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# **Standing Committee on Public Safety and National Security**

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**EVIDENCE**

**Thursday, December 1, 2016**

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**Chair**

**Mr. Robert Oliphant**



## Standing Committee on Public Safety and National Security

Thursday, December 1, 2016

•(1530)

[English]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** Good afternoon and welcome to this, the 47th meeting of the Standing Committee on Public Safety and National Security.

Today, pursuant to Standing Order 108(2), we're receiving a briefing on the 2015-16 annual report of the Office of the Correctional Investigator. We are very pleased to have the correctional investigator of Canada, Mr. Howard Sapers, with us today, as well as his executive director, Ivan Zinger.

Thank you very much for making yourselves available to this committee. The committee has had a chance to look at the annual report. We want to have an opportunity both to hear about your annual report and anything you want to convey to the committee members about it, but also to give us a chance to congratulate you on your new appointment, wish you well, and wish you a safe return to Ottawa at some point in the future.

Take it away. Frankly, you have as long as you'd like, this being our swan song. We very much want to hear from you.

Just to let the committee members know, I am hoping at five o'clock to move to committee business. We have, then, an hour and a half with Mr. Sapers, and then bells at 5:15 p.m.

If that works, we'll try to move into that framework.

Mr. Sapers.

**Mr. Howard Sapers (Correctional Investigator of Canada, Office of the Correctional Investigator):** Thank you very much, Chairman.

I have never heard those words before, that I have as long as I want. That adds to the privilege I'm feeling this afternoon. It has always been a privilege to appear before this committee. I really appreciate the opportunity to meet with you for what will no doubt be my last time in this capacity.

We've had many opportunities to discuss many important issues. Some of the things I'm going to share today with the committee you've heard from me before, but as I always say, I'll repeat myself until everybody has listened. Some of it will be new, and of course there will be lots of time for questions.

Chairman, thank you again.

Joining me this afternoon is Dr. Ivan Zinger, who is the executive director in the Office of the Correctional Investigator.

The Minister of Public Safety tabled the annual report in Parliament on Halloween, on October 31, 2016. It was my 12th annual report and the 43rd annual report from the Office of the Correctional Investigator, so there's a long history and a tradition of having these kinds of discussions.

Fittingly, this year's report provides an assessment of corrections today, but also a blueprint for what I believe would be a comprehensive reform. Untypically, the report contains 27 recommendations. That's more than I think is reasonable. I thought it was necessary.

The report was directed, as you know, towards a new government, and it deliberately repeats some recommendations: some that have not been accepted, some that were never adequately answered, others that were ignored or dismissed entirely, and still others that have just languished unaddressed.

The report also includes some new recommendations targeting, for example, transgender inmate rights, the role of health providers in corrections, as well as operational concerns involving the new minimum security units at the regional women's facilities.

I believe it is a very balanced and impartial report, but as I said, it's lengthy. I hope it serves this committee well as an accountability report on the Correctional Service of Canada's operations. In spite of progress on some files, there continues to be no shortage of areas in need of improvement.

I am pleased that this year's report and recommendations have been met with a renewed and refreshing degree of responsiveness from both the Correctional Service of Canada and the minister. This is positive and encouraging, and it bodes well for a smooth and successful transition to the next correctional investigator for Canada. I leave my current position fully and completely confident in the future of the office and in its relationship with the Correctional Service.

There are a number of issues that stand out in consideration of this year's report.

Number one is the unabated increase in the number of indigenous people behind bars, now at a rate surpassing 25% of the total incarcerated population. The cycles of intergenerational trauma, poverty, and blocked opportunity that continue to bleed into our jails and prisons remains a scourge on Canada's human rights record.

There is the demonstrated but unfulfilled need for more educational, vocational, and skills training programs in corrections. More than three-quarters of all people admitted to federal custody today do not have a high school diploma. Most have never had a reliable income or held a steady job.

There has been inadequate progress in preventing deaths in custody. My office continues to investigate in-custody deaths in which the staff response was inadequate, delayed, or frankly, bungled. The prison suicide rate remains stubbornly high, while the median age of natural mortality remains persistently low, averaging just 62 years of age.

The need for alternative service delivery arrangements for offenders who are significantly mentally ill or who chronically self-injure or who are suicidal remains an urgent need and as desperate as ever.

• (1535)

The number of use of force incidents involving chemical and inflammatory agents is alarming. The use of pepper spray on inmates has tripled since 2011. The use of these agents is so ingrained, pervasive, and routine that it threatens to displace more dynamic, less coercive ways to deal with conflict behind bars.

The prison system is increasingly ill-equipped to provide for the health care needs of an inmate population that is growing older and sicker. We need to find better, safer, and less costly options to manage a growing subpopulation that poses the least risk to public safety yet is among the most expensive to incarcerate.

These concerns are not new. Even with the renewed responsiveness to this year's report, many of the actions and undertakings of the Correctional Service of Canada in response to my recommendations involve future study, consultation, review, or preparation of a report of one kind or another.

While consultation and careful study are necessary, the office has been reporting on many of these issues annually since my initial appointment in 2004. The problem areas are now deeply and firmly entrenched. They're well defined. They're well known, and there's been a lot of time for study.

I want to take my remaining time with you this afternoon to outline areas of mutual interest and intersecting priority among my office, your committee, and the government's stated intentions in criminal justice reform.

From the Prime Minister's mandate letters, four broad areas stand out to me: number one, addressing overrepresentation of indigenous peoples in federal corrections; number two, establishing additional legal limits on the use of segregation/solitary confinement in Canada; number three, implementing outstanding recommendations from the inquest into the death of Ashley Smith; number four, conducting a comprehensive review of the criminal justice system.

There are many ways to advance these areas without having to undertake substantial and lengthy legislative reform. Among them is included the implementation of these unmet recommendations:

Number one, appoint a deputy commissioner of indigenous affairs for federal corrections.

Number two, ensure that aboriginal-specific provisions of the Corrections and Conditional Release Act are used to their fullest and intended effect, including increasing the number of government-to-government agreements that would transfer the care, custody, and supervision of indigenous offenders to first nation, Métis, and Inuit communities.

Number three, establish 24 hours a day, seven days per week nursing coverage at all medium and maximum security institutions.

Number four, reallocate resources to better fund rehabilitation initiatives and community reintegration activities.

Number five, enhance human rights and correctional law training among front-line correctional staff.

Access to and quality of health care behind bars requires further attention. I believe it is in the public interest that the service's optimal care model of mental health care be independently validated.

It is also time for the Correctional Service to expand harm reduction measures that would more broadly mirror what is available and practised in the community.

Finally, there needs to be closer integration of institutional and community-based health services to better facilitate timely and safe reintegration.

The wider review and reform of Canada's criminal justice system needs to look at ways to strengthen independent oversight and accountability. These objectives could be achieved by the following measures:

Number one is signing the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, creating a national and international inspection system for all places of detention in Canada.

Number two is introducing independent adjudication to extend administrative segregation beyond 15 days.

Number three is establishing a patient advocate office in each of the five Correctional Service of Canada regional treatment centres.

Number four is creating a national round table on the prevention of deaths in custody.

Number five is ensuring the independence of the Parole Board of Canada's appeal division.

Progress in these areas would re-establish Canada among the world's leaders in human rights and corrections and help restore public trust and confidence in parole and correctional decision-making.

A specific review of the Corrections and Conditional Release Act, CCRA, should also be undertaken in the context of broader system review.

•(1540)

Several aspects of the CCRA require immediate attention, including:

Number one, independent adjudication and the prohibition of administrative segregation for certain classes of offenders, e.g. those who have significant mental health issues, are chronically self-injurious, or suicidal.

Number two, a review of the purposes and principles of federal corrections to better reflect the Charter of Rights and Freedoms.

