

Time to Act to Decolonize, Decriminalize & Decarcerate
Progressive Trends to Indigenize Seem to Worsen the
Mass Incarceration of Indigenous Peoples

November 19, 2021 – CIAJ – Coast Salish Territory

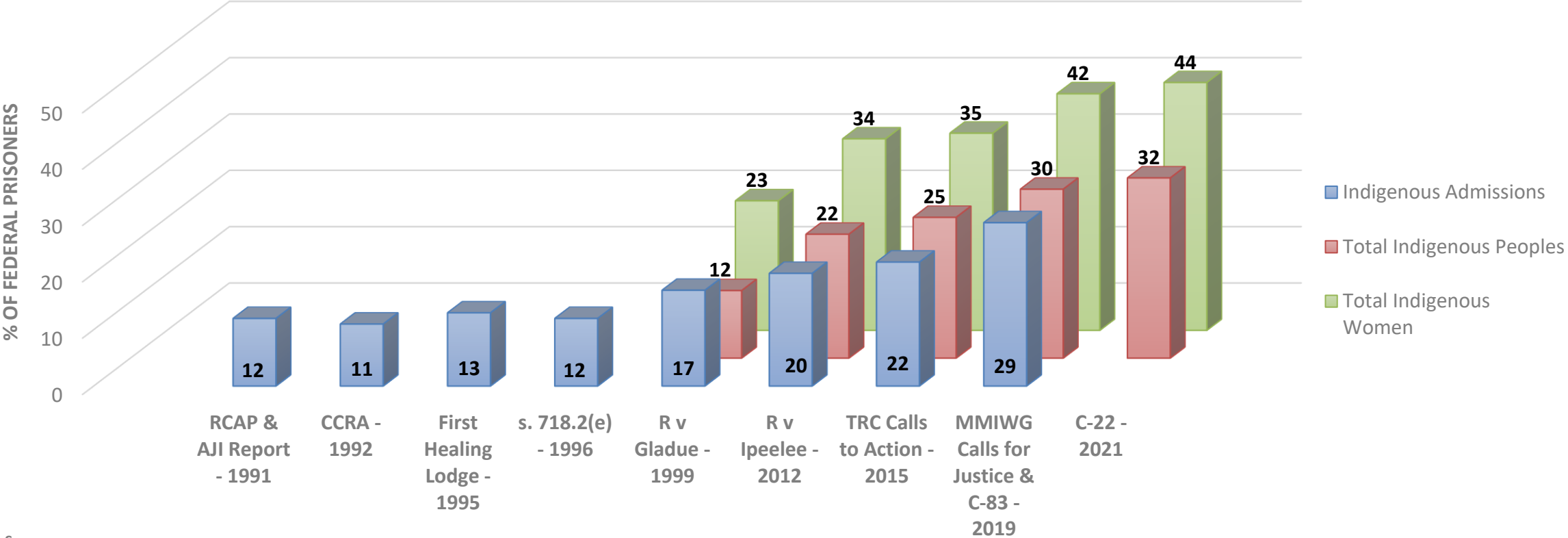
Who is in prison?

- Marginalization and victimization are not addressed, except by criminalization and institutionalization
- 80+% poverty-related
- Reacting to violence and past trauma
- Anaesthetized versus therapeutic support
- More people with mental health issues are in prison than in psychiatric hospitals
- Women are under-protected; over-policed; over-punished & hyper-responsibilized

Indigenous Women in Prison

- 3% of the population of Canada; 44% of women in prison for 2+ years
- Young, minimal education and opportunities
- 91% have histories of physical &/or sexual abuse; most are inter-generational survivors of residential school and subsequent state forced removal from families via child welfare systems
- 42%+ of women classified as maximum security
- 50%+ of placements in SIUs, solitary confinement & other forms of segregation
- Less access to programs and conditional release

