

Sociology 3395: Criminal Justice and Corrections
Class 24: Corrections in Canada: History, Facilities and Populations

Once offenders are convicted of an offence, one option is to sentence them to a period of incarceration in a federal/provincial correctional facility. Canada's correctional system began in the early 1800's with the opening of Kingston Penitentiary, and has grown over the last century and a half to meet the growing needs of the incarcerated population. Today there are about 151 provincial/territorial facilities, 48 federal prisons, and 15 federal community correctional centres across Canada.

In running such facilities, governments must supply services such as food, security, programming and health (e.g. to deal with the spread of AIDS or test for Hepatitis C, about which there is some controversy regarding the extent of treatment, availability of specialists, etc). Advocates have argued that improvements can be made, for example, in the areas of education, confidential testing, providing safe needles, and the provision of needle exchange programs and bleach kits. The issue of infectious diseases has received more attention recently due to an inmate's lawsuit contending that he contracted AIDS/hepatitis C because prison health measures were so poor that they constituted negligence (e.g. being denied clean needles). He also claims that his constitutional rights have been violated because health care in the institution is far inferior to that in the community, and because he had been denied prescribed medications. Such cases serve as an indication of the changing realities facing correctional facilities in Canada today - not only with regard to health care, but the reality of inmates' legal rights.

Today we will begin by looking at the history of Canada's correctional facilities and provide a profile of the adult prison population. Then we will move on to consider some of the key issues facing Canadian corrections today, including coping with prison life, violence, and prison suicide. We will also look at the legal rights of inmates, including the requirement for CSC to operate fairly in treating its inmates.

(1) A Brief History of Federal Correctional Facilities in Canada:

Canada, like other western countries, has only in recent decades increased its use of confinement as the main approach to punishing offenders. Between 1832-1950 a total of 8 federal prisons were constructed. Then the pace quickened, with 3 in the 1950's, 8 in the 1960's, 5 in the 1970's and 6 during the 1980's.

The first prisons in North America were in the U.S. There were 2 types. The "Pennsylvania system" isolated inmates not only from the outside but from each other. They had an hour a day to exercise in the yard, but the rest of the time they were expected to spend in small cells, reading the Bible and repenting their crimes. The "Auburn system," on the other hand, held inmates in the "congregate system." The belief here was that the best way for inmates to reform their actions was through hard work. During the day they would work together outside the walls, and also eat together. However, strict silence was the rule. If not working or eating, they were

locked together in their cells. These two types of prison philosophy resulted in separate styles of prison architecture: the Pennsylvania system was built on 1 floor, the Auburn system had a number of floors of cells built on each other in tiers. The Auburn system, originating between 1819-23 quickly became the most copied design, ultimately considered to be the international prototype of a maximum security prison. It would also become the basis for Canadian prisons.

In Canada, the first prisons were built by provincial authorities: Kingston Ontario (1835); N.B. Penitentiary (1841); and the N.S. Penitentiary (1844). In 1868 the federal government took over all 3 of these institutions and proceeded to build 4 more over the next 12 years. These were based on the Auburn model: the Pennsylvania system only survived in the use of the practice of solitary confinement. This is still used today as one of the more severe forms of punishment for inmates who break prison rules or who are considered troublemakers.

For the rest of the 19th century the federal government operated their prisons in a very harsh manner, with poor living conditions, frequent use of solitary confinement and extreme disciplinary measures. But at the start of the 20th century significant changes were introduced, including parole, training for officials, and the development of inmate classification systems. This resulted in the housing of inmates on the basis of their needs and crimes, and led to the now familiar maximum-medium-minimum security designations for prisons. The treatment of inmates, as well, became based on the “policy of normalization” specifying that inmate programs would operate in a controlled (not oppressive) environment in order to better represent the conditions in society. Education and vocational training were also introduced. Yet, in all fairness, inmate living conditions remained harsh, with the continued use of handcuffs and the ball and chain until the early 1930's.