Number three, entrenchment of Gladue or aboriginal social history factors as a mandatory requirement in any decision that impacts the retained life, liberty, or security interests of an indigenous offender.

Adding to this list, I would also include a number of areas related to parole that, if changed, could remove unnecessary barriers to safe and timely reintegration: the need to re-establish accelerated parole reviews or presumptive release for first-time, non-violent, federal offenders; a review of parole ineligibility periods; an assessment of the need for in-person hearings for post-suspension decisions and for mandatory reviews for residency conditions; and a review of record suspension provisions, including mandatory waiting periods and application fees.

Finally, there are many reforms outside of federal corrections that could have a positive impact on correctional outcomes, including the overrepresentation of indigenous people in prison and the criminalization of the mentally ill, for example: enhanced judicial discretion for victim fine surcharges; increased judicial discretion for most mandatory minimum penalties; federal funding to support legal aid representation for indigenous accused to ensure that Gladue social history factors are considered by all levels of courts and throughout their sentence administration; a review of alternatives to incarceration, including conditional sentences, bail, and specialized courts; reforms to the criminal justice system to better address the needs of offenders dealing with fetal alcohol spectrum disorders.

Chairman and committee, thank you for your ongoing interest in the work of the Office of the Correctional Investigator. I value the time you have given me today and I look forward to your questions.

**The Chair:** Thank you very much, Mr. Sapers.

Mr. Spengemann.

•(1545)

**Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.):** Mr. Sapers and Dr. Zinger, thank you very much for being here. Thank you for your important work.

Mr. Sapers, to you especially, thank you for your long-standing service in this field. I offer you the very best wishes in your new role.

I would like to spend my seven minutes with you on the area of our indigenous communities and their relationship with the federal correctional system. In fact, early in its mandate this committee expressed some interest on the part of at least some members in doing something about this area. I'm very mindful of what you said about further studies, but if you could take my questions through the lens of helping this committee formulate an approach to perhaps

becoming more involved with this very important issue, that might be helpful to us.

With respect to our first nations, our government has very much put front and centre the commitment to a nation-to-nation dialogue. That extends into issues we saw this week, such as the pipeline approvals. It extends into indigenous health and also infrastructure in the Far North with respect to clean water. But in few areas is the message as profound, I think, as it is in the area of corrections.

I want to put to you four general themes that I noticed from your report, but also from the third report of the Auditor General, "Preparing Indigenous Offenders for Release". We're dealing with overrepresentation, with access to correctional programs, completion of correctional programs, and then also the very important area of release and reintegration.

I want to add to that the very important question of indigenous women. I'm mindful of the report's comments on women in general, but if we use a gender-based analysis and we combine the two sets of being indigenous and being female, we have some heightened attention on some very pressing issues.

I want to put it over to you. Can you give us from your writing, from your report, the most salient messages, maybe beginning with the area of overrepresentation? Some say that isn't really the fault of the correctional system, because upstream there's a judicial process and people are being put into the system. That's a separate question, but how can we address overrepresentation with respect to giving better access to culturally specific programs?

Then, looking at the release process, how can we make it better and eliminate the risk of reoffending but also facilitate the reintegration into society?

**Mr. Howard Sapers:** I agree with you entirely that it's not the Correctional Service of Canada's fault that today 26.5% of the federally incarcerated population is of indigenous heritage. Recently my office reported the sad milestone of 25%, and it has gone up since then. There are upstream issues, broad social and structural issues that have to be addressed, but corrections owns an important piece of the solution, I believe.

You mentioned women. Nearly 37% of federally sentenced women are indigenous. That's one of the fastest growing subpopulations in federal corrections. The proportion of federally sentenced indigenous women, I believe—and, of course, Dr. Zinger is here to fact-check this for me—has doubled or nearly doubled during my tenure as correctional investigator of Canada.

You cannot disentangle all of the other issues that are part of our current discourse around the nation-to-nation relationship and this stark, dramatic, and unreasonable overrepresentation in our corrections system. The Correctional Service of Canada has identified this themselves as a priority.

In fact, identifying the problem is no longer the problem. Recently, this week in fact, I spent some time at a Gladue summit to try to address what, at least in the province of Ontario, could be done to address these issues. Gladue, of course, refers to the Supreme Court of Canada decision, a very fundamental decision. What was clear was that it's not just recognizing the impact of colonial contact; it's not just recognizing intergenerational trauma; it's not just acknowledging that there has been dislocation; it's actually then applying a lens that allows you to do analysis that will change outcomes.

In my opinion, that's where the Correctional Service of Canada is failing. The Correctional Service of Canada has developed healing lodges. The Correctional Service of Canada has an aboriginal corrections directorate. The Correctional Service of Canada engages with elders, has a national advisory committee on aboriginal issues. There are culturally specific programs. There are sacred grounds in most institutions. All of these things are positive, are important, are necessary, but they don't make that extra step.

I'll give you a specific example of what I mean. On many of the forms and the documents that the Correctional Service of Canada staff have to complete when they're in the process of making a decision, there's a box on the form for aboriginal social history, if you're dealing with an indigenous man or woman. What we see too often in that box is not an analysis of what that social history means and how it can be applied to the decision at hand. What we see is simply an acknowledgement that the social history was considered.

• (1550)

**Mr. Sven Spengemann:** May I ask you a sideline question? I don't want to interrupt your thought because it's important, but I have just a quick sideline question.

You mentioned the director of indigenous corrections or a senior person within the Correctional Service of Canada. How diverse is the body of correctional officers? Do we have enough first nations indigenous representation as correctional officers? If somebody who is not indigenous reads or looks at those factors, will he or she actually have a deep enough understanding of what they are about to reach a decision on that adds value?

**Mr. Howard Sapers:** You realize that you asked about six questions in that one.

**Mr. Sven Spengemann:** My time is very compressed, so I'm trying to get them in.

**Mr. Howard Sapers:** I'll try to be as quick as I can in addressing the issues, because they are significant.

In terms of equity employment, the Correctional Service of Canada does well. In terms of how well it reflects the client population, they don't do so well.

The question I have about that, however, is, would it be a success if 40% of the women who work in corrections were of indigenous

background? That doesn't address the problem. The problem is the overrepresentation. We have to be very careful about that.

The other issue is that you can do all the cultural awareness training and everything attendant to it that you want, but if you don't change culture—culture eats policy for breakfast—you're not going to have the impact; you're not going to have the outcomes you're looking for.

It's really tone at the top, and that gets back to the reason we're saying that in spite of the good people who work in that aboriginal corrections directorate, we need a deputy commissioner. We need a senior person whose sole focus is accountability for addressing indigenous corrections issues.

**Mr. Sven Spengemann:** Thank you.

**The Chair:** Thanks, Mr. Sapers and Mr. Spengemann.

Mr. Clement.

**Hon. Tony Clement (Parry Sound—Muskoka, CPC):** Thank you for being here, Mr. Sapers.

In my riding, I have a correctional facility called Beaver Creek. There used to be Beaver Creek and Fenbrook. They've amalgamated and are called Beaver Creek. It's an important institution, and it has to be run correctly, there's no question about it.

Forgive me for not knowing all of the history of the correctional investigator of Canada. Your role is to represent whom in the system?

**Mr. Howard Sapers:** The office was first established after a commission of inquiry into a riot at Kingston Penitentiary in 1971. It was established to address the findings of that inquiry, which in part concluded that the riot, which led to loss of life and massive property destruction, was ignited by the pent-up frustration of there being an inadequate and dysfunctional process for addressing legitimate concerns and grievances of the inmate population.

Parliament created the Office of the Correctional Investigator, first as a commission of inquiry under the Inquiries Act, and subsequently, post-charter, entrenched in law as an ombudsman for federal offenders, reporting to Parliament on maladministration within the Correctional Service of Canada and addressing the concerns of offenders.