Mass Incarceration of Indigenous Peoples

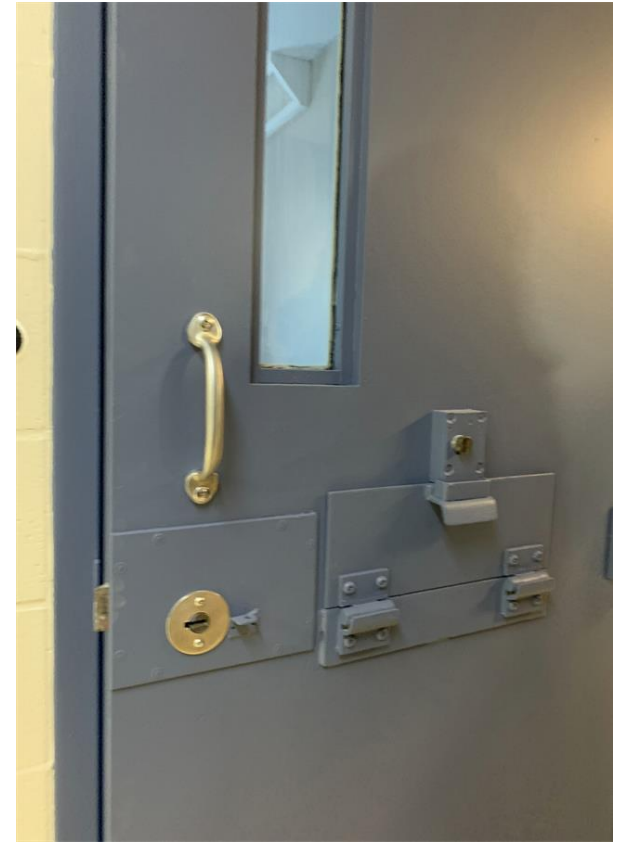


Sources
 Admission Data: Canadian Centre for Justice Statistics, *Adult Correctional Services in Canada* – annual reports
 Total Population Data (Indigenous Peoples & Indigenous Women): Office of the Correctional Investigator annual reports

Prison sentences often commence with a negative reaction to being strip searched, and reasonable responses to unreasonable situations can result in behaviour being characterized as criminal, including behaviour or actions that are symptomatic of psychiatric or mental health issues.



Is it any wonder many prisoners are reluctant to submit requests, much less complaints or grievances?



Segregation

(a.k.a. solitary confinement, structured intervention, medical observation, intensive psychiatric care, protective custody, voluntary limited association, stepdown units, enhanced units, modified movement, isolation units...)

