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Chair

The Honourable John McKay

Standing Committee on Public Safety and National Security

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● (1530)

[*English*]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Colleagues, I'll call the meeting to order. I see that we're close enough to 3:30 to get started. It is the end of the session and I do see quorum, so we can proceed.

Before I call on our witnesses, I just thought I'd say to colleagues that I've received a letter from Lene Vagslid from the Standing Committee on Justice of the Norwegian Parliament, who thanks us for her recent visit, our contribution to the visit and the mutual update on the work that both of them are doing.

Mr. Michel Picard (Montarville, Lib.): Is there no invitation to go there?

The Chair: I think I would entertain a motion that way. In a heartbeat, I would even find it in order and with an insistence that the Parliament fund it. The alternative would be that you'd have to fund it, Mr. Picard.

With that, I want to welcome our witnesses. The John Howard Society is represented by Catherine Latimer and Lawrence Da Silva, both of whom are here, and the Canadian Association of Elizabeth Fry Societies is represented by Savannah Gentile and Alia Pierini.

I'll just call on you, in the order in which you're listed as witnesses, unless you have a better idea.

With that, the floor is yours, Ms. Latimer.

Ms. Catherine Latimer (Executive Director, John Howard Society of Canada): Thank you very much, Mr. Chair.

I appreciate the invitation to be here to talk about this important bill that you're considering.

Some of you may know that the John Howard Society provides services to support the reintegration of prisoners into communities, and other services across the country. We serve about 60 communities. We are particularly concerned and all committed to just, effective and humane criminal justice in corrections. Administrative segregation has been a long-standing issue of ours. While Bill C-83 purports to end solitary confinement and administrative segregation, there is a very real risk that this bill will perpetuate the harms of prolonged solitary confinement under another name. In these brief introductory remarks, I really want to highlight what those risks are.

An analysis of Bill C-83, in terms of its fairness, effectiveness and humanity, reveals its vulnerability on all three counts.

First of all, prolonged isolation is inhumane due to its devastating physical, psychological and mental health consequences. The UN has defined prolonged solitary confinement as the confinement of inmates for 22 hours a day or more without meaningful human contact for more than 15 consecutive days, and it is regarded as a form of torture. Whatever the confinement is called, whether solitary confinement, segregation or structured intervention, if the actual result is that people are in cells for 22 hours a day or more without meaningful contact for more than 15 days, it's inhumane.

There are a number of points that I would like to highlight with respect to the inhumanity.

Mental illnesses are exacerbated by placements in isolation. There is nothing in this bill that would protect mentally ill prisoners from being subjected to prolonged isolation. Daily visits by health care professionals are required now, and they didn't protect the many who have committed suicide in segregation cells, Devon Sampson being a recent example. In the bill, the health care professionals can only make a recommendation to the decision-maker, who is a non-independent CSC official. Mentally ill prisoners could seriously deteriorate and suffer in SIU isolation.

Proposed subsection 36(1) provides opportunities for a prisoner to be out of a cell for four hours or more per day and for a minimum of two hours per day in “programs, interventions and services that encourage the [prisoner] to make progress” on the correctional plan. I highlight the word “opportunities” because I think that the previous panels that appeared before you made it sound as though prisoners would be out of their cells for four hours a day. An opportunity is a chance that something might happen, but unless it actually happens, federal Canadian prisoners will be subject to cruel, isolating segregation.

The infrastructure—both the physical and human resources—is not in place to allow prisoners to have this amount of constructive time out of cells. The proposals in Bill C-83 have not been costed, and thus no resources have been allocated to implement the bill. It seems that this bill is being presented a bit prematurely because there's no real way of knowing the range of program supports that will be available to people in these structured intervention units.

While the opportunities are presented in proposed subsection 36 (1), proposed subsection 37(1) takes those opportunities away for a variety of reasons. It lists three main ones. The first is if the prisoner refuses. The second is if there's a failure to comply with reasonable instructions, and the third is undefined prescribed circumstances reasonably required for security purposes.

If there is inadequate infrastructure, it's easy to decline to give prisoners four hours out of cells per day for security reasons. There are a lot of other reasons why prisoners remain in cells now, and we'll get into that a bit more later.

There's also no definition of “meaningful human contact” in this bill. It can't be simply communication with correctional officers or other prisoners, or walking alone in a concrete yard. We need to have a clear definition of what is meant by “meaningful human contact”.

The second point is that the process is unjust. It is settled correctional law that a denial of residual liberties triggers section 7 charter rights. As the Supreme Court of Canada case May v. Ferndale Institution determined in 2005, a placement in more constrained circumstances constitutes a denial of residual liberties. Fundamental justice is not reflected in Bill C-83.

● (1535)

By eliminating disciplinary segregation, the bill actually rolls back procedural rights for those placed in segregation or SIUs for disciplinary reasons. There is no longer an independent chair as a decision-maker. There are no caps on the length of time the residual rights can be limited, and there is no right to representation for those who are being subjected to this more confined containment. All decisions relating to the SIUs are within the discretion of CSC, with no independent oversight or adjudication, no limits on the duration of placement and no counsel or representation for prisoners. The lack of fundamental justice protections when residual liberties are denied is unjust.

Moreover, many mainstream prisoners, particularly those at higher levels of security, do not get two hours per day of programming interventions or services to help them make progress on their correctional plans. If that level of programming and intervention is not also available to the mainstream population, perceptions of unfairness will arise that could lead to unrest in the prisons.

Disciplinary segregation provisions allowed for prisoners who committed institutional infractions to be held accountable through a proportionate denial of residual liberties in a system that provided some measure of due process protection. Under this bill not only will the prisoners be stripped of those protections, but they will be given a minimum of two hours per day of programming to help them make progress on their correctional plan. Given that rule-respecting prisoners would not likely have access to such intensive programming, a perverse system of rewards is established, which will be perceived by other prisoners as being unfair.

Third, abolishing administrative segregation in favour of SIUs will likely be ineffective. The abolition of administrative segregation is a radical change in an institutional climate that is resistant to change. The success of the SIU vision presented to the committee by Minister Goodale is dependent upon the adequacy of the resources for infrastructure programs and appropriate personnel and upon correctional authorities, who are generally resistant to change, implementing these provisions consistent with the vision and providing opportunities to be out of cells.

Abolishing administrative segregation may affect the safety of prisoners and staff. The ability to move inmates who are attacking each other or staff quickly away from each other is an important short-term measure to reduce violence. Prisons can be terribly violent places and people can get hurt. The Union of Canadian Correctional Officers is telling us that the loss of administrative segregation will result in greater violence. If correctional authorities believe their ability to prevent violence is being curtailed, it will affect the manner in which the bill is implemented.

The John Howard Society did not advocate for the total abolition of administrative segregation, fearing that the inability of correctional officers to quickly separate prisoners attacking each other would be dangerous. It also feared that unless the existing legislative framework was the basis for fixing administrative segregation, new units would emerge that serve to isolate prisoners but without the needed legislative protections—solitary by another name.

The John Howard Society wants any regime that could lead to prisoners actually being alone in their cells for 22 hours a day to be more just and humane. We think the way that we can do this is by capping the amount of time spent in such isolation to 15 consecutive days and 16 a year, having independent adjudication relating to decisions, and placement and maintenance around those decisions being delivered by an independent adjudicator.

In conclusion, there is nothing in Bill C-83 that would prohibit prolonged confinement in isolation. The devastating harms that have befallen Ashley Smith, Eddie Snowshoe and countless others would not have been relieved by this bill if CSC had decided to continue their isolation. In clear conscience, the John Howard Society of Canada urges you not to pass Bill C-83.

I have with me Lawrence Da Silva. I think it's important that you hear from people who have actually experienced long periods in administrative segregation and other types of placement. I think he can explain more clearly the realities and the effects of prison culture that will make it difficult for people to be out of their cells for that period of time and that will make this a difficult regime to work with.

I suspect I've used all of our time.

● (1540)

The Chair: You still have a minute left. Go ahead.

Ms. Catherine Latimer: Do you want to introduce yourself, Lawrence?

Mr. Lawrence Da Silva (Volunteer and Consultant, John Howard Society of Canada): Yes, I will.

My name is Lawrence Da Silva. I've just finished 19 straight years in federal custody. I've been out for two years and two months.

Where I would like to start is where we left off yesterday. I was watching this on TV.

This was given to me on short notice. I immediately became aware of this bill and then what's going on with this bill and how it will affect people. I decided to come here again, like I always do. I will run at these opportunities because men and women are at stake.

I can't speak for the women's prison, and I never will, but I will speak to the men's side of the prison. I would like to invite any questions that you guys posed yesterday to Ms. Anne Kelly or to the administration on whether those things are going to be functional, whether they be in relation to visits when you're in these areas or placed in non-contact areas after violence.... I'm your guy. Ask me those questions. I would encourage you to dive right in.

The Chair: Thank you, Mr. Da Silva and Ms. Latimer.

Ms. Gentile.

Ms. Savannah Gentile (Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies): Thank you. I want to start by acknowledging that we are on the unceded territory of the Algonquin people.

As stated, I am the director of advocacy and legal issues with the Canadian Association of Elizabeth Fry Societies. We are an umbrella organization composed of 24 Elizabeth Fry Societies across Canada working with and for criminalized women and girls. Together, we work towards a Canada without prisons as we support human rights-based training, provide preventative programs and services, and facilitate women's reintegration into the community.

As the director of advocacy and legal issues, I have the privilege of working with and supporting over 20 volunteer advocates—some of whom, like Ms. Pierini, who you will hear from in a bit, were formerly incarcerated—as we go into the prisons for women on a monthly basis to monitor conditions of confinement.

Though I am trained as a lawyer, the best education I have received to date has come from the women I meet going into Canada's prisons. I hope to communicate some of the concerns that they have presented to me regarding Bill C-83.

When the Corrections and Conditional Release Act was first introduced, it was seen as human rights legislation, responding to human rights abuses and rising rates of imprisonment. Since its introduction, however, we've seen the exploitation of the security-focused provisions and the underutilization of provisions like sections 81 and 29, aimed at decarceration. CAEFS, along with the Office of the Correctional Investigator, has documented this pattern for decades, and we believe that Bill C-83 will not have the impact intended and, in fact, that portions of the bill actually represent a regression in terms of legislative safeguards like those Ms. Latimer has already referenced and in terms of decarceration.

I want to focus first on section 81. The bill replaces the term “indigenous community” with “indigenous governing body”. However, this is an undefined term, and it will definitely have an impact on who is able to apply for section 81 agreements. There are no corresponding changes to the legislation to ensure or even to support the development of more section 81s, as has been called for by the Office of the Correctional Investigator in his latest report. This leaves us to believe that the changes will actually further limit an already underutilized provision at a time when the number of indigenous women in prison is described by many, including the OCI, as representing a human rights crisis.

Amendments to section 29 frustrate the provision's legislative purpose and will have a particular impact on women prisoners. The number of women with complex mental health needs is on the rise, according to the OCI's latest annual report. More than half of all women in prison are identified as having mental health needs, compared to 26% of men. The nature of women's mental health needs is impacted uniquely by the lasting effects of past abuse.

