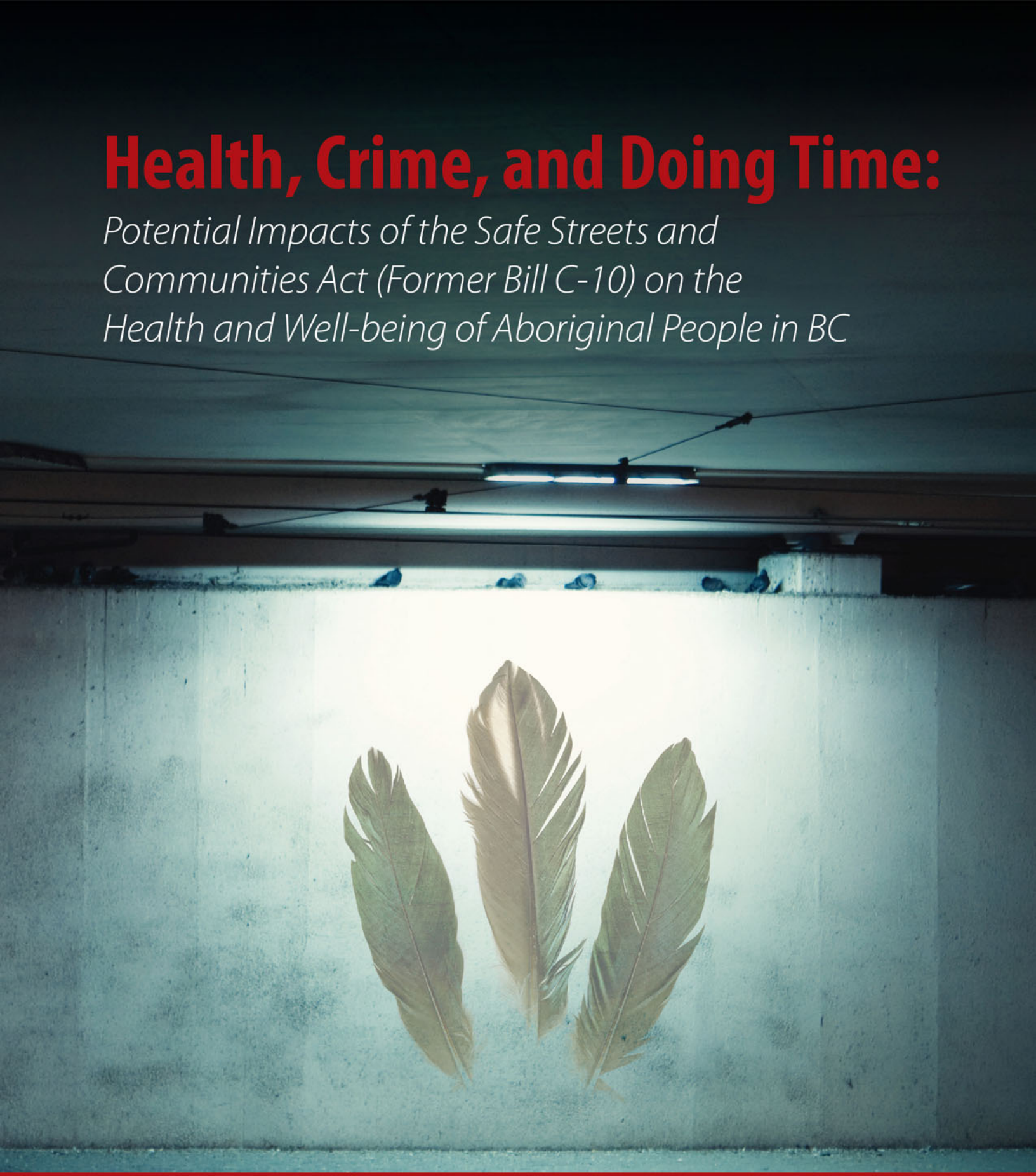
Health, Crime, and Doing Time:

Potential Impacts of the Safe Streets and Communities Act (Former Bill C-10) on the Health and Well-being of Aboriginal People in BC



BRITISH COLUMBIA

Office of the Provincial Health Officer

Special Report
March 2013

Message from the Provincial Health Officer

March 2013

This report was developed in response to the new *Safe Streets and Communities Act* that was introduced as Bill C-10 in September 2011 and received Royal Assent on March 13, 2012. The Act was met with criticism from numerous organizations and individuals across many sectors throughout its development. Among these criticisms was a concern about the potential implications of the Act and their disproportionate impact on vulnerable populations in Canada, particularly Aboriginal people.

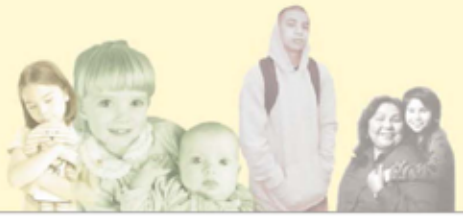
In previous reports I have explored the health of Aboriginal people in BC, and found that while many health outcomes are slowly improving, overall, Aboriginal people continue to face challenges and vulnerabilities related to adverse socio-economic factors and other health determinants when compared to other British Columbians. Many of these same factors can influence the likelihood of an individual's involvement in crime.