That statutory authority—

**Hon. Tony Clement:** Are you an advocate for the offending population, then?

**Mr. Howard Sapers:** No. I am an ombudsman, which means that I'm independent and I'm neutral. I don't take sides.

**Hon. Tony Clement:** I see.

**Mr. Howard Sapers:** What we do is respond to complaints. We also identify systemic areas of concern. We make recommendations to the commissioner or to the minister to address those concerns.

**Hon. Tony Clement:** Would you, in the natural course of your work, be interacting with offenders but also with corrections officers and administration? Is that how it works?

**Mr. Howard Sapers:** Staff from my office, including me, meet with inmates primarily, but in the course of our work we meet with corrections staff, from the commissioner all the way down throughout the organization, to gather information, to negotiate redress, and to better inform our decisions.

**Hon. Tony Clement:** That's in response to a complaint or when you're reviewing a particular policy issue. You say you're independent, but it seems, in terms of the language you're using, that you're primarily there to represent the offender in the process. I don't want to put words in your mouth. I'm just trying to figure out...

If a corrections officer has an issue, does she or he go to their union with that issue, or can they go to you with an issue? Would you write a report that would have a corrections officer's point of view rather than an offender's point of view, if the two are dissonant? How does it work that way?

•(1555)

**Mr. Howard Sapers:** As an ombudsman, we can deal with complaints directly from inmates. We can take complaints from family members. We can also take a complaint from the Minister of Public Safety. We also have the ability to investigate on our own motion.

We receive information from Corrections Canada staff. We don't resolve their issues or their grievances. They have a collective agreement. They have other public service mechanisms, such as the Office of the Integrity Commissioner or the official languages commissioner, and all of the other accountability offices where correctional staff can go. If you go back to the history of the office, you see that the office was set up to respond to a particular need, which was to increase accountability in corrections for resolving inmate concerns to deal with acts, omissions, or decisions of the Correctional Service of Canada.

**Hon. Tony Clement:** That's fine. I just want to know where you're coming from. Obviously, most of my interactions are with the employees who are the corrections officers in the institution, and who also, at times, need someone who understands their very difficult job. At times, they're in a very difficult situation where management has expectations and where the public might have expectations. The offenders have rights, obviously, in our system, and sometimes it's the corrections officers who need a voice. It's a very psychologically difficult job that they have to do, and sometimes a physically perilous job. I just wanted to state that for the record.

Can I get to one more issue before I relinquish my time? Was it you who recommended to the minister an increase in prisoner pay?

**Mr. Howard Sapers:** Yes.

**Hon. Tony Clement:** Can you give me a bit more of your reasoning for why we should be paying prisoners more?

**Mr. Howard Sapers:** Well, it's pretty straightforward. Inmate allowances for work inside the institutions and for program participation were set in 1981. Since 1981, there has been an increasing financial burden on federally sentenced offenders to pay for things such as telephone calls. Also, a proportion of their incomes, such as they are, go towards room and board.

This allowance that was set 35 years ago also allows inmates to save for their release, and it allows them to maintain contact with their families. I don't know what the cost of a postage stamp is in terms of percentages since 1981, but if somebody wants to mail a birthday card home to their child or a Christmas card home to their family, they pay for that themselves. That money is used for canteen goods as well. If they want to buy something that's available through the inmate canteen, the cost of canteen goods has gone up nearly 800%, I believe, in that 35 years, but of course the allowances haven't—

**Hon. Tony Clement:** Do you worry at all that some of the money would be going toward funding addictions?

**Mr. Howard Sapers:** No.

**Hon. Tony Clement:** Why not?

**Mr. Howard Sapers:** Well, the most money you can make, the top of the salary range, if we can put it that way—it's not a perfect characterization—is \$6.90 a day. If you look at the contributions to inmate committee funds and the other expenses I was talking about, such as telephones, etc., you'll see that you don't have a lot of money to play with. Ten per cent of the income has to go mandatorily into your savings account; 15% has to go to the inmate welfare fund; 8% goes to paying for the telephone administration fee; 22% goes to food and accommodation costs; and then there's a 25% mandatory reimbursement if there's any outstanding debt to the crown, through victim fine surcharges and those kinds of things. It does not leave a lot of money to fuel addiction inside institutions.

**Hon. Tony Clement:** They're getting it from somewhere, I guess.

I guess my time is up?

**The Chair:** Your time is up.

Mr. Dubé.

[Translation]

**Mr. Matthew Dubé (Beloeil—Chambly, NDP):** Thank you, Mr. Chair.

[English]

Mr. Sapers, I'll add my voice to those of everyone who thanks you for your work, and I wish you the best in your new role as the Ontario corrections adviser. There's certainly a lot of work to do on that front as well, but thank you.

[Translation]

My question is once more about the indigenous population, which is overrepresented in the prisons.

In terms of the current situation, this week, the Auditor General reported on reintegration programs specifically with the indigenous population. Do you agree with the Auditor General on this matter? Do you believe that, if your recommendation was followed, the recommendation to appoint a deputy commissioner for indigenous affairs, it could partly fill in the gaps that the Auditor General identified this week?

•(1600)

[English]

**Mr. Howard Sapers:** Thank you for your question.

I'll tell you that I was immensely impressed with the insight that the Auditor General's report demonstrated in the area. Many of the findings are consistent with the findings of our office. In fact, all the findings are consistent. The recommendations are sound, and I was also very impressed with the swift and positive response from the Correctional Service of Canada.

I will note, however, that much of what they say in their response represents the status quo. It does not represent moving forward, and that has been the problem. I'll give you an example.

In 2012, my office tabled, for only the second time in its history, a report called "Spirit Matters", which was an examination into whether or not the Correctional Service of Canada had implemented the aboriginal-specific sections of the Corrections and Conditional Release Act, consistent with the will of Parliament. Our overarching conclusion was no, that it had not happened.

There is a section of that act that allows for the transfer of care and custody of indigenous sentenced offenders to indigenous communities. This is through the provision of healing lodges. It's section 81 of the legislation. When we did our investigation, there had been only six healing lodge agreements signed—only six. There were none in Canada's north, none in Atlantic Canada, none in British Columbia, and none in Ontario—none.

We made recommendations that were tabled in that special report to Parliament. Many of those recommendations were met from the Correctional Service of Canada with the acknowledgement of the problem, but it's six years later and there are still only six agreements. Not a single section 81 healing lodge bed has been added, yet the proportion of aboriginal indigenous offenders has grown dramatically in that six years.

[Translation]

**Mr. Matthew Dubé:** To come back to your recommendation to appoint a deputy commissioner for indigenous affairs, I believe that, since I have been sitting on this committee, this is the second time that you have made it.

Has the minister shown any interest in accepting the recommendation? It seems to me to be a good start to have someone in that position who understands the sensitive issues that the indigenous population needs to have considered.

[English]

**Mr. Howard Sapers:** The minister is certainly aware of the recommendation and the importance that we attach to it and has undertaken to discuss that recommendation. I know that the Correctional Service of Canada continues to be resistant. In fact, their arguments are that it is already a file that is part of the mandate of the senior deputy commissioner and it already has senior representation around the table and, in fact, it's everybody's responsibility to properly acknowledge and implement the strategic plan for indigenous offenders. The problem with that is that it's the status quo, and it hasn't worked.

We have elders engaged throughout the correctional process. We have a national aboriginal advisory committee that's statutorily required, but what we don't have is.... One of my staff gave me an idea this morning. She asked why we don't have elders' directives instead of commissioner's directives. Why don't we change the language? Why don't we make it clear that this is about respecting indigenous culture, spirituality, and needs? Why don't we have elders' directives?

Well, if we had a deputy commissioner for indigenous corrections, perhaps that could be a function for that person: to create that opportunity, that space, and to actually bring that kind of leadership into correctional practice. The status quo isn't working.