The Canadian Human Rights Commission reports that women use self-injury as a coping mechanism to survive the emotional pain rooted in traumatic childhood and adult experiences of abuse and violence. Corresponding to the higher rates of abuse experienced by women prisoners, the rates of self-injury and attempted suicides are significantly higher among women in prison as compared to among men. The multiplier effects of race and sex create a distinct discriminatory impact on federally sentenced indigenous women that affects their experience of incarceration from beginning to end.

The Office of the Correctional Investigator reported extensively on a similar repurposing of section 81 in its report “Spirit Matters”. CSC redirected money and resources meant for decarceration through section 81 agreements to internal halfway houses that were meant to provide indigenous-focused programming. To this day, section 81 is underutilized, and access to indigenous programs inside is seriously restricted.

Section 29 has also been historically underutilized and this amendment makes it possible to transfer women to structured intervention units within the prison, despite numerous reports and commissions stating that the prison environment is an inappropriate and inadequate environment for dealing with complex mental health needs. That applies to both men and women. A more robust investment in section 29 to decarcerate is needed, and the amendments, as they stand, will likely impede decarceration strategies.

Further, proposed section 29.1 enables the creation of additional classification systems, which will be done in accordance with what are unwritten regulations, so we have no way of knowing what those will look like or addressing them here today.

● (1545)

This is despite the fact that CSC's classification scheme, according to the fall 2017 report of the Auditor General, results in women being needlessly placed in higher security, unnecessarily causing them to be segregated in higher-security settings, delaying access to programs and prejudicing their chances of release and reintegration success. We have reason to believe—Ms. Pierini will dive into this later—that this will not be any different in these structured intervention units.

CAEFS has long recognized, likely because of our in-prison visits and our meetings with women affected, that segregation is practised in Canadian prisons in many forms and under many names, much more so than what is usually talked about as solitary confinement or administrative segregation.

I will quickly address a few of the points around the structured intervention units and, first, this idea of meaningful human contact, which Ms. Latimer has already talked about.

In the recent BCCLA and Canada case—it's 2018 BCSC 62—the attorney general actually argued that administrative segregation is not solitary confinement since prisoners have daily opportunity for meaningful human contact, but the court found that prisoners did not have meaningful human contact, and that routine interactions between staff and prisoners do not constitute meaningful human contact.

Without a definition, we have no way of knowing what this will look like. It's left completely to CSC, which has a history of poorly implementing or not at all implementing recommendations, to determine what meaningful human contact will look like, or later, it will be left to the courts to decide. In the meantime, how many will suffer as a result?

On the idea of duration, in the BCCLA case, the 15-day maximum prescribed by the Mandela rules—which are minimum standards—were stated to be a "generous" maximum, given the overwhelming evidence of the psychological harm that can occur after just a few days in segregated conditions.

Finally, the reasons for transfer are listed n Bill C-83, including to:

> (a) provide an appropriate living environment for an inmate who cannot be maintained in the mainstream inmate population for security or other reasons;

"Other reasons" is very broad and leaves it well open for many people to be captured by this because of mental health behaviours that are deemed bad behaviours.

CSC has a duty to accommodate prisoners with mental disabilities who cannot cope in the general population. If it is unable to accommodate those prisoners without escalating their security classification or segregating them, whether in segregation units, secure units or SIUs, then it should be transferring them to an appropriate in-community treatment facility.

I'll close by saying that as Dr. Zinger mentioned in his press release following the tabling of this year's annual report, units much like the SIUs proposed by this bill already exist in prison. At Nova prison for women, staff have renamed the segregation unit "Pod C" and allow women there additional time out of their cells and more social interaction. Many of the women being held in segregation in Pod C were placed there because of incidents of self-harm. The women in this pod believe that they are in segregation, and their mental health is deteriorating just as it would in segregation.

Calling these segregated conditions something other than segregation, even with slight improvements, does not change the detrimental experience or impact of those conditions.

I'll hand it off to Alia.

● (1550)

The Chair: We're down to one minute.

Ms. Alia Pierini (Regional Advocate, Pacific, Canadian Association of Elizabeth Fry Societies): Okay. I'll really speed here.

My name is Alia Pierini. Thank you, guys, for having me here today. As Savannah mentioned, I am a regional advocate out in British Columbia, where I meet with the women out there, and I'm also a woman with five years' lived experience inside the Fraser Valley institution.

To make this brief, while I was incarcerated I spent over half of my time in segregation. I've been out for almost 10 years now and I still suffer psychological effects on a daily basis in getting to work, managing my parenting and simple social things like going to the grocery store. I still have bad anxiety and mental health issues surrounding this, which I did not have before entering prison.

I truly fear that the structured intervention units described in Bill C-83 are going to end the downward pressure they have surrounding segregation and that these new units will be the new first-line response to the ongoing challenges that prisoners and the correctional system face. Although in the eyes of the public Bill C-83 seems like an answer to ending administrative segregation, I know from first-hand experiences that implementing this into the prison will be beyond challenging.

I guess I'm short on time, but basically, for example, those four hours out are at CSC's discretion. It's a system where unfortunately correctional staff have the power to pick and choose who gets what. It happens constantly. If staff doesn't like you but likes other inmates, those inmates will get their hours out and other inmates will suffer.

The Chair: I will have to cut you off there, and I apologize. Time is the killer around here.

Ms. Alia Pierini: That's okay. I'm here for questions.

The Chair: I'm sure members will want to ask questions, and I'm sure you'll be able to expand your points over that time. Again, I apologize.

Ms. Alia Pierini: No problem.

The Chair: With that, go ahead, Mr. Spengemann.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Mr. Chair, thank you very much.

I will be splitting my time with Ms. Damoff, which means I have three and a half minutes. I'd like to direct them to Ms. Latimer.

It's poignant, Ms. Latimer, that we're having this discussion about a month away from the 70th anniversary of the UN Universal Declaration of Human Rights. I'd like to take you back to the UN standard minimum rules that Ms. Gentile referred to, or the Mandela rules, as revised in 2015. Rule 44 of that document makes reference to the 22-hour threshold. It also brings in the language we're discussing, that being "meaningful human contact". The UN does not define that, and probably quite deliberately. There's no UN definition of that, which sort of sets the stage for our discussion here. Presumably, it's left up to member states to find the definition that fits their social circumstances.

I'm most interested in the second paragraph of rule 45, which states, “The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.” I take it from your submissions that we shouldn't confine ourselves just to disabilities but to any pre-existing mental health conditions that would be exacerbated by any kind of solitary confinement, whichever label you want to put on that.

I'd like to give you my two minutes to give the committee a full appreciation of what you call the institutional “resistance” to what I believe is care, whether it's physical care or mental health care. How wide are those gaps? What percentage of inmates are suffering, at the point of entry, from addictions and mental and physical health problems, and to what extent are they being exacerbated in the current correctional system?

Ms. Catherine Latimer: I think prisons are not well designed to deal with mental health issues generally. Just to give you an idea, while I have interviewed very many men who have been in administrative segregation units, some of whom have suffered from mental health issues, many of them have told me that when they tell the guards or the correctional officers that they're feeling suicidal, the guards will say to them, “Go ahead and kill yourself. That'll be one less person for us to look after.” That is not, in anybody's book, a therapeutic response.

I would just ask Lawrence, who probably has been in administrative segregation units with people who have mental health issues, what he's observed.

● (1555)

Mr. Lawrence Da Silva: Out of the 2,580 or so days I spent there throughout my 19 years in federal custody, I saw countless men disintegrate in front of my eyes within hours of placement in segregation—not able to take the banging, not able to take the administration's way of dealing with them, or not able to take the lack of POs or chaplains or imams being able to get to these areas. Seeing the dangers of that state were devastating.

I can't speak for the women's side, but I'm speaking for the human side. These people lose themselves fast.

Ms. Catherine Latimer: I know that Minister Goodale and his staff were talking about daily health care visits. There are daily visits from the health care staff now.

Mr. Lawrence Da Silva: The daily visits consist of three medical parades that consist of, for instance, a 7 a.m. to 8:30 a.m. med parade, where they go and distribute medication to those areas. Most of—

Mr. Sven Spengemann: I'm sorry, but in fairness to my colleague, I will have to cut you off and hand this over to her. I'm sure she'll follow through on some of that.

Mr. Lawrence Da Silva: No problem.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you.

First, I want to thank you for being here.

Mr. Lawrence Da Silva: Yes, ma'am.

Ms. Pam Damoff: Ms. Gentile, it's nice to see you again.

Let's say we take CSC and the commissioner at their word—just let me finish, though—that this will be done in the way that they have said it was intended to be done, and additional funding is put in for resources so that someone with mental health issues is moved out of the prison and into a treatment centre. Let's pretend, in an ideal world, that this will happen.

From your reaction, Lawrence, you don't have confidence in that.

Mr. Lawrence Da Silva: No confidence.

Ms. Pam Damoff: My question to both of you is this. There's no oversight in this bill. I'm wondering what your thoughts are on adding some type of oversight to make sure it's being carried out properly.

If you do think there should be some kind of oversight, what do you envision? Bill C-56 had something in terms of oversight. I'd be very interested in your comments on what kind of oversight should be put in place that we could consider to make sure that things are done the way they're intended.

Mr. Lawrence Da Silva: Without independent and impartial adjudication at every level where there is a deprivation of your civil liberties inside, you need to be protected. That can't happen at this stage right now. It's not functional. You're talking about millions and millions of dollars being allocated to services that Anne Kelly doesn't have available right now.

I am an inmate who suffers from mental illness. I have ADHD and what they claim is a cluster B personality disorder, which is not defined, but they are the ones who sent me back out into a world without medication and without psychiatric help or any way to get that. Multiple inmates have been released under that same thing since I've been out—multiple.

Ms. Pam Damoff: Let's focus on the segregation part of it, though.

Mr. Lawrence Da Silva: Okay. Like I said, without there being an independent impartial adjudicator to deal with you, once you've been arrested.... You must understand the legislation as it stands, before you guys try to change the bill. It stands that as soon as I am placed in segregation or as soon as I'm transferred, I've effectively been arrested, so my section 7 rights immediately kick in. I have the right to due process and a fair hearing. Without an independent body to have some oversight of Anne Kelly's decisions, we won't have a fair decision.

Ms. Pam Damoff: I have about 45 seconds left and I'd love to hear from Elizabeth Fry as well on the same thing.

Ms. Alia Pierini: About the independent oversight, I think that's a huge thing that was overlooked on this. Without an independent party, how can Canadians and anybody really be sure that the officials are following the law and not misusing their discretion?

As I touched on a little earlier, the discretion is in the hands of CSC. When I was in segregation, around when Ashley Smith passed away, I'd reach out to the warden because I was deteriorating. She actually granted me time out. I was allowed four hours out a day. In the last eight months of my sentence, I saw that maybe once every two weeks, because there was always something going on in the institution.

I feel that this is going to continue to happen without an independent oversight. I think that's a huge thing, and it—if anything—should be implemented for sure.

