Bill C-83: Senate Amendments and Proposed Government Response

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Clause 2: Broad Interpretation of Sections 29, 81 and 84

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response

Promoting Reintegration and Alternatives to Carceral Isolation (Clause 2)
- Shift the culture of Correctional Service Canada toward the use of least restrictive forms of incarceration and to encourage rehabilitation, reintegration and the use of community-based approaches to incarceration.
- Adds two principles to the statement of principles of the *Corrections and Conditional Release Act*, indicating that CSC must
  ○ 1) Prioritize alternatives to carceral isolation, particularly through existing transfer options to health facilities (s. 29) or the community (s. 81) or to allow the individual to serve their sentence or release on parole in a community (s. 84).
  ○ 2) Ensure effective delivery of such alternatives as well as programs for the purpose of rehabilitation, including educational programs.
	Principles that guide Service
	4 The principles that guide the Service in achieving the purpose referred to in section 3 are as follows:
	…
	(c) the Service uses **the least restrictive** measures ~~**that are**~~ consistent with the protection of society, staff members and offenders ~~**and that are limited to only what is necessary and proportionate to attain the purposes of this Act**~~;
		Adds:
		(c.1) the Service considers and gives preference to alternatives to carceral isolations, notably through a broad interpretation — informed by human rights — of sections 29, 81 and 84, thereby recognizing the fundamental role of transfers of incarcerated persons to community-based institutions funded by the Service in promoting rehabilitation, reintegration and public safety;
		(c.2) the Service ensures the effective delivery of
		(i) programs to incarcerated persons for the purpose of rehabilitation, including educational programs, vocational training and volunteer programs, and
		(ii) including alternatives developed in accordance with sections 29, 81 and 84;
			Adds:
			(c.1) the Service considers ~~and gives preference to~~ alternatives to ~~carceral isolations~~ custody in a penitentiary, ~~notably through a broad interpretation — informed by human rights — of sections 29, 81 and 84, thereby recognizing the fundamental role of transfers of incarcerated persons to community-based institutions funded by the Service in promoting rehabilitation, reintegration and public safety;~~ including the alternatives referred to in sections 29 and 81;
			(c.2) the Service ensures the effective delivery of ~~(i)~~ programs to ~~incarcerated persons~~ offenders ~~for the purpose of rehabilitation,~~ including correctional, educational ~~programs~~, vocational training and volunteer programs, ~~and (ii) including alternatives developed in accordance with sections 29, 81 and 84;~~ with a view to improving access to alternatives to custody in a penitentiary and to promoting rehabilitation
				- By removing the provision giving preference to alternatives to carceral isolations, the government is effectively watering down the CSC's mandate of ensuring the use of the least restrictive measures and focus on working toward eventual community reintegration of criminalized persons, particularly Indigenous persons.
				- Diluted wording gives CSC leeway to use the same practices that have resulted in over-classification and more limited conditional release of marginalized prisoners, particularly Indigenous and other racialized prisoners and those with mental health issues.

Clause 3: Mental Health Assessment within 30 Days of Admission

Purpose of Senate amendment	**Current CCRA + C-83**	**CCRA+ Senate Amendment**	**Senate Amendment + Government Response**	**Implications of Govt Response**
<u>Obligations for Mental Health Assessments (Clause 3)</u> - Require mental health assessments by appropriate health professionals for all prisoners within 30 days of their arrival in the correctional system. - While s. 29 of the Corrections and Conditional Release Act currently allows transfers of prisoners to community health services for treatment, which would include transfers to mental health services, this amendment adds a specific reference to mental health services to encourage use of s. 29 for this purpose.	**Objectives for offender's behaviour** 15.1 (1) The institutional head shall cause a correctional plan to be developed in consultation with the offender as soon as practicable after their reception in a penitentiary. … Maintenance of plan (2) The plan is to be maintained in consultation with the offender in order to ensure that they receive the most effective programs at the appropriate time in their sentence to rehabilitate them and prepare them for reintegration into the community, on release, as a law-abiding citizen.	**Adds:** **(2.01)** As part of the development of every offender's correctional plan under subsection (1), the institutional head shall refer, in the prescribed manner, the offender for a mental health assessment as soon as practicable — and no later than 30 days — after the offender is received into the penitentiary.	**Adds:** **(2.01)** ~~As part of the development of every offender's correctional plan under subsection (1),~~ In order to ensure that the plan can be developed in a manner that takes any mental health needs of the offender into consideration, the institutional head shall ~~refer, in a prescribed manner, the offender for a mental health assessment as soon as practicable — and no later than 30 days — after the offender is received into the penitentiary~~, as soon as practicable after the day on which the offender is received but not later than the 30th day after that day, refer the offender's case to the portion of the Service that administers health care for the purpose of conducting a mental health assessment of the offender.	- Only requires that the prisoner be referred for a mental health assessment conducted by the internal health services of the CSC. As underscored by the failure of CSC to properly assess the mental health of Ashley Smith, security issues trump therapeutic issues in prisons. - Those with appropriate credentials, should be conducting such assessments, rather than correctional staff. - Does not encourage s. 29 transfers to ensure that prisoners with disabling mental health issues receive the assistance they need in a health institution.