**Mr. Matthew Dubé:** The other issue I want to raise is an issue that you've talked about before. I've heard—and in my case, I'll admit it was the first time—from Mothers Offering Mutual Support about ion scanners, which is something you spoke about in 2012, I believe, and before. I'm wondering about this notion of false positives and the impact it has on visits, and then consequently the impact that has on rehabilitation and reintegration. Perhaps I could hear your thoughts on that, given that for me it's something that I hadn't heard many specifics on prior to the meeting I had.

•(1605)

**Mr. Howard Sapers:** Yes, false positive detection is a problem, and it's a problem that's part of a much larger set of problems that has to do with maintaining family contact and support. Prisons are not welcoming environments. They're not designed to be. Prison walls are designed to keep people out as much as they're designed to keep people in.

When people come into an institution, there's risk. There's a risk that they're bringing in contraband. There's a risk that they're bringing in weapons. It can be disruptive, so there is a security component around all of this, but that security component is now at the level where it is interfering with other policy imperatives for good corrections, which includes maintaining community contact and access to the outside world and which also includes supporting family relationships.

We have things out of balance. The introduction of technology into corrections has been very rapid. It's not just false positives on ion scanners, but other kinds of technology as well, that are increasingly making corrections much more high tech and low touch, thus much reducing opportunities for human interactions—

**Mr. Matthew Dubé:** I don't mean to interrupt, but my time for questions is about to end.

I wanted to ask if you feel that it's appropriate, given the rapid introduction of technology, to review what's being used to minimize the false positives and actually, interestingly enough, to keep drugs out, thus completing both of those objectives?



**Mr. Howard Sapers:** I think it would be a great idea to review the technology from a number of standpoints. One is to make sure that it's an appropriate use of technology and consistent with the law. Number two is to see whether or not the cost of that technology is proportionate to the benefit it brings in, because, of course, the money spent on things like ion scanners is money that's not spent on rehabilitative programs, for example. Number three is to ensure the technology purchase isn't where it ends. Ongoing and consistent staff training, keeping apace of technology and making sure that it's properly calibrated, properly used, and that people understand how to use it, etc., is also very important.

A review that looks at those three things would be very helpful.

**The Chair:** Thank you, Mr. Sapers.

Ms. Damoff.

**Ms. Pam Damoff (Oakville North—Burlington, Lib.):** Mr. Sapers, let me join with my colleagues in thanking you for your service to Canadians in what I'm sure has oftentimes been a thankless position.

I have so many questions, I don't know where to start.

I was reminded when I spoke to the parole officers that we often don't remember that offenders will be getting out of prison at some point, and we need to think about what kind of person we're releasing. I'm trying to take a look at what you're saying in that context, that these people have committed a crime, they're in prison, but we also need to look at what kind of person we're releasing.

You highlighted the number of indigenous people in prison. At our human rights caucus recently, one of my colleagues spoke about the racism of lower expectations. I met recently with Senator Pate, and she talked about how privilege has an effect on criminal charges.

I know you're not responsible for the sentencing and for how many people are being sent to prison, but I noted in the Auditor General's report that the number of indigenous prisoners seeking parole the first time they are able to is 12%, and that's also in terms of accessing programming while in prison. Do you have any suggestions on how we can assist with that, making sure that we're giving our indigenous people the opportunity to access programming and parole?

**Mr. Howard Sapers:** Yes, and it's very complex. I know I'm supposed to give brief answers, and I'm sorry.

Access to programs and program capacity: that is an issue in general. Making sure that people get access to programs in a timely way, that the programs are, very importantly, delivered by somebody who is competent to deliver them, and that the programs are delivered at the right time in the sentence are all geared toward supervised structured release. We know that the right program interventions leading to timely release with good supervision in the community is the key to success. We know that the key to failure is not doing that.

When you now apply that knowledge to what's happening with indigenous offenders, you find some contradictions. You may have an indigenous individual who is very engaged with their culture and their identity and engaged in cultural programming. You may have another indigenous individual who isn't. The one who is will gain

access to Pathways units, will be interacting with an elder. The one who isn't won't have that. So sometimes there's a barrier to programs, depending on the level of individual awareness or engagement with their indigenous heritage, and that's an issue for CSC to deal with.

We have some very good programs, and we have a great catalogue of programs, but that catalogue of programs doesn't often mirror what's actually happening in the institutions. There are all kinds of challenges involved in having the right people—

• (1610)

**Ms. Pam Damoff:** Have those programs changed to reflect the increasing number of indigenous people in prison?

**Mr. Howard Sapers:** I don't have a current picture of the capacity across the country. I can tell you that the programs are very much in flux for another reason. The Correctional Service of Canada has moved to what they call an integrated correctional program model. That program model presents some challenges to keeping intact the aboriginal component. It's not uniform across the country. Where there is capacity doesn't always reflect where there is need.

**Ms. Pam Damoff:** I'd like to talk a little bit about mental health. When Don Head appeared before our committee, he talked about how he didn't want our prisons to become mental health facilities. That is quite valid, except that we have so many people—26% of the men and half of the women—who have mental health issues.

I'm just wondering how we can perhaps work with our provincial counterparts to deal with some of these mental health issues before people get incarcerated. Would that lead to fewer incarcerations? As well, how can we ensure that people are getting the treatment they need while they are incarcerated? That's another loaded question.

**Mr. Howard Sapers:** Yes. Boy, those are two really big questions.

The one that's not within my mandate is the one I'll answer first, which is about the off-ramps out of the criminal justice system. When there is an accused or a suspect who clearly is dealing with mental health issues, there's a variety of strategies. There are actually some great practices across the country where, either because of police interventions or community mental health interventions, these people are provided alternatives instead of being prosecuted. The most expensive way for somebody to gain mental health services is through court, and then you often have the added stigma and burden of a criminal record on top of whatever your health issues are.

So yes, we need to do more of that. Clearly, we need to stop criminalizing behaviour that's a result of mental illness. We've increasingly done that, and the result is as you say: the statistics demonstrate what the result has been. We need more of that, more stemming the flow, and it also means that we have to be serious about bail reform, different strategies in first appearance courts, more mental health courts, and supports all the way throughout the process as well.

When somebody is sentenced and gets a federal sentence, they go into the Correctional Service of Canada. If they are profoundly mentally ill and diagnosed with a significant mental illness, they may find their way into a treatment bed in one of the treatment centres operated by the Correctional Service of Canada. Unfortunately, that capacity nowhere near meets the demand.

**Ms. Pam Damoff:** I met with the Royal Ottawa, and I understand there's only one forensic bed for women.

**Mr. Howard Sapers:** There's only one forensic bed on a contract agreement. There might be two, actually, between the Correctional Service of Canada and the Royal Ottawa group at their treatment centre, the St. Lawrence Valley treatment centre in Brockville. That's different. There is a unit for women at the Regional Psychiatric Centre operated by the Correctional Service of Canada in Saskatoon. It's the only national resource operated by Correctional Service Canada. They also have some contract beds for women at the Philippe-Pinel institute in Montreal.

**Ms. Pam Damoff:** Is that enough?

**Mr. Howard Sapers:** No. The capacity is nowhere near adequate to meet the demand. In my remarks, I mentioned the Correctional Service of Canada's optimal care model. This is a new model they've imposed that they claim will better allocate mental health resources, and my worry is that it's actually going to reduce access even further.

• (1615)

**Ms. Pam Damoff:** Thank you very much.

**The Chair:** Thanks to both of you.

Ms. Watts.

**Ms. Dianne L. Watts (South Surrey—White Rock, CPC):** I appreciate all the work you've done in this report. I'm on two sides of the fence here. I wouldn't disagree with anything that you've put into your report in terms of recommendations. I could support each and every one of them. The problem that comes...