Grand Valley Prison for Women

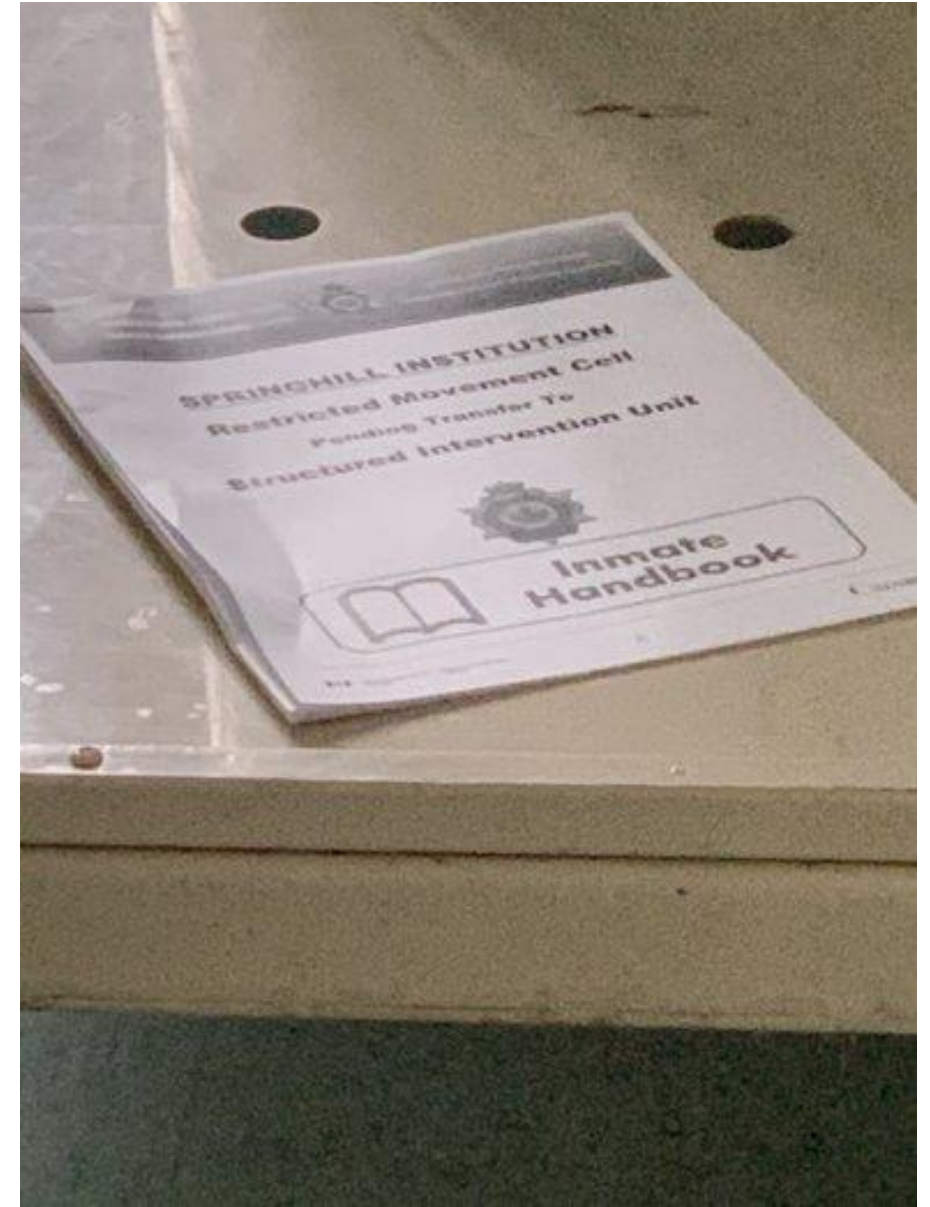
**Segregation
Area**

**Secteur
d'isolement**

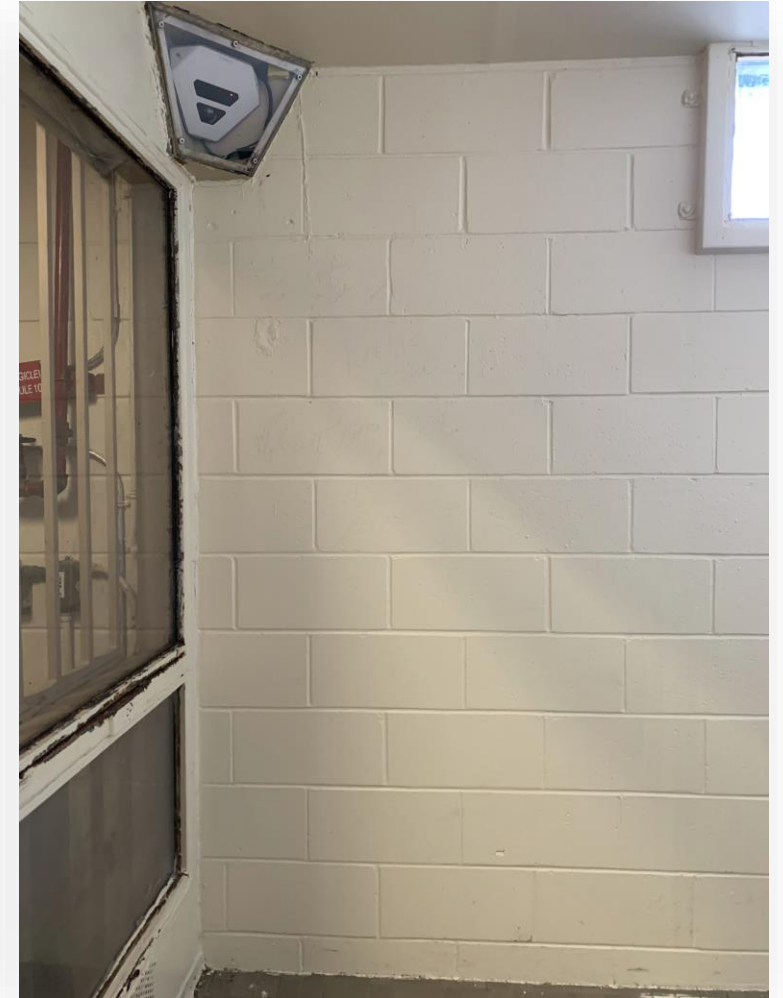
Despite the passage of Bill C-83, characterized as ending the use of segregation and solitary confinement in Canadian federal penitentiaries, prisons continue to isolate and segregate prisoners