In 1935 the federal government again decided to change its approach, gradually adopting the so-called medical model of corrections that favored a variety of therapies that were hoped to cure inmates of their problem behavior. This approach favored medical solutions, with treatments to be prescribed by experts such as psychiatrists and psychologists. The long-term impact of this was enormous: increasing the number of federal correctional facilities from 8 in 1937 to 19 by 1961.

Then, in 1963, the medical model began to decline in favor of the reintegration model. This approach favored community-based correctional facilities, in particular doing away with the coercive aspects of “treatment” and increasing the use of community resources in the correction of offenders. This approach maintains that inmates have to be protected from any potential harmful actions of correctional officials through the introduction of legal rights for inmates and the increased use of community sanctions. This approach dominated until the 1990's when the federal government merged the reintegration model with the psychologically based risk prediction approach. Today the dominant approach emphasizes an increased use of community resources, an assessment of offenders' risks and needs upon entry, and a program that addresses any limitations found. Indeed, this approach has become recognized in other countries as the most effective way to treat inmates.

Turning to consider the experiences of women in the prison system, it is widely known that the first prison for women was located within Kingston Penitentiary. While designed to have separate units for men and women, the first 2 women ended up in the infirmary. By 1859 there were 68 women serving sentences, creating a serious problem for administrators. Indeed, women inmates were viewed as an inconvenience to the smooth operation of the prison, and continued to be moved around within the institution, confined wherever and in whatever manner best served the administration of the larger male population.

A separate institution for women was not begun until 1914. The Prison for Women was actually built within the walls of Kingston Pen. Later, a completely separate facility for women was begun in 1925 and finished in 1934. This PFW was designed as a maximum security facility with no outside windows, mail censoring, and no opportunities for education or vocational training. Moreover, reports of sexual abuse and harsh living conditions led many reformers to demand improvements.

Beginning in 1938, there were numerous investigations, reports, and commissions on the PFW. All recommended that it be closed, that inmates be housed in their own provinces or in regional correctional facilities built and operated by the federal government. The idea was that female offenders are different from male offenders and, hence, should have different programs. Moreover, programs and policies should be reconstructed to reflect these differences. The 1990 Task Force Report reflected this view, advocating “the empowerment of female inmates, meaningful choices, respect and dignity, supportive environments and shared responsibilities.” It also urged federal regional facilities for women, Aboriginal programs, increased programming , and making the programs more relevant so that inmates would be better able to reintegrate quickly into society upon release.

Then, in 1994, there was a notorious incident in the old PFW in Kingston where an Emergency Response Team from the mens’ prison became involved in a violent confrontation with 8 female inmates. They were taken out of their cells, strip-searched, and sent to a psychiatric facility before being returned. This incident became public and a Royal Commission (the Arbour Commission) was formed to investigate the PFW. In 1996 it concluded that (1) CSC was not responsive to outside criticism or willing to give an honest or fair account, preferring to deny problems and not investigate allegations of misconduct; (2) CSC was part of a prison culture that placed no value on individual rights; and (3) there was a failure to promote a culture of rights by CSC. Ultimately this report led to big changes in the way that CSC cares for its inmates. Most notably for women, the PFW was closed and regional facilities were opened across the country.

(2) The Adult Correctional Population in Canada:

In 2001-01, the total correctional caseload for both federal and provincial institutions was 151,500 offenders. This breaks down further to include 31,547 in custody (40% federal, 35%

provincial/territorial, and 25% on remand/temporary detention). The incarceration rate was 133 per 100,000 adults in the population, a 2% decrease from the year before. Since 1991, the incarceration rate has dropped by 5%.

During 2000-01, the lowest provincial incarceration rates were found in N.S., N.B. and Quebec. The highest occurred in Saskatchewan and Alberta. The territorial rates were generally much higher than any of the provinces, but tend to fluctuate much due to their relatively small populations.