You've talked about the integration into the community. I was formerly a mayor and as a mayor, that was a significant issue for me, especially the release of those at high risk to reoffend, because we've had many of those. A 16-year-old girl in our community was murdered; the balcony rapist was released into our community, and another 12-year-old girl was murdered. In a community where you're trying to grapple with these issues.... Also, if you get over two years, you've done, especially in Canada, something pretty serious, right?

What we found was that the programs in the federal institutions were actually really good programs. The challenge was that you could engage or not; it was all voluntary. The wraparound services when someone is released are an issue that often falls to communities, because there isn't enough there. To the issue around mental health, there are so many issues on that front that it has to take all three levels of government to come together to really rectify and look at these numbers.

I was curious in terms of such an increase in regard to aboriginal women. Are they offending in a typical way? I'm not sure why that would rise so dramatically. Do you have any analysis on that?

**Mr. Howard Sapers:** There's a host of reasons, I think, why we're seeing this disproportionate result. Some of it has to do with the structure of the criminal law itself: the increase in the number of

mandatory minimums, for example; the decisions that are made at the start, first appearance or bail decisions, which tend to follow people; the increase in the number of administration of justice offences that are on somebody's record, which then lead to more significant sanctions even though they're not new criminal charges. There's just a whole variety of issues that have been driving these statistics. It's not just one thing.

The discharge planning, the transition from prison to community, is one of the most critical things, and one of the things that we may be doing better but are still not doing well enough.

**Ms. Dianne L. Watts:** I know my time is limited. The programs are there. The structure is there. The recidivism rate is quite low, actually, coming out of a federal institution. As far as the information that I have is concerned—Pam, you've mentioned this as well—the mental health issues, the educational issues, all of those things start before you enter the criminal justice system. Those are predominantly community and provincial based, so the program is going to have to be funded more on the front end in terms of making sure, especially if there are measures in place for indigenous people and all that, that you have resilient children as they're growing up and you're catching those issues fairly early.

There are a lot of addiction issues and drug issues, for example, the crack cocaine that burned holes in people's brains so now there are people who don't have full brain capacity and have mental health issues. It just snowballs. I think an overall strategy has to be undertaken. I worked with more than 100 community advocates and three levels of government trying to do a strategy around what that would look like starting from the community, so you're not coming in contact with the judiciary or with the justice system.

Your idea in terms of the elder commission or the discharging to an aboriginal community is probably one which I think would really work. I don't know who would be in charge of that other than the parole board, if these folks go through the parole board. I don't know. What would you suggest?

• (1620)

**The Chair:** I'm afraid I can't give you time to comment.

**Mr. Howard Sapers:** I'll work in an answer.

**The Chair:** You work that in, or send her a note.

Go ahead, Mr. Mendicino.

**Mr. Marco Mendicino (Eglinton—Lawrence, Lib.):** I'm echoing all of my colleagues' heaping of gratitude for your years of service in this capacity, and wishing you the best in your future endeavours.

Page 45 of your report refers to your recommendation that the CSC appoint a deputy commissioner for indigenous corrections. In that recommendation, which is number 16 in your report, you refer to the Truth and Reconciliation Commission and all of the recommendations there, and our government's commitment to act on the TRC recommendations. You refer to the Gladue sentencing principles, which have been imported into the correctional services context. You also refer to the Ewert decision, which was a September 2015 Federal Court decision that, among other things, indicated that the psychological assessment practices currently within the CSC are not particularly reliable, and in fact, are unreliable as they relate to the indigenous population, which is overrepresented.

May I ask you, are those three main components under the recommendation the beginnings of a mandate letter for this new deputy commissioner?

**Mr. Howard Sapers:** Mr. Chairman, I can be brief and say yes.

There would be more, but—

**Mr. Marco Mendicino:** There would be more, but for the duration of your testimony, in answer to my question, I think it would be of great value if you could give us the beginnings of what a mandate letter for this new deputy commissioner would be, with a specific focus on the indigenous population.

**Mr. Howard Sapers:** Sure. Really it's not difficult to describe. We follow a number of metrics when it comes to correctional outcomes, for example, the amount of time served before first release; the proportion who don't get out until statutory release or warrant expiry; those who are released conditionally, and, if they are suspended or revoked, why they are suspended or revoked; and the amount of time in segregation or in higher security versus lower security. We follow a number of metrics.

The gaps in outcomes in those metrics between indigenous and non-indigenous are stark, so you would want somebody who'd be accountable for setting performance measures and driving outcomes that narrow that gap. You would do that through some of the mechanisms we described in our recommendations and that you referred to in your question.

**Dr. Ivan Zinger (Executive Director and General Counsel, Office of the Correctional Investigator):** Perhaps I can add to Mr. Sapers' answer.

There is an executive committee, and everybody has roles and responsibilities. Part of the issue is that if you make every member of the executive committee responsible to some degree to look after aboriginal issues, nobody ends up being accountable. This is why I think it's important to have a single person who can be accountable. When there are decisions about funding, about programming, about health care services, and when there are decisions in terms of where you will put the program and how you will structure your organization, you can have a constant voice at the table who looks at things through an aboriginal lens—e.g. with more than 25% of our inmate population being from an indigenous background, these will be the kinds of impacts you will have—and who then looks after those performance outcomes that Mr. Sapers mentioned to ensure that gaps do narrow over time.

•(1625)

**Mr. Marco Mendicino:** Assuming this office is created, how do you foresee the deputy commissioner for indigenous corrections collaborating with the ministry of indigenous affairs? Where do you see overlap?

**Mr. Howard Sapers:** The Department of Public Safety, the ministry of indigenous affairs, and other federal departments share a lot of responsibility. The federal government's responsibility for indigenous Canadians is broad and deep. It's been made profoundly important with the commitments that the Prime Minister has made, particularly around the Truth and Reconciliation Commission. There are lots of round tables and horizontal initiatives across government. There are lots of FPT initiatives.

I understand your question, and I don't mean to not address it—

**Mr. Marco Mendicino:** And I don't mean to interrupt you, but I'm running out of time.

I want to quickly come back to one expression you used earlier in your testimony, that culture eats policy.

**Mr. Howard Sapers:** Yes, for breakfast.

**Mr. Marco Mendicino:** Reflecting on your 20-some years of service, what is your single greatest take-away in the challenges to engendering the culture that you think will actually see out the reforms that are most important to you?

**Mr. Howard Sapers:** For me, it's always tone at the top. If you want to change culture, it's tone at the top and it's a commitment to principle-based decisions. Corrections is, at its heart, a human rights function. If you lose that perspective, then you lose that tone and things start to go astray.

**The Chair:** Thank you, Mr. Sapers.

Mr. Miller.

**Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC):** Thank you, Mr. Sapers and Mr. Zinger, for being here, and thanks for your service.

I have to be frank. I was very dumbfounded—as people I know would be—to hear that prisoners get an allowance. I was even more dumbfounded to hear you recommend that it be increased. I understand that you can't incarcerate somebody and not allow them to send out birthday cards, as you said, or what have you. My suggestion is that rather than an allowance, you would allow them one letter a week or two, or whatever is reasonable, and the same thing with purchases at the tuck shop. Most taxpayers would find it just unbelievable that they pay to incarcerate these people, and then they have to pay them an allowance.

At any rate, there are a whole bunch of areas here. The aboriginal aspect is one that we could talk about forever, but I think there have been a lot of questions there.

You read all the time about the addictions inside. Most of it is drugs, I believe. Does the prison system administer illegal drugs in any way, at any time—yes or no—to the prisoners?

**Mr. Howard Sapers:** No.

**Mr. Larry Miller:** Okay, that's good. If we believe everything, and you haven't denied it today, there is an addictions problem inside. Unless there's a drone flying over everybody dropping packages, or they're being administered—which they're not, you said—how are they getting in there? The only other one that seems logical, Mr. Sapers, and I'm not trying to make it a simplistic issue, are people who work in the prison system bringing them in?

