St. Leonard's Society of Canada | Société St-Léonard du Canada
211 Bronson Avenue, Suite 208, Ottawa, ON K1R 6H5
613.233.5170 | info@stleonards.ca | www.stleonards.ca
Registered charitable organization | organisme de bienfaisance reconnu # 12894 6829 RR0001

Name of Policy: Equitable and Consistent Standards of Healthcare for Justice-Involved People

Policy Adoption Date: *SLSC Annual General Meeting, Ottawa, ON, June 3, 2022.*

Mission and Mandate: St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

a. Endorses evidence-based approaches to criminal and social justice;
b. Conducts research and develops policy;
c. Supports its member affiliates; and
d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

Purpose of SLSC Policies: Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative, and organizational relevance.

Background:

The World Health Organization (WHO) defines **health** as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."[1] A person's access to quality health care without discrimination is a fundamental and internationally agreed upon human rights standard, including for those who are in conflict with criminal justice systems.[2] *The United Nations Standard Minimum Rules for the Treatment of Prisoners*, also known as the "*Nelson Mandela Rules,*" set out a list of minimum conditions that are generally accepted as good principles and practices for the treatment of prisoners and prison management. Some of the *Mandela Rules* specific to health care include:[3]

- Ensuring every individual is provided with food with nutritional value that is adequate for health and strength, and is of wholesome quality;
- Organizing health care services in ways that ensure continuity of treatment and care, including the maintenance of accurate, up-to-date and confidential medical files;

- Paying particular attention to individuals with complex health care needs or needs that will hamper rehabilitation; and
- Allowing physicians and/or other qualified health care professionals to assess every individual upon admission and thereafter.

Meeting the minimum conditions outlined in the *Nelson Mandela Rules* is critical for the overall health and well-being of incarcerated people both during their sentence and upon release.[4] Recommendations from the WHO generally align with the *Nelson Mandela Rules* and further support incarcerated people's right to the same quality of health and well-being as any other person.[5] Furthermore, the WHO outlines four qualities that are essential for prisons and jails to achieve an equitable and consistent standard of healthcare:[6]

1. **Availability:** available in sufficient quantity;
2. **Accessibility:** physically and economically accessible without discrimination;
3. **Acceptability:** respects ethical guidelines, including confidentiality of those in care; and
4. **Quality:** medically and culturally appropriate based on the needs of the individual.

Within Canada, it is the federal government's responsibility for setting national standards for healthcare through the *Canada Health Act* (*CHA*), with the primary objective "to protect, promote, and restore the physical and mental well-being […]and to facilitate reasonable access to health services without financial or other barriers"; [7] however, health care delivered in federal prisons is provided directly by the Correctional Service of Canada (CSC). It is governed by a separate Act: the *Corrections and Conditional Release Act* (*CCRA*).[8] The *CCRA* defines **health care** as "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."[9] Furthermore, the *CCRA* sets out an obligation for CSC to provide all incarcerated people with "essential health care" and "reasonable access to non-essential health care" that meet professionally accepted standards.[10]

As with federal prisons, access to health care is also significantly reduced at the provincial level.[11] Depending on the province, the care of individuals is overseen by either the corrections ministry or the ministry responsible for health.[12] In Ontario, for example, health care is provided by the Ministry of Correctional Services and Community Safety, not the Ministry of Health.[13]

Though it is recommended by the WHO that the standard of healthcare provided to people in conflict with criminal justice systems should be equivalent to what is available in the community, [14] this standard of health varies significantly across provincial and federal institutions. [15] Specifically, various experts and community partners stress that there is a fundamental need for healthcare reform that will focus on improving not only the quality and access to care inside these institutions, but also the continuity of care upon release.[16]

St. Leonard's Society of Canada (SLSC) recognizes the necessity of ensuring that incarcerated people are provided with care that meets nationally and internationally recognized standards that respect and protect human rights. It is imperative, therefore, that SLSC work with decision makers, service providers, and other stakeholders in Canada's criminal justice system to understand and provide equitable and consistent standards of healthcare that promote safe transitions from incarceration to the community.

Issues/Scope:

For over a decade, health care and conditions of confinement have consistently been the top two areas of complaint by federally incarcerated people to the Office of the Correctional Investigator (OCI).[17] Of note, these complaints have disproportionately involved Indigenous Peoples, Black people, and people of colour.[18] Related complaints most commonly reported include:[19]

- Access to health care (e.g., medication, dental care, mental health services);
- Quality of care;
- Timeliness of decisions related to health care; and,
- Access and disclosure of information related to health care, including information sharing among correctional facilities and community healthcare organizations.

