapy (DBT)

This program was developed originally to treat the behavioural challenges presented by women diagnosed with Borderline Personality Disorder. Many of the personality traits commonly seen in those with Borderline Personality Disorder are also seen in the women offenders at Vanier. Some of these behaviours are moodiness, impulsiveness, failure to stick to a plan, unstable relationships, poor emotion management, and poor tolerance for distressful feelings.

The aim is to teach behavioural/cognitive/emotional skills to offenders to cope effectively with problems and avoid maladaptive or ineffective responses. The main goal is to help individuals replace their maladaptive behaviours (e.g., becoming violent when angry) to more skillful behaviour (e.g., expressing one's anger without causing harm to others). The four skill modules are: (1) mindfulness skills, (2) distress tolerance skills, (3) emotional regulation skills, and (4) interpersonal effectiveness skills. Additional focus in forensics is on formulation of goals; self-

management, skills generalization, analysis and integration of crime cycle and relapse prevention materials.

Intensive Management and Treatment Unit

The Vanier Centre for Women is mandated to meet the mental health needs of women offenders, whether those needs reflect a pre-existing mental health condition or are a reaction to the stresses of incarceration (PC). The IMAT Unit is dedicated to addressing the needs of women offenders who exhibit major mental health problems and/or significant cognitive impairments. Admission criteria include major mental disorder, developmental delay, neurological impairment, a high risk of suicidal or serious self-mutilating behaviour, and severe eating disorders. The three principal goals of the IMAT program are to:

- reduce and humanely manage offender symptomatology
- improve offender functioning within the institution and ultimately the community through case management, assessment of needs, individual and group programs
- facilitate the continuity of care between the institution and community agencies/services including Probation and Parole Services.

Women are admitted to this unit upon admission to the institution or through the internal classification process. A clinical case management process, utilizing a multidisciplinary approach, ensures that each woman's needs are identified and appropriate referrals for programming are made. Assessment and treatment programming as well as correctional supervision is designed to meet the diverse, persistent and severe needs of this specialized population and is individualized to each woman's particular needs. Discharge planning is a major component of the program; encompassing housing, transportation, and establishing or maintaining linkages with community based social and mental health agencies. Dedicated correctional and clinical staffing facilitates both the multi-disciplinary approach and the case management process and contributes to more effective supervision and behavioural management of this specialized population. These are multi-problemed women whose identified problems also include addictions, anger management, impulse control, antisocial traits, and poor social skills.

Native Programming

Delivered by the Native Inmate Liaison Officer (NILO) under a fee-for-service contract, the program assists aboriginal women who wish to:

- form and maintain a self-help group at the Vanier Centre for Women and maintain a regular program of cultural, social and spiritual activities
- Worship in the traditional ways, celebrate seasonal feasts and perform sweet grass, tobacco and sweat lodge ceremonies

- arrange visits from outside community groups, elders, spiritual advisors and representatives of employment, housing and other relevant social agencies
- apply for transfers, temporary absence permits and parole; develop release plans
- pursue academic upgrading or job training
- participate in programs of alcohol or drug treatment
- manage personal problems with family, friends, institutional staff and other inmates

Spiritual Care

The Chaplaincy Department provides multifaith religious and spiritual care to offenders, their families and staff (upon request). A ministry chaplain oversees the delivery of religious services and spiritual care.

The chaplains liaise with the Salvation Army regarding community services available for offenders upon their release, clothing for release if her own clothes are unsuitable, and discharge support. Two Salvation Army chaplains serve throughout the Maplehurst Correctional Complex and the Vanier Centre for Women. All chaplains may officiate at religious services and can be contacted in this regard.

Dietary requirements and requests for dietary alterations from offenders for faith-related reasons must be sent to Chaplaincy for approval before being forwarded to the kitchen.

Library

In addition to having a small library maintained in each unit, Vanier Centre has a part time Librarian who maintains a collection of reference and research materials for the women to access while completing distance education courses.