The data regarding incarceration levels for Aboriginal people in BC are disturbing. While Aboriginal people represent approximately five per cent of the population of BC, they represent over one-quarter of admissions into BC correctional centres. This report explores the interrelationships between social determinants of health, and risk and protective factors for crime, and highlights the increased vulnerability of many Aboriginal communities that is the result of multi-generational residential school experiences.

These analyses strongly suggest that the *Safe Streets and Communities Act* has the potential to worsen the overrepresentation of Aboriginal people in BC correctional centres, and worsen the health of Aboriginal people in BC. The cycle of poor health and crime can be difficult to escape, and to do so requires supports for socio-economic factors and health conditions, and a focus on prevention and rehabilitation rather than increased incarceration. I conclude this report with nine recommendations that focus on relationships, crime prevention and diversion, and monitoring and evaluation. These measures can help curtail the potentially detrimental impacts of the *Safe Streets and Communities Act*, and re-focus on health promotion and crime prevention.

P.R.W. Kendall
OBC, MBBS, MSc, FRCP
Provincial Health Officer

REPRESENTATIVE FOR
CHILDREN AND YOUTH



February 28, 2013

Perry Kendall
Provincial Health Officer
Ministry of Health
4th Floor – 1515 Blanshard Street
Victoria BC V8W 3C8

Dear Perry Kendall:

I am writing in support of the recommendations of the report *Health, Crime and Doing Time*. In my role as the Representative for Children and Youth for British Columbia, I provide advocacy services to young people involved with the criminal justice system whether they are victims, offenders, or children of parents who are incarcerated. My office periodically produces research, monitoring and investigative reports regarding the health, safety and well-being of children, including Aboriginal children and youth, where criminal justice exposure and involvement is a risk factor in their lives.

This report reflects many of the concerns and findings of my reports and underscores the importance of research and evaluation in informing effective and meaningful approaches to crime prevention and safety. Aboriginal children and youth in B.C. are particularly vulnerable to early exposure to violence, and often have a criminogenic risk profile at birth that requires positive state measures to be taken provincially and federally (as well as by Aboriginal governments), to support and protect them from harm and poor health outcomes. Sentencing provisions were added to the *Criminal Code* in the 1990s to bring these factors explicitly into play at that final stage of the criminal justice process, and these provisions have been consistently upheld by the Supreme Court of Canada (*Gladue* 1999 and *Ipeelee* 2012). These provisions direct judges to craft sentences in a "manner that is meaningful to Aboriginal peoples" taking into account their background and intergenerational trauma, dislocation and experience.

This report does not point to the end of a sentencing process but rather suggests that at the front end of crafting justice and social policy, the same principles be taken into account for greater impact. A thoughtful and humane approach to better relationships with Aboriginal peoples needs to inform policy and practice to lessen over-representation, as well as to improve the well-being of Aboriginal peoples. The continuing legacies of past failed policies of exclusion have created unique circumstances that require a distinctive or tailored social policy approach to justice. There are concerns recent Code changes have not adequately considered the impact on Aboriginal peoples and the result may be further over-representation.

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As the Supreme Court has expressed when it reconsidered *Gladue* recently, there has to be "an acknowledgement that to achieve real equity, sometimes different people must be treated differently" (*Ipeelee*, at para. 71). In other words, justice policy must be constructed with a distinct understanding of Aboriginal peoples' experience, risk and protective circumstances, and additional effort will be needed to improve well-being if we are going to overcome the current situation.

The three areas of recommendation proposed in this study provide a good start for an approach that might be more sustainable, evidence-based and effective for the future. In particular, from my vantage point, the suggestion that improving programs to effectively support children early in life to reduce risk and interrupt the pathways into the criminal justice system is a good one, and well supported by the available research and practice.

Thank you for preparing a thoughtful and important report that calls us to engage at the levels of research, evaluation and action. I look forward to supporting action on the proposed recommendations and encourage my colleagues to do likewise.

Sincerely,

Mary Ellen Turpel-Lafond
Representative for Children and Youth

Representative for Children and Youth,
British Columbia

OFFICE OF THE NATIONAL CHIEF

Assembly of First Nations

BUREAU DU CHEF NATIONAL

Assemblée des Premières Nations

January 21, 2013

Let me first take this opportunity to thank the British Columbia Ministry of Health and the individuals who have contributed to the "Health, Crime and Doing Time: Potential Impacts of the Safe Streets and Communities Act on the Health and Well-being of Aboriginal People in British Columbia" report. This report presents a thoughtful and well-reasoned case for public policy development, particularly as it relates to First Nations, based on the social determinants of health model. My hope is that this report will be used as a tool in shaping such policies into the future in partnership with First Nations across British Columbia.

The overrepresentation of First Nations within the Canadian criminal justice system is a consequence of numerous complex and intersecting historical, social and economic factors. Remedying the problem, therefore, requires a correspondingly multifaceted response. This report clearly demonstrates the need for First Nations, provincial, federal and even municipal jurisdictions to work collaboratively to create a complement of actions aimed at positive societal changes.

