Mapping Solitary Confinement: Canada (Federal System)

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1. Country general Criminal Justice System facts & numbers

Canada's criminal justice system is segmented into 2 primary jurisdictions, federal and provincial, which are legislatively charged with the execution of different custodial sentences. The federal system is responsible for all prisoners serving sentences of two years or longer. Federal correctional centres are called penitentiaries. For male federal prisoners, there are 29 prisons, 3 healing lodges, and 5 regional psychiatric centres located across Canada.[1] For women federal prisoners, there are 5 multi-level prisons, 1 healing lodge, and 2 regional psychiatric centres[2] which serve both male and female prisoners.[3]

- In January 2020, the Correctional Investigator reported that despite constituting less than 5% of the Canadian population, "the combined men and women Indigenous proportion in federal corrections is now 32%, and climbing".[4]
- Despite representing less than 5% of the total population of women in Canada, Indigenous women will soon represent 50% of all federally sentenced women in custody.[5]
- In 2018/2019 the average daily count of prisoners in federal custody was 14,071. This represents a rate of 47 per 100,000 adults.[6]
- In 2018/2019, there were 6,995 admissions of male prisoners to federal custody. Of these, 1,994 were Indigenous and 5,001 were non-Indigenous.[7]

[1] Correctional Service of Canada. (2021). Facilities and security. https://www.csc-scc.gc.ca/facilities-andsecurity/index-eng.shtml
[2] Ibid.
[3] Correctional Service of Canada. (2019). Women's facilities. https://www.csc-scc.gc.ca/women/002002-0003en.shtml
[4] https://www.oci-bec.gc.ca/cnt/comm/press/press20211217-eng.aspx
[5] https://www.oci-bec.gc.ca/cnt/comm/press/press20211217-eng.aspx
[6] https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl01-eng.htm
[7] https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl04-eng.htm

- In 2018/2019, there were 563 admissions of female prisoners to federal custody. Of these, 233 were Indigenous and 330 were non-Indigenous.[8]

2. Legislative and administrative bases for use of solitary confinement

As of November 2019, ss.31-37 of the *Corrections and Conditional Release Act* (*CCRA*)[9] were changed under Bill C-83 primarily to reflect a new name, some modification to the purpose of the former administrative segregation, and to eliminate the former s.44(1)(f) disciplinary segregation.[10] Despite the 2019 changes to the legislation and the new policy directives under CD 711,[11] the "rebrand[ing]"[12] from administrative segregation to the new Structured Intervention Units has reportedly not translated to meaningful change away from harmful segregation practices.[13]

3. Reasons for use and administrative regulations for each of the following:

a. Solitary confinement as punishment

- In effect, segregation for punishment was removed from legislation with the introduction of the SIUs.[14]

b. Solitary confinement as management of 'difficult' or 'dangerous' prisoners

- Under s.34(1)(a) of the CCRA prisoners can be confined to the SIUs if they are deemed to pose a safety risk to others or a security risk to the prison.[15] Despite the new SIU legislation,

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[8] https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl04-eng.htm
[9] Corrections and Conditional Release Act, SC 1992, c. 20, ss 31-37 https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[10] Parliament of Canada. (2018). Publication No. 42-1-C83-E: Legislative Summary of Bill C-83: An Act to amend the Corrections and Conditional Release Act and another Act. https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/421C83E#a2.2
[11] CD 711, Commissioner's Directive 711: Structured Intervention Units, https://www.csc-scc.gc.ca/acts-and-regulations/711-cd-en.shtml
[12] Pate, K. (2018). Solitary by another name is just as cruel: Senator Pate. Senate of Canada. https://sencanada.ca/en/sencaplus/opinion/solitary-by-another-name-is-just-as-cruel-senator-pate/
[13] Sprott, J., Doob, A., & Iftene, A. (2021). Do Independent External Decision Makers Ensure that An Inmate's Confinement in a Structured Intervention Unit is to End as Soon as Possible? https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/files/SIU_Report4-IEDM%28SprottDoobIftene%2910May21.pdf & Sprott, J., & Doob, A. (2021). Solitary Confinement, Torture, and Canada's Structured Intervention Units. https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/files/Torture%20Solitary%20SIUs%20%28Sprott%20Doob%2023%20Feb%202021%29.pdf & Doob, A., & Sprott, J. (2020). Understanding the Operation of Correctional Service Canada's Structured Intervention Units: Some Preliminary Findings. https://drive.google.com/file/d/1FiN_l3hbBUU-KNIHFQ3g4auN59KyRo0n/view
[14] Parliament of Canada. (2018). Publication No. 42-1-C83-E: Legislative Summary of Bill C-83: An Act to amend the Corrections and Conditional Release Act and another Act. https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/421C83E#a2.2
[15] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.34(1)(a) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont

in 2018, Canada's Correctional Investigator provided testimony to Parliament regarding Bill-C83 and cited that safety to others and security were at that time the 2 "most-used grounds for placement in administrative segregation" under the previous legislative framework.[16]

- In the Canadian federal system, there is also one Special Handling Unit (SHU) located in Quebec for male prisoners who are determined to pose a risk to staff, other prisoners, or the public and who cannot be safely managed at other maximum-security institutions or a treatment centre. Prisoners identified as "radicalized" may also be sent to the SHU if they cannot safely be managed at another penitentiary. The SHU is governed by Commissioner's Directive 708.[17] Prisoners suffering from mental disorders may be sent to the SHU, although all reasonable efforts to initiate treatment are to be made prior to the decision to transfer a prisoner. Special handling units are restrictive and in some cases the conditions of confinement may constitute segregation. There is no maximum duration for which a prisoner can be held in the SHU, although prisoners with six months or less remaining on their sentence are only transferred here in exceptional circumstances, due to reintegration considerations. The SHU is Canada's closest equivalent of a "super-max" unit.

- Maximum duration
  - Under the new SIU legislation, there is no clear time limit to segregation placements. The legislation specifies under s.33 that prisoners should be released "as soon as possible."[18] In addition, s.34(2) obliges the Correctional Service of Canada to maintain a record of transfer to the SIU describing the reasons for placement and the SIU transfer alternatives that were considered.[19]
  - s.37.1(1) and (2) requires that CSC providing health monitoring including a mental health assessments of prisoners in the SIU unit beginning 24 hours after the transfer.[20] The mental health professional may recommend to CSC that the conditions of confinement be altered or that the inmate be removed from the SIU under s.37.2.[21] Following any recommendation by a mental health professional that a prisoner be removed from the SIU, s.37.3(1) - s.37.3(2) prescribes that the Institution Head (Warden) will within 30 days from the transfer, or "as soon as practicable" in certain circumstances, render a decision about whether or not the prisoner should remain in the SIU or whether or not the conditions of

[16] House of Commons. (2018). Standing Committee on Public Safety and National Security: Evidence Tuesday, November 20, 2018. https://www.ourcommons.ca/DocumentViewer/en/42-1/secu/meeting-137/evidence
[17] https://www.csc-scc.gc.ca/politiques-et-lois/611-pb-en.shtml
[18] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.33 https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[19] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.34(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[20] *Corrections and Conditional Release Act*, SC 1992, c. 20, ss.37.1(1)-(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[21] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.37.2 https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont

confinement should be altered.[22] If the warden goes against any recommendation to remove the prisoner from the SIU or modify the conditions of confinement, under ss.37.31(1)-(2) a second opinion is to be rendered by a CSC senior registered health care professional.[23]

- Under s.37.31(3)-s.37.32(2), 30 days after the Institution Head decision to keep the prisoner in the SIU or to maintain the conditions of confinement, the Commissioner is to form a committee of staff of higher rank than the warden to issue a decision as to whether the prisoner should remain in the SIU. This decision is to be made every 60 days.[24] This decision will only keep a prisoner in the SIU, under ss.37.41(1)-(2) if the committee believes that the prisoner is a threat to others, or security of the prison, or to themselves, or may interfere with an investigation that could lead to a charge.[25]
- Under s.37.8, an appointed Independent External Decision Maker will decide whether the prison should remain in the SIU.[26] This decision may, under s.37.81, consider altering the conditions of confinement where the Commissioner's committee did not uphold the recommendation of health care professionals to vary the conditions or remove the prison from the SIU.U.[27]