Concerns related to the quality of health care in prisons and jails are substantiated by research, notably that incarcerated people often tend to have and/or develop more complex health needs compared to the general public.[20] Additionally, incarcerated people often experience poor and/or worsening health outcomes, including significantly higher rates of chronic illness, communicable diseases, and diagnoses of mental and physical health problems.[21] These poor health outcomes have negative effects on people while they are incarcerated, but also pose significant challenges upon release.

There are tensions between balancing the provision of healthcare and meeting security needs in Canada's prisons and jails.[22] Health care providers in federal prisons have a duty to provide ongoing assessment, intervention, and treatment of health conditions to incarcerated people.[23] Other priorities in the institution, notably those of prison management and security, can conflict with that duty of care.[24] This contributes to a dilemma of dual loyalty to their ethical and legal obligations (e.g., to protect confidentiality).

Prison authorities face a similar dilemma of dual loyalty, which can be addressed by having health care providers act as a resource that can impact both health and security. To improve healthcare provision, it is imperative for health care providers to act in a professional capacity that aligns with public health services.[25] To this effect, implementing measures such as the following can alleviate some of the tension between balancing the provision of healthcare and meeting security needs by ensuring that health care providers:[26]

- have unrestricted access to all incarcerated people, including those undergoing disciplinary action; and,
- have the ability to participate meaningfully in decisions to implement the least restrictive measures of security and risk management in order to prioritize health and wellbeing.

All staff working with incarcerated people on an ongoing basis should have specific training related to health care, and maintain the capacity and ability to intervene in a health crisis.

The complexities of healthcare provision were demonstrated further, and exacerbated over the course of the COVID-19 pandemic, particularly in relation to implementing strategies to mitigate infection rates among prisoners and staff.[27] Studies conducted in July 2020 found that infection rates were nine times higher for incarcerated people when compared to rates in the community.[28] The increase in health care demands caused by COVID-19 led to a shortage of qualified health care professionals available within prisons and jails, including Indigenous care professionals, impacting accessibility to culturally appropriate care.[29]

Studies have found that conventional Canadian healthcare practices most commonly used within prisons and jails cannot comprehensively fulfill the complex health needs (e.g., diet, medicine) of the diverse populations they serve.[30] With the advancement of research, experts have considered alternative treatment approaches including traditional healing practices, complementary treatment methods, and medicines rooted in diverse cultures and history. According to WHO, these approaches refer to a broad set of healthcare practices that are not fully integrated into the public healthcare system. Examples of these alternative approaches include:[31]

- fostering a connection with traditional territories/land and access to land-based healing such as sweat/healing lodges, ceremonial practices, smudges, and rites-of-passage;
- using traditional and natural resources (e.g., healers, elders, sage, cedar, and herbs); and,
- care that focuses on physical, mental, emotional, spiritual, and cultural aspects of life.

Adopting alternative approaches to healthcare in prisons and jails would improve access to individualized health care plans and provide incarcerated people with more control/autonomy over their personal health and well-being.[32] In addition, the WHO explains that traditional medicine options such as those listed above could be combined with conventional practices to create equitable health care for all incarcerated people.[33]

Examples beyond alternative types of healthcare can also include assessment of risk as a key factor for consideration. Research has demonstrated that there are many incarcerated people who, based on level of risk or other criteria, would be better and more appropriately placed in a community care setting (e.g., Community-based Residential Facilities, retirement home, hospice, palliative care facility).[34] For example, during the sentencing stage a CBRF could be considered as an alternative to effectively manage both health and risk needs to address pre-existing health concerns that would be exacerbated through incarceration. These alternatives have more flexibility in providing health care services (i.e., range of community-based healthcare providers)

grounded in principles supported by SLSC that encompass autonomy, justice, non-malevolence, and benevolence, and promote healthy lifestyles for all justice-involved people.[35]

There have been multiple calls to raise awareness toward the specialized needs of incarcerated people, especially given that a significant proportion of the incarcerated population is racialized and historically marginalized and made vulnerable.[36] Research demonstrates that improving the health of people in custody and addressing preventable health problems during incarceration has been linked to increased success rates for integration and community transition.[37] However, accessing health care upon release is complicated by the fact that individuals often have difficulty obtaining a health card and/or accessing their institutional medical records in a timely manner.[38] As a first means of addressing these challenges, the current process around retention/obtaining an individual's identification during the onset of their criminal justice involvement through incarceration and upon release merits significant improvement.

By providing adequate health care treatment and services prior to release, as well as ensuring continuity of care, individuals will be able to overcome other integration barriers such as obtaining employment and stable living conditions, or achieving a higher education. When grounded within human rights standards, improving the quality and accessibility of health care in Canada's criminal justice system will contribute to broader, longer-term improvements across the continuum of healthcare systems that intersect with both public health and safety.

