



# **ADVOCACY TRAINING MANUAL**

**2024**



## A MESSAGE FROM CAEFS

**Welcome to the Canadian Association of Elizabeth Fry Societies' 2024 advocacy training manual. We at CAEFS are so very grateful to you for having made the decision to learn more about your legal and human rights and the legal and human rights of others who are also incarcerated. Being able to assist people to assert their rights while incarcerated is a way of keeping all people who are incarcerated safe and whole.**

**Our regional advocacy teams across the country are here to work with advocates who are incarcerated in a team format. No one part of the team is greater than the other as we ensure that people's rights are being upheld and their dignity is being respected. Our teams are characterized by people who are dedicated to creating a better world and utilize all of the skills gained through this training as well as through practice.**

**In solidarity and in love,**

**Emilie Coyle  
Executive Director**

## **Acknowledging our Commitments** **to Indigenous Peoples**

The Canadian Association of Elizabeth Fry Societies (CAEFS) office is on the traditional and unceded territory of the Algonquin Nation, which is colonially known to many as Ottawa, Ontario. Algonquin territory remains home to many First Nations, Inuit, and Métis peoples from across Turtle Island. While our main office is in this territory, our work is done across the country and so, our work takes place on the traditional territories of many different nations.

Every day, we work to acknowledge our relationship to this land and to colonialism, and to work in solidarity with Indigenous people— especially by paying critical attention to the ways that our work environments continue to reproduce colonial logics.

The connection between colonization and the criminalization of Indigenous people is irrefutable and has led to a crisis of incarceration and disproportionate punishment for Indigenous women and gender-diverse people.

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## **Part 1: Overview and Guiding Values**

This section is designed to help familiarize you with CAEFS advocacy: who we are, what we do, and how we do it. This includes an overview of the roles of both peer and regional advocates.



## What We Do

# WHAT WE DO

CAEFS five regional advocacy teams monitor the conditions of confinement in the six federal prisons designated for women in Canada and two regional psychiatric centers. This is done through in-person advocacy visits and our toll-free advocacy lines.

Advocates speak with incarcerated people and document the legal, civic, and human rights issues that they experience.

CAEFS advocacy utilizes an intersectional feminist rights-based approach to advocate for federally incarcerated women and gender-diverse people. Our approach is rooted in the understanding that, in order to create substantive equality, unique attention and approaches are needed to respond to incarcerated equity-deserving groups.

Regional advocates also work closely with their incarcerated counterparts: peer advocates. The CAEFS peer advocate program trains and supports individuals in prison to fulfill many of the same functions as regional advocates.

*Working to uphold the rights of people prison, while we work together toward a world without prisons.*

## **Peer Advocates: Scope and Overview**

**CAEFS PEER  
ADVOCACY**

Peer Advocates receive training and support to utilize redress systems effectively and create positive impacts for federally incarcerated people in prisons designated for women.

**HOW ADVOCATES WORK:**

- By educating and supporting people to write effective grievances
- By attending disciplinary hearings and security reclassification reviews
- By providing advice about laws and policies to the population
- By problem solving with prison management and prisoner committees

**WHAT ISSUES ADVOCATES CAN SUPPORT WITH:**

- Disciplinary charges
- Human rights violations
- Release plans
- Security classification and parole suspensions
- Issues resulting from conditions of confinement
- The establishment of cultural and identity committees

CAEFS introduced the Peer Advocacy program in 2015 as a hybrid position which is both institutionally recognized and with institutional pay provided by the Correctional Service of Canada, but with training and position support provided externally by the Canadian Association of Elizabeth Fry Societies. Peer Advocates receive training at least bi-annually (every other year), with regular ongoing support and resources provided through Regional Advocates. With the support of Regional Advocates in the community, Peer Advocates work in teams in penitentiaries in various ways to monitor the conditions of

confinement and to uphold the rights of federally incarcerated people in prisons designated for women.

Our approach to advocacy emphasizes working in teams to create supportive advocacy structures that foster solidarity. By this approach, we create the kinds of systems that we want to exist in the world, and we shrink the kinds of systems that harm people and communities.

### **Duties as a Peer Advocate:**

Advocates speak with other incarcerated people and document the legal, civic, and human rights issues that they experience.

At CAEFS, we encourage women and gender diverse people under sentence to “document, document, document.” Ensuring people have written records of the things that happen to them in prison is a strong tool for advocacy and redress of issues. In addition to documenting issues, advocates educate individuals in penal laws and policy, and how to utilize redress processes, such as informal resolution, complaints and grievances, and external redress options such as legal and human right applications.

Advocates can also work to build a more supportive peer culture in prison, assisting the prisoner’s committee to carry out mutual goals, working with other cultural/unique need groups, and beyond. Be creative and be a team. Many CAEFS advocates in the community used to be incarcerated and know that the more you work together toward common goals, the more successful you will be in your efforts.

### **Skills peer advocates utilize:**

- Assisting in the writing of proposals, submissions, complaints and grievances
- Public awareness/ education efforts
- Advocacy at hearings and reviews
- Advocacy and problem solving with institutional management
- Identifying systemic issues in the prison and working to resolve the issues
- Organizing workshops and events (including writing and submitting structured activity proposals)
- Active, supportive, empathetic listening to people’s issues
- Working productively with others, even where there may be interpersonal challenges
- Engaging in productive ongoing dialogue with institutional management about important legal principles that impact federally sentenced women and gender diverse people
- Working with Regional Advocates during monthly in-person visits
- Maintaining a regular call time with Regional Advocates



## **Regional Advocates: Scope and Overview**

Regional Advocates are volunteers in the community who advocate in various capacities to monitor the conditions of confinement and uphold the rights of federally incarcerated people in prisons designated for women.

### **CAEFS REGIONAL ADVOCACY**

Regional Advocates receive training and support to support and work in solidarity with federally incarcerated people in prisons designated for women to utilize redress systems effectively and create positive impacts and systemic change.

#### **HOW ADVOCATES WORK:**

- By educating and supporting people to write effective grievances
- By attending disciplinary hearings and security reclassification reviews
- By providing advice about laws and policies to the population
- By problem solving with prison management and prisoner committees

#### **WHAT ISSUES ADVOCATES CAN SUPPORT WITH:**

- Disciplinary charges
- Human rights violations
- Release plans
- Security classification and parole suspensions
- Issues resulting from conditions of confinement
- The establishment of cultural and identity committees

Advocates speak with incarcerated people and document the legal, civic, and human rights issues that they experience. This occurs regularly through CAEFS regional advocacy phone lines, monthly through in-person visits to the prison, and by mail.

In addition to documenting issues, advocates educate individuals in penal laws and policy, and how to utilize them in redress processes. The goal is to provide allyship and support in a way that serves their liberation, advocating for them when doing so themselves poses risks to their safety and liberty, or when additional barriers exist, but always working to raise awareness and provide people with the tools and skills to utilize redress processes and understand the legal and policy obligations of the CSC.

Every month, members of the team then meet with senior management of the prison, usually the warden and departmental wardens. Advocates raise the issues that have been reported, then work with the prison to address and resolve each issue. Following each visit, these discussions are documented through regional advocacy letters. The letters form a core part of CAEFS advocacy work. They outline the concerns that are raised, the laws and policies that support these concerns, what the prison's position on each issue is, and explicitly state CAEFS calls for remedies, responses, and further actions needed. Each time a letter is completed, it is not only sent to the prison warden, but also to the Deputy Commissioner for Women's Prisons at Correctional Services Canada, the Office of the Correctional Investigator, the Canadian Human Rights Commission, the Citizen's Advisory Committees, as well as key Senators and additional stakeholders.

Through this format, the regional advocacy team provide a real-time link between abuses occurring on the ground in Canadian prisons designated for women and change-makers who can work to address and redress issues that persist in federal penitentiaries designated for women.

## **The Vision and Values Guiding our Advocacy**

**CAEFS Vision:** A world without prisons with strong and well-resourced communities for everyone.

**CAEFS Statement of Purpose:** The Canadian Association of Elizabeth Fry Societies (CAEFS) works to address the persistent ways in which women and gender-diverse people impacted by criminalization are denied humanity and excluded from community.

This vision and purpose are principled upon an **anti-carceral, liberatory, inclusive, intersectional, abolitionist feminism:**

- We understand that incarceration creates adverse impacts for individuals and communities, disproportionately so when impacted people and communities are marginalized.
- We situate the rise of the carceral state within a continuum of settler colonialism.
- We look critically and reflexively on one's own practices (personal and professional)

**Intersectional:** People have multiple, intersecting social identities that impact how they are treated by, and how they experience, various institutions.