- Which groups of prisoners are units aimed at?
  - The SIU legislation does not specify any group of prisoners, only the reasons for transfer being jeopardizing the safety of others, the security of the prison, or their own safety (s.34(1)-s.34(1)(c)).[28]
- Dedicated special high security /Supermax units
  - There are SIUs located in only some of the 43 Federal prisons: Atlantic Institution, Donnacona Institution, Port-Cartier Institution, the Regional Reception Centre (supermax), Millhaven Institution, Bowden Institution, Edmonton Institution, Saskatchewan Penitentiary, Stoney Mountain Institution, and Kent Institution for the men.[29] On the women's side there are SIUs at all of the 5 multi-level prisons: Nova Institution for Women, Joliette Institution for Women, Grand Valley Institution for Women, Edmonton Institution for Women, and Fraser Valley Institution for Women.[30]

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[22] *Corrections and Conditional Release Act*, SC 1992, c. 20, ss.37.3(1)-(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[23] *Corrections and Conditional Release Act*, SC 1992, c. 20, ss.37.31(1)-(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[24] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.37.31(3)-s.37.31(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[25] *Corrections and Conditional Release Act*, SC 1992, c. 20, ss.37.41(1)-(2) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[26] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.37.8 https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[27] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.37.81 https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[28] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.34(1)-s.34(1)(c) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[29] Correctional Service of Canada. (2021). Overview: Structured Intervention Units. https://www.csc-scc.gc.ca/acts-and-regulations/005006-3002-en.shtml
[30] Ibid.

- Daily regime
    - The new SIU legislation mandates that CSC provide the "opportunity" for prisoners to be out of cell for at least 4 hours daily, as well as 2 hours of interaction through activities including programs, interventions and services or leisure time.[31] Under s.37.83(1) if the prisoner has not for 5 days consecutively, or for 15 days of a 30-day period, had a minimum of 4 hours per day outside of cell, the Independent External Decision Maker is to "as soon as practicable" review whether or not CSC took "all reasonable steps to provide opportunities" for the prisoner to have time out of cell and interact with others.[32]
    - CSC policy under CD 711 paragraph 119 specifies that prisoners in the SIU may have opportunities for "visits" which count towards time out of cell and time for meaningful human contact (paragraph 120).[33] However, paragraph 117 states that reasonable efforts should be to facilitate time out of cell "without affecting the security of the institution or the safety of any person."[34]
- In cell provisions
    - There is little information regarding the structure and provisions of the SIUs implemented at 15 of the Federal prisons. In his 2019 testimony to the Standing Senate Committee on Social Affairs, Science and Technology, The Honourable Ralph Goodale, Minister of Public Safety and Emergency Preparedness, Public Safety Canada confirmed that the implementation of Bill-C83 would utilize the previous administrative segregation infrastructure to create the SIUs.[35] He stressed that the primary differences would not be the physical place that constituted the SIUs, but the access to resources and meaningful human contact offered to prisoners in the SIUs.[36]
    - Cells are not equipped with a television, however cells are equipped with outlets that could be used for items such as a television, should it be permitted among a prisoner's personal effects.
    - For images of SIU cells see the Correctional Investigator's 2019/2020 report.[37]

c. Solitary confinement for the prisoner's own protection

- Maximum duration

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[31] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.35-s.37(1)(c) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[32] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.37.83(1) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-5.html#docCont
[33] Correctional Service Canada. (2019). Commissioner's Directive 711: Structured Intervention Units. https://www.csc-scc.gc.ca/acts-and-regulations/711-cd-en.shtml
[34] Correctional Service Canada. (2019). Commissioner's Directive 711: Structured Intervention Units. https://www.csc-scc.gc.ca/acts-and-regulations/711-cd-en.shtml
[35] Senate of Canada. (2019). Standing Committee Social Affairs, Science and Technology: Evidence. https://sencanada.ca/en/Content/Sen/Committee/421/SOCI/54763-e
[36] Ibid.
[37] https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20192020-eng.pdf