Clause 7: Mental Health Assessment After 24 Hours of Admission into SIU

Purpose of Senate amendment	**Current CCRA + C-83**	**CCRA+ Senate Amendment**	**Senate Amendment + Government Response**	**Implications of Govt Response**
Obligations for Mental Health Assessment (SIUs) (Clause 7) - Require mental health assessments by appropriate health professionals for all prisoners within 24 hours for all prisoners isolated in SIUs. - While s. 29 of the Corrections and Conditional Release Act currently allows transfers of prisoners to community health services for treatment, which would include transfers to mental health services, this amendment adds a specific reference to mental health services to encourage use of s. 29 for this purpose.	29.01 (1) A staff member who holds a position lower in rank than that of institutional head and who is designated by the Commissioner may, in accordance with the regulations made under paragraph 96(g), and subject to section 28, authorize the transfer of a person who is sentenced, transferred or committed to a penitentiary into a structured intervention unit in the penitentiary or in another penitentiary.	**Adds:** **(1.1)** Within 24 hours of a person being transferred into a structured intervention unit in a penitentiary under subsection (1), the person who authorized the transfer shall refer, in the prescribed manner, the inmate for a mental health assessment.	**Adds:** **(2)** ~~Within 24 hours of a person being transferred into a structured intervention unit in a penitentiary under subsection (1), the person who authorized the transfer shall refer, in the prescribed manner, the inmate for a mental health assessment.~~ The Service shall ensure that the measures include (a) a referral of the inmate's case, within 24 hours after the inmate's transfer into the structured intervention unit, to the portion of the Service that administers health care for the purpose of conducting a mental health assessment of the inmate; and (b) a visit to the inmate at least once every day by a registered health care professional employed or engaged by the Service.”;	- Only requires that the prisoner be referred for a mental health assessment conducted by the internal health services of the CSC. - As underscored by the failure of CSC to properly assess the mental health of Ashley Smith, security issues trump therapeutic issues in prisons - those with appropriate credentials, should be conducting such assessments, rather than correctional staff - Does not encourage s. 29 transfers to ensure that prisoners with disabling mental health issues receive the assistance they need in an institution administered by provincial/territorial health services.

Clause 7: Requiring Authorization of s. 29 Transfer when Individual Has Mental Health Issues

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Obligations for Mental Health Transfer (Clause 7) - 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.	29 The Commissioner may authorize the transfer of a person who is sentenced, transferred or committed to a penitentiary … (c) to a provincial correctional facility or hospital in accordance with an agreement entered into under paragraph 16(1)(a) and any applicable regulations. 29.01 (1) A staff member who holds a position lower in rank than that of institutional head and who is designated by the Commissioner may, in accordance with the regulations made under paragraph 96(g), and subject to section 28, authorize the transfer of a person who is sentenced, transferred or committed to a penitentiary into a structured intervention unit in the penitentiary or in another penitentiary. …	**Adds:** **29.02** If a mental health assessment or an assessment by a registered health care professional concludes that an incarcerated person suffers from any disabling mental health issue, the Commissioner shall authorize that person's transfer to a psychiatric hospital in accordance with section 29.	Disagrees with amendment because it may not support the professional autonomy and clinical independence of healthcare professionals and does not take into account the inmate's willingness to be transferred to a hospital or the hospital's capacity to treat the inmate;	- Contrary to the recommendation of the CHRC, OCI and inquest into the death of Ashley Smith[1], 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.