Renaming of Segregation
to Structured Intervention Unit (SIU) at
Edmonton Prison for Women



Structured Intervention Unit (SIU) Cell



As has now been documented in several court cases, the conditions inside segregation cells are appalling. In a BC Supreme Court's decision striking down segregation as unconstitutional, the court documented the following evidence regarding the state of the cells: "My cell ... was approximately the width of my arms when outstretched. ... When sleeping on my bed, my head was approximately two feet from my toilet. ... The walls of my cell were filthy. They were splattered with feces and smeared with food, nasal mucus, and other bodily fluid. The air quality was terrible. The vents were covered in a thick layer of dust."





Courts have documented some of the ways the provision of health care services are compromised and undermined in prisons, including the perception and too frequent reality that psychologists employed by CSC are “there to sign off on ... continued segregation”.

In the Senate Human Rights Committee study of the human rights of prisoners and in its amendments of Bill C-83, the Senate recommended the use of desegregation and decarceration and the enhancement of legislative and policy tools to reclassify, release and/or transfer people out of prisons and into community-based health (including mental health support services) or healing environments with/in Indigenous communities.

Human Rights Committee Report: <https://sencanada.ca/en/info-page/parl-43-2/ridr-federally-sentenced-persons/>



Standing Senate Committee on Human Rights

The Honourable Salma Ataullahjan, *Chair*

The Honourable Wanda Elaine Thomas Bernard, *Deputy Chair*

The Honourable Nancy J. Hartling, *Deputy Chair*

Human Rights of Federally- Sentenced Persons



JUNE 2021



Kent Maximum
Security for Men

Shower area
&
Dry cell

Pinel Restraints

- Authorized for temporary use to prevent self-injurious behaviour
- often used in punitive manner





A photograph showing the interior of a prison cell. The floor is a light-colored, possibly concrete or linoleum, and is covered with several large, dark red bloodstains. In the upper right corner, a stainless steel toilet is visible. The walls are a dull, light blue color. The overall scene is grim and suggests a violent incident.

Atlantic (Renous) Maximum Security Medical & Mental Health Observation Cell

Segregation results in a sense of despair and prisoners often engage in devastating self-harm, including smashing their heads against walls, slashing their bodies, trying to gouge out their own eyes, mutilating themselves in sometimes unimaginable ways, smearing blood and feces on their bodies, windows and walls, too often accompanied by indescribable sounds of torment.

Ste-Anne-
des-Plaines
Regional
Reception
Centre

IT SEEMS
SO RITE
A

suicidal
TENDANCIES



Before BC and Ontario courts, one of the first lines of defence raised by the government when challenged on the constitutionality of segregation was that it provided meaningful access to human contact – precisely what they are now acknowledging it did not do. And precisely what Corrections argues that SIUs now provide.