- As above, under ss.34(1)(a)-(c) of the CCRA prisoners can be confined to the SIUs if they are deemed to pose a safety risk to others, a security risk to the prison, a risk to themselves, or a risk to any investigation of charges.[38] *See answers in b.*

- Regime / Time out of cell/ Contact with the outside world (visits, telephone)
  - See answers in b.
- In cell provisions: TV? Radio? Regular furniture? Special limitations? Canteen?
  - See answers in b.

d. Solitary confinement pre-trial

- All remand is governed provincially – see provincial surveys responses.

4. Restraints and chemical irritants

- Neither the SIU legislation nor Commissioner's Directives refer to the use of restraints or chemical irritants. Th use of chemical agents is more generally governed by CD 567-4, "Use of Chemical and Inflammatory Agents.[39] CD 567-3 governs the use of restraints.[40] Please note this assessment of the legislative and policy frameworks is not likely to be exhaustive.

5. Protected populations

- In early reports on the SIUs by the Office of the Correctional Investigator (OCI) the Correctional Investigator Ivan Zinger provided that "…the new legislation does not prohibit the placement of mentally ill people in SIUs, nor does it place hard caps on how long individuals can be kept in restrictive confinement environments."[41] Similarly, although BCCLA and JHSC v. Canada (2019) found that no determination could be made on the possible disproportionate impacts of segregation to women, this is has yet to be addressed by the courts.

6. Statistical data on use of solitary confinement/segregation

- Some early data by Dr. Anthony Doob in his testimony to the Senate Standing Committee on Human Rights revealed that often prisoners were placed in the SIUs for a period of longer than 2 months and did not receive the minimum interaction time or time outside of cell.[42] By April 2021 Dr. Doob had assessed, with limited data, that at least 28.4% of SIU placements met the

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[38] *Corrections and Conditional Release Act*, SC 1992, c. 20, s.34(1)(a)-(c) https://laws-lois.justice.gc.ca/eng/acts/C-44.6/page-4.html#docCont
[39] CD 567-4, Commissioner's Directive 567-4: Use of Chemical and Inflammatory Agents, https://www.csc-scc.gc.ca/acts-and-regulations/567-4-cd-eng.shtml
[40] CD 567-3, Commissioner's Directive 567-3: Use of Restraint Equipment for Security Purposes, https://www.csc-scc.gc.ca/acts-and-regulations/567-3-cd-eng.shtml
[41] Office of the Correctional Investigator. (2020). Office of the Correctional Investigator Annual Report 2019-2020. https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20192020-eng.aspx#s5
[42] The Standing Senate Committee on Human Rights. (2021). Human Rights of Federally Sentenced Persons. p. 165. https://sencanada.ca/content/sen/committee/432/RIDR/reports/2021-06-16_FederallySentenced_e.pdf

solitary confinement threshold of the Mandela Rules and 9.9% of those placements lasted more than 15 days.[43]

- Dr. Jane B. Sprott and Dr. Anthony N. Doob (2021) examined the rate (per 1,000 prisoners in the region) of short (defined as 15 days or less) and long (defined as 16 days or more) stays in SIUs across regions in Canada and found significant variations.[44] For example, in Atlantic Canada, the rate of short stays in SIUs was 70.2 and the rate of long stays was 124.8. In Quebec, the rate of short stays in SIUs was 178.1 and the rate of long stays was 118.1. Overall, the Quebec region had the highest rate of stay in SIUs in Canada. In Ontario, the rate of short stays in SIUs was 18.2 and the rate of long stays was 30.3. In the Prairie region, the rate of short stays was 41.4 and the rate of long stays was 91.2. In the Pacific region, the rate of short stays was 102.7 and the rate of long stays was 99.8.[45] This report contains other useful statistics related to the use of structured intervention units in Canada.

- Previous statistics on administrative and disciplinary segregation can be found in reports by the Correctional Investigator of Canada. A special issue report on segregation is included in a later section.