[1] SOCI, Evidence, 15 May 2019 (Fiona Keith, Senior Counsel, Canadian Human Rights Commission). Thank you for your question, Senator Munson. We will be filing a written brief as well as detailed proposed amendments in both official languages. The proposed exceptions that the commission is putting forward to the committee include a prohibition for inmates with mental illness, youth, as well as women who are pregnant, breastfeeding and have recently given birth. All of these proposed amendments are consistent with the Mandela Rules and the Bangkok Rules as well.
SOCI, Evidence, 15 May 2019 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator). For me, the most troubling cases are those of individuals who are in the acute phase of their mental illness, chronically self-harm or are suicidal. These individuals should not be in the correctional system. They should be transferred out to external psychiatric hospitals. The service has plenty of money to ship its resources to ensure a more appropriate therapeutic environment where there are front-line staff or health-care providers, not correctional officers. There is a real need for us to challenge that segment.
Coroner's Inquest Touching the Death of Ashley Smith. 15: That female inmates with serious mental health issues, and/or self-injurious behaviours serve their federal terms of imprisonment in a federally-operated treatment facility, not a security-focused, prison-like environment. 16: That female inmates who have been identified as having serious mental health issues and/or self injurious behaviours be promptly transferred to such a facility as soon as reasonably practicable.

Clause 10: End to segregation and judicial oversight

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Judicial Oversight (Clause 10) - Provides that a prisoner cannot be kept in a structured intervention for longer than 48 hours without authorization by a Superior Court. - Reflects findings of court[2] that irreversible consequences of isolation can occur as early as a few hours. - Former Supreme Court Justice Louise Arbour recommended judicial oversight of segregation to uphold the human rights of prisoners and prevent human rights abuses. - Current process in Bill C-83 could result in no review by ministerial appointed body for 90 days[3]	Duration 33 ~~The inmate is to be released from administrative segregation at the earliest appropriate time~~.An inmate's confinement in a structured intervention unit is to end as soon as possible.	**33 (1)** Any confinement in a structured intervention unit is to end as soon as possible. In particular, no such confinement is to have a duration of more than 48 hours unless authorized by a Superior Court under subsection (2). (2) A Superior Court may, on application by the Service, extend the duration of the period referred to in subsection (1) as the Court considers appropriate if, in the opinion of the Court, the extension is necessary for a purpose described in subsection 32(1). 37.91 (1) The transfer of an inmate to a structured intervention unit must be completed not later than five working days after the day on which	Disagrees with amendment because it would result in a significant addition to the workload of provincial superior courts, and because further assessments and consultations with the provinces would be required to determine the probable legislative, operational and financial implications at federal and provincial levels, including amendments to the Judges Act and provincial legislation and the appointment of additional judges.	- Allows CSC to keep prisoners in isolation for long periods of time with inadequate external oversight. - Potential for permanent irreversible damage beyond what UN considers torture[4] - Lack of transparency and accountability will not promote the culture shift that numerous witnesses and Senators have acknowledged needs to take place within CSC to reduce human rights abuses within Canada's prisons.

[2] Canadian Civil Liberties Association v. Canada (Attorney General), 2019 ONCA 243. Para 39: "With respect to prolonged administrative segregation, the application judge found that there were serious risks of negative psychological harm that could occur as early as 48 hours after segregation and were exacerbated by prolonged segregation"; para 71: "First, however, I will review the application judge's factual findings on the harmful effects of prolonged administrative segregation, which I accept. […] para 73: The application judge made findings that administrative segregation: […] causes sensory deprivation and has harmful effects as early as 48 hours after admission". | SOCI, Evidence, 9 May 2019 (Allan Manson, Professor Emeritus, Queen's University). Most significantly, every court has said the solitary confinement of the mentally ill is hugely dangerous and occurs early. | SOCI, Evidence, 9 May 2019 (Debra Parks, Professor and Chair in Feminist Legal Studies, Peter A Allard School of Law, University of British Columbia). I used the 48-hour benchmark rather than the 15 days because of the evidence of harms arising as early as that.

[3] S. 37.8 Thirty days after each of the Commissioner's determinations under section 37.4 [which occurs after 60 days (30 days after Institutional Head's review, which is made 30 days after placed in isolation)] that an inmate should remain in a structured intervention unit, an independent external decision-maker shall, in accordance with regulations made under paragraph 96(g.1), determine whether the inmate should remain in the unit.