**Inclusive:** A feminism that is not exclusionary. CAEFS is committed to upholding the rights of all people are or who are at risk of being criminalized and filtered into prisons designated for women. CAEFS recognizes that the prison system is the only public institution that practices gender segregation. We work to dismantle transphobia and violence against gender-diverse people. We are working from places of allyship and solidarity.

## **Use of Language**

CAEFS is intentional in our language. We never use the word offender, and we always use affirming, gender inclusive language. This is because how we talk about things makes a difference in how we think about them. The word offender implies an ongoing state of badness, deviance, and criminality. You are incarcerated because of a specific conviction, and regardless of the circumstances that led you to where you are today, we will not define you by your conviction.

Advocates will always use person-centered language such as imprisoned person, person in prison, or incarcerated person. When referring to gender and sex, we use the terms "prisons designated for women" and "women and gender diverse people in prison."

Here are some "do's and don'ts" to assist you with language in your advocacy:

- Do use person-centered language.
- Don't refer to people by labels that diminish and reduce people to archetypal identities.
- Do protect people's privacy and confidentiality, referring to them by name when speaking to them, and protecting their names when writing and/or storing advocacy content for them.
- Don't get upset at people when they use different language than you; do use those conversations as opportunities for learning, and to explain why you may or may not use a certain term.

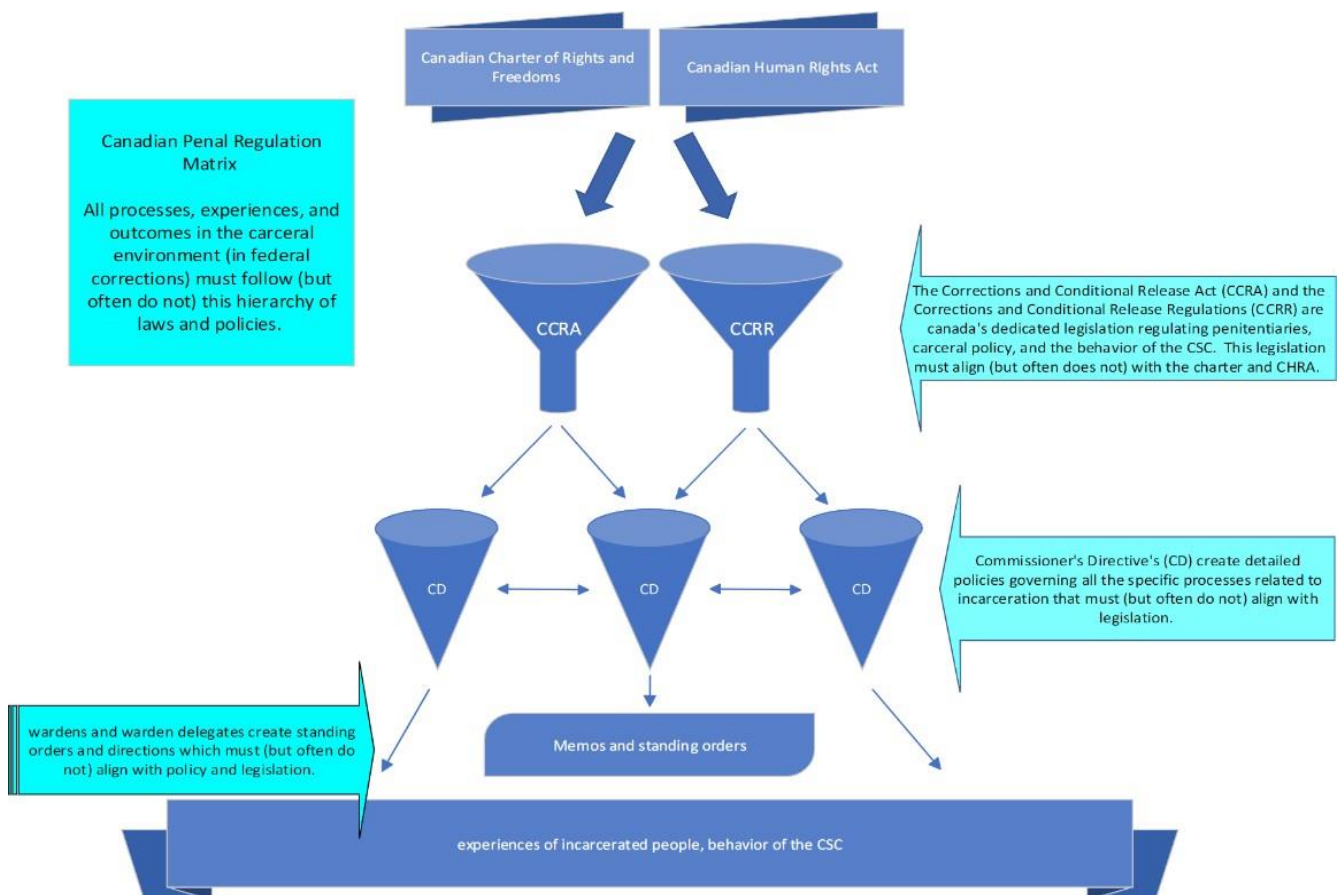
## **Part 2: Legal and Policy Foundations**

In this section we introduce the laws and policies that govern the correctional system in Canada, as well as key legal principles that you may draw on in your advocacy.



# The Hierarchy of Law and Policies Regulating Penitentiaries

The following diagram demonstrates the hierarchy of the laws and policies that the Correctional Service of Canada must follow. As advocates, it will be your job to understand and to document when rules, practices, and/or actions violate this legal structure, and work to remedy the violation. Remember: All legislation and policy should be in agreement with each other (i.e. not include things that are contradictory). If they are not in agreement, then the higher law / policy takes precedence.



CA: Constitution Act → CCRF: Canadian Charter of Rights and Freedoms  
CHRA: Canadian Human Rights Act (legislation)  
CCRA: Corrections and Conditional Release Act (legislation)  
CCRR: Corrections and Conditional Release Regulations (legislation)  
CD: Correctional Service of Canada Commissioners Directives (policy)

## **Summary of Key Charter Rights and Freedoms**

The Charter outlines fundamental rights and freedoms that all people in Canada have, including Fundamental Freedoms, Democratic Rights, Mobility Rights, Legal Rights, Equality Rights, and Official Language Rights. The Charter applies to everyone, regardless of whether they are in a provincial/territorial or federal prison. All other laws and practices in Canada must follow the principles laid out in the Charter and if it is not in line with the Charter, it can be challenged in court.

**Section 2** of the Charter establishes that everyone has the following fundamental freedoms:

- freedom of conscience and religion,
- freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication,
- freedom of peaceful assembly; and
- freedom of association.

**Section 7** of the Charter establishes that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

**Section 8** of the Charter establishes that everyone has the right to be secure against unreasonable search or seizure.

**Section 9** of the Charter establishes that everyone has the right not to be arbitrarily detained or imprisoned.

**Section 10** of the Charter establishes that everyone has the right on arrest or detention:

- to be informed promptly of the reasons thereof,
- to retain and instruct counsel without delay and to be informed of that right; and
- to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

**Section 12** of the Charter establishes that everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

**Section 15** of the Charter establishes that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination, specifically without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. Mobility Rights Canadian citizens have the right to enter, remain in, and leave Canada. Canadian citizens and permanent residents have the right to live or seek work anywhere in Canada. Governments in Canada can't discriminate based on what province someone used to live or currently lives in.

## **Your Human Rights**

In addition to maintaining constitutional rights, you also have human rights in Canada while under federal sentence, and these rights are protected by laws made by federal, provincial, and territorial governments. Since the Correctional Service of Canada (CSC) is a federal agency, The Canadian Human Rights Act (CHRA) is the law that you should turn to if you suspect that the CSC is violating your human rights.

The CHRA protects all people in Canada from harassment and/or discrimination based on their race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and/or conviction for which a pardon has been granted. The CSC is required to follow the CHRA.

If conditions related to your incarceration, release and/or life on parole are different for you because of one of the protected grounds, your human rights may be being violated. If you feel that any of the rights mentioned above are being violated, then you can file a complaint with the Canadian Human Rights Commission. However, like all forms of redress, your complaint will be much stronger and more likely to be accepted by the Commission if you have documentation of your issue. Meaning as best as you can, you need to establish written evidence supporting your claim. This can include complaints and/or grievances that you can file as a first step in the process.

## **Important Legal Principles for Federally Sentenced Women and Gender Diverse People:**

Below we have listed some of the key sections of the Correctional and Conditional Release Act (CCRA). These are the parts of the CCRA that we most often draw on in our advocacy work. We use these sections frequently because they are broadly applicable, but often not respected.

