

Keynote Address

Mr. Howard Sapers, Correctional Investigator of Canada

Waterloo Region Crime Prevention Council

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- It is a pleasure to be here tonight. Thank you to the Waterloo Region Crime Prevention Council for organizing this event and for the invitation and opportunity to share some thoughts about the current and future state of corrections in Canada. This is a wonderful venue and I am proud to be the inaugural speaker in this new speaker series. And if you think leading off a series being compared to New York's 92Y isn't intimidating, then you're just plain wrong!

- As some you may be aware, after 11 years as Correctional Investigator, in the Spring I was re-appointed to serve a term of up to one year or until a replacement can be found.
- A selection process to seek my replacement was launched but not completed prior to the election call. As a result, I am happily still the Correctional Investigator of Canada and as far as I'm concerned its business as usual. I continue to perform my duties and functions as the *Corrections and Conditional Release Act* provides.

- Let me assure you that the Office of the Correctional Investigator is on solid footing. There is a strong team of dedicated public servants who will continue to carry out the work of the Office with integrity and professionalism. The mandate is intact and Canadians continue to gain benefit of robust oversight of their federal correctional service.
- As I begin my remarks, I want to acknowledge to the important, but often undervalued, role that community-based organizations such as yours play in crime prevention, including supporting the safe return and resettlement of offenders back to our communities.

- I am especially grateful to be here to witness first-hand how the Waterloo Council has flourished through the years, remaining committed to pursuing proven crime prevention initiatives through social development. Your Council has attained almost mythical status as a model for other communities.
- In a former role, I was once Director of the Crime Prevention Investment Fund at the National Crime Prevention Centre. If memory serves, the *Safe & Sound* initiative, then sponsored by the Waterloo Region Community Safety and Crime Prevention Council (CSCPC), was one of the early successful demonstration projects funded by the NCPC.

- My congratulations to you on your perseverance and continuing community success!
- Before I get too far into my comments, I would like to take a moment to remind you of what the Office of the Correctional Investigator does.
- As Correctional Investigator, I serve as an ombudsman for federally sentenced offenders – those serving a sentence of two years or more. I conduct investigations into the problems of offenders related to decisions, recommendations, acts and omissions of the Correctional Service of Canada. I am fully independent of the Correctional Service and the Minister of Public Safety.

- The Office's powers and authorities are embedded in the same legislation that governs the Parole Board and the Correctional Service. The OCI is an oversight, not an advocacy body; my staff does not take sides when investigating complaints against the Correctional Service.
- We look for compliance, fairness and legality. We view corrections through a human rights lens. Impartiality and independence, principles that are protected in the law, are the source of the Office's influence with the Correctional Service and our credibility with Parliamentarians and the public.

- The OCI is a small oversight agency with 35 full time staff and an annual budget of \$4 million. My investigative staff has full and unfettered access to federal correctional facilities, staff, documents and offenders. They regularly visit federal institutions to meet with both offenders and staff. Last fiscal year, they cumulatively spent more than 380 days inside federal penitentiaries conducting more than 2,100 interviews.
- We reviewed 1,510 use of force reviews in 2014-15 as well as 167 mandated reviews of deaths in custody, assaults and incidents resulting in serious bodily injury. It is a heavy and demanding workload.

- As the *State of Incarceration* documentary that we have just watched suggests, we have reached some important crossroads in how we respond to the problem of crime and offending in Canada. Simply locking more of our citizens up for longer periods of time only to release them with little or no assistance or supervision at the end of their sentence does not create a safer society.
- It seems somewhat paradoxical that at the same time that national crime rates have fallen, in some cases to historic lows, the federal prison population has increased.

- In the ten year period between 2004 and 2014, the total Canadian federal incarcerated population grew by just over 2,200 inmates, representing an overall increase of 17.5%. Most of this growth over the past decade can be attributed to steady increases in incarcerated populations of Aboriginal people, visible minorities and women.
- In the last ten years:
 - The Aboriginal incarcerated population increased by 53.8%. Aboriginal people now represent almost 1/4 of the total federal inmate population while comprising just 4.3% of the Canadian population.