7. Jurisprudence on solitary confinement

- BCCLA and JHSC v. Canada, 2018[46]
  - This 2018 decision rendered by the British Columbia Supreme Court addressed the issue of the constitutionality of the segregation provisions of the *CCRA*. Specifically, the court heard testimony from stakeholders including the Correctional Service of Canada (CSC), the Office of the Correctional Investigator (OCI), and prisoner advocacy organizations as to the impacts and harms of administrative segregation placements. The court found that the segregation provisions were unconstitutional as they established that any placement greater than 15 days was not a "defensible standard." They also found that the provisions were unconstitutional as they allowed for any amount of time in segregation for those with mental health issues. The court found that although Indigenous women were disproportionately impacted by placements in segregation, this impact did not extend to all women. There is little research regarding the impacts of segregation and confinement on women.[47]

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[43] Ibid.

[44] https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/files/Torture%20Solitary%20SIUs%20%28Sprott%20Doob%2023%20Feb%202021%29.pdf The data referenced here was pulled directly from a table on page 3 of this report.

[45] https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/files/Torture%20Solitary%20SIUs%20%28Sprott%20Doob%2023%20Feb%202021%29.pdf The data referenced here was pulled directly from a table on page 3 of this report.

[46] British Colombia Supreme Court. (2018). https://www.bccourts.ca/jdbtxt/sc/18/00/2018BCSC0062.htm#_Toc503869167

[47] Professor Hannah-Moffat's expert report for this case has been included in documents sent as it provides additional information into practices and effects of segregation.

- BCCLA and JHSC v. Canada (Attorney General), 2019[48]
  - In the case of *BCCLA and JHSC v. Canada* (2018), Canada appealed the decision of the lower court, arguing primarily that new legislation (the Structured Intervention Units) was in process to address the previous concerns and findings regarding the constitutionality of the *CCRA's* segregation provisions. Instead, the British Columbia Court of Appeal (BCCA) affirmed the lower court's finding, albeit providing an extension to the suspension of declaration of invalidity regarding the segregation provisions. At the same time, the court instructed that Canada should still address the constitutional infringements found at the lower court while awaiting implementation of new legislation. The BCCA impugned the lower court's finding regarding women, reasoning that the lower court had answered a question that was not raised.

- Canadian Association of Elizabeth Fry Societies and Acoby v. the Correctional Service of Canada (CSC), 2019 CHRT 30.[49]
  - In this case, the complainants allege that the CSC discriminates against women in federal prison on the basis of sex, race, national or ethnic origin, religion, and/or disability. CAEFS alleges that the CSC discriminates against federally sentenced women, in particular Indigenous women and women with mental health issues, by holding women in the federal prison system in segregated, restrictive conditions of confinement.

- CCLA v. Canada (Attorney General), 2019[50]
  - At the Court of Appeal for Ontario (CAO) the CCLA appealed the decision of the lower court which found that the legislative administrative segregation provisions of the *CCRA* did not disproportionately and harmfully affect prisoners between the ages of 18 and 21 and those with mental illness when placed in segregation for any amount of time. The lower court also found that prolonged administrative segregation did not violate the *Charter* because the legislation provided health monitoring to prevent any harms, and that administrative segregation was not harsher than sanctions intended at sentencing. While the COA agreed with the application judge that was not sufficient evidence to make specific determinations for prisoners who are between 18 and 21 years of age or who have mental illness, they did find that any prolonged administrative segregation of more than 15 days (about 2 weeks) can cause harm that monitoring can only detect, not prevent. Furthermore, the court found that rather than intentions at sentencing, the lower court should have considered impacts to those who are segregated against those in the general population. The COA accepted evidence that this comparison would constitute a disproportionate impact to prisoners placed in prolonged administrative segregation of more than 15 days.