- **Least Restrictive Measures:** CCRA 4 (c) the Service uses the least restrictive measures consistent with the protection of society, staff members and people in prison.
- **The purpose of the correctional system is to provide safe and humane treatment, for the purpose of reintegration:** 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 people in prison; and (b) assisting the rehabilitation of people in prison and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community.

CCRA 4 (c.2) the Service ensures the effective delivery of programs to [people in prison], including correctional, educational, vocational training and volunteer programs, with a view to improving access to alternatives to custody in a penitentiary and to promoting rehabilitation/

- **People in Prison have Civic and Human Rights:** CCRA 4 (d) people in prison retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted.
- **Substantive Equality:** CCRA 4 (g) correctional policies, programs and practices respect gender, ethnic, cultural, religious and linguistic differences, sexual orientation and gender identity and expression, and are responsive to the special needs of women, Indigenous persons, visible minorities, persons requiring mental health care and other groups.
- **Informal Resolution:** CCRA 41 (1) Where a staff member believes on reasonable grounds that an inmate has committed or is committing a disciplinary offence, the staff member shall take all reasonable steps to resolve the matter informally, where possible.
- **Fair Decision Making:** CCRA 4 (f) correctional decisions are made in a forthright and fair manner, with access by the [incarcerated person] to an effective grievance procedure.

## **Issues and Relevant Law & Policy:**

### **A Quick Reference Guide**

This resource is designed to help you find laws and / or policies that are relevant to the issues that may be impacting you and other people who are incarcerated. You can use these laws and policies to gain a deeper understanding of your rights while you are in prison, and to support your requests, complaints, and grievances related to the systemic issues listed below.

We encourage you to use this as a reference guide and to read the sections of the laws / policies listed below in full to inform your advocacy.

The laws and policies referenced in this guide are:

Canadian Charters of Rights and Freedoms (Law)

CCRA: Corrections and Conditional Release Act (Law)

CCRR: Corrections and Conditional Release Regulations (Regulation)

CD: Commissioners Directive (Policy)

#### **Access to Conditional Release (Escorted and Unescorted Absences, Work Releases, Day and Full Parole)**

- CCRA, Section 3 (b) (Purpose of the correctional system)
- CCRA, Section 5(b) and (c) (Correctional Service of Canada)
- CCRA, Section 17 (Escorted Temporary Absences)
- CCRA, Section 18 (Work Releases)
- CCRA, Section 100 (Purpose of Conditional Release)
- CD 700 (Correctional Interventions)
- CD 710-1 (Progress Against the Correctional Plan)
- CD 710-3 (Temporary Absences)

#### **Access to Health Care**

- CCRA Section 85 (Health Care)
- CD 800 (Health Services)

#### **For issues relating to inclusion, diversity and diverse needs of incarcerated people**

- Canadian Charter of Rights and Freedoms, Section 15
- CCRA, Section 4 (Principles that guide the service)
- CCRA, Section 79 (Indigenous [Incarcerated People])
- CCRR, Section 100 (Religion and Spirituality)
- CD 100 (Gender Diverse [Incarcerated People])
- CD 702 (Indigenous [Incarcerated People])
- CD 767 (Ethnocultural [Incarcerated People])

#### **Institutional Disciplinary Process**

- CCRA, Section 4 (c) (Principles that guide the service)
- CCRA, Section 38 (Discipline)



- CCRA, Section 41 (Informal Resolution)
- CCRA, Section 42 (Notice of Charge)
- CCRA, Section 43 (Hearing)
- CCRR, Section 24 to 31 (Inmate Discipline)
- CCRA, Section 44 (Sanctions)
- CD 580 (Discipline of Inmates)

### **Correctional Planning and Correctional Decisions Making**

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- CCRA, Section 15 (Correctional Plans)
- CD 700 (Correctional Interventions)
- CD 710 - 1 (Progress Against the Correctional Plan)

### **Grievance Process**

- CCRA, Section 90 (Grievance procedure)
- CCRA, Section 91 (Access to grievance procedure)
- CCRR, Sections 74 to 82 (Grievance Procedure)
- CD 081 (Complaints and Grievances)

### **Access to Family & Visits**

- CCRA, Section 28 (Placement and Transfer of [Incarcerated People])
- CCRA, Section 71 (Contacts and Visits)
- CD 599 (Visits)
- CD 705-7, Section 4 (Security Classification and Penitentiary Placement)
- CD 710-8 (Private Family Visits)
- CD 788 (Institutional Mother Child Program)

### **Physical Conditions of Confinement**

- Charter of Rights and Freedoms, Section 7
- Charter of Rights and Freedoms, Section 12
- CCRA, Section 70 (Living Conditions, etc.)
- CCRR, Section 83 (Physical Conditions)
- CD 300 (Real Property)

## **International Declarations and Protocols**

The international declarations and protocols that we include in this book come from the United Nations (UN). The UN is an international organization founded in 1945 and has 193 country members across the world. The purpose of the UN is to increase cooperation between countries and to maintain global peace and security. UN declarations and protocols are developed to provide global leadership to resolve humanitarian concerns, and to direct systems of international law. It is helpful to reference these in your self-advocacy, especially if you are using the complaint/grievance process.

### **Bangkok Rules**

The UN Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, known as the Bangkok Rules, gives guidance to policy makers, legislators, sentencing authorities and prison staff to reduce the imprisonment of women, and to meet the specific needs of women in case of imprisonment. The UN adopted the Bangkok Rules in 2010, being the first international instrument that provides specific and detailed guidelines on responding to gender specific needs of women in the criminal justice system, as well as of the children of these women. These rules affirm that prison is usually an ineffective, and often damaging, solution to offending by women, hindering their social reintegration and ability to live productive and law-abiding lives following release.

The following Bangkok rules can be useful to refer to when navigating release from prison and being on parole. Many rules encourage non-custodial measures – in recognition that many women are imprisoned due to intersectionality stemming from poverty, intimate partner violence, mental ill-health, drug dependency, and/or discrimination and as such, do not pose a security risk to the public.

### **Alternative to detention and imprisonment**

- Rule 57 (the development and implementation of appropriate responses to women offenders that considers history of victimization and caretaking responsibilities)
- Rule 58 (avoiding the separation of women from their families and communities, including pretrial and sentencing alternative, when appropriate and possible)
- Rule 60 (the allocation of appropriate resources to combine non-custodial measures with interventions to address common entry-points to the system)
- Rule 64 (non-custodial sentences for pregnant women and women with dependent children preferred where possible and appropriate)

### **Post-sentencing dispositions**

- Rule 63 (decisions regarding parole should favourably take into account women prisoners' caretaking responsibilities, as well as their specific social reintegration needs)

### **Location**

- Rule 4 (as much as possible, incarcerated women should be placed as close to their home, if that is their preference, for caretaking responsibilities (if applicable), social rehabilitation, and appropriate programs and services)
- Rule 26 (contact with families/children and legal reps encouraged and facilitated by all reasonable means including measures to counterbalance disadvantages faced by women located far from their homes)

### **Classification and individualization**

- Rule 40 (administrators must develop and implement classification methods that ensure appropriate and individualized planning, geared towards early rehabilitation and reintegration)
- Rule 41 (gender sensitive risk assessment that considers harmful effects of high security measures, enables information about backgrounds such as violence – not to be used punitively, caretaking responsibilities, appropriate mental health accommodations)

### **Reintegration**

- Rule 45 (use home leave, open prisons, halfway houses, and community-based programs and services to the maximum extent possible to ease transition to liberty, reduce stigma, and to re-establish connections with families at the earliest stage possible)
- Rule 46 (prison authorities to design and implement comprehensive pre – and post-release reintegration programs)
- Rule 47 (additional supports following release for psychological, medical, legal and practical help to ensure successful social reintegration, in partnership with community)
- Rule 55 (pre – and post-release services that are appropriate and accessible to Indigenous women and women from ethnic and racial groups, in consultation with the relevant groups)

## **The Nelson Mandela Rules**

The UN Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules, gives guidance to policy makers, legislators, sentencing authorities and prison staff to establish good principles and practice for the treatment of incarcerated people and for the management of the prison. These rules were first adopted in 1957, and in 2014 were revised and adopted under their current name. These rules, though non-gender specific, are known to have been established with male prisoners in mind. That is one of the reasons the Bangkok Rules were created – to address women-specific requirements.