In 2000-01 97% of correctional admissions were at the provincial/territorial level. Most inmates were admitted for non-violent offences, though there is variation by jurisdiction. For example, Manitoba and Saskatchewan had a higher proportion of admissions to custody for violent crimes, while in other provinces admissions were much more often for property offences.

Almost 75% of admissions to sentenced custody in the provincial/territorial system were for 3 months or less (48% for less than 1 month and 26% between 1-3 months). The median time served was lowest in Quebec (28 days) and highest in Saskatchewan (119 days). Federally, on the other hand, 47% were serving a sentence of between 2-3 years, while 21% were serving a sentence of between 3-4 years. 4% federally were serving life (a statistic that has been stable since 1990-91).

Federally, males accounted for 95% of admissions in 2000-01. They also accounted for 91% of admissions to provincial/territorial facilities. Federally, the median age of sentenced offenders was 32, which was slightly more than the provincial/territorial figure. In all jurisdictions, the typical profile of a Canadian inmate is a male between 18-34. Importantly, Aboriginals made up 19% of provincial/territorial admissions and 17% of all correctional admissions across the board.

(3) The Role of Correctional Institutions in Canadian Society:

Basically, correctional facilities are meant to make society a safer and better place. But what goes on inside is important because what is used as their guiding philosophy has important consequences for us. Three general models of correctional facilities describe the different ways of thinking about prisons since they were first introduced: (1) The custodial model (i.e. prisoners are jailed for the purposes of incapacitation and deterrence, and decisions are made in the context of maintaining security and discipline); (2) The rehabilitation model (i.e. prisoners needs, well-being and treatment are the predominant emphasis, with attempts made to assist inmates changing their anti-social behaviors); and (3) The reintegration/ risk reduction model (i.e. prisoners must be prepared to be integrated back into society, and corrections focuses on their specific needs and risk factors so their chances of re-offending are reduced. Responsibility and accountability are stressed throughout.

(4) Correctional Institutions:

In 2000 there were 52 federal correctional facilities operating under the jurisdiction of CSC (excluding halfway houses). 45 were penitentiaries of one security level or another, the rest were multilevel security institutions. The regional breakdown is as follows: Atlantic (5); Quebec (12); Ontario (14); the Prairies (13); and the BC (8). By security classification, 12 are classed as minimum, 20 medium, and 10 maximum security facilities. They vary in capacity from 78-501 inmates, though medium security facilities tend to have the highest numbers.

The old federal PFW in Kingston had an average population of 115. However, beginning in 1978 about 1/3 of federally sentenced women were allowed to serve their sentences in provincial institutions in their own provinces. Following the Arbour Inquiry (discussed above), the PFW was closed and replaced by 5 new correctional facilities for women (Truro, N.S; Joliette, Quebec; Kitchener, Ontario; Edmonton, Alberta; and Burnaby, B.C.) Until recently, maximum security women inmates were not placed in these (except B.C), but in maximum security units in existing male institutions.

Also, since the mid 1990's, the federal government has introduced healing lodges for Aboriginal offenders, where Aboriginal inmates' needs can be addressed through Aboriginal teachings and ceremonies, placing an emphasis on spiritual values. Most of these are located away from urban environments. However, in 1999 the government opened the first of these within the walls of a federal correctional facility north of Winnipeg. Inmates go to these facilities for Aboriginal programming, spiritual teaching and ceremonies.

Turning to provincial/territorial institutions, in 1996 there were 151 of these in Canada. Not surprisingly, Ontario, B.C. and Quebec had the most of these, P.E.I. and Yukon the fewest. Such facilities use different classification systems. Just over half (52%) are described as correctional centres, 27% as jail/detention centres, 16% as alternative minimum security facilities, and the remaining 5% as remand centres.

When we consider the various security levels we have alluded to above, we have to remember that since the major objective of corrections is confinement, the overriding factor in determining the classification level of an inmate is security. Generally, security has 3 components: (1) an inmate's likelihood of escape/escape attempts; (2) the likelihood an inmate will place an officer/inmate in danger; and (3) the likelihood of an inmate attempting to violate institutional rules.