Dorchester
Medium Security
for Men

Prison yard

**Kent Maximum
Security for Men -**

**Structured
Intervention Unit**

**– area for 'out-of-
cell' meaningful
human interaction
for prisoners**





In 2019, the Senate amended s. 29 to Require CSC to Authorize Transfers of Individuals with Mental Health Issues to Community-Based Mental Health Services

- Where an individual, after having received a mental health assessment by an appropriate health professional, is found to have “disabling mental health issues,” the amendment would require that they be transferred to a psychiatric hospital in order to meet that person’s needs.

Implications of Government rejection of Senate Amendment:

- Contrary to the recommendation of the CHRC, OCI and inquest into the death of Ashley Smith, allows the CSC to disregard the individual’s mental health needs and keep them in inadequate health services managed by CSC staff.
- Presumes those with mental health issues would be involuntarily transferred, which would only be true if they were deemed incompetent pursuant to relevant provincial or territorial mental health legislation.

“The Scar” by Tona Mills

**The scar on my face
Has a time and place
It came from frustration
With no real destination
How do I feel, what do I do
I'd really like to talk to you
I'm overwhelmed, I'm full of rage
Locked inside this metal cage
No way out, loss of hope
How can I cope?
My cries fall upon deaf ears
I've been calling out for years
Maybe my words don't make sense
Or no one cares
Like walking up moving stairs
In one place all your life
Hanging over the sharp end of a knife
Never knowing when you'll fall
Please someone hear my call!**



A 2019 report from the Parliamentary Budget Officer outlines four alternatives to isolation that would achieve better results in terms of public safety, accountability, rehabilitation, and cost-effective investments for taxpayers.



Legal notice

All activities, including conversations and telephone communications in this area, are subject to monitoring and may be taped or video recorded.

COMMON ACCESS LIST

Toutes les activités dans
→ YARD ←

DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
6-7	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	
7-8	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3		
8-9	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3			

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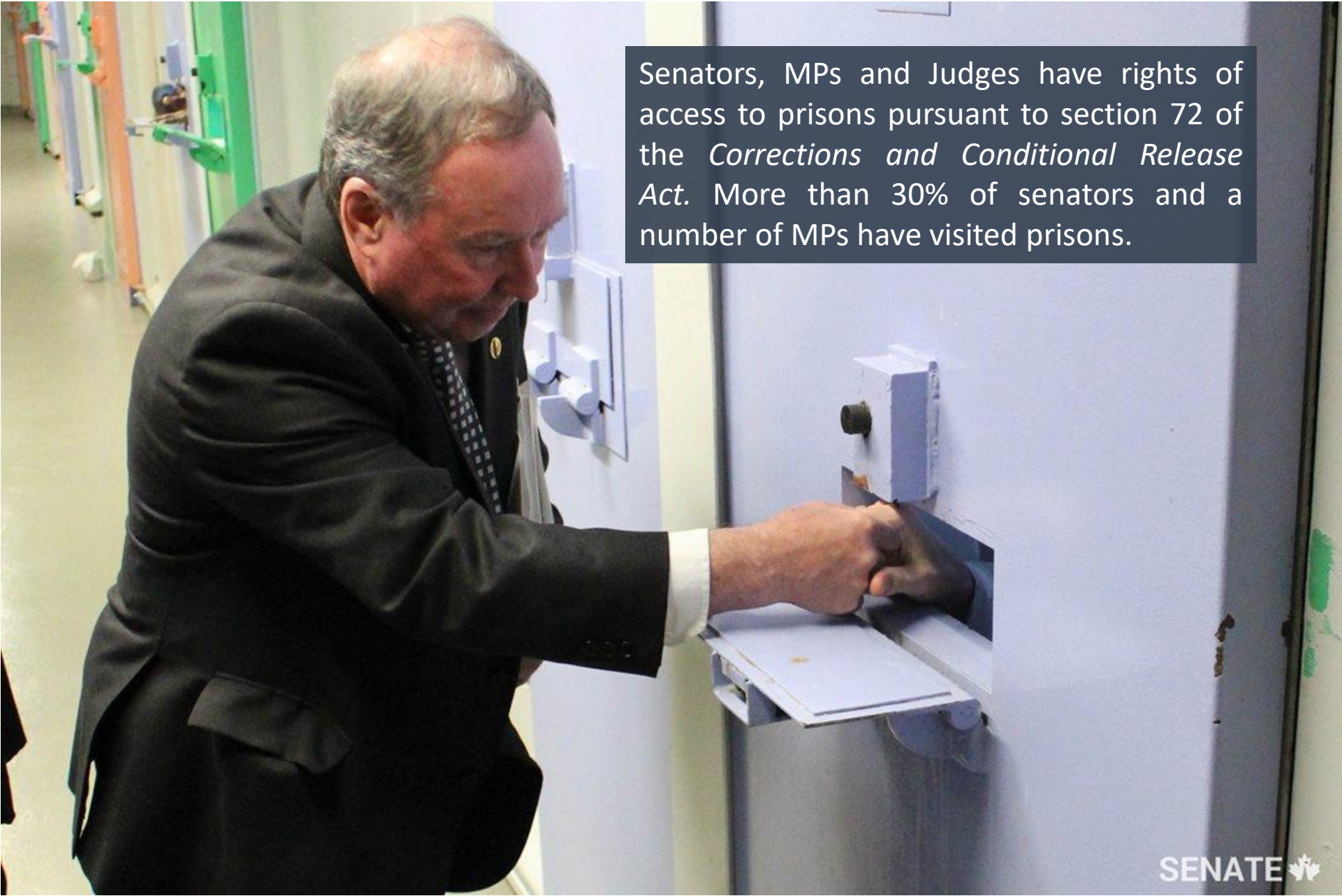
cal para el
fuego...
Siempre