### **Risk and Needs Assessment**

- Rule 89 (outlines the requirement for individualization of treatment and suitability of placement according to security group)

- Rule 93 (similar classes grouped together to facilitate their treatment and social rehabilitation)
- Rule 94 (program of treatment to be prepared according to needs, capacities and dispositions as soon as possible after admission)

### **Conflict resolution/disciplinary/sanctions**

- Rule 38(1) (administration is encouraged to use conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts)
- Rule 36 (least restrictive measures possible to maintain security of operations)
- Rule 39(2) (disciplinary action should be proportionate to the offence and proper recording keeping of all disciplinary sanctions should be kept)

### **Legal representation**

- Rule 53 (incarcerated people can have access to and allowed to keep in their possession without access by the prison administration, documents related to their legal proceedings)
- Rule 61 (adequate opportunity, access, time and facilities to visit/communicate/consult with legal advisor of choice, for any reason, confidentially)

# **A Quick Reference Guide for Federally Sentenced Indigenous People**

If you are Indigenous, Inuit, or Métis, the conditions of your life in prison and on parole must consider several factors and principles related to your Indigenous rights and cultural context and needs. The requirement to consider your Indigenous rights and context is outlined in section 79.1 of the Corrections and Conditional Release Act (CCRA). All of Sections 79-84 can be used to support you as you navigate release from prison and should be referenced in your release planning, and in redress processes.

In addition to the laws as outlined in the CCRA, there are several documents pertaining to the rights of Indigenous peoples that can be useful to you. Though some of these are not legally binding, they can be helpful with supporting you since they are part of the public consciousness and can be used persuasively. They include the following:

MMIWG: Missing and Murdered Indigenous Women and Girls – Calls for Justice  
Truth and Reconciliation Calls to Action

UNDRIP: the United Nations Declaration on the Rights of Indigenous Peoples

## **For Issues regarding human security**

- MMIWG, Section 4.1 (related to social and economic rights)
- MMIWG, Section 4.3 (related to sex work)
- MMIWG, Section 4.5 (related to a livable wage)
- MMIWG, Section 4.7 (related to homelessness + poverty)
- MMIWG, Section 5.6 (related to supports for victims of crime)
- MMIWG, Section 14.3 (security classifications impacting access to supports)
- CCRA, Section 79
- UNDRIP Action Plan, Section 60 (list of what the Canadian Government is committing to continue practicing)
- Truth and Reconciliation, Sections 30-31 (Indigenous overrepresentation, funding)
- UNDRIP, Article 2 (freedom from discrimination based on Indigeneity)
- UNDRIP, Article 22 (2) (women + children free from violence)
- UNDRIP, Article 24 (1) (the right to traditional medicines and health practices)

## **For Issues regarding Indigenous justice system oversight**

- MMIWG, Section 5.7 (independent, Indigenous civilian police oversight bodies)
- MMIWG, Section 5.10 (recruit/train Indigenous justice officers)
- MMIWG, Section 5.12 (Increased Indigenous representation in the courts)
- MMIWG, Section 5.23 (regarding accountability in the form of a Deputy Commissioner for Indigenous Corrections)
- MMIWG, Section 9.3 (Increased Indigenous representation in policing)
- MMIWG, Section 14.10 (expanding the role of Elders)
- MMIWG, Section 14.11 (mother-child programming)
- Truth and Reconciliation, Section 32 (minimum sentencing discretion)
- Truth and Reconciliation, Section 34 (FASD offender reforms)
- Truth and Reconciliation, Section 50, 55 (Indigenous training and data)
- UNDRIP, Article 18 (Indigenous representation)
- UNDRIP, Article 19 (Indigenous consent before adopting legislation)



- UNDRIP, Article 34 (Right to Indigenous oversight)

### **Recognizing an Indigenous approach to justice**

- MMIWG, Section 5.1 (regarding the implementation of recommendations re. The Canadian Justice System from two key reports)
- MMIWG, Section 5.11 (culturally appropriate justice practices)
- MMIWG, Section 5.14 (impact of mandatory minimum sentences)
- MMIWG, Section 5.15 (Gladue reports)
- MMIWG, Section 5.16 (Indigenous options for sentencing)
- MMIWG, Section 5.20 (Implementation of CCRA Sec. 79 to 84.1)
- MMIWG, Section 5.22 (a call to return to the key principles set out in Creating Choices)
- MMIWG, Section 14.1 (options for decarceration)
- MMIWG, Section 14.5 (Gladue reports)
- MMIWG, Section 14.8 (Indigenous specific programming)
- CCRA, Section 79-84 (Indigenous programming and release to community)
- UNDRIP Action Plan, Sections 61, 62 (reduce incarceration, support reintegration)
- Truth and Reconciliation, Section 35-37 (healing lodges, supports, parole)
- Truth and Reconciliation, Section 42 (Indigenous justice system recognition as a treaty right)
- UNDRIP, Article 8 (1) (Right to not be assimilated)

## **Part 3: Systems Level Thinking**

This section will provide an overview of “system-level” thinking and encourages you to think of every issue as a systemic issue, which is an issue that relates to an entire system. You’ll read about some of the most reported systemic issues, as well see references to some of the as the laws and policies you can draw on in your advocacy. We also provide suggestions on how to build systems level solutions.

## **A Systemic Lens: Seeing Every Issue as a Systemic Issue**

This chart is included to assist you to understand how CAEFS Regional/National Advocates categorize issues that are commonly experienced in penitentiaries. The column on the left provides headings to overarching systemic areas that impact federally incarcerated women and gender diverse people. The middle and right columns include keywords and common scenarios that are associated with each systemic area.

<b>Systemic Issue</b>	<b>Keywords</b>	<b>Details to look for</b>
<b>Conditional Release</b>	UTA; ETA; Day Parole; Full Parole; Parole Hearing; Revocation; Suspension; Correctional Plan; Paperwork; Parole Officer; Release Planning; Community Residential Facility (halfway house)	Access to UTAs, ETAs, Parole (Day and Full) - this would include cancelations, denials; Accuracy of Correctional Plan (cp) --> file corrections and accuracy of information in c.p. and other written reports about individuals; Delays in parole hearings and being told to put back parole hearings; Access to CRFs (denials); Revocations and suspensions; other challenges with institutional or community parole officers that don't amount to 'mistreatment'; Release planning.
<b>CSC Work and Core Programs</b>	Core Programming; Exclusion Based on Conviction Appeal; Employment Programming; Pay Level; Suspension; Termination; Education	Any issues with accessing/ participating in core programs (related to correctional plans WOMIP, etc.); Work (access to jobs, pay, pay review); Education (to completion of high school)
<b>Discrimination based on a protected class</b>	Age; Ability; Race; Nationality; Ethnic Origin; Color; Genetic Characteristics; Religion; Sex; Sexual Orientation; Gender Expression; Gender Identity; Marital Status; Conviction; RADAR System	Discriminatory practices based on the grounds to the left. Some ways that these might manifest: Aging issues (mobility, late counts); Intimate relationships (not permitting couples to live together); Trans-specific concern (access to gender-affirming care; Racism (internal movements based on race; access to culturally relevant supports and programming) being overly watched and monitored (associated with protected class)

<b>Systemic Issue</b>	<b>Keywords</b>	<b>Details to look for</b>
<b>Health/ Wellbeing</b>	Food; Mental Health Care; Dental Care; Physical Health Care; Chronic Illness; Doctor; Specialist; Nurse; Harm Reduction Supplies; Medically Assisted Dying; Treatment; Showers	Food (quality, portions, diet); Access to health care; Quality of care; Medications, access to treatments/surgeries; Dentists (access and quality); Exercise; Mental health (access, quality, confidentiality); Access to harm reduction supplies (condoms, needles, bleach, dental dams); Access to showers
<b>Indigenous Specific</b>	Section 81; Ceremony; Elders; Programming; Cultural Practices; CSC Interference;	Access to cultural supports; differential treatment; coopting of Indigenous ceremony and practice by CSC, section 81's
<b>Physical/Material Condition of Institution</b>	Small appliances; Cleaning Supplies; Safety; Temperature; Physical Infrastructure; Physical Accessibility; Large Appliance; Prison-Issued Clothing; Prison-Issued Supplies; Overcrowding; Privacy	Access to cleaning supplies; temperature; maintenance issues; broken or unavailable appliances / amenities/cookware, windows, accessibility (ramps/grab bars), prison issued necessities (clothing, hygiene products, blankets and other bedding)
<b>Mistreatment/ misconduct by Staff</b>	Comments; Actions; Harassment; Profiling; Staff acting outside of Authority; RADAR system	Comments, actions or practices that disregard/harm people but which do not seem to fall into discrimination based on a protected ground; generally demeaning and/or abusive behavior; staff aggression, intimidation; being overly watched and monitored (without being associated with protected class)
<b>Movement and Transfers</b>	Involuntary In Prison; Involuntary Between Prison; Targeted movement; Restricted Movement; Lockdown (Unit Specific); Lockdown (Prison Wide); Habeas Corpus; Level System	Involuntary transfers within the prison (from house to house or unit) and between prisons; Lockdowns (for individuals, units, or whole prison); Restricted movement (staff shortages or other); Habeas Corpus; Level system (Level A, B, C, D) in max;