I would like to echo this report in calling for significant changes to the *Safe Streets and Communities Act*. These changes must reflect a fulsome understanding of the First Nations context within the criminal justice system and, rather than focusing solely on punitive measures, must instead invest in addressing the root causes of First Nations overrepresentation within the criminal justice system.

Respectfully,

Shawn A-in-chut Atleo
National Chief

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January 25, 2013

Dr. Perry Kendall
Provincial Health Officer
Office of the Provincial Health Officer
4th Floor, 1515 Blanshard Street
Victoria BC V8W 3C8

Dear Dr. Perry Kendall,

On behalf of the First Nations Health Council (FNHC), we would like to thank you for your ongoing commitment to the health and well-being of First Nations and Aboriginal people of British Columbia (BC), and welcome the report, "Health, Crime, and Doing Time: Potential Impacts of the Safe Streets and Communities Act (Former Bill C-10) on the Health and Well-being of Aboriginal People in British Columbia."

This report includes important policy information to guide our efforts to support improved health, social, and economic outcomes for BC First Nations. We agree with your recommendations for more collaboration, prevention and diversion, and monitoring and evaluation. This is consistent with First Nations philosophy of a wellness approach, and the holistic view of the social determinants of health. We have a significant history of colonialism to overcome – one which has resulted in tremendous disparities in health and social outcomes between First Nations and other Canadians. Eliminating these disparities, and restoring the health and well-being of BC First Nations individuals, families, and communities, will not come through increased incarceration of First Nations people. We agree with your conclusions that we must focus on collective healing.

Although your report does not delve into First Nations community justice programs in great detail, this will be an important part of the solution. There are community-based, grass-roots and traditional models of justice that work well for our communities. Investing in community programs and services – rather than on imposed penalties and correctional facilities – will promote healing, and go much further in reducing crime.

We cannot influence and produce long-term changes for health and social system transformation in isolation. The FNHC is working closely with federal and provincial governments in partnership and from a social determinants perspective to achieve health systems improvements that support our collective vision for "healthy, vibrant and self-determining First Nations children, families and communities." This tripartite health process demonstrates that better outcomes are achieved through true collaboration. If we apply this approach more broadly across the social determinants, we will identify and implement

solutions that will have a positive impact and results for First Nations peoples – not just in the short term, but also for our children, our grandchildren and the many generations to come.

Sincerely,

Grand Chief Doug Kelly
Chair, FNHC

CC: Dr. Evan Adams, Deputy Provincial Health Officer for Aboriginal Health, BC

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This report was produced under the authority of Section 66 of the *Public Health Act*. Under this section, the Provincial Health Officer has the authority and responsibility to monitor the health of the population of BC, and to provide independent advice on public health issues, and the need for legislation, policies and practices respecting those issues. Some reports give a broad overview of health status while others focus on particular topics, such as air quality, diabetes, food, drinking water quality, and Aboriginal health.

Acknowledgements

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The Provincial Health Officer would also like to recognize **Betsy McKenzie** for her work on the original draft of this report.

Executive Summary

This report was prepared in response to new federal legislation known as the *Safe Streets and Communities Act* (former Bill C-10). The report was developed by the Office of the Provincial Health Officer and reviewed by a panel of experts in Aboriginal health and in criminal justice.

The relationship between government and Aboriginal people in British Columbia has been complex, challenging, and often destructive throughout history. However, in the last two decades, many changes have been made to improve this relationship, including commitments to monitor and improve Aboriginal health, and to recognize the history and context of Aboriginal offenders during criminal sentencing.

The *Safe Streets and Communities Act* is a new federal Act that introduces one new piece of legislation and amends nine others. The federal government introduced the Act with the intention of amending criminal laws to make communities safer; however, many concerns have been raised about the implications of the changes, particularly for vulnerable populations, such as Aboriginal people. The Act introduces new mandatory minimum sentences for certain offences, increases some existing minimum penalties, and appears to contradict section 718.2(*e*) of the *Criminal Code*, which requires judges to consider all possible appropriate penalties prior to choosing incarceration, especially for Aboriginal people. The Act also makes changes to the *Youth Criminal Justice Act*, including the addition of denunciation and deterrence as sentencing principles, and broader rules to facilitate keeping youth in custody while awaiting sentencing. While the Act faced considerable opposition during its development, it received Royal Assent on March 13, 2012.

According to data from the Canadian census and BC Corrections, Aboriginal people are disproportionately represented in the BC corrections system compared to their proportion of the larger population. This overrepresentation has been increasing in recent years as the percentage of adult Aboriginal offenders admitted into custody has risen faster than the growth of the Aboriginal population in BC. The current overrepresentation is particularly pronounced among Aboriginal females and Aboriginal youth.

The overrepresentation of Aboriginal people in the criminal justice system is a complex and multi-faceted issue. Multiple factors interact to create an environment in which Aboriginal people are not only more at risk of becoming involved in the system, but also less likely to leave it. These factors include more immediate and personal elements (e.g., health status), larger familial and societal issues (e.g., education, employment), and broader historical aspects (e.g., colonialism, racism). Additional considerations for understanding overrepresentation include systemic biases in the criminal justice system, changing methodologies for collecting Aboriginal identity data, and changing patterns of self-identification by Aboriginal people. This report looks at the impact of the

combination of these factors, and also how challenges in interpreting and applying legislation and in implementing Aboriginal justice programs have slowed progress in reducing related overrepresentation.