Until 1981-82, CSC considered these factors, along with potential harm to the community, in setting out 3 levels of security: (1) maximum security (i.e. for inmates likely to escape and cause serious harm); (2) medium security (i.e. for inmates likely to escape but not likely to cause serious harm); and (3) minimum security (i.e. for inmates not likely to escape, but, if they did, would not cause harm). Basically, these security classifications are made by a parole officer upon an inmate's entry into a federal institution. This is followed in most cases by an interview with a placement officer who assesses an inmate to determine his security needs. All the same, this initial assessment doesn't always determine where an inmate ends up, as things

like prior record, available space, and available programming also come into play.

Maximum security facilities are usually what they sound like: high fences or walls, guard towers, bars, intrusion detection systems, and the need for passes for inmates to move between sections of the institution. As well, a number of inmates live in solitary confinement either due to behavioral issues or fear that they will be attacked by other inmates. All the same, there are often a number of education, vocational and treatment programs available in these institutions, in which 20% of all federal inmates were housed in 1996 (this number is higher provincially/territorially, at 39% of men and 46% of women).

Medium security institutions are typically enclosed by fences topped with barbed and razor wire. These allow more freedom of movement, have modern surroundings and training centres along with a variety of education and treatment facilities. In 1996, 64% of male and 8% of female inmates in the federal system were so housed (in provincial/territorial systems, the figures were 13% and 7% respectively).

Minimum security prisons usually have no fences or walls around them, and inmates could easily walk out due to the relatively lax security. Indeed, staff and inmates often intermingle and are indistinguishable from one another since prison uniforms are not issued. The housing is also better, with private or semi-private rooms. Moreover, inmates may be on work-release programs that allow them to hold jobs during the day. In 1996, 14% of men and 6% of women federal inmates were so classified (compared to 8% and 13% respectively at the provincial/territorial level).

In addition to these three uni-level institutions, it must be pointed out that 40% of provincial/territorial inmates and 3% of federal inmates were placed in multilevel security facilities combining the features of 2 or more of the security levels described herein. Some of these use the same buildings to accommodate inmates classified at different security levels, others operate separate structures for each level of security. The majority of female inmates are so housed (86% federally), compared to 41% of federal men and 35% of provincial/territorial women inmates.

Beginning in 1981-82, CSC expanded its security classification system to include 7 security levels: Level 1 (community correctional centres); Level 2 (minimum security forestry/work camps); Levels 3-5 (medium security); Level 6 (maximum security); Level 7 (highest security risk: special handling units or “super-max” institutions. Female offenders, however, are now classified on a different scale, the “Security management System.” This governs the daily management of each facility, inmates’ participation in programs and activities, and freedom of movement. This approach focuses on the majority of the female population rather than on the few who persistently commit crimes in a violent and aggressive manner. It contains 6 management levels, of which 5 are related to security classification and 1 is reserved exclusively for admission status.

(5) New Generation Correctional Facilities:

It probably comes as no surprise that serious offences occur within correctional facilities (e.g. drugs, violence). As a result of reflection by prison officials, attempts were made to develop a new way to approach the housing, guarding and treatment of inmates. It was considered that how facilities were operated were just as important as why they were built. Hence, there has been a move away from traditional design toward “new generation” facilities.

Unlike traditional “linear” facilities characterized by long hallways of cells that offer limited views of inmates (who thus engage in illicit activities when no guard is passing), the new facilities are based on a podular design. Each “pod” has 12-24 single person cells extending from a common area, enabling correctional officers to be in the centre and have visual access to all. Other types of facilities are contained within the pod, such as treatment and interview rooms, which allow staff greater access to and contact with inmates. Moreover, the furniture is more comfortable and there is usually a common room for inmates to socialize and engage in recreational activities.