Correspondence

The Halton District School Board facilitates distance education at the high school level to interested women at Vanier. Materials are used from the Independent Learning Centre produced by the Ministry of Education and Television Ontario. Education services are provided to both remanded and sentenced women.

Cosmetology

Hairdressing is a popular program at Vanier. Four to six sentenced women participate daily and learn skills that cover all manner of hair care as well as aspects of cosmetology such as manicures. On Fridays, the instructor provides haircuts to the women on other units.

Recreation

The recreation program teaches women skills for the pro-social use of leisure time that takes a holistic approach to the mind-body-spirit connection and targets criminogenic factors as identified in the LSI-OR risk assessment. Areas include sports, arts & crafts and classroom instruction on healthy lifestyles, nutrition and stress management.

Work Programs

The Vanier Centre provides workers from Friday to Sunday to operate the on-site Cook-Chill food production facility with the capacity to produce up to 15,000 meals per day. Eventually, the goal is to produce offender meals for the majority of institutions in Southern Ontario. These meals, similar to those used in the airline industry, are partially cooked and quickly chilled (not frozen). Receiving institutions complete the cooking process using rethermalization ovens. The Cook Chill Facility is the largest non-commercial kitchen in Canada using state of the art equipment and production methods.

In addition, selected candidates are supervised by Industrial Officers to maintain the 100 acre complex on the Grounds Maintenance Work Program. Training is ongoing and includes a variety of equipment and machinery. Currently, Vanier is launching a tree initiative to partner with the community and assist the Provincial goal of taking immediate action to positively affect the Ontario landscape and environment. Workers are taken to the Green Legacy to assist in planting seedlings and caring for new trees up to the time of planting. The institution's goal is to launch the next phase of putting greenhouses on the property to supply trees to Halton Region and surrounding areas. This represents a significant occupational development opportunity for the women.

Agency & Volunteer Programming

Mother's Who Care – Both Medium Security Units

This group, facilitated by the Elizabeth Fry Society of Toronto helps women deal with parenting issues through discussion and lessons. They work on healthy coping strategies for discipline, relationships, self-esteem etc. It is an interactive group where they share experiences and offer each other support. This is a closed group of 6 weeks on the medium security sentenced unit. The facilitator screens the participants for suitability. In the medium security remand unit the group is constructed as stand alone sessions.

Nobody's Perfect – Sentenced Unit

The Children's Services of Halton Region Health Unit run a 6-session program for mothers and primary caregivers of younger children. Topics include discipline, playtimes, crafts and how to relate to small children as a parent. In addition there is a literacy component whereby the woman can record a children's story onto cassette and mail it to her child to listen to.

'P.I.T.T.' Parenting – Sentenced Unit

Parenting In Tough Times is a fee-for-service program given by facilitators from the Family Education Centre of Peel. The seven-session program explores parenting issues and teaches new skills and ideas to the women and helps women understand some of the challenges and issues that surround parenting. It builds on skills they already have and gives an opportunity to gain new ones.

Gambling Awareness for Women – Sentenced Unit

A professional Gambling counsellor from **ADAPT** (Alcohol & Drug Abuse Prevention Team) of Burlington offers a 4-session program on Gambling Awareness. ADAPT volunteers to provide, The Problem Gambling Awareness Program, which was designed specifically for residents of Vanier Women's Centre and has a strong gender-specific component.

This is a four-part interactive psycho-educational program for Vanier residents who have experienced a gambling problem, and/ or are closely related to a problem gambler or for those interested in how to keep gambling at a low-risk level. Sign up is voluntarily. The series is divided into four main topics: 1/What is Gambling?, including some historical and social context, 2/What is Problem Gambling?, 3/Gambling and the Family, and 4/Low Risk Gambling Guidelines.

Participants attend for 1.5 hours weekly and are awarded a certificate upon completion. To better accommodate the arrivals and departures of the residents, each educational unit is independent, so that clients may overlap from one series to the next if necessary (with the exception of the last class). Series are set up on a monthly basis. Participants are provided a copy of the weekly PowerPoint presentation, plus additional handouts, and information regarding their own specific gambling concerns, resources and support in life-skill development as well as community support information and resources.