The Aboriginal population in BC has a lower health status overall than other BC residents, and the incarcerated population has a lower health status overall than the non-incarcerated population. With these two factors working together, individuals who are both Aboriginal and incarcerated are an especially vulnerable population. In fact, many incarcerated Aboriginal people experience poor health, particularly in areas such as HIV/AIDS, hepatitis C, and mental health and problematic substance use. BC's Aboriginal population also has more challenges with socio-economic and other factors that create vulnerabilities both within social determinants of health and risk factors for crime. For example, Aboriginal offenders are more likely to experience lower educational achievement and higher unemployment than other offenders. Considering that the social determinants of health and risk and protective factors for involvement in crime have a compounding nature, Aboriginal children and youth are among the most vulnerable for experiencing poor health and having future involvement in crime. They have higher levels of unstable housing, family member involvement in crime, living in government care, and problematic substance use than other BC residents, all of which are linked to increased risk for criminal involvement.

The age distribution of the Aboriginal population in BC also has the potential to increase levels of Aboriginal incarceration. While criminal inclination is not caused by age, incarceration rates are highest among those aged 20 to 34, and one can reasonably assume that the more people aged 20 to 34 that are in a population, the greater the potential for higher crime rates. A greater proportion of the Aboriginal population are in the 0 to 19 and 20 to 34 age groups compared to other residents of BC. As the large cohort of Aboriginal people aged 0 to 19 moves into the 20 to 34 age group, there is a risk that the changing age distribution of Aboriginal people will increase the current overrepresentation in the adult criminal justice system.

Based on evidence that the Aboriginal population of BC has generally more challenging experiences with the social determinants of health, poorer health status, and higher rates of incarceration than other residents, this report demonstrates that Aboriginal people, particularly Aboriginal women, children, and youth, and those with mental health and/or substance use issues, are vulnerable populations that will likely be disproportionately affected by the *Safe Streets and Communities Act*. Changes introduced by the Act have the potential to overturn progressive steps emphasizing reparation and reconciliation for Aboriginal people in BC and Canada. Instead of recognizing the history and context of Aboriginal people, amendments introduced in the Act create circumstances that will likely result in more Aboriginal youth and adults in correctional centres, and lower health status for Aboriginal populations.

A holistic approach is needed to continue advancing the health of Aboriginal people. This holistic approach should recognize the relationship between health determinants, health status, and crime. Further, criminal justice programs and legislation should better recognize the historical context and unique circumstances of Aboriginal offenders. Recommendations are provided in the concluding section of this report with the intention of continuing to improve determinants of health and protective factors for involvement in crime, improve health outcomes, and reduce the ongoing high level of incarceration among Aboriginal people in BC. These recommendations identify specific actions to support more collaboration, and shift the priority from punishment to prevention and diversion. Recommendations also include monitoring and evaluation of the direct and indirect impacts of the *Safe Streets and Communities Act* on health determinants and the health status of Aboriginal people in BC.

Introduction

Historic discrimination and events have created systemic vulnerabilities and have negatively impacted the social determinants of health for Aboriginal people in British Columbia. Despite demonstrated resilience, the Aboriginal population experiences lower health status than other residents in BC and is disproportionately represented in correctional centres relative to percentage of the general population.

In the last 20 years, there have been many positive changes to address these inequities, including work by the Royal Commission on Aboriginal Peoples beginning in 1991, the *New Relationship* agreed to by First Nations and the Province of BC, and the signing of the *Transformative Change Accord* in 2005. Legislative changes have also been introduced in Canada to better acknowledge the context and vulnerabilities of Aboriginal offenders. As well, some improvements have begun to be observed in health outcomes.

The recent introduction of the *Safe Streets and Communities Act* [a] raises a number of obvious questions. Is the Act likely to have negative effects on British Columbians in general and Aboriginal people in particular? Does the Act have the potential to undermine recent achievements for Aboriginal people in legislation and programming in the justice sector, and will it have downstream implications for Aboriginal health? Is the Act a step backward for Aboriginal people, with the likely result of even higher rates of incarceration and lower related health status?

In light of the critical reviews that the Act has received from civil libertarians, criminologists, and concerned organizations, the Provincial Health Officer determined to assess the possible impacts on the Aboriginal population of BC. This special report reviews the historical context and changing relationship between Aboriginal people and government, explores the representation of Aboriginal people in the criminal justice system in BC, and examines the interrelationship of the social determinants of health and risk and protective factors for involvement in crime. This report discusses how the *Safe Streets and Communities Act* affects the positive changes made over the last 20 years in the health and justice sectors. The report also outlines some of the potential impacts of the new Act on the incarceration levels and health status of Aboriginal people in BC, specifically the new mandatory minimum sentences introduced and expanded in the Act, and changes that may affect Aboriginal youth. Finally, recommendations are provided to address potential outcomes of the Act on Aboriginal people and to bolster progress in the health and justice sectors for Aboriginal people in BC.