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[48] British Columbia Court of Appeal. (2019). https://bccla.org/wp-content/uploads/2019/09/2019-BCCA-228-British-Columbia-Civil-Liberties-Association-v.-Canada-Attorney-General.pdf

[49]https://www.canlii.org/en/ca/chrt/doc/2019/2019chrt30/2019chrt30.html?autocompleteStr=Canadian%20Association%20of%20Elizabeth%20&autocompletePos=2

[50] Court of Appeal for Ontario. (2019). https://www.canlii.org/en/on/onca/doc/2019/2019onca243/2019onca243.html?resultIndex=1

- Brazeau v. AGC (Attorney General), 2019[51]
  - This civil class action resulted in a $20 million summary judgement against the government of Canada for prisoners who were held in administrative segregation. This lawsuit was on behalf of prisoners who were seriously mentally ill and were placed in administrative segregation in federal penitentiaries. In this case, the aggregate assessment award was paid into a fund to be used for mental health programs in penitentiaries.

- Reddock v. Canada (Attorney General), 2019 ONSC 5053.[52]
  - This is a class action suit arising out of the use of administrative segregation in the Federal Government's penitentiaries. A judge ruled damages to be paid out to members of the class.

8. Reports on the use of solitary confinement

- Inspection / monitoring bodies /non-Governmental bodies
  - Office of the Correctional Investigator. (2020). Annual Report of the Office of the Correctional Investigator 2019-2020. pp. 8-11. https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20192020-eng.pdf
  - Sprott, J., & Doob, A. (2021). Confinement, Torture, and Canada's Structured Intervention Units*. https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/files/Torture%20Solitary%20SIUs%20%28Sprott%20Doob%2023%20Feb%202021%29.pdf
  - Sprott, J., Doob, A., & Iftene, A. (2021). Do Independent External Decision Makers Ensure that an Inmate's Confinement in a Structured Intervention Unit is to End as Soon as Possible? https://www.crimsl.utoronto.ca/sites/www.crimsl.utoronto.ca/
  - Doob, A., & Sprott, J. (2020). Understanding the Operation of Correctional Service Canada's Structured Intervention Units: Some Preliminary Findings. https://johnhoward.ca/wp-content/uploads/2020/10/UnderstandingCSC_SIUDoobSprott26-10-2020-1.pdf
  - Office of the Correctional Investigator. (2014). A Three Year Review of Federal Inmate Suicides (2011-2014). https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20140910-eng.aspx
  - Office of the Correctional Investigator (2015). Administrative Segregation in Federal Corrections: 10 year trends. https://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20150528-eng.pdf
- Media
  - https://www.cbc.ca/radio/asithappens/as-it-happens-thursday-edition-1.5927937/canada-promised-to-end-solitary-confinement-but-a-new-report-says-it-s-still-happening-1.5927940
  - https://johnhoward.ca/news/report-replacement-for-segregation-in-federal-prisons-does-not-meet-legal-standards/
  - https://www.theglobeandmail.com/canada/article-federal-prisons-still-use-solitary-confinement-report-says/

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[51] Ontario Superior Court of Justice. (2019). https://www.canlii.org/en/on/onsc/doc/2019/2019onsc1888/2019onsc1888.html

[52] https://www.canlii.org/en/on/onsc/doc/2019/2019onsc5053/2019onsc5053.html?autocompleteStr=Reddock&autocompletePos=1

- https://globalnews.ca/news/5272324/prisoner-segregation-double-bunking/
- https://www.cbc.ca/news/canada/toronto/ont-segregation-1.5971689
- https://sencanada.ca/en/senators/pate-kim/interventions/566888/40
- https://www.cbc.ca/news/canada/kitchener-waterloo/senator-says-solitary-confinement-bill-will-make-some-conditions-worse-not-better-1.5124649
- https://ipolitics.ca/2019/06/25/pate-says-rejected-senate-changes-could-have-saved-government-prisons-bill/

9. Good practice

In theory, the new SIU legislation should enable prisoner access to many more resources than the previous administrative segregation. For instance, according to s.36(1)(b) of the CCRA, CSC is to provide a minimum of 2 hours of meaningful interaction with others, which, under ss.36(1)(b)(i)-(ii) may include programming, interventions, services, and leisure time. CSC is to provide health monitoring, with daily visits and mental health assessments under s.37.1(2).