- Visible minority inmates including Black, Hispanic, Asian and East Indian individuals, increased by 95%. Nearly 10% of the incarcerated population is Black, yet Black Canadians account for less than 3% of Canadian society.
- The federally sentenced female population has increased by 77% in the last ten years with the Aboriginal women population increasing by a staggering 133%. Today 1/3 of all federal women inmates are of Aboriginal heritage.

- The profile of the individuals behind bars in Canada is changing. If prison reflects society, then the impact of larger demographic and socio-economic trends as well as legislative and policy reforms are changing who is imprisoned, for how long and why.
 - Today, one in four federal inmates is 50 years of age or older. The population of aging or older people behind bars has risen dramatically, increasing by nearly one-third in the last five years alone. It is a result of the combined demographic effect of a general population that is aging, offenders staying longer in prison before release and the accumulation of longer-serving, indeterminate or life sentenced offenders inside federal prisons. Today, in fact, one in four

inmates is serving an indeterminate or life sentence.

- The average level of educational attainment upon admission to a federal penitentiary remains low. More than 60% of offenders at intake have an identified education need, meaning they have not graduated from high school. In 2012-13, 61% of those assessed with an education need at intake had Grade 8 or less education.
- Approximately 60% of offenders have employment needs identified at intake to federal custody. Before prison, most are chronically under or unemployed.

- Nearly 4 in 10 male offenders require further assessment at admission to determine if they have mental health needs. 30% of women offenders had previously been hospitalized for psychiatric reasons while fully six in ten incarcerated women are currently prescribed some form of psychotropic medication to manage mental health problems.
- Close to 70% of federally sentenced women report histories of sexual abuse and 86% have been physically abused at some point in their life. Their life histories of trauma cannot be separated from their conflict with the law.

- Addiction or substance abuse issues plague 80% of male offenders. In fact, two-thirds of federal offenders were under the influence of an intoxicant when they committed their index offence.
- This changing profile of risk and need stretches our conventional understanding of what prisons are, or what social purpose they are supposed to serve. What makes this environment more challenging for those managing or overseeing prisons is the context in which these changes have occurred. Matters of crime and punishment have never before been thrust so directly into the forefront of public discourse, but this discourse is often pursued without balance or facts.

- Pushed to address more complex needs, the components of our criminal justice system – police, courts, corrections, probation and parole – are struggling to keep pace. The system has become increasingly costly to operate. Overall spending on the criminal justice system at the federal, provincial and territorial levels was \$20.3-billion in 2011-12. We spent more than \$12B on policing costs alone that year. Total criminal justice costs have risen by almost 25% in the last decade, coincidentally about the same amount that the national crime rate has fallen.

- We have to ask ourselves what we are getting for that level of spending:
 - Today, more people are in detention awaiting trial or sentencing than actually serving a court ordered sentence.
 - Clogged courts, delays and backlogs – administration of justice issues, not criminal charges now account for more than one-fifth of all cases brought before the criminal courts in Canada.
 - Remand facilities that are overcrowded, violent and nearly devoid of substantive programs and interventions.

- And tragic deaths in custody that destroy staff morale, bring grief to communities and often result in long and costly law suits.
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- At the federal level, in the past three years, the Correctional Service of Canada has added or retrofitted a total of 2,700 cells at more than 30 different penitentiaries for a total cost of over \$700M. Since 2003-04, expenditures on federal corrections have increased 72.5% from \$1.56B to \$2.69B.
- Last year, the annual average cost of keeping a federal male inmate behind bars was \$108,376 whereas the annual average cost for incarcerating a woman was nearly double that figure at nearly \$211,000.