● (1600)

The Chair: Thank you, Ms. Damoff.

Mr. Motz, please, you have seven minutes.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Chair, and thanks to all of you for being here.

My first question is for you, Ms. Latimer, and I'd like Ms. Gentile to follow up on it. If I understood your opening comments correctly, you indicated that you recommend that this bill not be pursued, basically, unless we have clear commitments from government on their plans to meet infrastructure, staffing and service levels. Did I hear that correctly? If so, can you expand clearly on what you're referring to?

Ms. Catherine Latimer: There are really three bases on which I think you shouldn't be pursuing the bill, but certainly there's no chance that you're going to be able to implement it consistent with the vision that Minister Goodale and his team presented to you unless you have the resources in place. This is an unfunded bill. This is an uncosted bill. We have no idea what level of resources they're going to put into it.

If you pass this legislation without resources being in place to support it, you're going to see those section 37 exceptions being used every day, and people are not going to get out of their cells. You're going to have exactly the same kinds of harms for solitary confinement and administrative segregation that we have now.

The bill, the way it's being presented, is not manageable. It would help to have the resources, but there are other problems with the bill too. For example, there is no independent oversight. The ability of CSC to direct every decision and not have any accountability associated with the decisions to keep people in segregation for long periods of time is a problem.

Mr. Glen Motz: I'll get back to you about funding.

Ms. Gentile, do you feel the same way about the funding issues?

Ms. Savannah Gentile: Yes. I think we shouldn't be investing in CSC, especially in terms of building mental health centres within the prison. It's not a place where mental health, mental disability or trauma can be addressed in any meaningful way. For a number of these cases, we're talking about prisoners who are difficult to manage. They're difficult to manage because the prison environment exacerbates their pre-existing issues or causes issues in the first place and they can't be addressed.

Mr. Glen Motz: Okay.

Getting back to you, Ms. Latimer, I appreciate your comments. The minister was asked a similar question when he was here on Tuesday. Understandably, his response was that until this is passed they're not necessarily going to go out and tell us what it's going to cost, which is unusual, because for other bills in this government—and in previous governments, both Conservative and Liberal—that's exactly what happened. There was always a costing model attached to the bill.

I know that you're not a financier with the Government of Canada, but do you have any idea as to some of the programming, staffing requirements and costing related to this? Does your organization have any thoughts on it? Has it put any thought into that?

Ms. Catherine Latimer: I haven't, but I am an old federal Department of Justice person. I spent eight or nine years as a PCO analyst. In my day, you wouldn't get to a cabinet committee unless you costed your bill. You're creating a downstream fiscal hit without the resources to back it up.

Mr. Glen Motz: Having said that, from what you know of the system the legislation that's currently being proposed is not sustainable with the staffing that exists there now. Is that what I'm hearing you say?

Ms. Catherine Latimer: That's exactly what you're hearing.

Mr. Glen Motz: Would you concur, Ms. Gentile?

Ms. Catherine Latimer: There's no chance of delivering that vision with an absence of resources to support it.

Mr. Glen Motz: Okay.

Would you concur with that?

Ms. Savannah Gentile: Yes. In fact, it costs over $200,000 a year to incarcerate one woman, and that's in the general population. In a structured living environment, which is maybe more akin to these structured intervention units, it's upwards of $400,000 a year for one woman. It's very expensive to invest there. In communities, it's pennies to the dollar, and in communities is where you see the most success.

Mr. Glen Motz: Both of you alluded to this, but I think you started it, Ms. Latimer, when you said that changing the name doesn't necessarily change the type of programming.

In your professional opinion, both of you, in order to meet the proposals in these structured intervention units and the services that are going to be provided there, what has to be changed from what is happening now?

Ms. Catherine Latimer: You have to build in due process protections. The section 7—

● (1605)

Mr. Glen Motz: To be able to do what?

Ms. Catherine Latimer: They're the process protections, which are the independent oversight, the right to counsel and some meaningful process to determine why your residual rights are being denied because you're being placed in this stricter, more confined environment. You would need to have the resources to be able to implement the positive interventions that would happen while you're in there and I—

Mr. Glen Motz: I understand the whole issue, but there are times when, for the safety of an inmate, other inmates or staff, there are limited options. What alternatives exist? Will the structured intervention units still meet the expectations that for individuals who are incarcerated, either for harming themselves or harming others or staff, there will still be those things in place?

Ms. Catherine Latimer: The John Howard Society's position is that the abolition, the out-and-out abolition, of administrative segregation is not a good idea. Administrative segregation is a necessary tool as a short-term solution to—

Mr. Glen Motz: You call it “administrative”. Some people have said “disciplinary”. Is that the same thing or is it different?

Ms. Catherine Latimer: Disciplinary is different.

Mr. Lawrence Da Silva: There are two different forms of administrative segregation—

Mr. Glen Motz: All right. I'm sorry for interrupting you.

Ms. Catherine Latimer: Our view is that you need to have the capacity to immediately separate prisoners who are exhibiting violence with each other or towards the guards, any others or themselves. You need to be able to do that fairly quickly. It's an emergency short-term situation. It would be better to work with the existing framework of administrative segregation—

Mr. Glen Motz: So we can't eliminate it...?

Ms. Catherine Latimer: Pardon me?

Mr. Glen Motz: It's unwise to eliminate the idea of segregation, period.

Mr. Lawrence Da Silva: He's speaking of 31(3)(a), in the original existing legislation for the—

Mr. Glen Motz: If I just heard you correctly, ma'am, you said that it's unwise to eliminate segregation.

Ms. Catherine Latimer: Altogether...? Absolutely, yes. We want to see—

Ms. Savannah Gentile: I'm sorry to interrupt. I just want to say that I can't speak to the men's side of things, but on the women's side of things, I would say that it could be eliminated completely. In our experience, when women are dealt with in legal and respectful ways, situations can be de-escalated. They have dynamic security for that reason. Dynamic security is at the current moment not practised—

Mr. Lawrence Da Silva: We're talking about murderers and people who have been in jail and who are security risks. There has to be some credit back to the people who are protecting the public to be able to separate people where there's a risk of real violence. The shit that I've been through, okay, you can't—

A voice: [*Inaudible—Editor*]

Mr. Lawrence Da Silva: Okay. You don't speak for everybody, because you can't speak for the guards that—

The Chair: We're going to have to leave it there. This is getting pretty animated here.

Mr. Lawrence Da Silva: There's a little bad blood between us and Elizabeth Fry because we don't agree with the abolishment of segregation.

The Chair: Right, but we're going to stay within the confines of the time we have.

Mr. Dubé, please, you have seven minutes.

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

I want to first of all thank you for being here and certainly thank folks who've experienced this situation first-hand for having the courage to come before the committee. I think it's something that is worth commending.

I do want to go to a few things specifically related to what I had a chance to ask the minister and officials about on Tuesday.

The first thing—and it was brought up in testimony—was this question about opportunities outside of the cell. I tried to ask the commissioner about this, but perhaps I wasn't clear in my questions. I was using the example of how if it's five o'clock in the morning at the peak cold season or if it's a rainstorm in the summer or whatever, you're not going to get the same kind of opportunities as, say, if you're going out on a sunny day or whatever. The answer I got was that there would be opportunities outside of the cell, just in a different way.

Is there not a concern, given that the legislation does talk about noting refusals for those opportunities, that there doesn't really seem to be, on the flip side, a safeguard for the reasonableness of the opportunities, in particular, for the mental health objectives that those opportunities seek to achieve?

I'm just wondering if both organizations could comment on that.

Ms. Catherine Latimer: Many of the men I have interviewed who have been in administrative segregation have told me that they're been presented with opportunities to go to the yard at six o'clock in the morning when it's freezing cold and dark outside, and when they decline, that's it. That's the end of their opportunity to be out of their cell for the day.

So I agree. I think if the opportunity to be out of the cell being presented is unreasonable—and you're going to find that, and I think Mr. Da Silva can probably speak to this more—and you have prisoners who would previously have been isolated being able to associate with each other, you're going to have the question of incompatible prisoners milling about together. Some prisoners will not want to go out there and participate in the general milling about in those structured intervention units. Those would be reasonable grounds for refusing, but, de facto, you're going to end up with people being isolated in their cells and experiencing the suffering that comes from prolonged segregation if they can't exercise a reasonable opportunity to get out of their cells.

● (1610)

Mr. Matthew Dubé: I don't know if you have a response to that as well.

Ms. Savannah Gentile: I would just concur with what Ms. Latimer said. If opportunities are provided, then that is the end of the story if a woman doesn't take that opportunity at that moment, and she may not get another that day. Often the minimum of two hours out is not followed currently.

Ms. Alia Pierini: I just want to touch on the fact that there are actually lots of women inside who are not articulate enough to reach out for help when they need it, so they'll just deny that help. That's a form of self-harm in a way, that they don't ask for the help, that they sit in there, that they isolate themselves. Then they're in a way, yes, choosing for their mental health to deteriorate, but it's a fact that they're still deteriorating in there when they shouldn't be.

Mr. Matthew Dubé: Ms. Latimer, I don't know if it was you who mentioned this, but there's this notion of the health care professionals making recommendations. This ties into the oversight issue that's already been discussed today. Given that essentially the recommendation is non-binding, it would obviously not look very good to not be respecting that recommendation, but ultimately—as I read the legislation, and I want to hear from both organizations on this—there's really nothing that requires them to follow along with that recommendation beyond it being potentially a flag or a black mark or whatever you want to call it on a particular file or case.

Ms. Catherine Latimer: The John Howard Society generally has a problem with the quality of the health care and the independence of the health care professionals. They're all under contract to CSC, so again, CSC's security interest seems to trump what's needed for the prisoner's health on any given day. You'll find that the health care professionals don't carry much status in the entire prison system, so their recommendations can be easily ignored, which is a very serious problem. Who's going to know whether or not the recommendations have been ignored? Sure, they're keeping records, but who's reading the records? Who's keeping on top of it?

The absence of any kind of vigilance and independence is a challenge.

Mr. Matthew Dubé: On that note, if I may, the correctional investigator was talking in his report last week about the lack of psychiatric services, the lack of resources, again, something that's been brought up today. I'm just wondering if there is a link there already with this "other reasons" piece. They keep putting aside the security debate. The "other reasons" could potentially be a lack of resources in a situation that has escalated because the tools, so to speak, aren't necessarily there. Is that an assessment that either of you shares?

I'd like to hear from both of you, if possible, please.

Ms. Catherine Latimer: The other reasons why they're placed in the unit or...?

Mr. Matthew Dubé: In the bill, where they say for "security or other reasons", I was just wondering if "other reasons" could potentially be—

Ms. Catherine Latimer: It could be mental health issues.

I don't know if it's the same on the women's side, but from our experience, generally prisoners who are asserting their rights tend to be seen as problem inmates and tend to end up more in these units. They're not doing anything other than standing up for what their legal rights are.

Do you want to comment on this?