[4] Canadian Civil Liberties Association v. Canada (Attorney General), 2019 ONCA 243. Paras 72-73: "There was considerable expert evidence before the application judge about the harmful effects of administrative segregation. This included evidence about the particularly severe effects of prolonged segregation. The application judge made findings that administrative segregation: […] imposes a psychological stress capable of producing serious permanent observable negative mental health effects;".

		the authorization for the transfer is given. Until the transfer is completed, the Service may impose restrictions on the inmate's movement and sections 29.01, 33, 35 to 37.4 and 37.81 to 37.83 apply with any necessary modifications in respect of the inmate as though the inmate were in a structured intervention unit. However, the opportunity referred to in paragraph 36(1)(b) is to be provided only if the circumstances permit. (2) The institutional head shall, at least once every day, meet with the inmate. (3) Subsection (1) does not apply if the transfer is to a structured intervention unit in the penitentiary where the inmate is confined at the time the authorization is given.		

Clause 14: Prohibition on Routine Strip Searching

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Strip Searches (Clause 14) - Bill C-83's introduction of the use of body scanners for routine searches. - Amendment requires "individualized reasonable grounds" to conduct a strip search, in light of witness testimony regarding the harm of strip searches, particularly for those who have experienced sexual assault, and - Reflects international standards set out in the Mandela Rules that strip searches should be undertaken "only if absolutely necessary."[5]	**Routine strip search of inmates** **48** A staff member of the same sex as the inmate may conduct a routine strip search of an inmate, without individualized suspicion, (a) in the prescribed circumstances, which circumstances must be limited to situations in which the inmate has been in a place where there was a likelihood of access to contraband that is capable of being hidden on or in the body; or (b) when the inmate is entering or leaving **~~a segregation area~~structured intervention unit**. **Search by body scan** **48.1 A staff member may, in the prescribed circumstances, conduct a body scan search of an inmate, and those circumstances must be limited to what is reasonably required for security purposes**.	**48** A staff member ~~of the same sex as the inmate~~ may not conduct a ~~routine~~ strip search of ~~an inmate~~ any person confined in a penitentiary without individualized ~~suspicion~~ reasonable grounds. ~~**(a)** in the prescribed circumstances, which circumstances must be limited to situations in which the inmate has been in a place where there was a likelihood of access to contraband that is capable of being hidden on or in the body; or~~ ~~**(b)** when the inmate is entering or leaving a segregation area.~~	**48 (1)** Subject to subsection (2), a staff member ~~may not conduct a strip search of any person confined in a penitentiary without individualized reasonable grounds~~ of the same sex as the inmate may; **(2)** A body scan search of the inmate shall be conducted instead of the strip search if (a) the body scan search is authorized under section 48.1; and (b) a prescribed body scanner in proper working order is in the area where the strip search would be conducted	- Does not end the use of routine strip searches. - Justifies strip searches for any situation in which no scanner in proper working order is available.

[5] The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Rule 52: Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary.

Clause 23: Risk Assessment and Gladue Factors

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Factors Relating to Indigenous History (Clause 23) - Requires CSC to take into account an Indigenous prisoner's family and adoption history to ensure a broader understanding of socio-historical factors, including intergenerational trauma.	Factors to be considered 79.1 In making decisions under this Act affecting an Indigenous offender, the Service shall take the following into consideration: (a) systemic and background factors affecting Indigenous peoples of Canada; (b) systemic and background factors that have contributed to the overrepresentation of Indigenous persons in the criminal justice system and that may have contributed to the offender's involvement in the criminal justice system; and (c) the Indigenous culture and identity of the offender. (2) The factors described in paragraphs (1)(a) to (c) are not to be taken into consideration for decisions respecting the assessment of the risk posed by an Indigenous inmate.	**Changes 79.1(2):** (2) The factors described in paragraphs (1)(a) to (c) are to be taken into consideration for decisions respecting the assessment of the risk posed by an Indigenous person, but only to decrease the level of risk posed by such a person.".	**Changes 79.1(2):** (2) The factors described in paragraphs (1)(a) to (c) are to be taken into consideration for decisions respecting the assessment of the risk posed by an Indigenous offender~~, but only to decrease the level of risk posed by such a person~~ unless those factors could decrease the level of risk"	- Weakens Senate amendment. - Does not require CSC to consider Gladue factors during its risk assessment of an Indigenous prisoner, unless those factors could decrease the level of risk.