**Mr. Howard Sapers:** Contraband drugs are a problem, but so is the diversion of legal drugs. Your specific question was, is the CSC administering illegal drugs? My answer was straightforward: it was no. You have a drug subculture within prisons. It makes some sense, when you think about it: the majority of individuals who, at the time of their index offence, were under the influence of an intoxicant. You look at the life histories of most men and women in prisons and you'll see there are histories of substance abuse of one kind or another.

**Mr. Larry Miller:** That doesn't surprise me.

**Mr. Howard Sapers:** That gets transported, imported into the prison environment, and so contraband drugs come in in many ways. Staff bring in drugs. Contractors bring in drugs. Families sometimes bring in drugs.

• (1630)

**Mr. Larry Miller:** Do they get charged when they do?

**Mr. Howard Sapers:** Frequently, when they're caught. There are throwovers. There are all kinds of examples of very clever ways that people try to introduce contraband into federal penitentiaries. We know there's no such thing as a drug-free prison, so it's always a matter of having a balance of approaches. You have to have interdiction, enforcement, harm reduction, and treatment.

**Mr. Larry Miller:** Again, maybe I'm trying to simplify it too much, but in an enclosed structure, I would think that with the technology we have today, if we didn't want any drugs to get in there, it could be done. I know, as we all do, what it's like to go through airport security. I'm just having a hard time getting my head around it.

I've had people who work in the system imply to me that if they really wanted to stop this, it would be pretty easy to do. What do you say to that statement?

**Mr. Howard Sapers:** I don't know of any prison anywhere that is contraband-free.

**Mr. Larry Miller:** I know that, sir. It seems to me it's a problem that we don't have to have if we are serious about stopping it. As I said, I have had—

**Mr. Howard Sapers:** I wouldn't know how to do that, and the Correctional Service of Canada wouldn't know how to do that either.

**Mr. Larry Miller:** Okay.

Could you give me an example of legal drugs that are issued inside?

**Mr. Howard Sapers:** There's a national pharmacy that has a fairly comprehensive menu of drugs for a variety of reasons, so you have psychotropic medications for those who are dealing with mental illness, and you have a variety of other medications dealing with everything from anxiety to high blood pressure to....

**Mr. Larry Miller:** Okay, but to me, most people would say high blood pressure pills, anxiety, those are normal medications that people receive through a doctor's order whether you're in prison or not, so those shouldn't be the issue.

You seem to imply that some of the addictions in there were to legal drugs. I wouldn't think high blood pressure pills or anxiety pills are necessarily addictive. If I'm wrong, just say so. Give me examples of ones that are addictive.

**Mr. Howard Sapers:** There are analgesic medications, medications that are provided for sleep disorders or mood disorders, which may or may not be addictive, but they have a contraband value because of how they alter your mood or how they allow you to self-medicate so you're not experiencing incarceration in the same way. There are a variety of medications. Frankly, I'd rather not name the specific drugs, but the national pharmacy of the Correctional Service of Canada is very alive to the contraband drug issue and the drug diversion issue inside institutions. Sometimes there are alternative forms of drugs so that they can't be diverted as easily, so drugs are crushed—

**Mr. Larry Miller:** I have one last comment, and it will take five seconds. It would seem to me that if some of the prisoners are selling the drugs prescribed to them, then they don't need them. I'll leave it at that.

**The Chair:** Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** Mr. Miller may also be surprised that drugs also get through airport security.

My first question is about the increase in prison populations. You were appointed in 2004, so I think you have a fairly good ability to comment on the last years specifically. Perhaps you could discuss the increase in prison populations over your mandate.

**Mr. Howard Sapers:** The 10-year change is about 5%, which is lower than some people expected it to be. In my opinion, most of that change is not new warrants of committal based on any kind of increase in crime but flows from policy changes that have to do with release. We've seen a stacking inside federal institutions, largely because of delay in release, to the point where the majority of inmates are now not being released until, at the earliest, their statutory release date. The impact of parole and barriers to parole release have really led to much of this increase.

What's interesting is that even though it's an increase of 4.8% or 5% overall in the last 10 years, it's a nearly 40% increase in aboriginal inmates. It's an increase of over 35% for federally sentenced women. For black inmates, which we don't talk about enough, it's a 42% increase over that same 10-year period. There are some populations that are really driving the demographics inside institutions.

• (1635)

**Mr. Nathaniel Erskine-Smith:** You mentioned harm reduction in your previous comments. I noted in your report that a safe tattoo harm reduction pilot project had been cancelled. Was the evidence, in your view, in support of continuing that program and perhaps expanding it?

**Mr. Howard Sapers:** Yes, the early evidence was very encouraging in terms of a decrease both in blood-borne transmission of diseases and in the cost of treatment of those diseases, particularly hepatitis C, but there are also concerns about HIV/AIDS. The safer tattoo practices pilot project was very encouraging, but the program was cancelled before the evaluation was finalized.

**Mr. Nathaniel Erskine-Smith:** So the program was cancelled in spite of the evidence?

**Mr. Howard Sapers:** Well, as I say, before it was finalized. I think it's safe to say that people were encouraged and then were surprised when it was cancelled.

**Mr. Nathaniel Erskine-Smith:** You noted in your opening comments, "establish 24-hour-a-day, seven-days-per-week nursing coverage at all medium and maximum security institutions."

Do you have any idea how much that would cost?

**Mr. Howard Sapers:** No.

**Mr. Nathaniel Erskine-Smith:** You noted in your opening comments: "reallocate resources to better fund rehabilitation initiatives and community reintegration activities."

When you say "reallocate", specifically where do you see us taking from and where do you see us giving to?

**Mr. Howard Sapers:** I know this is a time-worn analogy, so forgive me, but think of the corrections system as a great big balloon that is squeezed in one place but pops up someplace else. We can transfer funds. The more we rely on incarceration, the more expensive things become, particularly the more we rely on incarceration with the particular demographics we have, which are those of an increasingly aging population and a significantly ill population. If you find alternatives for those people in the community, you're going to save money.

You're going to save money through decarceration. You're going to save money by accessing health care through the health system instead of through the criminal justice system. You're going to save money by allowing patients who are palliative to die in their home communities, in centres that are designed for that, or at home.

These are realities in federal corrections today. When we say "reallocate", it really is a matter of recognizing that if you keep on doing things the way you are, you're going to spend the most money. You can save money by doing things differently and increasing access to the community for a variety of very low-risk offenders.

**Mr. Nathaniel Erskine-Smith:** I have two simple questions. They don't require a lengthy answer.

When Mr. Nicholson stands up in the House of Commons and says that he is proud of mandatory minimum sentences, should he be? Yes or no?

**Mr. Howard Sapers:** Now you're asking me to get into politics. If I were to comment, I'd say no.

**Mr. Nathaniel Erskine-Smith:** That's fair.

I mentioned this the last time you appeared before us, but a simple yes or no is fair for this question as well. On safe needle exchange in prisons, I know that there's a recent report out there in support of it. I know that when we have Insite in Vancouver for the general public,

the Supreme Court says it saves lives. In your view, would a safe injection or safe clean needle exchange program in prisons save lives?

**Mr. Howard Sapers:** Yes, I believe it would. I believe there's evidence to support that position.

**The Chair:** Thank you.

Go ahead, Mr. Dubé, for a three-minute round.

[*Translation*]

**Mr. Matthew Dubé:** Thank you, Mr. Chair.

I am pleased to hear the answers about the decrease in wrongdoing. Mr. Sapers, I was actually going to ask you basically the same questions.

I would like to bring up the issue of mental health, and, more specifically, the mental health of women in detention. You mentioned it in May, the last time you appeared before us. If I understand correctly, there is only one federal regional psychiatric centre for women. Is that correct? How has the situation changed since May? Do you have any other comments on this issue?