<b>Systemic Issue</b>	<b>Keywords</b>	<b>Details to look for</b>
<b>Security Classification</b>	Increased classification; Delays; Accuracy of Information; Override;	Increase in security classification; Delays in reclassification; Accuracy of Information
<b>Sexual Violence or Coercion</b>	Strip Search; Frisk Search; Pat Down; Sexual Relationship with Staff; Sexual Assault; Body cavity search	Strip searches; Frisk Searches; Sexual relationships with staff; Sexual assault; body cavity search
<b>Solitary Confinement</b>	SIU; Dry Cell; Mental Health  Monitoring; Max Unit; Time  Outside Cell; Meaningful Human Contact; General  Population Events; Segregation	SIUs; Dry celling; Mental Health Watch; Max Units (all issues in max unit are also issues of solitary confinement as CAEFS believes max is a form of solitary confinement)
<b>Use of Force and Physical Restraints</b>	Spraying; Handcuffing; Other Physical Restraint; Escort Vehicles; Chemical Restraints;	Spraying; Handcuffing; Physical restraints; Transfer in CSC escort vehicles (safety, lack of seatbelt); forcing someone to take medication that impedes their ability to function
<b>Evidence of failure to use "least restrictive measures"</b>	The CSC has a legislated duty to always act in accordance with the least restrictive measures, so this is a frame you should become very familiar with. Consider all of the issues above through the lens of how they may or may not be considered a least restrictive measure.	



## **Systemic Responses: Democratic Processes in Penitentiaries**

Systemic issues are often most effectively addressed through systemic responses. These means that rather than just focusing on solving issues for an individual, we look to see how an issue can be resolved in ways that help everyone who may be impacted, and work to prevent the issue from happening again.

In order to do this, it is often most effective to work on responses collaboratively and collectively. One way to do this is by engaging in democratic processes while you are incarcerated.

Federally sentenced women and gender diverse people retain all rights as members of the general Canadian public except those that are necessarily restricted. You retain voting rights in prison!

Moreover, there are several democratic processes within the penitentiary environment that will support you having active decision making in relation to the conditions you experience, and the access to programs that you have. Due to the instable nature of prison, democratic structures can be difficult to maintain, but they remain very beneficial!

These include:

- Inmate Committees
- Cultural/Unique Identity Groups such as:
  - Indigenous Wellness Committees
  - Black People of Diversity Committees
  - Life and long-term sentenced People Committees
  - Older People Committees
  - 2SLGBTQIA+ Committees Unit Representatives
  - Peer Advocates

## **How to Start a Cultural/Unique Need Committee**

By starting a new group or committee in an institution, you can effect a lot of positive change. A group / committee will demonstrate that your cause is serious. The presence of an organized group will be an effective tool for you to voice the concerns of your group, and you are more likely to be supported in proposals and gain access and inclusion in whatever you pursue. To be supported, you must demonstrate that there is a need for this group or committee within the population.

One effective way to do so is to **ask people if they would likely join the potential group / committee**. Document how many people state that they would be members.

In more strict environments, you may consider asking people to **sign their names on a petition** to start the group and provide your petition to the institutional head.

**You will also need to create a constitution.** You can develop a constitution yourself, and ultimately, the institutional head will approve or deny your constitution. However, it is usual for a social programs officer or manager of programs to join you and want to edit your constitution alongside you.

The reason that employees want to edit your constitution is both because there are specific requirement CSC must address within it as it becomes a binding contract, and because they want to have knowledge about your project.

Once you have a demonstrated need and have a finished constitution, the institutional head should sign off (meaning support) your group / committee.

Your group may be based on culture, race, social identity, religion or activity. For example, you may want to begin a LGBTQ+ group or a prayer group or an environmental or education advocacy group.

The important policy to know if you are experiencing difficulties beginning your group is within CD 83 (INMATE COMMITTEES): 18. The Institutional Head may authorize the creation of alternate committee(s) to represent inmate issues using alternative mechanism where such a requirement exists, based on but not limited to incompatibles as well as numeric, cultural and religious considerations.

Once your group is supported, you should **advertise a meeting time, where you will follow the election process outlined in your constitution to create your executive committee.**

Your group / committee may meet regularly, may collect dues to put toward events, may meet with relevant management to discuss issues you are facing, and may put forward proposals.

Please feel free to utilize the format of this example LGBTQ+ constitution (below) as a template for constitution(s) you are developing!

## **LGBTQ2S+ for Change Constitution**

### ***“Choice, Hope, Advocacy, Non-Partisanship, Growth and Equality”***

#### Article I: Name and Objectives

##### a. NAME

The name of this group is LGBTQ+ for CHANGE. There are two acronyms within this group's name, which are expanded in definition below:

- Choice: to select freely, to make a selection, to have a preference for.
- Hope: trust, confidence, dependence, faith, reliance, stock.
- Advocacy: exponent, champion, expounder, proponent, supporter.
- Nonpartisan: just, equitable, impartial, non-discriminatory, objective, unprejudiced.
- Growth: development, evolution, evolvment, flowering, progress, progression.
- Equality: equivalence, adequation, equitability, par, parity, sameness.

##### b. PURPOSE

The purpose of this group can be divided into the following four categories:

1. To encourage a supportive, inclusive space for the LGBTQ+ community at the Fraser Valley Institution for Women (FVIW) where members may mutually connect and support one another.
2. To encourage positive dialog between CSC and the LGBTQ+ community at FVIW to encourage mutually respectful relationships.
3. To encourage education and awareness about out community with the intent of dispelling myth, fear, and stereotype about LGBTQ+ communities
4. To encourage connection between our institutional community and the LGBTQ+ community outside of FVIW

#### Article II: Membership

##### a. MEMBERSHIP

Active membership status is gained when a person has attended three consecutive meetings and paid dues accordingly. Prior to active membership, the title of new member may be used. Active members retain voting and motion privileges.

##### b. MEMBERSHIP SUSPENSION / TERMINATION

Suspension or membership may occur if a member fails to pay dues / attend meetings on three consecutive occasions without having come to an agreement with the executive. Members will be informed of membership suspension and given opportunity for reinstatement, should they wish to maintain membership.

#### Article III: Executive Members

#### a. EXECUTIVE

There will be a minimum of two executive members at all times: one position of Chair and one position of Secretary/Treasurer. A third position of Vice-Chair may be filled to assist the groups functioning. Executive roles are voluntary, and executives may step down at any point in time.

#### b. ROLES AND DUTIES OF THE EXECUTIVE

The executive will be an elected body representative of the purposes of the group. Duties shall include:

- CHAIR: to oversee all meetings, communication with institution, meetings with the institution, proposal writing, motions and voting, amendments to the constitution, reviews of suspensions / terminations, to have primary signing authority for group purchase orders (secondary also required), and to maintain institutional awareness about the group.
- VICE-CHAIR: To assist the Chair and to fulfill functions in the absence of the Chair person.
- SECRETARY/ TREASURER: To maintain financial records and to make these records accessible to members of the group on regular occasion, to take minutes of meetings, to assist in proposal writing, to research, to have secondary signing authority for group purchase orders, to manage due collection,

to make available financial statements to members in regularity, to maintain roster of members and to assist the Chair as required in absence of a filled Vice Chair position.

#### c. EXECUTIVE ELECTION

1. Executive members must be active members.
2. For voting of executive positions, secret ballots will be cast. Votes will be tallied in the presence of voting members and confirmed by an independent third person.
3. Voting will take place only when a position opens, and only after formal nominations have been recorded one meeting prior to an executive seat vote.
4. See Motions and Voting for voting regulations

### Article IV: Meetings

- a. Member Meetings will occur at least once monthly and will be adjusted to more if necessary, by member vote. Meetings will be facilitated by the Chair. Minutes of meetings will be taken by the Secretary / Treasurer and formatted in a general and consistent manner which meets the needs of the group.
- b. An annual PRIDE event will generally be made available to the general population. The structure of the event will fulfill the purposes of the group. Annual events will be proposed, organized and facilitated by the executive and members and will be approved and overseen according to structured event protocol by institutional management.