- By contrast, maintaining an offender in the community is 70% less than what it costs to keep him or her locked up. On a per capita basis, the federal correctional system now costs each and every Canadian \$71.48 per year to operate.
- For that level of per capita spending, we should get something more than just incapacitation or warehousing, but current trends are not encouraging.

- Prison conditions highlighted in the *State of Incarceration* continue to deteriorate. We see increased crowding and violence, too much time spent in cells and decreased contact with the outside world. There is insufficient program capacity, scarcity of meaningful vocational skills training and more offenders are now serving longer portions of their sentence behind bars before release.
- The prison farms have been closed, federal funding for proven reintegration and release programs such as Lifeline and Circles of Support and Accountability has been eliminated, and work programs supported through prison industries have been reduced.

- According to the Auditor General's spring 2015 report, there has been some serious slippage in the CSC's mandate to prepare offenders for safe and timely reintegration. He found that:
 - 65% of offenders in 2013/14 did not complete their correctional programs before their first parole eligibility dates.
 - Most offenders returned to the community in 2013/14 were released at statutory release rather than parole.
 - Half of all offenders staying in custody beyond their first parole eligibility dates were considered low-risk

- As the Auditor General concluded, and as my Office can confirm, the slowing rate of offenders returned to the community is leading to higher and avoidable custody costs without a measurable contribution to reducing crime.
- The climate inside our federal institutions is troubling. Over the past decade, the number of use of force incidents have almost doubled, admissions to administrative segregation have increased by 15.5%, incidents of prison self-injury have tripled, involuntary transfers have increased by 46% and inmate assaults have more than doubled.

- In a series of policy and legislative reforms presented as steps to make offenders more accountable, federal inmates are increasingly bearing more of the direct costs to keep themselves clothed, fed, housed and cared for behind bars.
- Holding offenders to account now means that they are expected to pay more for their room and board, telephone use, canteen goods and some over the counter medications. Remember, they pay these costs from daily allowances that haven't increased since 1981. It is little wonder offenders return to the community with little or no financial resources to assist in their transition.

- Long-standing correctional principles – such as the concept of “least restrictive measures” – have been replaced with more punitive language.
- Legal principles that were once reserved for sentencing, such as the “nature and gravity of the offence” and the “degree of responsibility of the offender,” have crept into how federal sentences are administered.
- The concept of inmate privileges has been dropped from correctional law altogether. Instead of being the outcome of a well functioning system, public safety has become the dominant principle upon which federal corrections is based, overshadowing equally important and balancing principles such as rehabilitation and reintegration

- Changes in legal principle and purpose are not merely rhetorical exercises – they have consequential impacts on how offenders are managed in correctional facilities, including when (or even if) they appear before the Parole Board of Canada. The mechanisms and systems used to assess risk and eligibility for release to the community – work releases, temporary absences, compassionate releases, day and full parole – have become much more restricted. Today, there is little tolerance for even well managed risk.

- Just as the United States retreats from its long and ineffective “war” on crime, in this country we appear to be repeating some costly mistakes. There has been a rapid expansion of mandatory minimum penalties for a series of both minor and major offence categories. Criteria for indeterminate sentences, including Dangerous Offender and Long Term Supervision Order designations, have been expanded capturing a wider range of offenders. Meantime, parole eligibility for certain offences has been gradually tightened or eliminated entirely. Even the process for obtaining a pardon, now called a “record suspension,” has become more difficult, lengthy and expensive.

- The results are predictable – more offenders serving more of their sentence behind bars rather than being supervised in the community. This reduction in supervised release may actually serve to increase public risk rather than diminish it.
- A number of recent legislative measures are being contested or settled in the courts, challenged on procedural, fairness and *Charter* grounds. The list of successful legal challenges is long. The retro-active abolition of accelerated parole review, time served in pre-trial custody, mandatory minimum penalties for gun crime, the mandatory imposition of the victim surcharge have all been ruled on by superior and appeal courts.