[*English*]

**Mr. Howard Sapers:** Correctional Service Canada currently operates five regional psychiatric centres. The one in Saskatoon is the only national resource that Correctional Service operates that has capacity for women. That capacity is now standing at 20 beds. In addition to that capacity provided and operated by Correctional Service Canada, the CSC does contract with some service providers, notably the Royal Ottawa hospital and the Philippe-Pinel institute in Montreal, for additional resources for women. That's the status today. It hasn't increased.

Pardon me, the number of beds in Saskatoon has grown from a 12-bed unit initially to now a 20-bed unit.

● (1640)

[*Translation*]

**Mr. Matthew Dubé:** Can subcontracting pose any challenges in terms of the various rehabilitation programs, and programs of other kinds?

[*English*]

**Mr. Howard Sapers:** There are a number of challenges, but there is a tremendous willingness, frankly, on the part of many health operators at the provincial level to engage in discussions about how to meet those challenges. They're often dealing with the same people. Many women who are federally incarcerated have a previous history of psychiatric hospitalization. These are patients who are well known to many of the provincial systems. Yes, there are challenges and barriers to any horizontal initiatives between governments, but that's no reason not to tackle the challenges.

[*Translation*]

**Mr. Matthew Dubé:** Clearly, I agree with you on that.

In your opinion, should anything be done to improve the integration of services provided by provincial governments and by federal correctional services in order to ensure, for example, that policies are more consistent?

[English]

**Mr. Howard Sapers:** Certainly. It depends at what point in the criminal justice process we're talking about. Talking about post-sentence only, for somebody who has received a sentence of more than two years, then you can begin your discharge planning immediately, and you can begin to prepare people for transfer to a provincial resource at the earliest safe opportunity, which means that you have to address, perhaps, conditional release policies and legislation as well so that you can make that transfer. There are a number of ways.

Do you want to...?

**Dr. Ivan Zinger:** I just actually misled Mr. Sapers, and I want to correct the record.

The numbers of psychiatric beds for women went down. It was actually 20 beds prior to the reorganization, and it is down now to eight beds. So that is from 20 beds to eight beds. The money saved there was reallocated to increase the capacity for intermediate care beds from 48 up to 72.

I apologize for misleading Mr. Sapers.

**The Chair:** Thank you.

We're now in our first period of overtime. I'm going to suggest that we do three five-minute sections, because it seems to take about six to do five. That will take us to five o'clock.

We'll have one round: Mr. Di Iorio, Mr. Clement, and Mr. Dubé each for five minutes, and that should take us to the end.

Go ahead, Mr. Di Iorio.

[Translation]

**Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.):** Mr. Sapers, Mr. Zinger, thank you for coming to our committee.

Mr. Sapers, in the years during which you worked in the Correctional Service of Canada, have you observed any progress?

[English]

**Mr. Howard Sapers:** Yes, absolutely.

My role is not really to issue a pass or fail with Correctional Service Canada. We're not an inspectorate, as they say. We respond primarily to complaints and maladministration. Often what you hear from me is commentary about negative findings. I think it's also appropriate to point out that Correctional Service Canada is a highly competent organization, and the men and women who work for CSC work hard every day to deliver programs and interventions that are safe, timely, and appropriate. We've seen some progress with indigenous corrections, some progress with women's corrections, and some progress on mental health, but that progress is, in my opinion, insufficient in terms of what the challenges are.

[Translation]

**Mr. Nicola Di Iorio:** To what do you attribute the progress you have observed?

• (1645)

[English]

**Mr. Howard Sapers:** Certainly, we saw a flurry of activity in the aftermath of the death of Ashley Smith, for example, when it comes to some women's corrections issues, some policy clarification around the use of segregation, and some access to mental health treatment. We've seen some other progress that has been driven by other boards of investigation and inquiries, and findings in court.

It actually troubles me that we often seen progress after a crisis. There's tremendous opportunity to be far more proactive.

[Translation]

**Mr. Nicola Di Iorio:** Have you any advice for your successor?

[English]

**Mr. Howard Sapers:** I don't want this to sound flippant at all, but it reminds me of what they say about advertising, "repetition, repetition, repetition, and colour". It's important to very dogged in this work. The issues are big. It's a large organization. You may think you've addressed a problem because you've resolved an issue at one institution in one corner of the country, but that problem has probably been manifesting in another institution in another corner of the country, and yet you have to chase it down.

I'm very fortunate. I have a tremendously competent high-performing team in the office. It's small, but they punch way above their weight class. I hope whoever comes next recognizes that that team will depend on that person to have the same commitment to stay focused and to be vocal, and not shy away from some of the difficult discussions that we've certainly had to engage in over the last decade.

[Translation]

**Mr. Nicola Di Iorio:** Are there any methods you have observed in provincial jails that could be helpful in the federal correctional system?

[English]

**Mr. Howard Sapers:** It's been a long time since I have applied any kind of a critical or analytical eye to provincial jails. I've certainly spent a lot of time in provincial jails over the years. I'll be moving into that realm in the new year. At this point, I don't have any particular lessons learned from the provincial sphere that I would bring. It's not because I don't think there are any issues, it's that I'm not aware of them.

[Translation]

**Mr. Nicola Di Iorio:** Are you aware of any projects that have been conducted in jurisdictions where the situation is similar to ours, starting in North America, that could be helpful in Canada?

[English]

**Mr. Howard Sapers:** Absolutely. There are good practices around the world, and many south of the border. As much as we like to demonize U.S. corrections, there are some very good practices. There's the way that U.S. Federal Bureau of Prisons, for example, deals with compassionate release for elderly and ill offenders. I think we could draw lessons from that.

There are European jurisdictions that are far more advanced than we are in terms of using digital technology, computer-based technology for reintegration programs, being able to access the outside world through very highly structured and monitored Internet access for things like job searches, etc., and vocational training.

There are examples in jurisdictions, particularly Australia and New Zealand, that I think we can learn from when it comes to how we properly interact with indigenous communities.

Really, you can go around the world and pick out some good practices. I have to say that other countries come to Canada and pick out good practices here, too. It's not all bleak, but we certainly don't have all the answers here.

**The Chair:** Thank you, Mr. Sapers.

Mr. Clement.

**Hon. Tony Clement:** I'm just trying to get a handle on what we're trying to accomplish here. Would you agree with me that there are a number of different goals in our corrections system, like protection of the public, reintegration of offenders after their sentence, punishment—

**Mr. Howard Sapers:** Sure. The principles are clearly set out in the Criminal Code and the Corrections and Conditional Release Act.

• (1650)

**Hon. Tony Clement:** In your assessment of your role, do you take into account the more general societal goals, or do you not see that as part of your responsibility?

The Criminal Code is a moral document. It's supposed to be an expression of the morality of the nation, and when it changes, that's because of a change in the morality of the nation. Part of the goal of the Criminal Code is to punish people who have violated the mores of our culture and have hurt people in doing so. Is it your job to consider that at all?

**Mr. Howard Sapers:** My job is really an extension of the rule of law when it comes to correctional practice. I know you don't want to engage in the Hart-Devlin debate about the role of morality in law, but the role of the office is one of accountability and assurance to Canadians that the Correctional Service of Canada is conducting itself consistent with its legal and policy framework.

**Hon. Tony Clement:** Sure, but you seem to be concerned that the rate of incarceration had increased by 5%.

**Mr. Howard Sapers:** It's a fact that the population has increased by 5%.

**Hon. Tony Clement:** If that means that society is better defended, isn't that a good thing?

**Mr. Howard Sapers:** There's no evidence of that, particularly when you consider that the crime rate was actually going down while that population increase was occurring, and the population increase seems to be more tied to policies around release than around new warrants of committal for new crimes.