But perhaps the outstanding feature here is that the podular design allows each unit to be managed by direct supervision - there is continuous physical contact with correctional officers and inmates. During the day, inmates can only be in their cells with permission - enabling staff to both identify problematic behavior quickly and observe the daily actions of each inmate. Such facilities reportedly have led to a dramatic reduction in violent incidents and escapes.

Now let us turn to consider different types of inmates, starting with women. Most women sentenced to incarceration in Canada enter provincial/territorial institutions - most for less than 6 months, and 40% for less than 2 weeks. 30% enter due to failure to pay fines, and more than 25% for a property offence like shoplifting or fraud. Less than 10% committed a violent offence, and most of these were minor assaults. About 25% of female inmates were repeat offenders. In contrast, only 2% of all federal inmates were female in 1996. The typical cases involved women 20-34 years of age, single, with less than a grade 9 education, unemployed, and serving their first penitentiary term. More than half were serving a term of 6 years or less.

Interestingly, female inmates are characterized by different and fewer offences than men. More were serving sentences for a single offence compared to men (55% to 26% federally). Women also had a less extensive record than did men (e.g. the percentage of women with no, or only 1 prior adult convictions at the provincial/territorial level was higher than men, and the percentage of men who had 5 or more convictions was almost double that of women 21 vs.12%). There is also the fact that federally 87% of federal women had no or only 1 term of federal incarceration compared to 71% of men.

When their actual offences are compared, women were far less likely to be jailed for violent crimes than men at both the federal and provincial/territorial levels (64 vs. 74% and 28 vs. 34% respectively). The most serious offence committed by the majority of women provincially was either a property crime or “other” offence (e.g. drugs). Federally, the two largest groups were homicide/ attempted murder (37%) or drug offences (27%). About 2/3 of federally

sentenced women had serious chemical dependency issues. For violent offences, female inmates were much less likely than males to have victimized a spouse, ex-spouse, or child.

Attempts have thus been made to facilitate the reintegration of federally sentenced women into the community. At some of the federal facilities, women centred programs take place both on and off site, with an emphasis on off site programming if the offender does not pose a risk to the community. All are designed to help women make informed and meaningful decisions about their lives. Some also contain childrens' programming in this respect.

Another significant category of inmates consists of Aboriginals. As noted before, while representing 2% of the population, Aboriginals make up 17% of federal inmates and 19% of provincial/territorial ones. They also more often have low education levels and a higher unemployment rate. Most share some of the demographic traits of other inmates, including single or common law status at the time of sentencing, serving their first term in prison, and for a term of less than 6 years. Where they differed was in their younger age, over-representation compared to non-aboriginals in both federal and provincial facilities, and in the fact that far more were unemployed at the time of their arrest. Not only that, but a higher percentage of Aboriginal offenders were serving sentences for violent offences (81% vs. 66%). A slightly larger percentage of Aboriginal than non-aboriginal offenders knew their victims (70 vs. 66%).

Now that we have considered special categories of offenders, let us turn to prison life itself. Prisoners are separated from society and segregated into what Goffman calls "total institutions." These are characterized by: (1) the watchful eye of centralized institutional authority; (2) sharing space with others, being treated alike and forced to enact the same routines; (3) having all one's time tightly scheduled by rules/orders imposed by authorities; and (4) experiencing all of these organized around the institutional goals of correction and/or treatment. Total institutions force inmates to live regimented and dehumanizing lives. It is said that such extensive control forces them to fight back, committing more criminal acts to feed the system.

Yet this traditional view has been challenged by Farrington (1992) who argues that Goffman's view applies more to prisons of the past than those today. He would call many modern prisons "not so total" institutions as they are never totally isolated from society - they require supplies and services, staff leave and return, and inmates receive news and visitors and thus maintain contact with many aspects of their former lives. The trend toward shorter sentences and work release programs erodes this old image even more, as does the move to a community corrections model. All the same, however, prisons do remain in many respects total institutions where many ordinary human activities are strictly curtailed by institutional rules.

