

## *Fact Sheet: Sexual Violence and Coercion in Federal Prisons Designated for Women*

Sexual violence is a prevalent, recurring issue facing people incarcerated in Canadian federal prisons designated for women.<sup>1</sup> The scope of this issue is challenging to determine because of systemic culture of underreporting, indifference, and disbelief at Correctional Service of Canada (CSC).<sup>2</sup> This sheet provides an overview of key facts and findings related to sexual violence in federal prisons designated for women, and concludes with CAEFS' recommendations for addressing this issue.

### Sexual violence is underreported, both inside and outside of prison

- Sexual violence is one of the most underreported crimes in Canada.<sup>3</sup> Among the general population in Canada, it is estimated that only 5% of sexual assaults are reported to police.<sup>4</sup>
- In the prison environment, sexual violence is even less likely to be reported and incarcerated individuals face a host of disincentives to report, including fear of retaliation and re-victimization by the perpetrator, risk of not being believed, being ridiculed or being punished.<sup>5</sup>
- In October 2020, the Office of the Correctional Investigator (OCI) conducted a national investigation into sexual coercion and sexual violence in federal corrections entitled: "A Culture of Silence". According to the report, Canada is behind when it comes to addressing sexual violence behind bars.<sup>6</sup> The OCI describes CSC's "organizational indifference" and lack of leadership in tackling the problem of sexual coercion.<sup>7</sup> Indeed, the Report made clear recommendations to begin addressing the issue of sexual coercion and violence inside federal prisons, but these recommendations have not been accepted by the Minister of Public Safety.<sup>8</sup>

### Most people incarcerated in prisons designated for women have experience sexual violence prior to their incarceration, and their incarceration makes them more vulnerable to re-victimization and re-traumatization.

- In 2015, the OCI indicated that: "close to 70% of federally sentenced women report histories of sexual abuse and 86% have been physically abused at some point in their life. Their life histories of trauma cannot easily be separated from their conflict with the law."<sup>9</sup> CSC has acknowledged that "[c]ompared to the average Canadian, women offenders... are more likely to have a history of physical and/or sexual abuse".<sup>10</sup> These women are re-victimized and re-traumatized when they experience sexual violence behind bars.
- CSC's research has revealed that nearly all Indigenous women serving federal sentences (as many as 91%) have experienced physical or sexual abuse.<sup>11</sup>
- Survivors of sexual abuse are also generally at risk of further sexual violence and abuse. The OCI noted in their 2018-2019 Annual Report that "[r]ather than reducing the effects of traumatic exposure, prisons often reproduce traumatic events and exacerbate symptoms of previous trauma."<sup>12</sup>

- CSC has an obligation under the *Correctional and Conditional Release Act* to provide “safe and humane custody and supervision” of incarcerated people.<sup>13</sup> This necessarily includes protecting incarcerated women, non-binary and Two Spirit people from sexual violence and coercion.

## People with marginalized identities are the most frequent targets of sexual violence behind bars

- Most women, non-binary, trans, and Two Spirit people in federal prisons designated for women are survivors of trauma and abuse.<sup>14</sup>
- In “A Culture of Silence”, the OCI found that women; individuals who identify as, or are perceived to be, lesbian, gay, bisexual, or transgender; people with histories of trauma and abuse, and people with a mental illness are more vulnerable to sexual violence behind bars.<sup>15</sup>
- These findings are consistent with studies on the disproportionate rates of sexual violence marginalized people experience outside of prisons:
  - Women are considerably more likely than men to be victims of violent crimes.<sup>16</sup> Over six times as many victims of sexual assault were women and girls than men and boys, and women were over three times more likely than men to be victims of criminal harassment.<sup>17</sup>
  - In a 2007 Statistics Canada survey, 39% of adult women in Canada reported having been sexually assaulted.<sup>18</sup>
  - A survey of 433 trans-identified Ontarians found that 43% reported being subject to physical or sexual violence, specifically motivated by transphobia.<sup>19</sup>