**Hon. Tony Clement:** Yes, but crime rate is a different issue. It's a question of appropriate reaction to a crime that has been committed. Crime rate is a statistic, but whenever a crime has been committed, there's been a victim, right?

**Mr. Howard Sapers:** Yes.

**Hon. Tony Clement:** So the fact that more people are behind bars for more time could mean that victims are being listened to, does it not?

**Mr. Howard Sapers:** The fact that people have been hurt by crime is not in dispute, certainly not by me.

The question that I thought you were asking is whether there's a relationship from increased incarceration to increased public safety. There's a tremendous body of academic literature that would suggest that there is no straight-line relationship between increased incarceration and increased public safety. In fact, some studies claim findings of the opposite. We know that when people are returned to a community in a safe, structured way and properly supervised, society benefits from lower recidivism.

**Hon. Tony Clement:** I'm not contesting that, but I'm trying to build into the conversation the idea that we have to.... I don't want to put words in your mouth, but your primary role is to, as you said, ensure the rule of law but from the point of view of the offender. That's fine. There's nothing wrong with that. But other parts of this debate are about the victim and about the need for society to ensure that its laws are enforced, because if there is a diminution of belief that the laws are going to be enforced, then you get an increase in vigilantism, which would be something that we would not want to see either. There's a lot of moving parts in this is what I'm trying to say.

**Mr. Howard Sapers:** I think that you're largely speaking about the role of the courts in coming to a determination of guilt and imposing a sentence. It's not the role of the Correctional Service of Canada to add to that sentence.

**Hon. Tony Clement:** No, I know.

**Mr. Howard Sapers:** It's to administer it, and then prepare people for release.

**Hon. Tony Clement:** But Correctional Service Canada is a part of the criminal justice system. What I'm basically saying is that there are a lot of moving parts to this.

When my good friend Nathaniel was talking about evidence about mandatory minimums, it got my dander up a bit because I don't see anything wrong with society saying that if you've done some form of heinous act, society has a right to expect that you'll be in jail for a certain period of time.

• (1655)

**The Chair:** I'll give Mr. Sapers a chance to comment. We're over time.

**Mr. Howard Sapers:** Sure. Thank you for that indulgence, Chairman.

This is a very important point, and it ties into your colleague's question about the overrepresentation of indigenous women, for example.

It's very difficult to hold in your mind the Supreme Court decisions in Gladue and Ipeelee, which talk about individualized sentencing based on somebody's specific life history and mandatory minimum penalties. It's very hard to reconcile those two things.

You cannot instruct the courts to individualize sentences and use that kind of filter that the Supreme Court of Canada said must be used to address things like the overrepresentation of indigenous women in our prisons and then impose mandatory minimum penalties. They are completely inconsistent.

**Hon. Tony Clement:** The offender has offended and that means there has been a victim of the crime, which should also be remembered in this kind of discussion. The victims have to be remembered.

**The Chair:** Thank you, Mr. Clement. We need to go to Mr. Dubé.  
[*Translation*]

**Mr. Matthew Dubé:** Thank you, Mr. Chair.

Mr. Sapers, my final questions will be about your next mandate, in a sense. I would like to talk about administrative segregation.

We will not talk about the provincial situation, despite the very troubling and tragic case of Adam Capay, that the media have been reporting on recently.

This brings me to your recommendation about the use of segregation for minors and also for people with serious mental health issues. Has the federal government moved forward on the matter? Could it learn something from that young man's case, and could we also benefit from the presence of Mr. Zinger, who works in the area?

[*English*]

**Mr. Howard Sapers:** There are segregation practices around the world that I think we can learn from. I think that the Correctional Service of Canada has demonstrated that a more rigorous application of the existing legal and policy framework results in fewer individual placements into segregation. Segregation placements this year are down without legislative guidance, but I think to sustain that we need legislative guidance.

I think there should be prohibitions against segregating some identified populations, and we've identified those populations in our recommendations. I think there needs to be more external oversight. There needs to be increased accountability for what is the most austere and the harshest forms of custody, and that's being locked in an extremely small space for 23 hours out of every day.

Right now segregation can be indefinite and that should not be the case.

**Mr. Matthew Dubé:** When you say legislative guidance cannot touch on training that's offered to correctional officers, an example that comes to mind is segregation often comes from a conflict between two inmates. Could there possibly be mediation techniques, sensitivity to one's particular situation?

**Mr. Howard Sapers:** Yes. We have a framework now around things like conflict. We have policies that require you to assess and reassess. It's called the situation management model. If you're going to intervene with a use of force, you always start off with the least intervention that you think is necessary and you escalate only after reassessing based on what's happening.

The real question is the degree to which the Correctional Service of Canada is accountable and making people accountable for following the policies. Sometimes it's not a matter of more training

and new policies. Sometimes it's just a matter of making sure that people are held accountable for their actions when the policy is not followed or is ignored.

I don't think that requires more legislation. I think we need legislation around things like caps on segregation, prohibitions for some populations, and the role and model of independent adjudication.

[*Translation*]

**Mr. Matthew Dubé:** I do not want to drag you into the political arena, but, if we wanted to draft a bill of that kind, is there a comparable example anywhere else in the world that could give us a good place to start?

[*English*]

**Mr. Howard Sapers:** We think there's an opportunity for a truly made in Canada solution that might be in the vanguard of what's available.

• (1700)

**Dr. Ivan Zinger:** If you want, I can maybe complete that—

**Mr. Matthew Dubé:** Sure, yes.

I've gone over my time before, but if Dr. Zinger wants to comment, I'll let him.

**The Chair:** You have a minute, and you're the last one.

We have a minute.

**Mr. Matthew Dubé:** Dr. Zinger, go ahead.

**Dr. Ivan Zinger:** Certainly.

I just want to add to Mr. Sapers' response here by simply saying that we can certainly inspire ourselves from the work that has been done by the UN special rapporteur on the convention against torture, as well as the standard minimum rules for the treatment of prisoners that in 2015 have been renamed the Nelson Mandela rules. They set out very clear provisions to try to comply with solitary confinement, and make sure that it is used in exceptional instances, under very rigorous procedural safeguards.

[*Translation*]

That is all I wanted to add about the matter.

Thank you.

[*English*]

**The Chair:** You have 10 seconds.

[*Translation*]

**Mr. Matthew Dubé:** Thank you, Mr. Chair.

[*English*]

**The Chair:** Thank you, committee members, for your questions. They were excellent.

Thank you, Mr. Zinger and Mr. Sapers, for your visit today. Mr. Sapers, I echo again the committee's thanks for your service to Canadians both in and out of prison, in your work as investigator, and very best wishes in your new work.

**Mr. Howard Sapers:** Thank you, Mr. Chairman.



As I said, I always appreciate the opportunity to meet before this committee. This has been an indulgence, so thank you for the time and thank you for the questions. I thought after 12 years I wouldn't feel quite so challenged, but you held up your end of the bargain, too, so I appreciate it.

**The Chair:** We said we would. Thank you very much.

We're going to take a very brief suspension, as Mr. Sapers says good-bye, and then come back.

• (1700) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1700)

**The Chair:** Let's gather again.

Colleagues, as I said at the beginning of the meeting, I want to move into a business session. I didn't have anybody expressing concerns about that, but I think we should still have a motion to do business considerations.

**Ms. Pam Damoff:** I'll move a motion to consider committee business.

**The Chair:** It's been moved that we consider committee business.

**Some hon. members:** Agreed.

**The Chair:** Great.

Go ahead, Ms. Damoff.

**Ms. Pam Damoff:** I'll give you a motion that we move in camera.

**The Chair:** Are we all agreed that we'll go in camera?

**Some hon. members:** Agreed.

**The Chair:** We just ask that those who should be here are here.

We'll suspend for a moment as we move in camera.

*[Proceedings continue in camera]*

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