### Article V: Administrative

#### a. DUES AND FUNDRAISING

Unless otherwise agreed by a member vote, monthly dues will be contributed by members for the purpose of an annual event, and to obtain resources to fulfill the purposes of the group as required. Dues will be set at \$1 monthly and may be increased to a maximum of \$3 monthly. Adjustments will be made by member voting process.

Should a member wish to maintain membership but be unable to financially contribute, the executive shall take all reasonable measures to be inclusive and to make an exemption agreement for a period of time agreed upon by the executive and the member in question.

One annual fundraiser will also be proposed, organized and facilitated by the executive to fulfill the same functions as dues.

#### b. MOTIONS AND VOTING

- All voting will take place during meetings
- A majority vote of 51% represents a pass
- For voting to take place, at least 51% of members must be present
- The executive must be present for all voting
- Voting privileges are reserved for active members
- Motions will be raised at least one meeting prior to being voted upon

#### c. AMENDMENTS TO THE CONSTITUTION

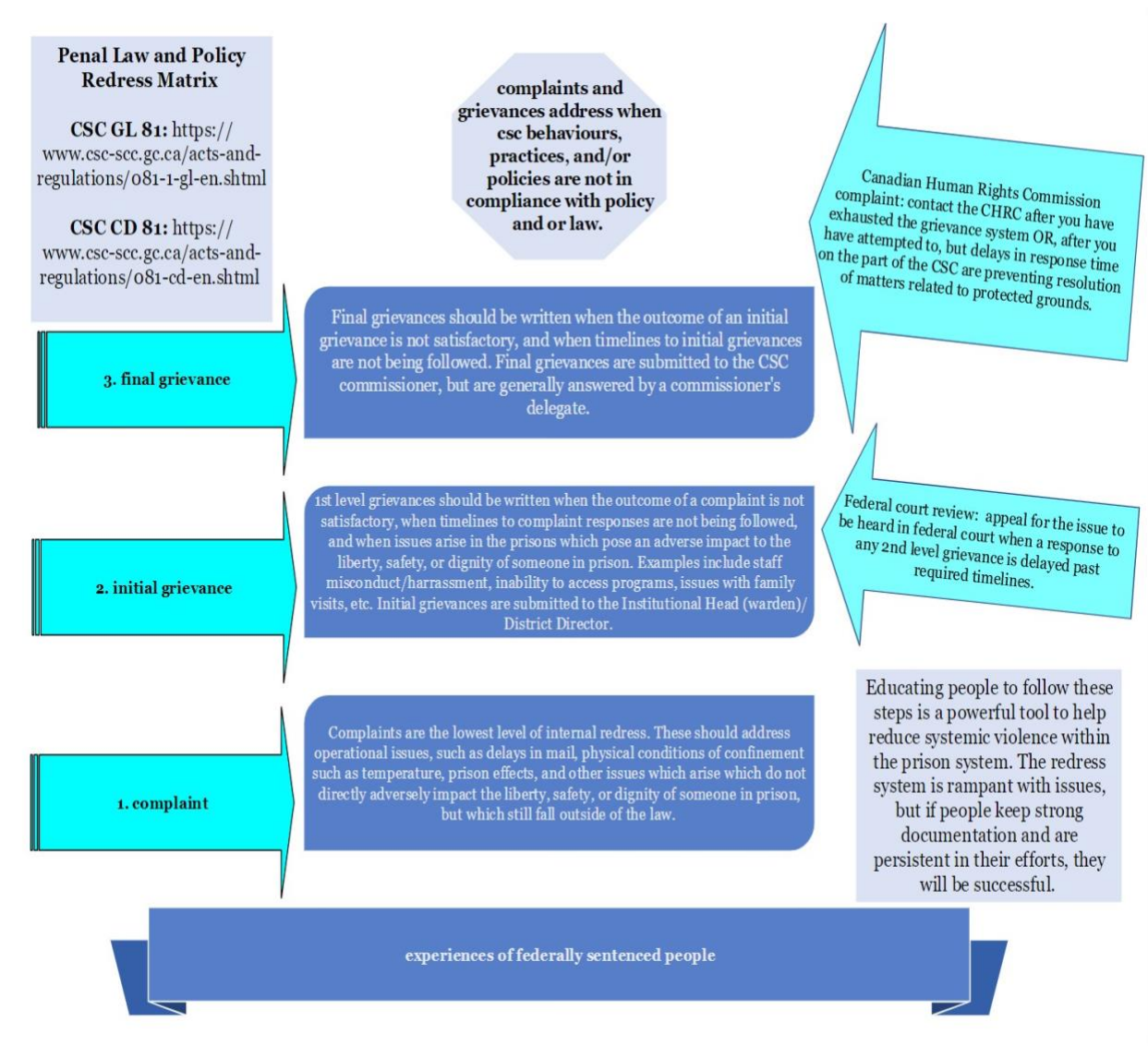
Any amendments to the constitution will be done under the authority of the executive and must have the agreement of the institutional management, and any article found to be contrary to CSC policy or Canadian Legislation will be null and void.

## **Part 4: The Redress Process**

In this module you will become familiar with the redress process available to you while you are incarcerated and how to use it effectively. This will include an overview of the redress process, how we frame this process at CAEFS, which redress to initiate in common situations, and how to write an effective grievance.

## The Redress Matrix

The following diagram illustrates the organization of the CSC's grievance system. It is generally important to begin at the lowest level (with some exceptions; see CD and GL 081), which is the complaint level.



**Remember:** Always encourage people to save all written requests, complaints, and grievances related to issues they face while in federal custody. Having an established record of documentation of an issue and attempted resolution will assist with external redress processes such as Canadian Human Rights Commission complaints.

## **The Grievance System:**

### **The Legislated Tool to Resolve Issues You Experience**

The grievance system is a legislated tool that you and others can use to document and resolve the issues that you face.

We know that grievances and complaints are sometimes understood to be adversarial or aggressive, but this is not the case.

We also know that the redress process is not perfect! As Peer Advocates, you can help to demonstrate that using the redress system can be effective and lead to positive systemic resolutions, which are in everyone's best interest.

Below, we offer some points to help you educate and raise awareness about the grievance process among your peers and with staff:

- When someone uses the grievance system, they are working through pro social channels to support the law being upheld. This demonstrates that they can resolve conflict in ways that demonstrates their preparedness for being in community as a law-abiding citizen (which is the purpose of the prison system).
- CAEFS (inclusive of Peer Advocates) foster a climate of legal literacy among incarcerated people, and utilizing the grievance process is an application of legal literacy.
- When a prison has a higher volume of complaints and grievances it shows that people feel safe to use the system that is available to them to resolve conflict and document their concerns.
- Grievances are used by stakeholders and / or decision makers who are removed from penitentiaries (such as the office of the correctional investigator, public safety, and CSC national headquarters) to have an accurate view of what is happening in penitentiaries and understand the challenges and concerns facing incarcerated people. When people are discouraged from using the redress process, it impacts decision making at the regional and national level. The redress system was designed intentionally and with reason.
- When individuals do choose to use the redress system, it also helps Peer and Regional advocates – and CAEFS leadership – to support in escalating your concerns to higher levels of decision making, where appropriate.

CAEFS trains people to use this process effectively, but remember that when you are supporting someone, they get to decide if they want to use this system. Please do not pressure or insist that anyone file a complaint or grievance. Instead, work with them to find other ways to document their concerns (be that through a request, letter, etc.).



## **How to Write an Effective Grievance**

This section provides instruction for writing complaints and/or grievances. The institutional grievance system is a pro social tool that you can use to productively resolve conflict, and a tool that you can use to gain an evidentiary basis for more systemic legal issues- such as constitutional challenges and human rights tribunals. There are many noted issues with CSC's grievance system including timelines not being followed, forms not being accessible or sufficient, power imbalances with CSC grievance responders which lead many to feel pressured to withdraw/resolve their issue without sufficient remedy, and more.

Despite these long-known issues, every person has a right to a fair and effective grievance system that is free from retaliation and/or adverse impacts for the person who files the grievance. To mitigate against these issues, the following content walks advocates through everything needed to write strong complaints/grievances.

### **How to Organize a Grievance:**

1. **Summary:** This section should contain a one or two sentence summary/overview of the issue.
2. **Background:** This section should include a detailed description of the issue, any steps that you have taken to resolve it, any secondary issues that the primary issue has caused, and any evidence/documentation that can substantiate your claim.
3. **Impacts:** This section should explain in as much detail as possible how the issue has caused harm to the individual.
4. **Law and Policy:** Include all relevant law and policy here. Refer to the important legal principle guide in Part 1 of this manual and call your Regional Advocates if you are unsure what to input in this section.
5. **Remedy:** This section needs to clearly list what solutions you want to be implemented from the complaint/grievance to resolve the issue. It is good to include multiple options, in list form, spanning personal, institutional, and systemic resolution. Tip: think about impacts on an individual and institutional level.