Let us turn now to inmate society itself. The inmate subculture involves a unique set of unwritten rules and guidelines that tell inmates how to behave, think and interact with staff and other inmates. Clemmer (1958), who introduced study of this subculture, also noted that inmates assimilate this subculture by adhering to norms of behavior, sexual conduct and language. He felt that those who became thus the most "prisonized" are the hardest to reintegrate into mainstream

society. Since Clemmer's work, criminologists have focused on 2 main areas: (1) how inmates adapt their behavior to life behind bars; and (2) how life in prison changes due to inmate behavior. Sykes and Messinger (1960), for example, discuss the "prison code," which includes the following: (1) don't interfere with inmate's interests (e.g. squeal); (2) don't lose your head (e.g. becoming emotional/ arguing); (3) Don't exploit other inmates; (4) be tough and don't lose dignity; and (5) Don't be a sucker, make a fool of yourself, or support staff over inmates. Basically, these support the idea of inmate solidarity, maintaining stability and keeping down internecine violence.

Cooley (1992) attempted to find out if this inmate code existed in Canada. His research did not find evidence of it in the 5 institutions he studied, but instead a set of informal rules of social control. These include: (1) Do your own time (e.g. don't ask for help); (2) avoid the prison economy (it can get you into trouble); (3) don't trust anyone (e.g. with personal information); and (4) show respect (especially to the powerful or you will be assaulted). Cooley found that these rules could bring the inmate population closer or isolate them. The resulting environment could be described as partially unstable in that the prison is neither in conflict nor consensus. Relative adherence to this informal social control system translates into an inmate's status within the prison. Lifers and serious violent offenders are usually at the top unless they engage in behavior not accepted by other inmates (e.g. not supplying drugs when promised).

This inmate code has changed over the years. In early studies an unwritten code existed and governed inmate status, but those who failed to follow it were basically ignored or rejected - but were relatively safe from violence unless they squealed on someone. About 2 decades ago, however, the prison code started to lose some of its force in maintaining social relationships among inmates, due to an increase in young offenders and drug offenders who were perceived as only looking out for themselves. As a result, violence began to increase, as did gangs. Now, with the increase in gangs in Canada and elsewhere, the traditional prison code has been replaced by one in which loyalty to the gang is most important. Hence, there has been an increase in inmate on inmate violence, and CSC has attempted to control this by moving rival gang members to separate facilities.

However, women experience imprisonment differently than men, often coping with the loss of emotional relationships by developing and maintaining significant relationships of "pseudo-families" of other prisoners (Neugbauer, 2001). Moreover, they more often manifest their pain in self-injurious behavior (e.g. slashing themselves to relieve tension and anger). (Hannah-Moffatt, 2001). To deal with this, it is important to connect these health concerns with the broader issues of poverty, child care support, housing, education, job training, employment, discrimination and racism. Another difference with women is the disruption of family life, particularly between mothers and children. Some even lose custody - and separation from kids is a major source of anxiety for female prisoners (70% are mothers). Only recently have policies been implemented to help in this regard (e.g. residence option programs to allow co-residence).

(6) Prison Violence:

Conflict leading to violence is a ubiquitous reality of prison life. It can occur between inmates or between inmates and staff. Major assaults between inmates declined through the 1980's but have risen dramatically since 1989. Nevertheless, official statistics in this respect are notoriously unreliable and the actual occurrence of such incidents is unknown. What we do know is that, between 1995-98, 144 major assaults among inmates were recorded, 10 major assaults on staff, 9 murders, 8 hostage takings, and 13 major fights among inmates. Attacks on staff varied between 1-10 annually between 1984-92 (averaging 4 a year). With particular reference to sexual assault of female staff, this often occurred when inmates with psychiatric issues, regarded as a high risk to do so, who had warned of the impending attack, and who were experiencing a sense of hopelessness after being rejected for a conditional release program, acted out their threats. But violence can also involve all the inmates in a particular facility, such as in prison riots. There is some question about these resulting from the degradation of prisoners by staff, and the repression resulting after these are put down - but such inquiries are sometimes hard to get going when staff themselves stick together in denial.