Relapse Prevention – Maximum Unit

Breakaway Counselling conducts a Relapse Prevention group. They also work with individual women around addiction and relapse issues by providing practical case planning and continuity of care. Once a woman is released, she continues her counselling in the community.

Community Outreach – All Units

A community pastor works with inner city Toronto women. Primarily, with those who may be living in shelters or on the street. They work on exploring their options prior to release.

Yoga – Sentenced Unit

There is a weekly yoga program offered to women in unit three. The program includes a guided mediation that empowers women by assisting them in managing their emotions.

Immigration Information Sessions – Maximum Unit

Students from Osgoode Hall attend Vanier to answer questions and give information on immigration issues for affected women.

Women's Sexual Health and Harm Reduction Program (Voices of Positive Women) – All Units

PASAN (Prisoner's Advocacy and Support Action Network) and Voices of Positive Women co-facilitates a group that educates women on topics such as sexuality, negotiating safer sex, birth control, HIV/Aids, Hepatitis C and other sexually transmitted diseases. They are also involved in individual counselling as needed. Voices of Positive Women concentrates on educating HIV positive and Aids infected women on life choices and options. Diet, medication, vitamins and other supports are discussed in individual sessions.

Toronto Drug Court Treatment Program – All Units

The Centre for Addictions and Mental Health (CAMH) conduct information sessions on the 1st and 3rd Mondays of each month. This is a voluntary program that provides Court supervised treatment for people charged with offences that are related to their use of cocaine and/or opiates. Their target group is the remanded women who live in and around Toronto.

Violence Awareness for Women – Maximum Unit and Sentenced Unit

The 8-week program and assists helps the women to understand the cycle of abuse. They learn how to develop support structures and alternative responses when dealing with violence and trauma. The group is conducted weekly as stand alone sessions in the maximum security unit.

Alcoholics Anonymous – All Units

Volunteers from the community conduct AA meetings in all units on a weekly basis as well as Saturday meeting in Unit four.

Narcotics Anonymous – Medium Unit Sentenced and Remand

Volunteers from the community conduct NA bi-weekly meetings.

Our Time – Sentenced Unit

Selected women in the sentenced unit are able to digitally record themselves reading a story to their child that is burned onto a cd and sent with the book to the child.

Art Therapy – I.M.A.T.

Masters Students from the Toronto Art Therapy Institute attend the institution weekly to conduct art therapy with IMAT women.

Social Skills – I.M.A.T.

Volunteers from Elizabeth Fry Toronto attend the institution every other Saturday to conduct a social skills program with the IMAT women. The program includes light refreshments and a variety of games and activities.

Healing from Trauma – Medium Unit Sentenced and Remand

The Sexual Assault/Rape Crisis Centre of Peel attends the institution weekly to provide a five week healing from trauma program to the women. Topics include Increasing self-esteem, Building and Maintaining Healthy Relationships, Getting Needs Met, Navigating the System and Healthy Body Image.

Building Bridges – Both Medium Security Units

The Halton Children's Aid Liaison conducts a 4 week program to assist women to understand the CAS process. Topics are: General introduction and Overview of CAS, Kinship In Care and Kinship out of care, Legal Processes and Apprehensions and Adoption.

Human Rights Education – All Units

Staff volunteers conduct Human Rights Education programs to all units on a monthly basis. The program includes conditions of confinement, the Ontario Human Rights Code and the complaint process both in and out of custody.

Post Custody Treatment

Elizabeth Fry Societies

The Toronto, Hamilton, Barrie, Peterborough, Ottawa and Peel/Halton chapters of The Elizabeth Fry Society provide a variety of services in relation to post-custody housing, addictions, discharge planning, community residences (while on parole, temporary absence, conditional sentence or post-release) and supports.

Stonehenge Therapeutic Community (STC), Grant House, Cambridge Shelter, St. Leonard's, Peel Youth Village, Peel Outreach

Upon request, these agencies interviews and assesses women each month who are interested in attending their treatment facility either while on conditional sentence, parole, temporary absence or post-custody.