Clause 24: Promoting Transfers to the Community

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Transfer to Community to Serve Sentence (Clause 24) - Would more explicitly enable access to s. 81 agreements to others seeking to provide community-based support to prisoners from marginalized communities. - Would promote use of s. 81 as alternative to segregation; ensure that s. 81 is used as intended: to allow for individualized and/or group placements within the community for all prisoners, with a particular focus on those who are most marginalized.	**81** (1) The Minister, or a person authorized by the Minister, may enter into an agreement with an **Indigenous governing body or any Indigenous organization ~~aboriginal community~~** for the provision of correctional services to **Indigenous** offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services. **Scope of agreement** (2) Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of correctional services to a non-**Indigenous** offender. **Placement of offender** (3) In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an **~~aboriginal community~~appropriate Indigenous authority**, with the consent of the offender and of the **~~aboriginal community~~appropriate Indigenous authority**.	**81 (1)** The Minister or a person authorized by the Minister may, for the purposes of providing correctional services, enter into an agreement with ~~an aboriginal community for the provision of correctional services to aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.~~ (a) an Indigenous organization; (b) an Indigenous governing body; (c) a community group that focuses on the needs of a disadvantaged or minority population; (d) a community organization that serves a disadvantaged or minority population; or (e) any other entity that will provide community-based support services, including to other specific populations. ~~**(2)** Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of correctional services to a non-aboriginal offender.~~ (2) For the purposes of paragraphs (1)(c) and (d), a disadvantaged or	Disagrees with amendment because extending the concept of healing lodges designed specifically for Indigenous corrections to other unspecified groups is a major policy change that should only be contemplated following considerable study and consultation, and because it would impede the ability of the Correctional Service of Canada, which is responsible for the care and custody of inmates pursuant to section 5 of the Act, to be part of decisions to transfer inmates to healing lodges.	- Although the focus was on reducing the numbers and overrepresentation of Indigenous prisoners, current s. 81 of the CCRA already accessible to non-Indigenous prisoners. - Witnesses noted that certain groups, such as Black Canadians are also disproportionately incarcerated, and are granted parole at lower rates than general population. - Failure to extend alternatives to incarcerations fails to attempt to rectify over-representation of these groups. - Limits possibilities of racialized and other marginalized prisoners partaking in effective, community-based support services. - Adopts limitations not previously in legislation and effectively precludes s. 81 from being used as an alternative to segregation.

	(3) In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an aboriginal community, with the consent of the offender and of the aboriginal community.	minority population includes any population that is marginalized on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, or disability. (3) An agreement under subsection (1) may provide for payment by the Minister or a person authorized by the Minister in respect of the services provided by an entity described in paragraphs (1)(a) to (e). ~~(3)~~ (4) In accordance with any agreement entered into under subsection (1), the Commissioner may transfer ~~an offender~~ a person confined in a penitentiary to ~~the care and custody of an aboriginal community, with the consent of the offender and of the aboriginal community~~ an entity described in paragraphs (a) to (e) with the consent of that entity and the person serving a sentence.		

Clause 25: Section 84 Agreements

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Transfers to Community for Parole (Clauses 25) - Would facilitate access to s. 84 placements with Indigenous communities and others seeking to provide community-based support to prisoners. - Would ensure that s. 84 is as accessible as originally intended when CCRA was enacted in 1992: to allow for individualized as well as group placements within the community and thereby facilitate use of s. 84 as potential alternatives to segregation.	**84** If an inmate expresses an interest in being released into an **Indigenous** community, the Service shall, with the inmate's consent, give the **~~aboriginal community~~ community's Indigenous governing body** (a) adequate notice of the inmate's parole review or their statutory release date, as the case may be; and (b) an opportunity to propose a plan for the inmate's release and integration into that community.	**84 (1)** If ~~an inmate~~ a person confined in a penitentiary ~~expresses an interest in being released into an aboriginal community,~~ requests the support, on release, of an entity referred to in subsection (2), the Service shall ~~with the inmates consent give the aboriginal community (a) adequate notice of the inmate's parole review or their statutory release date, as the case may be; and~~ provide that entity with ~~(b)~~ an opportunity to propose a plan for the ~~inmate's~~ person's release and integration into the community in which the person is to be released. (2) The following are the relevant entities for the purposes of subsection (1): (a) the community's Indigenous governing body, if applicable; (b) an Indigenous organization that is active in the community; (c) a community group that focuses on the needs of a disadvantaged or minority population; (d) a community organization that serves a disadvantaged or minority population; and (e) any other entity that provides support services in the community, including to other specific populations. (3) For the purposes of subsection (2), a disadvantaged or minority population includes any population that is	Disagrees with amendment because extend the concept of community release designed for Indigenous corrections to other unspecified groups is a major policy change that should only be contemplated following considerable study and consultation.	- S. 84 was not intended to be implemented via healing lodges, that was the plan for women following the Task Force on Federally Sentenced Women; CSC has chosen to limit the original legislative intent to provide mechanisms to reduce the over-representation of Indigenous **and other** prisoners - Since 1992, the number of Black and other ethnocultural prisoners has increased and SOCI testimony indicates that racialized, trans et al prisoners may also benefit from such services.