Then there is the level of suicide among inmates. In fact it is the leading cause of death in Canadian prisons (95.9/100,000 vs. 14.2 among the outside population between 1959-1975). Almost half of the prisoners who died between 1983-92 committed suicide, and Aboriginal offenders fare badly as well. Concern over the suicide rate led CSC to design a suicide prevention program. Research discovered that 97% were male and 80% were white, but suicide was distributed among all age groups. More single than married prisoners committed suicide and 60% had no dependents. Hanging was the most common method chosen, generally done in an inmate's cell. The largest group had been convicted of non-sexual violence. A high proportion of suicides occurred early in the sentence (half within the first year). In response, CSC developed a comprehensive approach for assessment, prevention, intervention, treatment, support, evaluation, research and training of staff. This involved providing a safe, secure environment, especially for those with mental issues, increasing awareness and understanding by management and staff, developing staff skills in identifying risk factors and crisis intervention, and developing support services for survivors, affected staff and inmates. Still, some would argue that such measures may be OK for men, but not for Aboriginal women who need a more culturally sensitive form of assistance focusing on their violent pasts, various forms of personal victimization and opportunities to redress their education and employment deficiencies. There also needs to be improved counseling and the maintenance of relationships between offenders, their families and communities.

(7) Prisoners' Rights, Due Process and Discipline:

Finally, today, we note that since the introduction of the Charter in 1982, there have been improvements in the legal protection of prisoners. Before that time, inmates had very limited rights under the old "hands off doctrine" (i.e. leave correctional administration to the experts, society preferred not to know, and, anyway, prisoners' complaints involved privileges rather than rights). Sure, in the 1970's regulations required that prisoners have adequate food, clothing, and access to medical care, but these were at a bare minimum. But starting in the late 1960's prisoners' rights advocates challenged this old approach in court. In R. v. Beaver Creek

Correctional Camp (1969) prisons' authority to make disciplinary decisions without due process protections (e.g. fair hearings, legal counsel present) were challenged. It was ruled that while natural justice applied to inmates, there were situations where segregation could be ordered in this fashion. But, in 1975, R. v. McCann an inmate successfully argued that placing him in solitary confinement with no prior hearing infringed his right to freedom from cruel and unusual punishment under the Canadian Bill of Rights. Following this, the SCC ruled in Martineau v. Matsqui Institution (1979) that "the rule of law must run within penitentiary walls. While prison officials make administrative decisions, they are still subject to the duty to act fairly.

But what does the duty to act fairly mean? Basically, this involves (1) the right to be heard (i.e. to be informed of allegations and to respond to them) ; and (2) the right to have an impartial hearing (i.e. not to have a decision rendered against a person for discriminatory or arbitrary reasons). Both of these come up when solitary confinement is ordered, or when inmates face discipline. As a result of the series of court cases above, the CSC changed its policies to more fit more closely with the fairness doctrine. For example, when solitary confinement is imposed, authorities are obliged to inform the inmate in writing of the reasons for this within 24 hours, to notify an inmate in advance of each review of this order to allow him to present his case at a hearing, and to inform him in writing of decisions concerning his status.

Conclusion:

Our contemporary correctional institutions evolved out of the U.S. in the 19th century, with the Auburn system becoming the forerunner of the Canadian correctional system.

Our prison populations in this country have declined slowly since 1995-96, with many now serving sentences in the community. Still, over 40 federal institutions operate in Canada, varying by security level, and 5 new regional facilities provide innovative programs for women.

Until recently, little was known about prison society except for the "prison code." Things are becoming even more unstable in recent years, there is more violence, and many inmates attempt to isolate themselves from other inmates and situations that may lead to violence.

Finally, today inmates have relatively significant, though limited, legal rights, and can take their grievances officials and courts to request a hearing - with some chance of success.