It has yet to be fully seen or studied, however, whether this access is sufficient to encourage a circumstance that do in fact amount to the prisoner's return to the general population, or if this access in any way counteracts or compensates for any harms caused by the isolation and conditions of confinement. In his 2019/2020 report, the OCI reported issues with the breadth of the term "meaningful human contact" in the legislation. The OCI reports that any interactions with staff have been recorded as part of the minimum 2 hours of interaction and recommends that more precision is needed. They also offer that independent organizations should be involved in some form to provide prisoners with alternatives to interacting with CSC staff. The OCI states: "As it stands, all the time-out-of-cell examples, including access to programs, interventions, educational, cultural, spiritual, and leisure opportunities contemplated in policy, are defined and determined by internal prison rules and institutional routines. It is not at all clear that inmates in these units will find these measures "meaningful" to them."[53]

10. Relevant academic / research resources on solitary confinement

- Struthers Montford, K., Kwon, J., & Hannah-Moffat, K. (2020). The use of solitary confinement and prisoner rights. In *Canadian Prisons: Understanding the Canadian Correctional System*. C. Cesaroni (Ed.). pp. 271-289.
  Summary: This chapter reviews federal solitary confinement in Canada. It is also a great resource for reviewing other citations. A PDF of this chapter was included in the email with the materials.

[53] Office of the Correctional Investigator. (2020). Office of the Correctional Investigator Annual Report 2019-2020, pp. 8-11, https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20192020-eng.pdf

- Helmus, L., Johson, S., & Harris, A. (2019). Developing and Validating a Tool to Predict Placements in Administrative Segregation: Predictive Accuracy with Inmates, Including Indigenous and Female Inmates. *Psychology, Public Policy, and Law*, *25*(4), 284-302. http://dx.doi.org/10.1037/law0000201

  ABSTRACT: The last 15 years have witnessed considerable concern regarding the use of segregation. Attempts to reduce segregation would benefit from being able to identify which inmates are at greatest risk for being placed in segregation. The goal of the current research project was to develop an actuarial scale to assess the risk of being placed in administrative segregation for inmates in federal prison in Canada. A total sample of inmates (N 16,701) was randomly divided into a development sample (N 11,110) and a validation sample (N 5,591). Of the 413 potential predictor variables examined, 86% significantly predicted segregation placements. The item pool was reduced using both conceptual and empirical methods. Although several scales were developed and tested, the most efficient option was a simple scale with six static items. Predictive accuracy of this scale was high in the validation sample, as well as for subgroups (e.g., Indigenous, and female inmates), and it also significantly outperformed other assessments already used by the prison service. We found that it is possible to develop a simple and easy-to-use scale that would be effective in identifying inmates at risk for placements to administrative segregation, which would be an important first step in efforts to intervene to reduce risk of segregation placement. Implications for developing risk assessment tools and applying to subgroups are discussed.

- Johnson, S., Talisman, E., & Weekes, J. (2018). Segregation Intervention Initiative: An Examination on the Impact of Offender Outcomes. https://www.csc-scc.gc.ca/005/008/092/rib-18-17-en.pdf

ABSTRACT: The Segregation Intervention (SI) initiative was implemented in 2011 across seven federal maximum-security institutions in Canada. The intent of SI is to motivate and support offenders in administrative segregation to change their problematic behaviour and successfully reintegrate back into the general offender population where they can work on their Correctional Plan. The purpose of this research was to explore the relationships between participation in SI and outcomes following release from segregation.

- Prevost, H., & Kilty, J. (2020). “You Start to Feel Like You’re Losing Your Mind”: An Intersectionality-Based Policy Analysis of Federal Correctional Segregation Policy and Practice. *Canadian Journal of Women & the Law*, *32*(1), 162-195.