Mr. Lawrence Da Silva: The "other reasons" that they're speaking of are a cut-and-paste job from the old legislation, which read that way. It would give the head of the institution the opportunity and the ability to place inmates into 31(3)(a) segregation, at any belief that there was the opinion that the inmate would be a threat to the general public or area. These are the other reasons that they speak about—security incidents that could arise, an inmate being disruptive, an inmate who fought with another inmate.

What's important to understand here is that they're trying to cancel out disciplinary segregation as well. There were two forms of segregation here. As a federal prisoner, I spent time in both. I spent 2,500 days in administrative segregation, not including or withstanding the other form of punitive segregation, which was disciplinary segregation for the offences of my actions. When we look at these areas, it's this way.

● (1615)

Ms. Savannah Gentile: What we often see with women is that they're placed in segregation under mental health watch, moderate observation or high-moderate watch. It's a form of mental health observation in which they're monitored by cameras in case they self-harm.

Mr. Matthew Dubé: Men as well...?

Ms. Savannah Gentile: Yes, it happens on the men's side as well.

This clinical seclusion could be "other reasons". It doesn't exist in legislation, but it does in their policies.

Mr. Lawrence Da Silva: It's used punitively as well.

Ms. Savannah Gentile: Exactly. That's a huge problem.

The Chair: We'll have to leave it there.

I encourage witnesses to look at the chair from time to time, not that I'm particularly vain, but it helps me administer the time.

Next is someone who is absolutely not vain—Ms. Sahota.

Ms. Ruby Sahota (Brampton North, Lib.): Thank you, Mr. Chair.

Thank you to all of the witnesses for being here today. It's a very interesting panel for me.

I'd first like to ask Mr. Da Silva for a little bit more of an explanation. I'm very interested. You have described your experience, and from what you've told us so far, although I can't imagine it, I can feel a realness in your description.

Mr. Lawrence Da Silva: I would like to help you.

Ms. Ruby Sahota: Yes, and you're here to do that.

You're not against segregation. You think it serves a purpose and I understand that, but you also mentioned procedural fairness and due process to be given before making that decision. Can you explain that and what that looks like?

Mr. Lawrence Da Silva: As a former federal prisoner, I'll give you my personal view on the legislation as it stands from paragraph 31(3)(a) all the way through to, I believe, sections 38 to 42, which is the area in which we deal with administrative segregation of federal prisoners. I'm not going to speak about the voluntary basis. I'm only going to speak about police investigations and why they believed that placing you in segregation was a justifiable cause.

For us as prisoners, we oppose this bill. All the families are opposing this as they know it now because what they're trying to do is cut out the disciplinary court system.

For instance, as a violent offender and violent prisoner, which I was, I would find myself in violent altercations with other inmates, either brought on by the situation or by me advancing those situations to make those decisions. When this happens, it's only understandable that you need to be removed from everybody else. If there are two beasts in the room stabbing each other up, they need to be removed, but as I said, this all has to happen under the framework. At the time, we believed that meant being arrested and rightfully removed from the population, which was the law, until you were either bailed out by the five-day review program that they had in place...not that I believed in it. I only believed in the old framework.

If, in the administrative purpose, you're accused of acts that CSC is not going to bring against you.... For instance, they say that a shank is in my cell, and they say that I'm bringing in drones of drugs. You heard Anne Kelly yesterday. These things are all just speculation until I'm caught with something. That's why she has these authorities to use phone taps.

Ms. Ruby Sahota: Currently, these decisions for segregation are made internally and you think they should be made—

Mr. Lawrence Da Silva: They're only made internally and we believe that—

Ms. Ruby Sahota: They should be made externally.

Mr. Lawrence Da Silva: —utilizing the mechanism of the disciplinary court and meshing the two would formulate the outside intervention that you need, the independent, impartial adjudicator who already acts as a lawyer for the disciplinary court and allows you the process to be protected by counsel and these fundamental rights of justice.

Ms. Ruby Sahota: Does this bill not eliminate segregation?

Mr. Lawrence Da Silva: Yes, it eliminates segregation. It eliminates administrative segregation and it eliminates disciplinary segregation all at once, with the description of the charges you should be placed in segregation for. This is very dangerous because when it comes to the inmate parole system, the parole boards are going to be judging on speculation, not on the description of what you've been involved in inside.

You're talking just about trying to fix administrative segregation, but you're going to have to amend more bills than this. You're going to have to amend subsection 97(1) of the CCRR, which declares that inmates who are arrested in segregation and/or emergency transferred have the right to counsel. Now, effectively, as soon as you make this decision to pass this bill, you're crossing that out and now I'm left at the leisure of CSC, and so are the women.

Ms. Ruby Sahota: That still leaves in place discretion for allowing for—

Mr. Lawrence Da Silva: No, it doesn't. The discretion has been abused. The discretion has been—

Ms. Ruby Sahota: —segregation to be used in dangerous situations. That's what I meant by does it eliminate the existence of it.

Mr. Lawrence Da Silva: We believe that will only be utilized against violent offenders, but eventually we'll be the outcasts of everything.

● (1620)

Ms. Ruby Sahota: Thank you.

Can I ask the Elizabeth Fry Society another question as well? You talked about “meaningful human contact” and the lack of definition of that. Can you help describe what your definition is of that?

Ms. Alia Pierini: My definition of meaningful contact from CSC, is that what you're asking? The meaningful human contact that I got was all through a food slot, and it's not meaningful at all. For your extra hours out, you're still alone in a cell. As CAEFS, we'd like to see meaningful human contact in the form of people from the outside, doctors, counsellors, reintegration workers who are actually helping them plan and get ready for the release.

As corrections stands, your meaningful human contact is when the staff come through and talk to you for 10 minutes or the doctors who come through. They also said it's more like they're coming to hand out meds to inmates and it's not meaningful at all in that way.

Ms. Ruby Sahota: Do you think at all that this bill takes a step in the right direction to the vision that you have? I know that your vision goes to even having no prisons, but that's not currently, today, on the table. Do you think that having targeted interventions, which this bill allows for, program tailoring, all of those things, are improvements?

Ms. Alia Pierini: If implemented they would be. However, in the women's population, just in general pop, sometimes you're waiting months and months for programs, so I just don't know how they're going to all of a sudden allocate all these programs to the special unit when you have the women in general pop who aren't even being programmed, and they're not even the proper programs. I was sent through three substance abuse programs and I've never done drugs in my life, so they need something that's actually assertive and meant for the people who they're trying to rehabilitate.

Mr. Lawrence Da Silva: It also gives the consequence that you have to get in trouble in order to get programming. What about the rest of the population? I've been the rest of the population while people are getting in trouble, so what about me? I'm to be discriminated against because you're supplying multiple millions of dollars to programming in areas that those people need, but I need it too. It's a double-edged sword.

The Chair: We're going to have to leave it there. Thank you very much.

Mr. Eglinski, you have five minutes, please.

Mr. Jim Eglinski (Yellowhead, CPC): Thank you.

I'd like to thank both the Elizabeth Fry Society and the John Howard Society for coming out, but I'd really like to thank both of the other two witnesses, Alia and Lawrence. It takes a lot of nerve to come up here, and congratulations. I think you're giving us a clearer picture of the situation that's really out there.

I have a medium-security facility in my riding of Yellowhead, the Grande Cache Institution, which I think is probably one of the most beautiful settings for an institution anywhere in the world. It's right on top of a mountain. I've had the opportunity since Bill C-83 came out to talk to the guards, to the prisoners, to former guards and former prisoners. They don't like it, I don't like it and it's obvious you folks don't like it.

Lawrence, I'm going to ask you a couple of questions and some of them might be a little pointed, but I'm not trying to be.... First of all, I want to compliment you on the way you've handled yourself here.

We kept hearing from the commissioner and the other people—

Mr. Lawrence Da Silva: Yes, we have a history.

Mr. Jim Eglinski: —that Bill C-83 is all about rehabilitating the prisoners. You talked about administrative detention, preventive detention and disciplinary detention. In your experience—and you spoke about your vast experience—you said there's a need for it.

I wonder if you can quickly explain to the people why there's a need. Certain people need to be protected from the other inmates. Others need to be separated because of investigations and so on.

Mr. Lawrence Da Silva: I'll speak on all realms, although I do not like to touch on protective custody issues. I will touch on them to give you clarity for the rest, and for the safety of other individuals, but I don't like speaking outside of a code—a prisoner code.

● (1625)

Mr. Jim Eglinski: I understand that code very well.

Mr. Lawrence Da Silva: No. It's a code you don't understand as politicians, and you'll never understand it unless we start to have some of the conversations that are meant to be had between us.

Anne Kelly's decisions.... You must first understand that we have a history. She sat here before you on Tuesday. I offer my file to you again, like I offered it to the Senate, to show you her ability and inability to make positive decisions that reflect these decisions, such as confinement.

The structured intervention units you're speaking about right now reflect the SHU protocol. When I say that, I'm talking about the Sainte-Anne-des-Plaines, Quebec, maximum-security federal institution, which is not recognized by your own legislation that you guys passed in Parliament, and I'm holding you guys accountable. I was held there for seven years under her reign, and then she was elevated by you guys. I'm asking you guys to start reviewing those decisions and to start to understand.

What you're asking to be achieved, I'm not asking to be crushed. I don't want segregation to be crushed. If men are murdering each other in prison, we all have the right, as Canadian citizens, to be safe and secure. Under section 7 of the charter, we would appreciate if that could exist. If we can't supply it ourselves, we're depending on the guards to supply that, but not to take it away on just the allegations of security. Honestly, the men who are killing and stabbing each other and are in violent situations need to be separated and adjudicated appropriately.

Mr. Jim Eglinski: You mentioned earlier that you were released. You didn't get the help. You didn't get the treatments you sought.

With the way our penal system's working right now—

Mr. Lawrence Da Silva: You won't be able to help a single person here.

Mr. Jim Eglinski: Do you feel you were rehabilitated?

Mr. Lawrence Da Silva: No. It was I who did this, with the help of the John Howard Society.

Mr. Jim Eglinski: How about you, Alia? Do you feel you were rehabilitated in the program we've been talking about?

Ms. Alia Pierini: No, sir. I actually went to school and did a year of mental health after I was released, so I could fully understand and rehabilitate myself. Prison did nothing. I learned how to survive in there, but that's it.

Mr. Jim Eglinski: Thank you both for being honest with us.

The Chair: Mr Dubé.

Mr. Matthew Dubé: With colleagues' permission, especially for our witnesses who have a personal experience, can we ensure it is made known to them that there's an option to submit written submissions as well, in addition to their testimony, just in case there are things they haven't been able to get to?

Mr. Lawrence Da Silva: I would have loved that. I would have loved to bring evidence to the committee today.

The Chair: That's a good point. Okay. Today doesn't necessarily end it.

I think we're down to our final five minutes, with Ms. Damoff.

Ms. Pam Damoff: Thanks, Chair.

I have a question specifically for Elizabeth Fry. I sit on the status of women committee as well, as you know. When the corrections investigator came to status of women, he said you could end administrative segregation today in women's facilities, but you cannot do it in men's. I'm wondering if you can maybe speak to the vision that you see for how it would be ended in women's facilities.