[a] The full name of the Act is *An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts.*

A Century of Change

Today Canada is home to well over 1 million Aboriginal people from diverse and vibrant origins who make up 3.8 per cent of the total population. In recent years, the Aboriginal population in Canada grew nearly six times faster than other residents, from 799,010 in 1996 to 1,172,790 in 2006.[1]

BC has the second largest Aboriginal population in Canada, after Ontario. In 2006, 196,075 Aboriginal people lived in BC, representing approximately 4.8 per cent of the total BC population. Of these individuals, 129,580 identified as North American Indian (66.1 per cent), 59,445 identified as Métis (30.3 per cent), 795 identified as Inuit (0.4 per cent), and 6,255 identified with multiple or other groups (3.2 per cent).[2]

The following section provides an overview of terminology, and the history of Aboriginal people in BC, including changes that have improved the relationship between Aboriginal people and the Province of BC, and related commitments to improve the social determinants of health and the health status of the Aboriginal population.

Terminology

Aboriginal people are the descendants of the original inhabitants of North America. The terminology used to refer to the Indigenous people of Canada has varied over the years. The *Constitution Act* recognizes three groups of Aboriginal people: Indian, Inuit, and Métis.

The term "Indian" is still used when referring to legislation or government statistics, although "First Nations" has largely replaced Indian as the terminology preferred by many Aboriginal people in Canada. First Nations refers to both Status Indians and Non-Status Indians. First Nations people are often members of a First Nation band or tribe. The term "Status Indian" refers to those who are entitled to receive the provisions of the *Indian Act*, while Non-Status Indians are those who do not meet the criteria for registration or who have chosen not to be registered.

The Inuit are a distinct population of Aboriginal people and are registered under a 1924 revision to the *Indian Act*. They live primarily in Nunavut, the Northwest Territories, and northern Labrador and Quebec.

The term Métis consists of people of mixed First Nation and European ancestry who identify themselves as Métis, distinct from Status Indian people, Inuit, and non-Aboriginal people. Most Métis live in Alberta, Saskatchewan, or Manitoba. Unlike Status Indians and Inuit, Métis people are not entitled to the provisions of the *Indian Act*.

Previously, Métis and non-Status Aboriginal people were not considered "Indians" in the *Constitution Act*. However, in January 2013, the Federal Court of Canada ruled that both of these groups are now included under the definition. The federal government has appealed this decision, and the implications of this ruling have yet to be determined.

While it is important to understand the health status and potential impacts of the

Safe Streets and Communities Act on all Aboriginal people (including Métis, Status and Non-Status Indians, and Inuit), data in this report are limited to the definitions and methodologies by which different agencies and organizations collect information. See Appendix A for more information about sources of primary data used in this report.

Brief History of Colonization and Change in BC

Many complex and intersecting factors are responsible for a lower socio-economic status and consequent lower health status for the Aboriginal population in BC. A long history of colonization, discrimination, residential schools, and other experiences have led to adverse, multigenerational implications for Aboriginal people. These experiences are at the root of inequities in the health and well-being of the Aboriginal population.

Disease, removal of land and resources, displacement, and the introduction of firearms and alcohol by European settlers and traders drastically reduced the number of Aboriginal people who lived in what is now Canada. In BC, the population fell from approximately 100,000 in 1835, to 28,000 in 1885, and then to 23,000 by 1929.[3] Over time, the federal government of Canada created laws that undermined the traditions, culture, and language of Aboriginal people. The *Indian Act* of 1876 gave the Canadian government power and control over registered Indians, criminalizing traditional ceremonies and preventing off-reserve travel without government permission. Aboriginal people were often excluded from participation in Canada's agricultural and industrial economies.

The Indian residential school system forcibly removed Aboriginal children from their families and homes in an attempt to assimilate Aboriginal people into non-Aboriginal society. New laws in 1906 and 1920 made it mandatory for Aboriginal children to attend residential school, and parents who resisted could be punished with fines or imprisonment.[4,5] By 1930, three-quarters of children between the ages of seven and 15 were in residential schools.[6] In these schools, children were forbidden to speak their own languages, abuse was common, and the education provided was of poor quality.[7] Between 1857 and 1996, over 150,000 Aboriginal children attended residential schools.[8] Reports estimate that approximately 80,000 residential school survivors still live across Canada, and that between 14,000 and 35,000 of them live in BC.[5,9,10] The legacy of residential schools continues to affect communities, families, and individuals, despite the resilience demonstrated by Aboriginal people. According to a national report, almost half of residential school survivors living on reserve in Canada report a negative impact on their health and well-being, and 43 per cent of survivors' children living on reserve believe that their parents' attendance at residential schools negatively affected the parenting they received.[11]