ABSTRACT: The number of women, especially Indigenous women, that are incarcerated in Canadian federal penitentiaries and segregation units has steadily increased over the last decade. This article provides an intersectionality-based policy analysis and uses a case study of one Indigenous woman to examine how federally sentenced women experience segregation and the issues of inequality that are exemplified by their over-representation in this most austere form of holding. We explore the gendered and racialized ways in which the Correctional Service of Canada (CSC) interprets the behaviours, attitudes, and even personalities of the women they place in

segregation. By examining mental health, gender, and culturally responsive policy within the context of risk/need management, we conclude that the CSC does not protect marginalized women via policy but, rather, converts the needs of marginalized groups into risks to be managed. We also identify alternative policy responses and solutions aimed at producing the social and structural changes that are necessary to reduce socially unjust correctional policy and practice.

- Parkes, D. (2017). Solitary confinement, prisoner litigation, and the possibility of a prison abolitionist lawyering ethic. *Canadian Journal of Law and Society, 32(2),* 165-185.

ABSTRACT: "This paper considers the role that litigation might play in ending the human rights crisis of solitary confinement in Canada while also examining the relationship of prisoner rights litigation to broader, anti-carceral social movements. The paper proceeds in four parts. The first section provides a brief overview of the widespread use of solitary confinement in Canada's federal prisons and in provincial and territorial jails. Next, current litigation seeking an end to solitary confinement in the federal prisons system is located in the context of a long history of prisoner rights litigation in both the US and Canada. The third section considers the possibilities and challenges of pursuing prisoner rights litigation with broader critiques of the carceral state in mind. The paper ends with examples of anti-carceral lawyering efforts and identifies some elements of a prison abolitionist lawyering ethic."

- Balfour, G. (2017). It's your job to save me: The union of Canadian correctional officers and the death of Ashley Smith. *Canadian Journal of Law and Society, 32(2),* 209-228.

ABSTRACT: "The death of Ashley Smith represents the first time in Canadian legal history that correctional officers were criminally charged in the death of a prisoner under the care of the state. In response to these unprecedented charges, the Union of Canadian Correctional Officers (UCCO) mounted a highly public campaign in defense of the officers. In this article, I review UCCO's media statements following Smith's death, submissions to various government review committees, and the current Global Agreement between UCCO and Correctional Service Canada (CSC) regarding federally sentenced women. I suggest these narratives work to reproduce administrative segregation as necessary to manage "troubled young women" who are constituted as an unsafe working condition for officers. I highlight the failure of UCCO to influence government policy, unlike the effective success of unions in the United States, and I challenge the place of UCCO in Canada's trade union movement."

- Jackson, M. (2015). Reflections on 40 years of advocacy. *Canadian Journal of Human Rights, 4(1),* 57-88.
  ABSTRACT: For over forty years, Michael Jackson has acted as an impassioned advocate for prisoners' rights. This article focuses on the author's experience as a vocal critic of the practice of solitary confinement in Canada's maximum-security penitentiaries. Reflecting on his years as a practitioner and professor of criminal and Aboriginal law, the author approaches solitary confinement as the ultimate exercise of state authority. Beyond the conditions and contexts of solitary confinement as a punitive measure, the article examines the reports conducted by government bodies and other agencies, raising questions about the failure to limit or otherwise reform the practice of solitary confinement in Canadian federal prisons. The author discusses the progress made both from a correctional law and human rights perspective.

11. Other relevant information

More detailed information related to the use of segregation prior to the passage of Bill C-83 can be found through the office of the Correctional Investigator and in annual reports.[54] A special report on segregation is included in the section under reports.

It should be noted that Canadian advocacy organizations have argued that the impacts of segregation to women are disproportionately harmful.[55] Some of the reasons provided for this were women's particular relational needs, women's disproportionately high rates of mental health issues, the multi-level nature of women's prisons and women's particular histories of trauma. Additionally, the added strip searches that are conducted as part of transfers to and from segregation may disproportionately impact women prisoners who have high levels of historical sexual violence. Additionally, advocates have argued that the conditions of confinement of the maximum security (secure) units in women's prisons constitute a comparably harmful situation to segregation.

[54] https://www.oci-bec.gc.ca/cnt/rpt/index-eng.aspx

[55] Canadian Association of Elizabeth Fry Societies (2018). Factum of the Intervenor Canadian Association of Elizabeth Fry Societies. (Not available online - send as attachment)