Ms. Alia Pierini: There was a pilot project.

Ms. Savannah Gentile: Yes. We did offer a pilot project to CSC to assist in that regard, the idea being that we would form a committee of members from E. Fry and formerly incarcerated women and the likes to intervene ahead of issues coming up. This is what I was talking about in terms of dynamic security. If you're aware of the environment of the prison, of tensions rising, of issues between women.... I mean, it's a much smaller population, so if you're going to start anywhere to end segregation, it's with the women's population. It's a much different demographic. If I'm thinking correctly, the last murder in a women's prison was the homicide of Ashley Smith, and that was, you know.... That speaks volumes.

A voice: [*Inaudible—Editor*]

Ms. Savannah Gentile: Yes, definitely. You're speaking for the men's system. I won't speak for the men's system because I don't go into the men's prisons and I don't have that experience.

The idea of the committee was to intervene ahead of time and to come up with alternatives to prevent the use of segregation, because CSC told us that there were only eight women in segregation across the country. For eight women, we could work together to get those women out, to provide alternatives and to get them supports. For some, it might be a section 29 case: get that woman with severe mental health issues to a community treatment facility. It would greatly depend on the circumstances.

That was one option. Unfortunately, that pilot project fell flat, and CSC never followed through with it. We continue to have an interest in starting that back up.

● (1630)

Ms. Pam Damoff: I'm going to change tack completely here in terms of one of the concerns I have in the legislation. I'm not sure if there's an ability to amend the legislation around this or whether it's about education of the corrections staff themselves.

We heard that Gladue reports are taking into account.... I'm going to speak again mostly about women, although I suspect it happens in the men's institutes as well. People have these reports about what has sent them into prison in the first place—intergenerational trauma, history of violence—and while they may be used correctly in sentencing, they're not being used correctly when they're arriving in corrections in terms of security classifications and everything else.

The legislation mandates that this be reviewed, so how do we ensure that those reports are used correctly to make sure they're taken into account and not being used as a reason to increase classifications for offenders?

Ms. Savannah Gentile: The Gladue factors are very poorly understood inside. I've seen reports listing that an indigenous woman was removed from her home as an infant and placed with a Caucasian family so there were no factors to consider for her in terms of indigenous social history. That's how poorly understood it is.

We also see how women's needs, such as previous addictions and the like, are translated into risks when you move into a corrections context. That has something to do with the classifications system. The same classifications, the same factors, are taken into account for both men and women, but something like violence in the family may affect men and women very differently. Women tend to be victims of violence, but it's still taken as a risk and that is why women are held at higher levels of security than are necessary.

In terms of how you address that, I would say that the Native Women's Association of Canada is actually going to be submitting a brief on just that. They will provide, I hope, an in-depth analysis of how that can be done better. I think they're better placed to make that analysis.

Ms. Pam Damoff: For John Howard, are they misused in the men's facilities as well?

Ms. Catherine Latimer: I'm going to defer that question to my colleague, Allen Benson, who is going to be on the next panel. He's better placed to answer that than I am.

Ms. Pam Damoff: Okay. Thank you.

The Chair: With that, we're going to suspend.

Before we do, I want to thank each and every one of you, particularly Mr. Da Silva and Ms. Pierini, for their courage in coming before us. It's been insightful. I appreciate it. I will take note of Mr. Dubé's advice that you can still submit written briefs.

We'll suspend.

● (1630)

(Pause)

● (1635)

The Chair: Order.

Thank you for coming, colleagues, but now we've lost our witnesses. Mr. Benson is lost and Mr. Godin is lost.

Voices: Oh, oh!

Mr. Glen Motz: I think they're just chatting.

The Chair: Okay, Mr. Godin is taking his seat.

Mr. Jason Godin (National President, Union of Canadian Correctional Officers): Sorry about that. I seem to be in familiar company, so it's all good.

The Chair: A number of colleagues have said to me that they have airplanes to catch, so I'd appreciate it if people would be economical with their statements and economical with their questions.

Mr. Glen Motz: It's my nature, Chair.

The Chair: It's your nature I know, Mr. Motz. You're not loquacious in the least.

Mr. Benson is from the Native Counselling Services of Alberta, and Mr. Godin is from the Union of Canadian Correctional Officers.

Mr. Godin is here, so I'll ask him to make his opening statement.

Hopefully, Mr. Benson will come.

● (1640)

Mr. Jason Godin: Thank you, Chair.

The Union of Canadian Correctional Officers represents over 7,300 members working in federal institutions across Canada. As law enforcement professionals, we represent a critical component of the Correctional Service of Canada, enabling the service to achieve its public safety mandate 24 hours a day, 365 days a year.

Recently, much consideration has been given to the role segregation plays within Canada's correctional system, both provincially and federally. It has been thoroughly studied and its effects analyzed and debated, both by academics and by critics of justice systems globally.

With the recent introduction of Bill C-83, CSC will be forced to significantly change the manner in which it manages its offender populations. The passage of Bill C-83 will result in changes to operational policies that will markedly affect the operations of our federal penitentiaries, impacting staff and inmates alike.

Accordingly, UCCO-SACC-CSN, whose members represent a significant partner in the discharge of effective corrections, seeks to participate in the discussions about these changes. That being the case, the goal of this report is to provide perspective on the potential impact of these changes from a correctional officer's perspective.

Should Bill C-83 be successful, CSC will be forced to implement policy that will drastically alter the manner in which the most difficult segments of its population are managed. As we have seen through recent CSC policy changes to segregation in CD 709, by eliminating segregation and replacing it with structured intervention units, CSC will further struggle to achieve its mandate of exercising safe, secure and humane control over its inmate populations. We are concerned about policy revisions that appear to be reducing the ability to isolate an inmate, either for their safety or for that of staff as noted in proposed section 37.3.

This is not to suggest that Bill C-83 is not without merits. Tools such as body scanners provided for in Bill C-83 will enhance correctional officers' abilities to reduce the various types of contraband that threaten the safety of those working and living in federal institutions. However, in order to implement the bill in its entirety, there will be a much greater commitment required from the federal government to ensure its success.

While Bill C-83 seeks to amend several key components of the CSC framework, perhaps the most significant in relation to security operations is the elimination of segregation units within federal institutions. While UCCO-SACC-CSN recognizes that effective corrections require the ability to adapt, our members are also tasked with ensuring the safety and security of all offenders and staff in the institutions.

Eliminating disciplinary and administrative segregation will significantly impact the ability to maintain control over diverse populations. We accept that an overreliance on segregation as a disciplinary consequence may lead to negative outcomes. However, there are incidents in which swift and immediate responses to dangerous behaviour are necessary options.

In 2007, we witnessed the unintended impact of changes to correctional policy, namely CD 709, “Administrative Segregation”, and CD 843, “Interventions to Preserve Life and Prevent Serious Bodily Harm”. These policies significantly reduce CSC's ability to manage its institutions through the use of segregation. Although well-intended, these quickly led to a sharp increase in violence within federal penitentiaries.

Early data released through the Office of the Correctional Investigator on the impact of these amendments provide some indication of the operational outcomes of these changes. An analysis of the numbers found a clear correlation between release back into regular population and violent incidents. Releases declined to 4,025 in 2017 from 5,501 in 2012, while the number of those leaving segregation who were implicated in an assault rose to 321 from 244, according to the Office of the Correctional Investigator.

Furthermore, Correctional Investigator Ivan Zinger stated that the new strategy to limit prolonged segregation has had the unintended consequence of more violent attacks behind bars, and he's urging the Correctional Service of Canada to strengthen supervision and risk assessments to improve safety for inmates. While Mr. Zinger may suggest that these changes lead to unintended consequences, UCCO-SACC-CSN has been unequivocal in its position that this outcome would occur.

In the last two years we have seen institutions that, despite shrinking populations, are becoming more violent due to an organizational repose that reduced control measures—namely segregation—which appears to be correlated with further increases in assaults. While UCCO-SACC-CSN does not advocate for the unnecessary segregation of inmates, it does strive to ensure its continued availability as a population management tool without unreasonable policy-based restrictions or outright elimination.

Consideration also needs to be given to the transitional nature of Bill C-83. Should this bill be implemented, all inmates who are subject to disciplinary segregation will no longer be the subject of this sanction, in sections 39 and 40. This will result in immediate changes to the management of violent offenders in institutional populations without apparent consideration for how they will be managed moving forward.

● (1645)

Bill C-83 seeks to replace segregation with the implementation of structured intervention units, the details of which are still vague. The bill will allow the commissioner to “designate a penitentiary or an area in the penitentiary as a structured intervention unit” for the confinement of inmates who cannot be maintained in the mainstream population for security and other reasons. This is proposed section 31.

Furthermore, within Bill C-83 references to segregation have been eradicated and replaced throughout by structured intervention units. As it currently stands, UCCO-SACC-CSN is of the opinion that the only units suitable for managing inmates who cannot be maintained in the mainstream inmate population for security or other reasons are CSC's existing segregation units. It remains unclear whether this bill will result in actual closures of segregation or more simply their renaming with something more politically appropriate, as in proposed section 31.

Regardless of where structured intervention units are situated within federal institutions, Bill C-83 also seeks to amend the manner in which the most difficult portions of the institutional population are managed. SIU inmates will be provided with the opportunity to interact with other inmates for at least two hours as well as the right to spend four hours outside their cell.

While these changes are undoubtedly well intended, they are not feasible under the current staffing and infrastructure models. Many of the inmates currently managed within segregation units are highly vulnerable and are segregated for their own protection. In order to provide them with the amount of interaction proscribed within the new bill, they will require direct and constant supervision from already limited numbers of correctional officers.

Conversely, the inability to adequately manage incompatible inmates will lead to consequences like those seen at Archambault and Millhaven institutions where inmates were murdered in separate incidents in early spring 2018.

In general, should we proceed to the SIU model as a replacement for segregation, it is our hope that these changes will be implemented gradually so they can be properly assessed and amended as necessary.

It is promising to note the discretionary power will remain with the commissioner to extend the proposed SIU status over 30 days, allowing correctional officers the ability to manage high-risk, volatile or self-harming offenders without hard-cap time frames.

As with the implementation of the SIUs, the ability for CSC to repurpose existing infrastructure to meet the criteria of Bill C-83 is unclear. Policy changes resulting from the passage of Bill C-83 will restrict an institution's ability to respond to the needs of specific inmates, the broader population, to meet its current mandate and to provide a safe work environment for staff.

Should these changes occur in order to continue to meet critical strategic priorities effectively, significant infrastructural changes at the institutional level are necessary.

Changes proposed by the bill will allow the commissioner to "assign the security classification of 'minimum security', 'medium security', 'maximum security' or 'multi-level security', or any other prescribed security classification, to each penitentiary or to any area in a penitentiary." This is in proposed section 29.1.

From an operational standpoint, this wording appears quite vague. Historically, CSC institutions have been constructed with a security standard in mind. To attempt to retroactively change the security ratings of not just individual institutions, but areas within those institutions, seems to be at odds with the original vision of them. This would significantly complicate population management strategies.