When residential schools began to close, a different approach to Aboriginal child welfare was developed. In the 1960s, large numbers of Aboriginal children were removed from their homes and placed in government care—a period of time referred to as the "60's Scoop." Many of these children were removed from families who were loving and supportive, although experiencing poverty,[12] and were placed in non-Aboriginal homes.[13] In the 1950s, only 1 per cent of children in government care were Aboriginal, but by 2006 this had increased to over 50 per cent. In the 1980s, after attention was drawn to the trend of removing Aboriginal children from their homes, a moratorium was placed on the adoption of Aboriginal children into non-Aboriginal families.[14] This led to large numbers of Aboriginal children in long-term foster care with little hope of adoption—a child welfare approach that some have called the "millennium scoop".[14] As a result, while Aboriginal home placements for Aboriginal children are still a priority, the BC Ministry of Children and Family Development established an exceptions committee to

review the placement of Aboriginal children in non-Aboriginal homes when Aboriginal homes are not available.[15,16]

Despite the long-lasting negative impacts of residential schools and other systemic challenges, the resilience of Aboriginal people across Canada is evident in attempts to overcome these challenges. For example, many survivors of residential schools have committed to sharing their stories, healing, relearning their languages, and gaining more education.[6]

These historical events continue to have lasting implications for the Aboriginal population of BC, and are important in understanding the persistent gaps between Aboriginal people and other BC residents in the social determinants of health and in health outcomes, as well as in understanding the overrepresentation of Aboriginal people in the provincial and federal prison systems.

A Changing Relationship with Government

The last 20 years have seen numerous steps towards addressing the complex relationship between Aboriginal people and the governments of Canada and BC. In 1991, the Royal Commission on Aboriginal Peoples began its work investigating the relationship between Aboriginal people, Canadian society, and government. In 1996, the Commission concluded that "the Canadian criminal justice system has failed the Aboriginal peoples of Canada—First Nations, Inuit and Métis people, on-reserve and off-reserve, urban and rural—in all territorial and governmental jurisdictions."[17] The main reason for this failure cited by the Commission was the different perspectives of Aboriginal and non-Aboriginal people regarding topics such as justice and how it is achieved.[17]

In March 2005, the Province of BC and First Nations leaders agreed to a *New Relationship* guided by principles of trust, recognition, and respect for Aboriginal rights and title. In November 2005, the Province of BC, the First Nations Leadership Council, and the Government of Canada signed the *Transformative Change Accord*. With the signing of this Accord, an agreement was reached to improve socio-economic outcomes for First Nations people, and close the gaps in education, health, housing, and economic opportunities over the next 10 years.

In 2006, the Indian Residential Schools Settlement Agreement was reached and was the largest class action settlement in Canadian history. It included the establishment of the Truth and Reconciliation Commission[b] and the Common Experience Payment, which provides payment to eligible students who attended residential schools.[18] In 2008, the Prime Minister offered a full apology on behalf of Canadians for the history and impact of Indian residential schools in Canada, stating that the legacy "has contributed to social problems that continue to exist in many communities today."[19] In 2010, the Canadian government reversed a 2007 decision not to endorse the *United Nations Declaration on the Rights of Indigenous Peoples*. As the reason for this positive change, the government cited the Prime Minister's apology and noted that "there has been a shift in Canada's relationship with First Nations, Inuit and Métis peoples."[20]

While more work is required, these have been promising steps in building a new relationship between government and Aboriginal people that recognizes the past while working toward a more equitable future. These changes have built a foundation for a reduction in the overall marginalization of Aboriginal people, and for improvements to the social determinants of health and the health and well-being of Aboriginal people.

[b] The Commission's mandate is to oversee a process that allows Indian residential school students and others affected by the residential school legacy to share their experiences in a way that is both culturally appropriate and safe.

Commitments to Address Health Inequities

Changes in the relationship between government and First Nations have been paralleled by changes in approaches to Aboriginal health and well-being, with greater emphasis on collaboration and partnership, and on equity in health status and access to health services.

In BC, there is not one universal or traditional understanding of "health" shared across all Aboriginal communities. Understandings of health reflect the vast diversity of Aboriginal cultures, languages, and traditions. However, most First Nations communities share a holistic view of health that includes a healthy body, mind, and spirit. The traditional perspective of wellness includes a person who feels well physically, mentally, spiritually, and emotionally, and who leads a healthy lifestyle. An important component of wellness is involvement in traditional practices and connection to culture. Maintaining wellness according to this model can be challenging for First Nations in BC because of the harmful effects of residential schools, drugs and alcohol, and other outside influences.[21]

In 2001, the BC Provincial Health Officer (PHO) issued a landmark report on the health and well-being of Aboriginal people, which highlighted significant gaps in health outcomes between Aboriginal and other residents and made recommendations to advance the health of Aboriginal people in BC. In 2009, the PHO released another comprehensive report on Aboriginal health, entitled *Pathways to Health and Healing: 2nd Report on the Health and Well-being of Aboriginal People in BC*. This report indicated that while some progress had been made in improving both the determinants of Aboriginal health status and health outcomes, some significant gaps had persisted since the 2001 report. Analyses included both the socio-economic determinants of health (e.g., unemployment, income, education) and health outcomes (e.g., life expectancy, mortality, HIV/AIDS, suicide). Among the 57 indicators that were compared to identify potential progress between 2001 and 2006, 18 showed improvement, 10 worsened, and the remainder showed either no change or fluctuation without a clear trend.