### **Checklist before filing a complaint and/or grievance:**

- Do I clearly present all relevant facts?
- Do I have evidence to support my statements (documentation, witnesses, CSC reports, charge sheets, written request responses.)?
- Have I explained clearly all of the impacts this issue has caused (mentally, physically, spiritually, economically, socially, emotionally, and in relation to adverse impacts on the ability to complete programming/a correctional plan and someone's ability to successfully reintegrate as a law-abiding citizen)?
- Have I connected the issue to relevant law/policy?
- Have I thought through whether I want an interview to further explain the content? Or, would I prefer to address this issue through textual record only? Tip: when people feel

pressured or fearful about coming forward with a complaint/grievance, it can assist to not utilize the interview process of the grievance system.

If you have completed the checklist above, you are likely to achieve successful results in utilizing the grievance system. As an advocate, it will be important for you to both know how to file successful complaints/grievances and for you to be willing to support others in the population to gain the same skill.

As an advocate, you will also be able to attend the interview process within the grievance process. You can act as an emotional support for individuals who are afraid to come forward, and your presence can ensure there is a third- party present to substantiate the conversation that occurs at later times.

## **Grievance Template**

The following grievance template uses the 5 standard sections that CAEFS recommends should be included in the drafting of a successful grievance. It also includes example content to demonstrate the type of content that will fill each section. The content is not meant to be exhaustive, but to serve as a guidepost for the kinds of content that would be written into an actual complaint/grievance.

You will note that the complaint/grievance forms provided by the CSC generally do not provide sufficient space to follow these recommendations. Accordingly, you can write "please see attached" in the body of the CSC form, and then include additional sheets of paper with your content.

### **Summary**

On September 27th, I was involuntarily transferred to a higher security classification without reason, and have been held in the maximum-security unit for two weeks now without access to my parole officer. My statutory release is in two months and this involuntary transfer is preventing me from completing my correctional plan, and is jeopardizing my successful reintegration into the community.

### **Background**

I was handcuffed and taken from my unit by 6 staff members to the max. I was taken out of all the programs and positive activities I was doing in the medium security, and taken from all my positive support. I filed a request to the SIO and received a response that there is an ongoing investigation relating to information received about me being in the drug subculture. This information is not true. I do not have as much access to holistic, outdoor space in the max. I have also not had access to my proper Halal diet since being kept in the max.

## **Impacts**

Being handcuffed by 6 staff members triggered me and had adverse impacts on my mental health. In the max, I have much less freedom of movement and this has been hard also on my mental health. Moreover, because I have information that I have been placed here because of allegations, I have lost my sense of security, as I feel like any one can make any allegation against me and I will be harmed and punished. My statutory release is approaching in two months and without access to the programs and services in the medium security, my chances of successfully reintegrating into the community are significantly reduced. I need access to the programs on my correctional plan, and I am very concerned that my voice and needs have not been included in correctional decision making about me. I feel upset and insecure, and I feel like I am being punished without a fair process. All of this on top of not being provided my religious diet, my wellness has deteriorated significantly since I was involuntarily transferred.

## **Relevant Law, Policy and Mandates**

CCRA Section 4; CCRA Section 3; CSC CD 705-7; CSC CD 880; CSC GL 880-3;

## **Remedy Sought**

1. Please return me to the medium security compound immediately
2. Please facilitate access to all of the programs and services that I have been kept from by this transfer
3. Please include my voice and needs in correctional decision making about me
4. Please do not resort to involuntary transfers to higher security classification as the first response to an issue in correctional decision making involving anyone in this population, given the substantial negative impacts this transfer has on me.
5. Please provide written rationale outlining the decisions that were made in relation to increasing my security classification.
6. Please provide me with access to my halal diet immediately, and please provide written rationale as to why I have not been provided with my religious diet.

## **Selecting Which Redress to Initiate in Common Situations**

This chart provides suggestions to assist you in selecting which processes to follow to recommend/follow related to common advocacy issues and provides further suggestion for what processes to follow when unsatisfactory results are achieved at lower levels. These suggestions are not exhaustive - they are meant to serve as a guidepost for standard actions that can be recommended in these situations.

<b>Common Issue</b>	<b>Recommended first step</b>	<b>Recommended Action(s)</b>	<b>Escalation (Resolution at lower level not achieved)</b>	<b>Escalation (Resolution at lower level not achieved)</b>
Mail not being delivered	Request to CM V&C	Complaint	Initial level grievance	Final level grievance
Count not being cleared on time	Request to A/WO	Complaint	Initial level grievance	Final level grievance
Visitor suspended	Request to V&C	Initial level grievance	Final level grievance	
Visitor refused entry	Request to CM V&C	Complaint	Final level grievance	
Cell/unit too hot or cold	Request to A/WO	Complaint	Initial level grievance	Final level grievance
Cannot access program	Request	Complaint	Initial level grievance	Final level grievance
Involuntary transfer to higher security classification pending review	Initial level grievance & written submission contesting placement	Final level grievance		
Security classification increased	Final grievance and request to legal aid and access to lawyer	Habeas corpus application		
House move not supported	Request to CM house moves	Complaint	Initial level grievance	Final level grievance
Has institutional charge (major)	Request to CM court and charging officer asking for informal resolution	Request to see legal aid and have access to lawyer for hearing		
Has institutional charge (minor)	Request to CM court and charging officer asking for informal resolution	Complaint	Initial level grievance	Final level grievance
Issues with outside purchasing	Request	Complaint	Initial level grievance	Final level grievance

<b>Common Issue</b>	<b>Recommended first step</b>	<b>Recommended Action(s)</b>	<b>Escalation (Resolution at lower level not achieved)</b>	<b>Escalation (Resolution at lower level not achieved)</b>
Issues with food	Request to food services	Complaint	Initial level grievance	Final level grievance
Issues with healthcare (non-urgent)	Request to health care	Complaint	Initial level grievance and Complaint to college of surgeons and physicians	Final level grievance
Issues with healthcare (urgent)	1st level grievance and request to warden	Complaint to college of surgeons and physicians	Final level grievance	
Cannot access parole officer	Request to parole officer	Complaint to manager of parole officers	Initial level grievance	Final level grievance
Issues related to strip search	Request	Initial level grievance	Final grievance	
Pressure to waive parole hearing	Request	Complaint	Initial level grievance	Final level grievance
Access to education	Request to chief of education	Complaint	Initial level grievance	Final level grievance
Issue related to prison employment position	Request	Complaint	Initial level grievance	Final level grievance
Involuntary transfer to another penitentiary	Final level grievance and Retention of outside council where possible	Habeas corpus application		

## **Advocacy and the Disciplinary System**

As per section 41 of the CCRA, institutional disciplinary charges should only be used by the institution as a last resort, after less restrictive efforts have been exhausted:

### Informal resolution

- 41 (1) Where a staff member believes on reasonable grounds that an inmate has committed or is committing a disciplinary offence, the staff member shall take all reasonable steps to resolve the matter informally, where possible.
- (2) Where an informal resolution is not achieved, the institutional head may, depending on the seriousness of the alleged conduct and any aggravating or mitigating factors, issue a charge of a minor disciplinary offence or a serious disciplinary offence.

CSC Commissioner's Directive 580 further emphasizes this requirement and directs that informal resolution must be considered when laying institutional disciplinary charges, both at the major and minor level.

There is a further requirement that, should initial attempts at informal resolution not be successful, a follow-up attempt will be made.

However, sometimes staff who recommend charges, and supervisors who authorize charges are not fully aware of this legislation/policy, or its implications. Although legislation and policy clearly state that the institutional disciplinary system should only be used as a last resort, or most restrictive scenario, some staff persons mistakenly assume that this means that charges should be initiated after a verbal/written warning has been given, but this approach remains overly restrictive of and in violation of policy requirements.

Most charges can and should be resolved outside of the institutional disciplinary system. It is important to always advocate for informal resolution, as charges can result in increase of security classification (in addition to prolonged periods in higher security levels) and are thus a serious impediment to liberty and reintegration goals.