The powers of the commissioner are also broadened in relation to transferring inmates within the various security levels of their institutions. It will reinforce the power of the commissioner to transfer inmates to different security levels, for example, transfer a maximum-security level inmate to a medium-security area. Given the security implications of these transfers, we feel that it is prudent to solicit correctional officers' input in these decisions, as we are most familiar with their behaviour and potential outcomes.

Additionally, UCCO-SACC-CSN has been calling for the creation of a special handling unit for female inmates since 2005. Despite every effort, some female inmates exhibit behaviour that simply cannot be safely controlled in regular institutions within the current infrastructural model.

In similar instances involving male offenders, CSC has the ability to transfer otherwise unmanageable inmates to the special handling unit. Historically, due to a lack of alternate options, this has resulted in female inmates being placed in segregation for exceedingly lengthy periods of time. However, under the new guidelines of Bill C-83, CSC may be forced to involuntarily transfer these inmates on a regular and ongoing basis in order to be in compliance with the law.

The same set of circumstances that marked Ashley Smith's incarceration will become even more prevalent. This will serve neither the inmate nor CSC's legislative mandate, yet until changes to existing infrastructure are realized, they will be a necessary reality.

As a result of eliminating the segregation tool, CSC will be forced to rely on managing groups of inmates through the creation of subpopulations. Effectively, they are segregating inmates, without actually physically placing them in segregation.

I notice the chair is giving me the nod there.

● (1650)

The Chair: It is the sign.

Mr. Jason Godin: Yes, that's the evil eye, as they say.

If you don't mind, I'll just read the final page. I know you all have the brief in front of you, if that's okay, Mr. Chair.

The Chair: If you can do it in seven seconds, you're fine.

Mr. Jason Godin: I'll see what I can do.

Our recommendations are as follows: a more robust reassessment of policy changes influenced by Bill C-83; the implementation of a more robust incident tracking system to better understand the operational impacts of these changes; the reversion of language that now recommends response options to be "least restrictive" to what was previously "most appropriate"; a commitment to supplementing existing infrastructure within federal penitentiaries to address the impacts of the elimination of administrative and disciplinary segregation; and a review and augmentation of the disciplinary system, which must occur prior to the elimination of disciplinary segregation to effectively respond to the most difficult behavioural inmate cases.

We also recommend a commitment to the availability of health care professionals 24 hours a day within all CSC institutions; the expansion of alternative response options, such as chemical restraints similar to those used within provincial psychiatric hospitals; the supplementation of existing training and the implementation of new training to provide correctional officers with additional tools to allow them to safely respond to the diverse needs of inmate populations; increased inclusion for UCCO-SACC-CSN in future discussions—

I thought you said 47 seconds, sir, but that's okay.

Anyway, you have my brief.

The Chair: That was a very long seven seconds.

Mr. Jason Godin: I thought you said 47.

The Chair: There is a hearing clinic just down the street.

Mr. Jason Godin: Yes. That's good.

The Chair: Mr. Benson, you have 10 minutes, and I'm anticipating you will be able to demonstrate to Mr. Godin that 10 minutes is 10 minutes.

Dr. Allen Benson (Chief Executive Officer, Native Counselling Services of Alberta): I will. Thank you.

First, I'd like to acknowledge that I am on the unceded territory of the Algonquin people.

It's an honour to be here to speak to this bill. I am the CEO of Native Counselling Services of Alberta. I have been involved in this business since being a parole officer, originally, 40 years ago, so I'm speaking with many years of experience, both in Canada and overseas. We operate two section 81 healing lodges in Edmonton, one for men and one for women, which is the only female section 81 healing lodge.

I'm going to stay focused mainly around the indigenous part of Bill C-83. My focus is going to be around the accountability of the healing lodges. I'm going to speak to a couple of key things around the work we do.

First, I'd like to talk about the language used in the bill itself and address some of the changes in proposed sections 79.1 and 84.1, where the language proposed in the first section is to be “Indigenous governing body” meaning “a council, government or other entity”.

We're proposing that it be changed to “Indigenous governing body” meaning a council, government or “indigenous organization” that is authorized to act on behalf of an indigenous group, community or people that holds a right recognized under section 35 of the Constitution.

It's expanding that language a bit. There's a reason for that. I heard from my colleague from Elizabeth Fry about their concern for it. Our concern comes from a conversation with the Alberta chiefs and some of our leaders in the community about ensuring that it is an indigenous organization that is in fact delivering these services.

Later in proposed section 81.1, indigenous organizations are mentioned. However, we also propose that the government clearly define what an indigenous organization is—that is, that an “indigenous organization” is one that has a majority of its board of directors as first nations, Métis or Inuit; demonstrates expertise and program delivery that are grounded in an indigenous world view; and over two-thirds of the staff, in healing lodges in particular, of the agency identify as indigenous.

Proposed section 80 states:

> Without limiting the generality of section 76, the Service shall provide programs designed particularly to address the needs of Indigenous offenders.

We highly recommend that either in law or in policy the Correctional Service of Canada be directed to offer programs for indigenous offenders that are both culturally relevant and grounded in indigenous evidence-based research.

Further on section 81, for the proposed changes, we recommend that a proposed subsection 81(4) be added so that the minister may delegate full authority through section 81 agreements so that the director of the section 81 may carry out his or her full responsibility of the care and custody and supervision of offenders in a healing lodge. I'm speaking specifically about that because we have just renewed our agreement, and there's nothing in legislation that allows for the minister to delegate that authority. We've included it in our agreement, but it's not in law. We'd certainly like to see it in law.

In addition, proposed subsection 83(1) currently states:

> For greater certainty, Indigenous spirituality and Indigenous spiritual leaders and elders have the same status as other religions and other religious leaders.

We recommend that the following be added: “Elders should be utilized in all interventions regarding Indigenous offenders, including but not limited to mental health, behavioural issues and discipline”.

We currently utilize the elders' services in all of those areas in our healing lodge. It's very effective. It's a very effective means of accountability and it's an intervention status. A number of years ago, I was involved in an institutional riot where we brought elders in to help settle down the matter. It was very effective. It doesn't work in all cases, but it certainly should be considered as a key option.

Finally, in regard to sections 86 and 87, the proposed changes are that:

> health care means medical care, dental care and mental health care, provided by registered health care professionals or by persons acting under the supervision of registered health care professionals;

While this is costly, we don't agree with this proposal. We suggest that the health care providers be on site. Further, this means to stipulate that the health care professional is on site at all times. Health care is an ongoing concern for all offenders. This change could make the situation a lot worse.

● (1655)

Again, I'm not going to speak to the specific issues, but I'd like to address in general the structured intervention unit. In answer to your earlier question, I'd like to believe the intent of this bill is honourable and that it can be effective.

I am aware of the violence. I am familiar with the level of violence in the institutions and the importance of the safety and security of other offenders and staff. I am also aware that elders have been at risk at times, because of the violence. We are in support of that type of separation of offenders.

However, if the question is whether we are sure these policies are actually honoured and being implemented, let's guarantee that. One of the ways to guarantee it is to ask for all medium- and maximum-security institutions to have an on-site ombudsman who reports to the correctional investigator. If that's the public's concern or the concern of my colleagues, then one of our guarantees would be to ask for that on-site ombudsman to be in place to review these cases. That would help us eliminate the kinds of concerns that some of us and some of my colleagues have.

I want to thank you. I am prepared to answer any questions.

The Chair: Thank you, Mr. Benson, and thank you for the respect shown to the chair's desire to be economical with time.

With that, we will have Mr. Picard for seven minutes, please.

Mr. Michel Picard: Thank you.

Hello again, Mr. Godin.

[*Translation*]

Do we agree that the use of administrative segregation units—I don't know the exact term—is an essential tool for security reasons? Prison is not an easy place to begin with; it is a violent environment. The intake overflow and certain events are such that, for security reasons, we must segregate a number of people for their safety and that of the entire inmate population.

[*English*]

Mr. Jason Godin: Absolutely. This is a tool at the disposal not just of correctional officers but all the way up to the warden's level.

To safely manage these populations, we depend on administrative and disciplinary segregation to make sure that officers, inmates, nurses and so on are not hurt, and that inmates are not doing harm to one another. It's an essential tool and one that we continue to use as we need it.

[*Translation*]

Mr. Michel Picard: When the inmates are in the general population, they can normally take advantage of a number of programs. Beside the sentence they must serve, we're still trying to rehabilitate them, and the goal of training programs is to provide someone with the necessary tools to reintegrate society. A person in administrative segregation doesn't have access to this programming, which delays his or her reintegration.

[*English*]

Mr. Jason Godin: We can still offer programs in administrative segregation, to a limited degree. Maybe that's one of the questions you're asking. They just can't participate in the mainstream programs because they could be disruptive to other inmates who are trying to receive their programming as well. There is a delicate balance there.

Our goal is rehabilitation. At the end of the day that's our mandate, right from the correctional officer all the way to the warden and the parole board. At the same time, however, sometimes we have to limit access to programs for the safety and security of other inmates and to allow for programming to occur with inmates as well.

Although there is limited programming in administrative segregation, it does exist for the most essential things inmates need while they are in administrative segregation.

● (1700)

[*Translation*]

Mr. Michel Picard: You said that the proposed changes were well intentioned. In your opinion, what are those good intentions? What are the benefits of the improvements that you've proposed?

[*English*]

Mr. Jason Godin: There are good intentions there, but I will go to the issue of resourcing. This is going to be a very costly venture if we are going to be successful. There is the idea that we are going to include health care on a very regular basis. As you know, I have been advocating for there to be health care 24 hours a day in all facilities.

The more we can use therapeutic nurses and staff to help inmates with mental illness, the better. Along with that comes the security aspect of it, because we have to maintain security for the health care workers and other inmates who may be in the unit.

The bill is extremely ambitious. You are looking at trying to take inmates out of their cells for four hours a day. If you look at some of our administrative segregation units now, with up to 75 inmates, that task is virtually impossible within a 16-hour time frame unless you have the staff.

Also, that doesn't account for interruptions. We could have very volatile inmates who are self-harming, who are interrupting the programs of other inmates in the units.

The bill is very ambitious. The idea is not necessarily bad. We're not saying it's bad, but we're asking how you are going to deliver that from an operational standpoint to safely manage the institution. Right now, the way the bill sits, it's virtually impossible to do that without the proper resources.

[*Translation*]

Mr. Michel Picard: In the current system, we already take into account the safety of third parties who provide services, for example, health care services. Even if inmates only spend two hours outside their cells, we provide them with health care services and we take into account the safety of the providers.

[*English*]

Mr. Jason Godin: Even as it stands now, the policy changed in the summer of 2018, so that they now have the two hours out of their cells, but that two hours excludes showers and phone calls, and I can tell you, right now, in the current administrative segregation units, we're not even meeting those mandates.

As recently as a couple of weeks ago, I was in Edmonton sitting in the segregation unit asking the staff in there if they were meeting the two-hour requirement, with the showers and the phone calls, and they said, "Absolutely not. It's 10 o'clock at night and we can't meet them."