- There are, as we speak, a number of actions regarding the use of administrative segregation in federal prisons winding their way through the system. Recently, the Supreme Court of Canada ruled that federal prisoners should have access to the provincial Superior Courts to pursue some of these challenges. As conditions of detention deteriorate, I fully expect to see more offenders seeking relief through the courts.
- Other legislative proposals that were before Parliament prior to the election call, such as Bill C-53 (*Life Means Life Act*) and Bill C-56 (*Statutory Release Reform Act*), could have an impact on average sentence length and time served behind bars should they ever be enacted.

- For example, the *Life Means Life Act* proposed to amend the *Criminal Code* to introduce a mandatory life sentence without parole for some first degree murder offences. In introducing the bill, the Attorney General of Canada stated that its intent was to ensure that the most violent offenders in this country "take their last breath behind bars."
- Life without parole is an exclusively retributive measure. It denies the offender even the possibility or capacity for remorse, reform or release. The possible introduction of the *Life Means Life Act* would mean the same thing here as it does elsewhere – a living death sentence that exacerbates the physical and psychic pains of incarceration.

- The message it would send to the correctional authority is chilling: this person is disposable, do not even bother trying to rehabilitate.
- In the environment and conditions that I have described, I believe that independent oversight and external monitoring of prisons becomes more, not less important. Federal penitentiaries are managing some very complex populations. Though never intended to serve as psychiatric, palliative or long term care facilities, they are under increasing pressure to perform these functions on a routine basis.

- We know from experience that sentenced individuals have the best chance of success upon release when they have been treated fairly, when they have access to programs and interventions that are matched to need and risk and when these supports are delivered by the right people at the right time in the sentence.
- Graduated and structured release is more successful than releasing an offender directly from prison to the street with limited or no period of community supervision. There needs to be better integration of prison and community interventions – continuums of support and care are required.

- The situation is not without hope – there is much that could be done. My Office has issued many recommendations to address the issues I have raised here tonight. For example:
 - Prohibit long-term segregation of mentally disordered, suicidal and self-injurious offenders.
 - Develop an Older Offender strategic plan.
 - Appoint a Patient Advocate to serve at each of the five regional treatment centres.
 - Establish a National Forum to lead death in custody prevention efforts.

- Appoint a Deputy Commissioner for Aboriginal Corrections.
- Renew the focus on community reintegration and offender rehabilitation.
- While not all these recommendations have been positively received, I am hopeful progress on these files is possible.
- Let me conclude with some thoughts about where I believe we should concentrate our efforts – prevention, rehabilitation and safe and timely reintegration.

- Research tells us that early prevention and intervention programs for youth and young adults with multiple risk factors have the potential to yield considerable savings through reduced conflict with the law over the long-term.
- We need to leverage what we know. Preventing crime through social development works. Early intervention and working with vulnerable families works. We need more initiatives like those undertaken by the Waterloo Council, not less.

- If a crime is committed, why not engage the broader community in the response – much like your Smart on Crime approach does. A recent evaluation of Smart on Crime reported that it has exceeded expectations in many areas. While challenges remain, it is clear that the direction and goals of this program are making a significant contribution.
- Corrections can learn from this experience. Prisons should place more emphasis on release preparation and building bridges to the community. Strong links with other service providers and safe community stakeholders can only assist the Correctional Service to achieve its mission.

- Crime is not just a criminal justice system issue. Collaboration and durable partnerships between justice and community-based organizations are essential in preventing crime in the first instance and in reducing recidivism of offenders once returned to their communities.
- Health services, substance abuse prevention and drug treatment programs, education, social services, vocational training, employment assistance and housing all contribute to safe and sound communities.
- Programs and services must be integrated, built upon the knowledge of what works and use established best practices.

- As you all know, this is not about the rhetoric of being hard or soft on crime, but rather about being smart.
- Thank you again for the opportunity to speak with you tonight. I wish you all and your organization continued success.