For example, even where the presence of institutional disciplinary charges do not lead to increased security classification, there are additional adverse individual and systemic issues, including:

- Biasing paperwork and future decision making
- The presence of punitive sanctions
- Ongoing criminalization of impacted persons
- An increased adversarial environment between employees of the CSC and federally incarcerated people

Steps to follow when advocating with people who have institutional disciplinary charges:

### **Pre-hearing**

1. Check for accuracy of information on the charge and file a request to the involved correctional manager asking for any inaccuracy to be resolved immediately (see step 9).
2. Determine if consideration of informal resolution was sufficiently made by the institution:
  - a. Verify if the informal resolution attempted box on the charge papers indicates attempted or not attempted.
  - b. If informal resolution was not attempted, verify if a reason was given in writing. If informal resolution was not attempted and a sufficient reason was not provided, seek for the charge to be withdrawn, and for informal resolution to be initiated. (see step 3)
  - c. If informal resolution was attempted but was unsuccessful, determine if a follow up attempt was made by the charging officer(s) or by the correctional manager who authorized the charge. Policy indicates that follow up attempts for informal resolution will be made.
3. Submit a written request to the correctional manager who authorized the charge, using the following language: "I would like to informally resolve the (major/minor) charge for (list designation of charge) on (list date)." The person can also add any supporting/mitigating information in the request, especially information that expresses how the charge will create adverse impacts, and/or how and why informal resolution is appropriate. \*Note that the person does not have to include supporting/mitigating information to meet policy requirements, but that doing so is often an effective way to help charging officers to see the merit of informal resolution, and to come to agree with the process. This often has the implicit effects of speeding up the process and decreasing adversarial climates between staff and incarcerated people. bring all documentation of attempts to informally resolve to the hearing.
4. If initial attempts at informal resolution were not successful, ask if a follow-up attempt can be made, as per paragraph 12 g. of CSC CD 580.

### **At the hearing**

5. If step 3 and 4 are unsuccessful, bring all documentation demonstrating attempts to informally resolve to the hearing. Present the documentation to the Independent Chairperson (major charges) or Correctional Manager (minor charges) and ask that the charge be withdrawn and that informal resolution be initiated. Having a written request demonstrating that informal resolution was not considered and/or that the person charged has attempted to initiate informal resolution and was not supported is sufficient documentation to have a charge withdrawn.

6. Also submit evidence demonstrating that the use of the formal disciplinary system will have adverse impacts on the charged person's ability to complete their correctional plan. This will generally be the factual case for every person charged.

### **Where informal resolution is not possible**

7. When an agreement for informal resolution cannot be reached, follow step 6 and present evidence about the charged person's social history, their background, and any unique needs that they have. CSC policies must be responsive to a person's racial, ethnic, gender, mental health, ability, and other unique factors. Make sure to clearly demonstrate any adverse impacts a guilty finding/related sanctions will create.
8. It is very important that any factual inaccuracies in the charge summary be corrected, even when a guilty finding is likely. Descriptions of charges will be added into all major A4D's (all major decision making) about the charged person, and mitigating factors/context about the charge needs to be included to minimize the biasing impacts of biased paperwork that impacts an individual in the future.
9. Ensure that any sanctions imposed are considered by the least restrictive test; that is, could another sanction be implemented that will be less harmful to the person. If so, advocate for a lesser sanction.

### **Following unsatisfactory outcomes at hearings**

10. The grievance system can be used for procedures or decisions related to hearings for minor offences pursuant to CD 081.
11. Decisions rendered by the Independent Chairperson cannot be grieved. However, at the discretion of the Independent Chairperson, the case may be re-opened if new evidence is brought forward, or if evidence of a procedural error is presented. The Serious Disciplinary Hearing Advisor will liaise with the Independent Chairperson to ensure that the charged person receives a clear explanation of any changes to the status of their case.
12. Major court decisions made by the Independent Chairperson must be challenged by an application for Judicial Review through the Federal Court, Trials Division.

*Note\* If restriction of movement to a particular area or cell that is normally accessible is used as a type of informal resolution for a disciplinary offence pursuant to section 41 of the CCRA, it will: be immediately reported to the Institutional Head or delegate not exceed eight hours, unless approved by the Institutional Head.*



## **Advocacy and Security Reclassification**

Involuntary reclassification to higher security classifications is one of the most serious issues that commonly occurs in penitentiaries designated for women that advocates can positively intervene in. It is especially important to advocate for people during the 30-day period between when they are transferred to a more restrictive classification pending review, prior to a decision being made by the Institutional Head. There are a few important ways you can advocate with people at this stage:

1. Ensuring they have received written reasons within 72 hours of placement in a higher security classification outlining the reasons for the involuntary transfer. Where paperwork was provided, ensuring that it was filled out correctly and fully by the CSC, and ensuring that the impacted person understands what has been claimed.

Where written information about the transfer is inaccurate and/or unclear to you and/or the impacted person, a request should be filed immediately to the report writer asking for clarification and correction.

2. Ensuring they have as much access as is possible in your region to contact a lawyer to initiate a habeas corpus application.
3. Suggesting that they file a written request to their case management team as soon as possible asking if they have support to be maintained at a lower security classification and indicating that placement in a higher classification will adversely impact their wellness and their ability to follow their correctional plans and successfully reintegrate into the community.
4. Supporting them to prepare written submissions concerning the placement that demonstrate why a less restrictive environment is the most appropriate solution.
5. Advising them of the option to submit a grievance in relation to the transfer and secondary impacts of the transfer and supporting them in that process where requested.
6. Offering to attend the security reclassification review with the individual, and offering to submit your own rationale to not reclassify the individual. Tip: If you prepare your own submission, do make sure the individual sees it and approves of it prior to you sending it to the Institutional Head.

Following unsatisfactory decisions to reclassify a woman or gender diverse person at a higher classification:

If, at the 30-day security classification hearing, the Institutional Head decides to increase the security classification of the individual, here are additional advocacy approaches you can take:

1. Contacting Regional Advocates to initiate the habeas corpus process, where support from a lawyer has not already been gained.
2. Supporting the individual to file a final level grievance, in as much detail as possible, as soon as possible.
3. Working with the individual to develop a structured plan for reclassification to a lower security level as soon as possible. CSC has made several commitments to reducing the security classification of women and gender diverse people and especially to Indigenous people at intervals between 4 and 6 months. Submit this plan in writing to their institutional Parole Officer and to the Institutional Head. Demonstrate how reclassification to a lower security will support rehabilitation and reintegration. Ask to be provided with a timeline that the individual will be supported to be reclassified in.

## **Part 5: Advocacy Skills**

This section provides an overview of important skills that will help make your advocacy more effective.

## **De-escalation and Conflict Resolution**

When you are in a situation where you feel that something is happening to you (or to someone else) that is unjust or unfair, **but where your / their personal safety is not at risk**, we encourage you to remember the phrase ***“comply then complain”***.

To ***“comply then complain”*** is to follow instructions given by staff, even if you know that they are against law or policy. Or, to not react when you are experiencing / witnessing an injustice, and instead find a way to remain as neutral as possible.

***Remember: this guidance only applies when you or someone else’s personal safety is not at risk.***

In many cases, if you react in the moment or refuse to follow an instruction, it can have negative impacts for you and others. Remaining calm, and walking away if needed, can help to deescalate the conflict, and keep you and others safe.

**We suggest this while understanding and acknowledging that it is not fair that the responsibility to deescalate these situations falls to you** – but walking away in the moment helps to best positions you to resolve the conflict effectively and persuasively in the long term through documentation / the redress process.

Should you decide to follow the guidance of “comply then complain”, know that you can have a tremendous impact because it will lead to more effective and persuasive conflict resolution. As an advocate, working to deescalate situations will also support your ability to have productive discussions with institutional management to address systemic issues.

We also know that it would be impossible to always do this or do this perfectly. We are all human and we have feelings and reactions that are sometimes not possible to fully control, despite our best efforts. ***We also acknowledge that this approach is not for everyone - and that too is okay.***

## **Confidentiality and Consent**

Incarcerated people have limited access to confidentiality, and so a priority for CAEFS is to ensure that our practices respect and center confidentiality and consent. This is built into our documentation processes and trainings. Prioritizing confidentiality and consent is an expectation of all of our peer and regional advocates.

As you take up advocacy:

- be mindful of how you take notes regarding people's concerns, knowing that documentation can sometimes be confiscated or read by CSC staff. Please follow the direction of the Lead advocate in your region regarding documentation practices.
- do not share people's personal information or concerns with other people.
- do not raise someone's individual concern with staff or management without their consent (which includes having a signed consent form).
- work collaboratively with people to support them in resolving their concerns. Talk through any planned next steps and ensure that they have consented.

Always work to prioritize people's safety and confidentiality.