It's a resourcing issue, for sure.

Mr. Michel Picard: I'm sorry, but the question was about the security of the third party offering services.

Mr. Jason Godin: Right.

Mr. Michel Picard: Does it exist at this time?

Mr. Jason Godin: It does, yes. If you're asking about the health care services, yes, of course, when we're delivering health care services to inmates, for the safety of the health care professional, the inmates and other staff, we're usually accompanying the health care professionals.

If we're going to expand on that with Bill C-83, you can imagine what kinds of resources that will take. Normally when we're managing health care, with the health care professional there are usually two correctional officers. You could also be dealing with inmates who are extremely volatile or extremely violent, or they could be self-harming. That sucks up a lot of resources.

Yes, currently we do have that model, but to maintain that in this current bill is going to be extremely costly.

Mr. Michel Picard: But that doesn't mean, by going from two hours to four hours, that the health care provider will spend more time. It's just that in the four hours there will be other activities possible, so the security aspect of third party service providers remains as is, before and after the new bill. Is that right?

Mr. Jason Godin: Yes, there will be other activities, but you have to remember that those activities have to be supervised, and at the end of the day, health care, being part of that supervision, could be implicated or certainly it could include correctional officers, depending on what kind of supervision or what kinds of programs we're trying to deliver.

There is going to be a cost factor with that and not all health care professionals are going to be available for all the activities. Somebody has to manage that and have supervision over those situations.

Mr. Michel Picard: Do you believe that the officers you represent are part of the rehabilitation process?

Mr. Jason Godin: Yes, of course we are. Correctional Officer 2s participate in the case management process. I can tell you that the dynamic security that goes on daily in our institution is constant. I've worked in the system for 27 years, and I can tell you that it's constantly happening. We are a huge part of the rehabilitative process, and we know that eventually offenders are going to come back to live in our communities just as much as they're going to live in your community.

● (1705)

Mr. Michel Picard: Thank you.

The Chair: Thank you, Mr. Picard.

Mr. Motz, go ahead for seven minutes, please.

Mr. Glen Motz: Thank you, Chair.

Thank you to both groups for being here.

Mr. Godin, the government has suggested that your organization, the group you represent, was consulted as part of the development of this bill. From your perspective, did that happen?

Mr. Jason Godin: Unfortunately, due to cabinet confidentiality, as our commissioner often tells us, we weren't really consulted. The bill was as much a surprise to us as it was to anybody. I don't see the bill before it comes onto the table, so we weren't officially consulted on Bill C-83.

Mr. Glen Motz: Do you believe that the way this bill could play out and the impact it will have will create a safer environment for your staff, for mental health workers and for other inmates? What are your thoughts on that?

Mr. Jason Godin: It depends on how we capitalize on it. We have constantly advocated for more mental health services and support, because at the end of the day, the correctional officer is limited in his ability to manage that. It's a good thought. It's ambitious, but at the end of the day, how are we going to deliver upon that? We continue to advocate for that.

We're not the mental health care professionals. Again, the bill is very ambitious, and it's very costly, if this is the route we're going. We often have difficult times with mentally ill inmates, when we can't get them to psychiatric facilities in the province and they kick them back to us, so we're left managing them. You have to remember that around 72% of our inmate offender population suffers from mental illness. That requires a tremendous amount of resources, if we're going to manage 72% of our offenders who have mental illnesses.

Mr. Glen Motz: I don't think you were here during Ms. Latimer's comments, and you indicated again that there will be costs to make this happen. Of course, we'd be naive to believe it could be done under the current program, the current costings.

The minister and the commissioner were unable to provide for us or unwilling to provide for us any of the costings. Has your organization given any thought as to what some of these proposals would look like from your perspective, and what the financial implications would be?

Mr. Jason Godin: To be honest with you, our organization hasn't costed that out. We don't really have the access to those kinds of numbers.

All I can tell you is that if you're managing 75 offenders and you want to take them out for four hours a day, excluding phone calls and showers, there's an exorbitant cost to that and you have to have staff. We all know that the biggest cost driver in corrections is staffing. We're a people business, but I wouldn't even hesitate to guess the multimillions of dollars this type of bill is going to cost and to what extent it would end.

The cost of rehabilitation is expensive and, again, this is an ambitious program. I would hope that the minister is forthcoming with the cost because we've seen policy changes already without any resources and I've explained that to some of the members of the committee about when they made changes to CD 709 and 843, where they allowed them two hours out, and at the same time their cell effects have to be delivered to them within 24 hours. We were told that resourcing was coming for that. We've received nothing.

We're a little bit skeptical about receiving resources for this because we're doing more now with less. That's exactly what's happening in our seg units right now. We're pretty concerned about this because this is pretty ambitious.

Mr. Glen Motz: Speaking about a safe environment, I know that there has been conversation, and we heard the minister in the House as recently as this week speak to the needle exchange program and what it's intended to do, and he kept alluding to EpiPens and diabetic needles.

I'm not naive enough to believe that's the purpose behind the needle exchange program. I don't think anybody else should believe that either. There are two institutions apparently that are starting this already.

Can you tell us the impact of this needle exchange program?

The Vice-Chair (Mr. Matthew Dubé): Mr. Motz, in keeping with the.... I may be vice-chair but I know the chair is right behind me—

Mr. Glen Motz: He's right there.

The Vice-Chair (Mr. Matthew Dubé): In keeping with his previous rulings, there isn't anything related specifically to this, so if you can make a connection to specific aspects of the legislation—

Mr. Glen Motz: It's about safety. It's about making sure that we have a safe work environment, and that's exactly what Bill C-83 says it's going to do, improve safety.

I'm just curious to know their thoughts on whether that program will improve safety.

The Vice-Chair (Mr. Matthew Dubé): I'm sure you'll make the connection with the bill.

Mr. Glen Motz: Don't take up my time.

● (1710)

Mr. Jason Godin: Would you like me to answer the question?

Mr. Glen Motz: Answer the question.

Mr. Jason Godin: Listen, for the prison needle exchange program, the current two institutions are up and running. We're already incurring some difficulties, and I'll give you an example for Atlantic Canada, where the inmates have needles. Our job is zero tolerance on drugs. We're supposed to confiscate drugs, search for drugs, but currently the inmate who's on the program, or one of the inmates who's on the program there, has refused urinalysis testing.

Our response to that, in our view, would be swift. The inmate has to come off the program immediately. We've asked the commissioner straight out, what are you going to do with that situation because now the inmate is not in compliance with the drug interdiction strategy, not in compliance with the zero tolerance policy on drugs? Are we eliminating urinalysis, I guess, is the question because if there's not a decision being made, we're saying the inmate needs to be removed from the program.

We only have two institutions up and running. We saw our first heroin seizure not too long ago in Atlantic. We're all of a sudden seeing that—

Mr. Glen Motz: And an overdose I hear, too.

Mr. Jason Godin: I don't know about an overdose specifically, I just know that drugs were intercepted. Heroin was intercepted, and if you talk to some of the veteran officers there, they were surprised. They haven't seen those types of interceptions before.

Traditionally, in the Grand Valley Institution, since its opening in 1999, we've only found one needle inside the women's facility in over 20 years. In that case, most of the time female offenders are generally using different opioids or drugs as opposed to heroin, so we were quite surprised. We'll have to see how that pans out but we're quite surprised that we're introducing needle exchange in a women's facility.

The Chair: You have about 30 seconds.

Mr. Glen Motz: Perfect.

Obviously, the needle exchange program is a risk factor to other inmates and is a risk factor to guards.

Is that reasonable to assume?

Mr. Jason Godin: It has the potential to be.

The critics will say there have been no needle-stick injuries in Europe, but we can't say that. Our inmate population is different. The culture is very different here in North America.

I can tell you, working at Kingston Penitentiary, I witnessed an officer attacked with a needle, so the critics can say what they want. At the end of the day, the needles don't belong in the cells and this is what we need to advocate for. It's really a health care issue and we need to look at that seriously.

The Chair: Thank you, Mr. Motz.

With that, Mr. Dubé, you have seven minutes please.

[*Translation*]

Mr. Matthew Dubé: Thank you very much, Chair.

Thank you to our witnesses for being here today.

Mr. Godin, I'd like to know about the independent review of the decisions that are taken, whether by the institution's officials or the Commissioner, regarding the solitary confinement of an inmate or his or her presence in the integration unit mentioned in the bill.

Do you also feel that the independent review missing from the bill would be a good thing? It would make it possible to balance the decisions taken by your bosses, essentially, if I may say so. To some extent, this would allow you to know for sure how situations are managed and decisions are made.

[*English*]

Mr. Jason Godin: Again, certainly I was very clear in my brief to say that we have a role to play. As correctional officers, we have our ear to the ground 24 hours a day. We see a lot of inmate behaviour, and at the end of the day, it's very essential that right from the warden down we're engaged at every level. It's important to listen to us.

We're not against mental health treatment. We're certainly not against any of that, or against health care, but sometimes in an institution, security must trump that, if you understand what I'm saying. Sometimes the safety and security take precedence over mental health treatment because of the safety and security of other inmates. It's not that we're against it. Of course we want to deliver it, but at the same time, we have a huge role to play in it.

Oftentimes as correctional officers, we don't feel as though we're heard. Correctional officers smell things in a jail. We live there. We have to survive there. To not take our opinions into account in terms of moving inmates from different units or security classifications.... We know sometimes who's incompatible. We know that so-and-so won't get along with this guy. Sometimes they have to stop and we all have to catch our breath. Let's have a discussion about it, and let's do what's safe for everybody inside the institution if we're moving an inmate from one unit to the other. I can tell you I've personally been involved where we've opened up new units, even at Millhaven. In one unit we opened up, I was involved in five stabbings in one week, and we had told them they couldn't mix those populations.

We have the expertise and the experience. Our opinion should be valued when we're moving inmates in and out of units inside facilities.

[*Translation*]

Mr. Matthew Dubé: I will continue on the topic of union consultation, which is very important, of course. It was mentioned earlier.

When the Commissioner appeared before the Committee earlier this week, I asked her if there was a plan B. Courts have established a timeline, and that's the reason why this bill was proposed. As it is, we want to adopt it quickly.

They told me that they were trying to extend that timeline and that if it wasn't possible, we would consider a plan B, but they weren't able to give me more details.

Were there consultations with your union? Do you expect to be asked about a plan B that would be implemented if the bill were not passed before the deadline set by the courts?

● (1715)

[*English*]

Mr. Jason Godin: I should hope we would be. It's our understanding, based on the decisions, that there is an urgency to push the bill through. Again, we're going to be the first to tell you that we need to slow things down a little bit. If there is a plan B, we would really like to know about it, but often what happens with us is that we get cabinet confidentiality thrown at us. I understand the rules of Parliament, but at the same time, they have to engage us at some point. At the very least, I have to give the commissioner a little bit of credit that she did have a pre-discussion with us before Bill C-83, not to the level of detail we would like but nonetheless there was a conversation.