In 2006, First Nations and the province built upon the *Transformative Change Accord* with the bilateral *First Nations Health Plan*. This plan was strengthened by the *First Nations Health Plan Memorandum of Understanding* (November 2006) and then the *Tripartite First Nations Health Plan* (TFNHP) (June 2007).[c] The TFNHP identified priority actions to close the health gap between First Nations and other BC residents. It established 36 specific actions in four areas, with seven performance indicators and five targets for narrowing health gaps by 2015. In October 2012, the PHO released an interim report on the five targets (life expectancy at birth, mortality rate, Status Indian youth suicide rate, infant mortality rate, and diabetes prevalence). Results of that interim report indicated that some progress has been made in reducing gaps, but that more work was required.

One of the health actions identified in the TFNHP was the development of a

[c] The Tripartite partners are First Nations (represented by the First Nations Health Council and the First Nations Health Authority), the Government of Canada, and the Province of BC.

tripartite plan to address First Nations and Aboriginal mental wellness and substance use in BC. Currently, tripartite partners and representatives of health authorities, the BC Association of Aboriginal Friendship Centres, and Métis Nation BC, are working together on the development of a new plan, the *BC First Nations and Aboriginal Mental Wellness and Substance Use Plan*. The vision and guiding principles for this plan emphasize a holistic and community-based population health approach for First Nations and Aboriginal people and communities in the areas of mental wellness promotion and problematic substance use reduction. This plan will be developed using BC's current mental health and substance use plan, *Healthy Minds, Healthy People: A Ten-Year Plan to Address Mental Health and Substance Use in British Columbia*, as a foundation.

While these achievements in the health sector have already begun to generate improvements, governments and Aboriginal communities continue to work to advance the health and well-being of Aboriginal people. One of the strengths of this work is its context within a new era of reconciliation and collaboration between government and Aboriginal people.

In 1996, Parliament added sub-section 718.2(*e*) to the *Criminal Code*, which requires that judges consider all possible appropriate penalties prior to choosing incarceration, particularly in the case of Aboriginal offenders.

Changes in the Justice Sector

Over the last 20 years, changes to the criminal justice system have attempted to address the history of Aboriginal people in Canada and improve the relationship between Aboriginal people and the justice system. Legislation and specialized Aboriginal programs in both the federal and provincial systems have created opportunities to address some of the systemic and historical challenges that Aboriginal people face.

Aboriginal Offenders and the Criminal Code

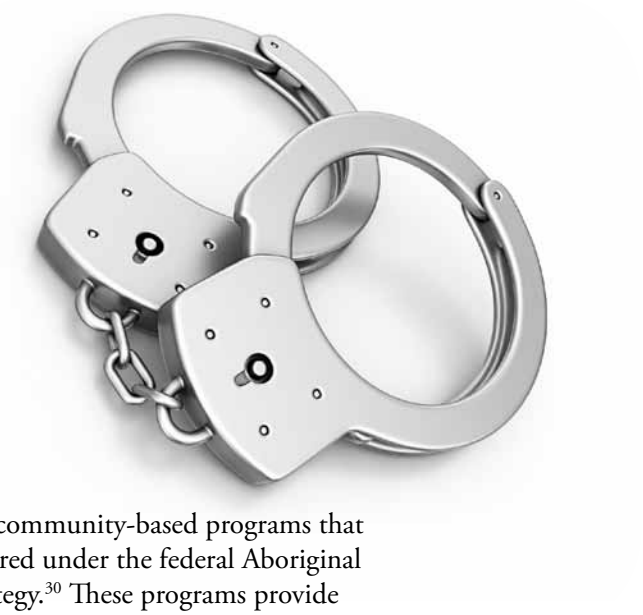
In 1996, Parliament added sub-section 718.2(*e*) to the *Criminal Code*, which requires that judges consider all possible appropriate penalties prior to choosing incarceration, particularly in the case of Aboriginal offenders.[22] The Supreme Court of Canada provided its first interpretation of sub-section 718.2(*e*) in the *R. v. Gladue* decision in 1999, stating that this sub-section is intended to address the overrepresentation of the Aboriginal population in prisons. The Supreme Court also concluded that judges should acknowledge background and systemic factors that affect Aboriginal people, and that restorative sentencing is a priority in Aboriginal cultures.[23]

The Supreme Court of Canada provided its most recent interpretation of sub-section 718.2(*e*) in the *R. v. Ipeelee* decision in 2012. This interpretation acknowledged the unique circumstances of Aboriginal offenders, and stated that if current sentencing does not deter criminal behaviour or rehabilitate offenders, then the sentences must be changed to suit the needs of the offenders and their communities. The *R. v. Ipeelee* decision also recognized that sanctions are only just when they are not discriminatory, and that sentencing judges are in a position to evaluate whether sentencing practices are contributing to systemic racial discrimination.[24]

Aboriginal Justice Strategy

In 1991, the federal government launched the Aboriginal Justice Initiative, later known as the Aboriginal Justice Strategy, to provide support for pilot community-based justice programs throughout Canada. These programs include diversion programs,[d] mediation, community participation in offender sentencing, and other restorative justice practices.[25] This national strategy was renewed in 2008 with $40 million in additional federal funding until 2012, bringing the total federal investment to $85 million.[26] In 2012, the Strategy was renewed for one more year,[25] and now supports 275 community-based alternative justice strategies in over 600 communities across Canada.[25]