Resolutions:

Whereas prisons and jails maintain a primary objective of security and risk management and have limited capacity to promote mental and physical wellbeing,

Whereas incarceration can contribute to the development or worsening of complex health needs,

Whereas incarcerated people should be entitled to the same standards of healthcare that are available in the community,

Whereas the health of incarcerated people is a public health concern directly impacting services provided by SLSC's affiliate agencies and other service providers in the community,

And whereas the provision of equitable and consistent healthcare standards encompasses availability, accessibility, acceptability, and quality,

Be it resolved that St. Leonard's Society of Canada:

- Advocates for the criminal justice system to consider alternatives to incarceration;
- Supports the provision of health care services to people in conflict with criminal justice systems, particularly those who are incarcerated, by professionals who are not responsible for punitive or disciplinary actions;
- Supports a prison healthcare strategy/model of care that seeks the expertise and knowledge of the community;

- In consultation with the Correctional Service of Canada (CSC), supports the development of a system that will ensure that incarcerated people obtain the documentation and government identification (e.g., health cards, birth certificates) necessary to access health care within the community prior to or upon release;
- Supports the Truth and Reconciliation Commission's (TRC) calls to action related to health/care, including:
    - recognizing the distinct health needs of Indigenous peoples,
    - recognizing the value of using Indigenous healing practices,
    - increasing the number of Indigenous professionals working in the healthcare field, and
    - providing cultural competency training for all health care professionals;
- Affirms the principles of autonomy, justice, non-malevolence, and benevolence; and
- Promotes healthy lifestyles for all justice-involved people.

Additional Information

SLSC Reports/Publications:

- Kouri, D. & Lemoine, J. (2021). Infrastructure, intersections, and innovation: Understanding community-based residential facilities within a shifting COVID-19 landscape. Retrieved from https://stleonards.ca/wp-content/uploads/2021/08/Infrastructure-Intersections-and-Innovation-SLSC-Final-Report-2021.pdf
- St. Leonard's Society of Canada. (2018). SLSC Policy on Aging and Elderly People in Conflict with the Law.
- St. Leonard's Society of Canada. (2020). SLSC Policy on The Role of Government.

External Reports/Publications:

- Greifinger, R. (2007). Public health behind bars: From prisons to communities. *John Jay College of Criminal Justice.* Retrieved from cover-image-large.jpg (researchgate.net)

---

[1] World Health Organization. (2014). *Basic Documents.* Retrieved from https://apps.who.int/gb/bd/PDF/bd48/basic-documents-48th-edition-en.pdf; Scallan, E., Lancaster, K. & Kouyoumdjian, F. (2019). *The "problem" of health: An analysis of health care provision in Canada's federal prisons.* Retrieved from: https://journals-sagepub-com.proxy.library.carleton.ca/doi/pdf/10.1177/1363459319846940; World Health Organization. (2017). *Human Rights and Health*. Retrieved from: https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health

[2] World Health Organization. (2017).

[3] United Nations Office on Drugs and Crime. (2015). *The United Nations Standard Minimum Rules for the Treatment of Prisoners*. Retrieved from: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

[4] Rich, J., Allen, S. & Williams, B. (2014). *The Need for Higher Standards in Correctional Healthcare to Improve Public Health*. Retrieved from: https://link.springer.com/content/pdf/10.1007/s11606-014-3142-0.pdf

[5] World Health Organization (2013a). *Good governance for prison health in the 21st century: A policy brief on the organization of prison health.* Retrieved from: https://www.euro.who.int/__data/assets/pdf_file/0017/231506/Good-governance-for-prison-health-in-the-21st-century.pdf