905-627-1632	Ellen Osler Home Correctional Facility for Women
905-615-1188	Ethno Cultural Service - Audmax Inc.
1-888-705-8889	HIV and AIDS Legal Clinic Ontario
1-855-242-3310	Hope for Wellness Help Line
1-800-267-0441	Information and Privacy Commissioner ATIP
1-800-263-1019	Inmate Affairs Offender Redress - Ottawa
1-800-249-1329	Innocence Canada
519-578-0869	Legal Aid *applications only 9-10am

GRAND VALLEY INST FOR WOMEN SMART CARDS	
DATES FOR 532 SMART CARD REQUESTS:	
DATE DUE TO BE IN FINANCE:	DATE OF UPLOA
March 28, 2019	April 04, 2019

Judicial Oversight and Correctional Accountability

- Remedy for Mismanagement of Sentence
- Would allow prisoner to apply to the court that imposed the sentence for a reduction of the period of their incarceration or parole ineligibility period if the court found that there was unfairness in the administration of a sentence.
- This was a recommendation of Justice Louise Arbour in 1996 and included in the 2021 Senate report on ***The Human Rights of Federally Sentenced Persons***
- Since 1996, all violations of human and Charter protected rights of prisoners identified by the Arbour Commission have been repeatedly perpetrated and too infrequently remedied (eg. Ashley Smith, Matthew Hines, Eddie Snowshoe, sexual assaults of women at Nova, et cetera).
- By pursuing criminal charges against prisoners, including in relation to behaviour rooted in mental health issues, CSC routinely lengthen sentences, and/or renders sentences more punitive (sometimes deadly) than intended by sentencing judges, thereby violating prisoner's rights.



Senators, MPs and Judges have rights of access to prisons pursuant to section 72 of the *Corrections and Conditional Release Act*. More than 30% of senators and a number of MPs have visited prisons.

A journey
OF A THOUSAND MILES
begins with a
single step.



Thank you to each of you for the ways in which you are and will continue to apply your passion, intellect, energy and understanding to propel us forward. I look forward to learning more about your many well appreciated contributions.

With gratitude and thanks, Kim