



The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

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**ANNUAL REPORT  
OF THE  
CORRECTIONAL INVESTIGATOR**

**2003-2004**





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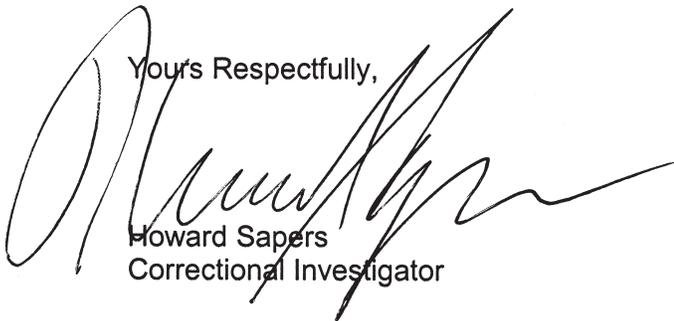
June 30, 2004

The Honourable A. Anne McLellan, P.C., M.P.  
Solicitor General of Canada  
(Ministry of Public Safety and Emergency Preparedness)  
House of Commons  
Wellington Street  
Ottawa, Ontario

Dear Minister,

In accordance with the provision of section 192 of the *Corrections and Conditional Release Act*, it is my duty and privilege to submit to you the 31<sup>st</sup> Annual Report of the Correctional Investigator.

Yours Respectfully,



Howard Sapers  
Correctional Investigator

require additional resources or would complicate current procedures involving the use of psychological information in case management.

In our view this conflicts with the principle that medical privacy is a fundamental entitlement that

should be violated only by express, informed consent or when demonstrably justified objectives, such as public safety, necessitate exceptions. Administrative convenience and cost are interests that cannot stand in the way of the basic right to privacy.

**I recommend that CSC implement a system that will:**

- **place all health information, irrespective of the purpose of its collection, under the custody and control of health service professionals;**
- **require express written consent of offenders before they provide health information to CSC staff for risk-assessment purposes;**
- **prohibit disclosure of health information without the offender's consent except where the disclosure is necessary to prevent serious, immediate harm to an identified person ( the same standard that applies to the general public);**
- **provide offenders the opportunity to be apprised of health information that CSC intends to disclose and the opportunity to make representations about the disclosure;**
- **provide offenders with a description of all health information that is disclosed without their consent.**

## INFECTIOUS DISEASES

### Past Challenges:

In 1996, the Expert Committee on Aids in Prison (ECAP), which was established by CSC, reported on the increasing incidence of infectious diseases. ECAP found the causes of disease to include the use and sharing of contaminated drug paraphernalia and, to some extent, unsafe tattooing practices. By 2003 most of the Committee's recommendations for education, treatment and harm-reduction had been implemented. No progress had been made, however, on the recommendations for setting up authorised safe tattooing locations in institutions and for making clean needles available to inmates for exchange. This Office has repeatedly recommended full implementation of the ECAP recommendations.

Clear issues arise from the fact that non-medical drug use is illegal and a definite security concern within institutions. Moreover, CSC staff voiced concerns that injection and tattooing instruments could be used as weapons.

ECAP's view was that the dangers of disease transmission outweighed legal and security concerns. CSC's Health Services Branch essentially supports this view, as does the 2004 Report on Offender Health of the Canadian Public Health Association<sup>2</sup> and the 2004 Report of the Canadian Human Rights Commission on federally sentenced women<sup>3</sup>.

<sup>2</sup> Canadian Public Health Association. 2004. "A Health Care Needs Assessment of Federal Inmates in Canada", *Canadian Journal of Public Health*, Volume 95, Supplement 1, March/April.

<sup>3</sup> Canadian Human Rights Commission. 2004. *Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, Special Report, January.

### Positive Developments

CSC's Methadone Maintenance Treatment Program has been functioning relatively smoothly and effectively. While I would prefer that access to the program be provided to a greater number of inmates, I commend CSC for this initiative.

On a further positive note, CSC Health Services Branch will soon implement a pilot project to provide access to safe tattooing in a manner partially paid for by inmates. Numerous features of the plan address safety concerns.

### Ongoing Challenges

There remains no movement on needle exchanges despite ongoing indications, both in Canada and abroad, that underline the health advantages of such programs.

The essential facts remain that:

- interdiction of drugs and drug paraphernalia, albeit an extremely important objective, has not succeeded in eliminating illicit drug use;
- the prohibition of drug injection, and the resulting clandestine use of scarce injection tools, have resulted in great harm.

### I recommend that:

- **CSC introduce, before March 31, 2005, a safe needle exchange program based on thorough consultation with medical and security experts, offenders, CSC staff and concerned community organizations.**
- **failing a positive response from CSC, the Minister direct the introduction of such a program.**

## USE OF ISOLATION IN MENTAL HEALTH TREATMENT

### Past Challenges:

We were concerned that the use of isolation for treatment purposes (behaviour modification) might be occurring without proper regard for the patient's right to consent to such procedures in full

knowledge of the consequences of the refusal. As well, we sought assurances that the use of isolation complies with the rules governing administrative segregation where applicable.

### Ongoing Challenges:

CSC has implemented a protocol that addresses our previous concerns in this area. All inmate patients

(and their representatives) and health services staff are informed of the terms of the protocol.