## Prisoners have reported incidents of sexual violence perpetrated by CSC staff

- Through our regional advocacy, CAEFS has been made aware of numerous incidents of CSC employees engaging in sexual coercion or violence against incarcerated people.<sup>20</sup> Since 2015, these incidents have included:
  - Unwelcomed comments of a sexual nature from CSC staff;
  - Sexualized looks and comments from CSC staff;
  - Sexual harassment and inappropriate behaviour on the part of CSC staff;
  - Sexual assaults wherein the survivor was discouraged from disclosing details of the incidents;
  - Demeaning and intrusive strip searches following returns from work releases, family visits, Escorted Temporary Absences (ETAs), and Unescorted Temporary Absences (UTAs);
  - CSC officers watching women using the toilet in their cells;
  - CSC staff accompanying women and gender diverse people to doctor’s appointments and insisting on watching their entire examination. On some occasions CSC staff refused to leave the room, even after a physician requested them to do so;
  - Sexual assault where the survivor did not report the incident for 8 months for fear that reporting would impact an upcoming parole hearing;<sup>21</sup>
  - Male CSC staff present during strip searches and participating in the strip search of women.
- CAEFS is aware of two ongoing cases against Correctional Officers for charges of sexual assault:
  - In 2019, CAEFS and Elizabeth Fry Societies in the Atlantic region heard from a group of women incarcerated at the Nova Institution for Women (Nova) that they had been sexually assaulted by a CSC Correctional Officer, and that CSC had failed to respond to these reported abuses. Instead, CSC ignored the women who came forward and/or transferred them to other institutions. The women were also made to apologize to the person who abused them.<sup>22</sup> In May 2020, this Officer was arrested and charged with six counts of sexual assault, six counts of breach of trust, and one count of trying to procure sexual service - all related to his work at Nova.<sup>23</sup>

- In July 2020, a CSC Officer at the Grand Valley Institution (GVI) was arrested and charged with 1 count of sexual assault against a prisoner for an incident that occurred in 2016.<sup>24</sup>

## Sexual violence perpetrated by CSC staff in prisons designated for women is a critically unexamined area of concern

- The 2020 OCI investigation on sexual violence includes some anecdotal evidence concerning incidents where CSC staff perpetrated sexual violence against inmates, noting “inappropriate relationships between officers and inmates, officers watching women undress through the slots, staff using sexually derogatory terms to refer to inmates, as well as flirting and sexual harassment.”<sup>25</sup> However, there is limited quantitative data on staff sexual violence, potentially masking the magnitude of the problem.
- CSC does not collect or share data on sexual violence and coercion perpetrated by its employees.<sup>26</sup> This prevents advocates and the public from gleaning an accurate or comprehensive picture of what is evidently a recurring problem.
- Given that most incidents of sexualized violence or coercion are rarely witnessed by others and these reports are not systematically collected, recorded, tracked or researched, it is difficult to know the magnitude and scope of the problem.<sup>27</sup>

## When reporting sexual violence, prisoners are often disbelieved and / or fear retaliation

- According to section 2 of CD 577 – Staff Protocol in Women Offender Institutions, the Institutional Head must ensure that:
  - a. any allegation of harassment or sexual misconduct is immediately reviewed to determine how to proceed. As soon as possible, the Institutional Head must inform the Assistant Deputy Commissioner, Institutional Operations, who is responsible for informing the Regional Deputy Commissioner and the Deputy Commissioner for Women of the allegations.
  - b. any allegation of sexual misconduct is referred to the local police force of jurisdiction, without delay, for review and investigation.<sup>28</sup>

However, prisoners often do not trust police or the abilities of police to intervene in delicate matters such as sexual violence. As such, there remains a concern that women, non-binary, trans and Two-Spirit people who experience sexual violence or harassment perpetrated by CSC staff will be hesitant to report the incident.<sup>29</sup>

- Further, many incarcerated people have reported to CAEFS that they feel that they are often disbelieved by CSC administration when they bring their experiences forward.
- In addition to not being believed, incarcerated people who disclose sexual violence or coercion also risk retaliation from staff, given the inherent power imbalance between prisoners and staff.<sup>30</sup> During COVID-19 when personal visits were prohibited and access to external accountability mechanisms was significantly reduced, CSC had less oversight than ever, making prisoners even more vulnerable to abuse.<sup>31</sup>

## Strip searches are often experienced as sexual violence

- The Supreme Court of Canada in *R. v. Golden* (2001) described the practice of strip searching as “inherently humiliating” and affirmed that for women, non-binary, trans, and Two Spirit people, strip searches are experienced as an act of sexualized violence:

*“Strip searches are thus inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy. The adjectives used by individuals to describe their experience of being strip searched give some sense of how a strip search, even one that is carried out in a reasonable manner, can affect detainees: “humiliating”, “degrading”, “demeaning”, “upsetting”, and “devastating” [...] Some commentators have gone as far as to describe strip searches as “visual rape” [...] Women and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault.”<sup>32</sup>*

- See our Fact Sheet on Strip Searches for more information on this practice and its effects on incarcerated women, non-binary, trans, and Two Spirit people.

## CAEFS Recommendations

1. End the practice of strip searching in all federal prisons through directives from National Headquarters or the Minister of Public Safety instructing institutional heads to use alternative interventions.
2. Create and improve access to free, community-equivalent, confidential counseling and treatment options for trauma and abuse that are independent and external to CSC.
3. Increase in oversight and accountability measures of and for CSC, including implementing a system for documenting and recording incidents of sexual violence and coercion.
4. Conduct an independent public inquiry that focuses specifically on the issue of staff-to-prisoner sexual coercion, violence and abuse - including the state sanctioned sexual violence experienced by those subjected to strip searches - to understand the full scope of the issue and prevent continuing harm.