But if there is a plan B, our expectation is that our deputy head, being the commissioner, would sit down with us prior to plan B being unveiled. We should have some input into what plan B would look like.

Mr. Matthew Dubé: Thanks for that.

I don't know if this is something new, but the bill talks about it. You mentioned in your comments the designation of security classifications. One of them is multi-level. Is that something that exists currently, that the commissioner can designate multi-level? What consequence does that have for you?

You just mentioned anecdotally the situation in which you have hands-on knowledge about how problems can arise. If the commissioner is designating, I would imagine, to facilitate the creation of these new SIUs, is that something that can be seen as problematic, not just for you but even for the rehabilitative outcomes that are being sought in the system?

Mr. Jason Godin: We have multi-level institutions now. They can designate them as multi-level as it stands right now. The tricky part about multi-level is being able to manage the various populations. If you're managing a minimum-, medium- or maximum-security population all within one institution and different various mental health units, you have to realize that our little community inside is only so big. We can only move so much and we can only deliver so many programs in the course of a day.

Multi-level institutions become a little bit complicated. We refer to them sometimes as subpopulations. Subpopulations have to be managed very, very carefully. Sometimes we can't mix various populations. The current policies allow the commissioner to designate an institution as multi-level as it is. As we see the bill, it clearly gives the commissioner some power to assign different levels of security within the institution. That, to some degree, exists right now. We have different levels of units, but again, keep in mind that in some institutions, we may have seven, eight or nine different populations, which puts a tremendous resourcing strain on how we manage and how we can move inmates from an operational and safety standpoint.

It does exist. We're just a little bit concerned about how those designations would go, and certainly those designations have to be in consultation with the front-line correctional officer.

Mr. Matthew Dubé: My final quick question is to you, Mr. Benson. We share the concerns you raised over the language when we were talking about a governing body versus a community.

You mentioned what your suggested amendment was, but can you just explain quickly what the concern would be and what would be missed out on? What's the risk of not fixing the language in the current legislation?

Dr. Allen Benson: There are two things. One, as it stands now, a governing body is referred to only as first nations elected officials, Inuit or Métis, and in many cases we have indigenous organizations that are representative of those communities. That's part of it.

Two, we need to eliminate the possibility of non-indigenous organizations stepping into the business of healing and running healing lodges. To be very frank, that is exactly what's happening in areas of child welfare, justice and corrections. We're very clear that it hasn't worked when run by these organizations for the last 200 years. It's not going to start working now.

The impact of indigenous-run healing lodges.... It has been proven that our 87% success rate, as evaluated by Correctional Service Canada, is because it is indigenous-based. It's evidence-based research and trauma-based treatment.

The Chair: Okay. We'll have to leave it there.

Thank you.

Ms. Dabrusin is next, for seven minutes please.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you.

I would like to pick up with Mr. Benson.

When you were talking about the indigenous governing body, I was looking at the definition. Let's go to section 80, about the programs you talked about. You included additional wording that you would have added, saying, “grounded in indigenous research and data”. Is that correct?

● (1720)

Dr. Allen Benson: Right.

Ms. Julie Dabrusin: I was looking at call to action 36 from the Truth and Reconciliation Commission's calls to action. If we adopt the wording you propose, would you see this section as fulfilling that call to action?

Dr. Allen Benson: Absolutely, and so do my colleagues. We have had extensive consultation with indigenous academics across Canada around these issues and this language. We think addressing that question of world view allows for that expertise, that knowledge, the culture and the spirituality to be incorporated.

Ms. Julie Dabrusin: How would that work? I apologize, because I don't have the exact words you proposed in front of me. I was trying to sketch it all out.

What would that look like? I only have it as “grounded in indigenous research”. I'm not sure if I have that right.

Dr. Allen Benson: We talk about programs that are culturally relevant, grounded in indigenous evidence-based research and with an indigenous world view.

Ms. Julie Dabrusin: Okay. Is that wording incorporated in any other legislation or policy? Do we have anything else we can use as a comparison of how that works?

Dr. Allen Benson: Not yet, although recently in Alberta, in the new child welfare legislation, they've adopted that language.

Ms. Julie Dabrusin: Okay. It's good to have something we can look to as another example of it.

I'm really curious about the discussion we've heard on the need for further oversight. It's come up a few times. In fact, I believe you're the first person to have actually suggested a model for it. You suggested an on-site ombudsman who would report to the correctional investigator for these organizations.

If I can jump to Mr. Godin, how do you feel about that suggestion as an oversight mechanism?

Mr. Jason Godin: To be honest with you, I have to defend the service. We do a pretty good job of oversight on our own. We're not asking for an independent oversight. We think we have the tools and the policies in place and the people to do what we need to do. We're managing 15,000 offenders on a daily basis, 365 days a year. We're not necessarily in favour of external oversight, because we believe we know our business better than anybody else.

That doesn't mean we don't make use of external resources to help us. Certainly on the indigenous file, by all means, absolutely we are open to that.

Ms. Julie Dabrusin: When I read the B.C. case and the Ontario case, due process and fair process—and oversight as part of that—played a fairly big role in both of those decisions. That's why, when I'm looking at what those decisions said, I'm not trying to cast aspersions on the way anybody works, but it seems to be what the courts identified as a need.

Mr. Jason Godin: That's what they've indicated, but at the same time it's very difficult to manage outside oversight given the operational needs, the population needs and the fact that we have routines going on. It's not that simple. Sometimes we have to put our trust in the organization and the professional men and women who are there to do the oversight with the current policy and legislation.

We understand what the court has said, but we think we do a pretty good job of oversight internally with the current policies we have.

Ms. Julie Dabrusin: I believe, Mr. Benson, you made a suggestion for a subsection 81(4). You said that was in your agreement. You had it in your agreement, but it wasn't in law. You want it to now be in law. I was wondering if you'd be able to help me understand.

What is the wording that you have in your agreement? Maybe if you don't have it all in front of you, you can send it in to us.

Dr. Allen Benson: Yes.

Ms. Julie Dabrusin: What would be the impact of that changed wording?

Dr. Allen Benson: First, I will share this as well with you. Our agreement allows for the full authority of a warden to operate a facility, basically, but the legislation doesn't back that up and provide for it. In essence, we're operating in an agreement with the minister. This new legislation doesn't reflect that agreement and it should be reflected. The minister should have that authority to delegate to us, and it should be reflected in the legislation.

Ms. Julie Dabrusin: Do you have specific wording that you would have us incorporate into this?

Dr. Allen Benson: I'll supply that.

Do you want me to read it again?

Ms. Julie Dabrusin: No that's fine. You can just send it in. That will be great, thanks.

Dr. Allen Benson: All right.

Ms. Julie Dabrusin: The other part is that both court cases talked about the length of time that a person would be in segregation. That was addressed in both of them. I believe there was also a lot of discussion in the B.C. case about how hard it can be. There are some instances where if it's 15 days, it might be hard to have that as a hard cap. That was some of the evidence.

What I'm wondering is whether you have any idea of how to deal with those cases if the criticism that we're being faced with from the courts and from the Mandela rules is that you need a hard cap. There was some discussion about that. There was some evidence that having a hard cap was better for the mental health of the people in prisons because they can see where the end point is.

Do you have any suggestions for dealing with these hard-cap type of ideas and how to minimize it?

● (1725)

Mr. Jason Godin: The hard cap is virtually impossible to implement. You have to remember that we have cases in which we may be successful, after 10 or 15 days, to release the inmate back into the population, but then we can have self-harming cases or cases where inmates are extremely violent, where they go beyond the 15 or 30 days. We can't just put a hard cap on it. Each individual case is different.

If you take a look at the Burnside decision in Nova Scotia, where the judge ruled there.... I'm aware of the three decisions across the country, but even the Burnside decision said that for the most violent, volatile inmates, it becomes necessary to sometimes keep inmates in for longer periods of time.

You also have to keep in mind that some of our inmates request to be there. I can tell you that as recently as a couple of weeks ago, at Stony Mountain, we were being told to take inmates out of segregation, and inmates were saying, "No, you're not taking me out of here. This is where I live."

We have to have some kind of a balance. Putting a hard cap in place is going to be detrimental to the inmates, and certainly to the staff's safety and security. Sometimes inmates just need to go into segregation for quiet time, and sometimes they need longer than 10 or 15 days or whatever.

There are all kinds of reasons why we can't have a hard cap. With a self-harming, volatile, violent inmate, we can't just suddenly say, "Okay, 15 days is up. We're going to send you back into a population range." Then what's going to happen is that we're going to disrupt that entire range. We can't allow that to happen. That's why we can't agree to a hard cap.

Ms. Julie Dabrusin: Thank you.

The Chair: Thank you, Ms. Dabrusin.

Colleagues, I'm down to about two minutes, but we did get started late, so my thought is that we give Mrs. Boucher five minutes, give Ms. Damoff five minutes, and call it a night.

Mr. Michel Picard: We can't stay.

Mr. Sven Spengemann: We have problems with travel schedules.

The Chair: Do we have problems?

Okay, Mrs. Boucher, finish it off.

[*Translation*]

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): I have a quick question to ask, in particular to Mr. Jason Godin.

I understand that you were not consulted regarding this bill. However, you're well-positioned to understand the situation since you work in the correctional setting, and in maximum security prisons since we're talking about federal institutions here. We've introduced a bill that could be either good or bad—I haven't read all of it—without consulting people like you who live in the correctional setting on a day-to-day basis.

What is the first thing that we should have done before writing this bill? What is it that the correctional environment actually needs?

[*English*]

Mr. Jason Godin: If you're asking from a front-line perspective, the real need is to sit down and discuss the statistics currently out there. Let's share the information. Let's see what's happening. Are we having problems in certain institutions or certain units because something is triggering that? We don't seem to have those discussions. Unfortunately, the department is not very forthcoming with statistical data where we can take a look at that, although recently they finally released a report on assaults on staff, which we've been advocating for, for a long time.

The other thing is, let's have a discussion about reality and resources. I've read the bill very thoroughly. If we're talking about four hours outside a cell, I can tell you that's impossible the way we're structured right now from a staffing and a health care standpoint. Before we get into introducing bills, in our view, these are some of the conversations or some of the legwork that needs to be done ahead of our introducing this type of bill.

Again, we're not completely opposed to some of the things in the bill, but at the same time we need to have those consultations begin on the front end. The fear of correctional officers is that we're going to implement the cart before the horse. The cart is out of the barn running and the horse is chasing it. We need to start engaging those discussions earlier, before we see a bill. Let's have real conversations.

I can't emphasize enough that we're the ones running the institutions. Yes, we have our wardens and our parole board and everybody has a role to play, but at the end of the day, on weekends and during the night, correctional officers are operating the facility, nobody else. We need to know exactly, ahead of time, where we're going with these types of bills and what impact it's going to have on us.

● (1730)

The Chair: Okay, we'll have to leave you there, Ms. Boucher.

Mrs. Sylvie Boucher: Thank you.

The Chair: With that, I want to thank Mr. Godin and Mr. Benson for their testimony here.

Colleagues, have a good constituency week.

The meeting is adjourned.