		marginalized on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, or disability. (4) ~~Where an offender who is required to be supervised by a long-term supervision order has expressed an interest in being supervised in an aboriginal community,~~ The Service shall~~, if the offender consents, give the aboriginal community~~ (a) ~~adequate notice of the order;~~ take all reasonable measures to inform confined persons about the entities described in paragraphs (2)(a) to (e); and (b) ~~an opportunity to propose a plan for the offender's release on supervision, and integration, into the aboriginal community.~~ give every entity that has proposed a plan referred to in subsection (1) adequate notice of the person's parole review or their statutory release date, as the case may be. (5) If the Parole Board of Canada makes any decision that is inconsistent with a plan that has been proposed by an entity for the release and integration of a person into a community, it shall provide written reasons for its decision.".		

Clause 35.1: Judicial Oversight of Correctional Mismanagement

Purpose of Senate amendment	**Current CCRA + C-83**	**CCRA+ Senate Amendment**	**Senate Amendment + Government Response**	**Implications of Govt Response**
Remedy for Mismanagement of Sentence (Clause 35.1) - 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.	New provision – no equivalent.	**198.1 (1)** An incarcerated person may apply to the court that imposed the sentence being served for an order reducing the period of their incarceration or parole ineligibility as the Court considers appropriate and just in the circumstances if, in the opinion of the Court, there was unfairness in the administration of a sentence.	Disagrees with amendment because allowing offenders' sentences to be shortened due to the conduct of correctional staff, particularly given the existence of other remedies, is a major policy change that should only be contemplated following considerable study and consultation, including with provincial partners, victims' representatives, stakeholder groups and other actors in the criminal justice system.	- This was a recommendation of Justice Louise Arbour in 1996, so they have had 23 years to consider. - 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.

Clause 40.1: 2 and 5 Year Review of Legislation

Purpose of Senate amendment	Current CCRA + C-83	CCRA+ Senate Amendment	Senate Amendment + Government Response	Implications of Govt Response
Review of Legislation (Clause 40.1) - In addition to the five-year review by parliamentary committee originally provided in Bill C-83, the Committee added a two-year review as well as requirement to report and make recommendations regarding progress toward ending the use of conditions of isolation in prisons.	Review by committee 40.1 (1) At the start of the fifth year after the day on which this section comes into force, a comprehensive review of the provisions enacted by this Act must be undertaken by the committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established for that purpose. Report to Parliament (2) The committee referred to in subsection (1) must, within one year after the review is undertaken under that subsection, submit a report to the House or Houses of Parliament of which it is a committee, including a statement setting out any changes to the provisions that the committee recommends.	40.1 (1) At the start of the second year after the day on which this section comes into force, and at the start of the fifth year after the day on which this section comes into force, a comprehensive review of the provisions enacted by this Act must be undertaken by a committee of the Senate and a committee of the House of Commons that may be designated or established for that purpose. (2) The review referred to in subsection (1) must include a review of the progress that has been made in eliminating practices that involve separating an incarcerated person from the general population of a penitentiary. (3) A committee referred to in subsection (1) must, within one year after a review is undertaken under that subsection, submit a report to the House of Parliament of which it is a committee, including a statement setting out any changes to the provisions that the committee recommends for the purpose of ensuring the elimination of practices that involve separating an incarcerated person from the general population of a penitentiary.	Disagrees with amendment because five years is an appropriate amount of time to allow for robust and meaningful assessment of the new provisions following full implementation.	- Lack of timely review of this unconstitutional legislation will result in the perpetuation of human rights violations and will allow Canada to continue to disregard the rule of law.