While not exhaustive, if implemented, these measures could remedy the lack of protection and oversight for women, non-binary, trans and Two Spirit People in prison and ensure they are not revictimized by sexual violence and coercion on the inside.

<sup>1</sup> Office of the Correctional Investigator, *Annual Report 2019-2020*, p 24, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20192020-eng.pdf> [OCI Annual Report 2019-2020].

<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid*, p 23.

<sup>4</sup> Perreault (2015), *Criminal victimization in Canada, 2014*, p 3, available online: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2015001/article/14241-eng.pdf>. See also Brennan, Shannon and Andrea Taylor-Butts. *Sexual Assault in Canada 2004 and 2007*. Ottawa: Statistics Canada, 2008 at 6.

<sup>5</sup> OCI Annual Report 2019-2020, p 23.

<sup>6</sup> *Ibid*, p 27.

<sup>7</sup> *Ibid*, p iii.

<sup>8</sup> CAEFS (2021), *Sexual Coercion and Violence in Prisons Designated for Women*, p 5, available online: [https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e\\_b783e9490a454f78b3a47d0e226fa152.pdf](https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e_b783e9490a454f78b3a47d0e226fa152.pdf) [CAEFS Sexual Violence Brief].

<sup>9</sup> Office of the Correctional Investigator, *Annual Report 2014-2015*, p 3, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20142015-eng.pdf>

<sup>10</sup> Correctional Service Canada, “Women offenders” [CSC, Women Offenders], available online: <https://www.csc-scc.gc.ca/publications/005007-3012-en.shtml>

<sup>11</sup> Correctional Service Canada, *Social Histories of Aboriginal Women Offenders, Emerging Research Results – ERR 14-7* (May 2014), as cited in: Annual Report of the Office of the Correctional Investigator 2015-2016, p 43, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20152016-eng.pdf>

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- <sup>12</sup> OCI Annual Report 2018-2019, p 119.
- <sup>13</sup> *Corrections and Conditional Release Act* (S.C. 1992, c. 20), s 3(a) [CCRA].
- <sup>14</sup> Office of the Correctional Investigator, *Annual Report 2018-2019*, p 119, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20182019-eng.pdf>
- <sup>15</sup> *Ibid*, p 24.
- <sup>16</sup> Statistics Canada, *Measuring Violence Against Women: Statistical Trends 2006*, Ottawa: Minister of Industry, 2007, p 36 [Measuring Violence Against Women].
- <sup>17</sup> Federal-Provincial-Territorial Ministers Responsible for the Status of Women, *Assessing Violence Against Women: A Statistical Profile*, Ottawa: Status of Women Canada, 2002, p 21.
- <sup>18</sup> *Measuring Violence Against Women*, p 24.
- <sup>19</sup> Ayden I Scheim et al (2014), "Barriers to Well-Being for Aboriginal Gender-Diverse People: Results from the Trans PULSE Project in Ontario, Canada", 6:4 *Ethnicity and Inequalities in Health and Social Care* 108, p 108, 111.
- <sup>20</sup> CAEFS Sexual Violence Brief, p 5-6.
- <sup>21</sup> CBC News (17 June 2019) "15-month sentence for healing lodge worker convicted of sexual assault," available online: <https://www.cbc.ca/news/canada/saskatchewan/healing-lodge-worker-sexual-assault-15-months-1.5178783>.
- <sup>22</sup> CAEFS, *News Release, May 2020: Former Correctional Officer at the Nova Institution for Women Arrested on Charges of Sexual Assault Against Prisoners*, available online: [https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e\\_9f4e17a78edd446f9d0f59efaa60de3b.pdf?index=true](https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e_9f4e17a78edd446f9d0f59efaa60de3b.pdf?index=true)
- <sup>23</sup> CAEFS Sexual Violence Brief, p 6.
- <sup>24</sup> CAEFS, *News Release, July 2020: Correctional Officer at the Grand Valley Institution Arrested for Sexual Assault Against Prisoner*, available online: [https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e\\_3a02f73183d142799845bc71365dc30b.pdf?index=true](https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e_3a02f73183d142799845bc71365dc30b.pdf?index=true)
- <sup>25</sup> OCI Annual Report 2019-2020, p 48.
- <sup>26</sup> OCI Annual Report 2019-2020, p iii.
- <sup>27</sup> OCI Annual Report 2019-2020, p iii.
- <sup>28</sup> *Commissioners Directive 577 – Staff Protocol in Women Offender Institutions*, s. 2.
- <sup>29</sup> CAEFS Sexual Violence Brief, p 13.
- <sup>30</sup> CAEFS Sexual Violence Brief, p 7.
- <sup>31</sup> *Ibid*, p 7.
- <sup>32</sup> *R v Golden*, 2001 SCC 83, para 90.