[6] World Health Organization. (2013a).
[7] Government of Canada. (2020). *Canada Health Act*. Retrieved from: https://www.canada.ca/en/health-canada/services/health-care-system/canada-health-care-system-medicare/canada-health-act.html
[8] Government of Canada. (2016). *Canada's Healthcare System*. Retrieved from: https://www.canada.ca/en/health-canada/services/canada-health-care-system.html; Government of Canada. (2020); Office of the Correctional Investigator. (2016). Retrieved from: https://www.oci-bec.gc.ca/cnt/priorities-priorites/health-sante-eng.aspx
[9] Government of Canada. (2022). *Corrections and Conditional Release Act*. Retrieved from: https://laws-lois.justice.gc.ca/eng/acts/c-44.6/FullText.html
[10] Government of Canada. (2022); *According to Scallan et al. (2019). The services deemed to be "essential" and "reasonable" are at the discretion of CSC, correctional authorities, and individual health care providers.*
[11] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d). *Transforming Health Care in Our Provincial Prisons.* Retrieved from: https://johnhoward.on.ca/wp-content/uploads/2019/05/Transforming-Health-Care-in-Our-Provincial-Prisons-External-Advisory-Report-2.pdf
[12] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[13] John Howard Society. (2017). *The Counter Point*. Retrieved from: https://johnhoward.on.ca/wp-content/uploads/2017/03/Counterpoint-Health-Care.pdf
[14] Office of the Correctional Investigator. (2017). *Annual Report of the Correctional Investigator 2016-2017.* Retrieved from: https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20162017-eng.pdf
[15] World Health Organization. (2013a); Scallan, E., Lancaster, K. & Kouyoumdjian, F. (2019).
[16] Ontario Expert Advisory Committee on Health Care Transformation in Corrections (n/d).
[17] Public Safety Canada (2020). *2019 Correctional and Conditional Release Statistical Overview*. Retrieved from: https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ccrso-2019/index-en.aspx#b6; Office of the Correctional Investigator. (2016). *Access to Physical and Mental Health Care*. Retrieved from: https://www.oci-bec.gc.ca/cnt/priorities-priorites/health-sante-eng.aspx; John Howard Society. (2017); Senior, J. & Shaw, J. (2007). *Handbook on Prisons: Prison Healthcare*. In Y. Jewkes (Eds.) Retrieved from: https://wasetlaws.com/pdf/english/1%20%2881%29.pdf#page=408
[18] International Corrections Prison Association. (2021). *Culturally Appropriate Prison Monitoring and Oversight.* Retrieved from: https://files.constantcontact.com/d0a15046701/6d909af7-5879-401e-986d-a016998432d5.pdf; Office of the Correctional Investigator. (2021). *Annual Report of the Correctional Investigator 2020-2021*. Retrieved from: https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20202021-eng.pdf
[19] Office of the Correctional Investigator. (2021).
[20] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[21] International Corrections Prisons Association. (2021); Inspector of Custodial Services. (2021). *Health services in NSW correctional facilities.* Retrieved from: https://www.inspectorcustodial.nsw.gov.au/; Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[22] World Health Organization. (2013a).
[23] Correctional Service Canada. (2019). *Job profiles at CSC*. Retrieved from: https://www.csc-scc.gc.ca/003/001/003001-0004-en.shtml#Health_services_positions
[24] World Health Organization. (2013a).
[25] World Health Organization. (2013a).
[26] World Health Organization (2014). *Prisons and Health*. Retrieved from: https://www.euro.who.int/__data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf
[27] Kouri, D. & Lemoine, J. (2021). *Challenges and Promising Practices in Correctional Healthcare During the COVID-19 Pandemic: A Perspective from Community-based Residential Facility Operators in Canada.* Retrieved from: https://icpa.org/resources/advancing-corrections-journal.html
[28] Murdoch, D. (2020). British Columbia Provincial Corrections' Response to the COVID-19 Pandemic: A Case Study of Correctional Policy and Practice. Retrieved from: https://doi.org/10.1080/15564886.2020.1829225
[29] International Corrections Prisons Association. (2021); Public Safety Canada (2020).
[30] United Nations Department of Economic and Social Affairs. (n/d). *United Nations Declaration on the Rights of Indigenous Peoples.* Retrieved from: https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html

[31] First Nations Health Authority. (n/d). What is Land-Based Treatment and Healing? Retrieved from: https://www.fnha.ca/Documents/FNHA-What-is-Land-Based-Treatment-and-Healing.pdf; Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[32] World Health Organization (2013b). WHO Traditional Medicine Strategy 2014-2023. Retrieved from: https://www.who.int/publications/i/item/9789241506096
[33] World Health Organization. (2013b).
[34] Office of the Correctional Investigator. (2019). Aging and Dying in Prisons: An Investigation into the Experiences of Older Individuals in Federal Custody. Retrieved from: https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20190228-eng.aspx
[35] St. Leonard's Society of Canada. (2018). SLSC Policy on Aging and Elderly People in Conflict with the Law. Retrieved from: https://stleonards.ca/wp-content/uploads/2021/08/SLSC-Policy-on-Aging-and-Elderly-People-in-Conflict-With-the-Law-2018.pdf; Beauchamp, T. L. & Childress, J.F. (2001). *Principles of Biomedical Ethics*. Retrieved from: https://allisonkrilethornton.com/wp-content/uploads/Medical_Ethics_Readings/BandC-Moral-Dilemmas.pdf
[36] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[37] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).
[38] Ontario Expert Advisory Committee on Health Care Transformation in Corrections. (n/d).