The Strategy allows Aboriginal communities to be more involved in local administration of justice. It is intended to represent Aboriginal peoples' perspectives and values in the justice system, and produce outcomes including lower rates of crime, victimization, and incarceration among Aboriginal people. Dispute resolution programs under the Aboriginal Justice Strategy in BC are based on a restorative justice process. The traditional criminal justice system in Canada is based on retribution, punishment, and rehabilitation. Restorative justice works alongside the traditional criminal justice system[27] while drawing on Aboriginal models of justice focusing on collective healing. Restorative justice processes emphasize the relationship between the person who committed the crime, the victim, families, and the community.[e,28,29] Evaluations of the restorative justice approach show high levels of satisfaction for the offender as well as the victim.[28]



BC has 30 community-based programs that are cost-shared under the federal Aboriginal Justice Strategy.[30] These programs provide services ranging from court diversion to the reintegration of Aboriginal people into their communities after release.[30] The most recent national evaluation of the Aboriginal Justice Strategy by the Department of Justice Canada found that community-based justice programs contribute to safer and healthier communities. Four years after program completion, only 24.8 per cent of program participants had re-offended, compared to 39.1 per cent of the non-participating comparison group.[31]

Other Aboriginal Justice Programs

BC and Canada support many other programs that aim to address the needs of Aboriginal populations involved in the criminal justice system. BC Corrections supports the Native Courtworker and Counselling Association of British Columbia, which provides services in 28 communities, covering 74 per cent of provincial courthouses and Vancouver's Downtown Community Court.[32] This association provides Aboriginal offenders

[d] Diversion programs are forms of sentencing that keep offenders out of the court system (e.g., completion of educational programs or community service).

[e] Some types of restorative justice programs include victim-offender mediation, healing circles, community justice forums, and sentencing circles. Often in restorative justice, victims are able to meet the person who committed the crime, and the offender is given the chance to try to repair any damage.

with guidance, support, advice, and referrals at all stages of contact with the criminal justice system.[33]

The Correctional Service of Canada (CSC) has numerous programs designed specifically for Aboriginal offenders in federal custody. Healing lodges provide programs and services to Aboriginal federal offenders with an emphasis on Aboriginal peoples' beliefs and traditions, and a focus on preparation for release.[34] The Aboriginal Offender Substance Abuse Program is an intensive, holistic, and culturally-based program intended to reduce the risk for substance abuse relapse. An evaluation of this program found that it was effective in preventing relapse once offenders had been released into the community, and program participants were less likely to re-offend.[35]

The Pathways Unit program was introduced as a pilot project in 2000 to "provide a traditional environment within CSC institutions for Aboriginal offenders dedicated to following a traditional healing path."[36] Pathways Units are residential units that support First Nations, Métis, and Inuit offenders through cultural connections and activities such as traditional ceremonies and counsel from Aboriginal Elders. According to CSC, Pathways Units, like other culturally relevant CSC initiatives, have demonstrated positive outcomes:

> Aboriginal offenders who participated in Pathways units had a significantly lower rate of reoffending after release (17% compared to 35% for Aboriginal offenders who have not resided on those units). These units are also proving to be safer environments for CSC staff and for Aboriginal offenders, with lower rates of violent incidents and detected drug use.[36]

Other programs in the federal system include, but are not limited to, development of an Aboriginal workforce in the corrections system; Aboriginal-specific training for corrections staff; creation of a role for Elders in the rehabilitation process; incorporation of traditional Aboriginal practices into rehabilitation; skills development and healing programs for Aboriginal offenders; and support for communities, families, and Aboriginal organizations.[37]

Overall, these changing relationships and new commitments show that despite more than a century of marginalization and vulnerability for the Aboriginal population, improvements are underway to reconcile Aboriginal rights and entitlement, forge more equitable relationships between Aboriginal peoples and government, reduce gaps in determinants of health and health status, recognize the unique challenges of Aboriginal people within the justice sector, and provide unique, culturally appropriate interventions.

The *Safe Streets and Communities Act*

Canadian Law and the Administration of Justice

Criminal offences in Canada are defined by the *Criminal Code* and other federal acts, including the *Controlled Drugs and Substances Act*, and the *Youth Criminal Justice Act*. While these are federal acts, all criminal court cases in Canada are handled in the provincial/territorial court systems. In BC, over 95 per cent of criminal trials are held in the BC Provincial Court, with the remainder held in the BC Supreme Court.[38] Most criminal cases only go to the federal court system when an individual wishes to appeal the decision made in their case and after all appeal options have been exhausted within the provincial jurisdiction. The Supreme Court of Canada is the final court of appeal in Canada, and hears appeals from all provincial and territorial courts.

Correctional services are provided by both the federal government and provincial/territorial governments. The Correctional Service of Canada is responsible for adults who are sentenced to custody for two years or more. BC Corrections is responsible for adults sentenced to less than two years, remand, and community-based sentences. Most youth aged 12 to 17 are prosecuted under the *Youth Criminal Justice Act*. Youth who are sentenced to custody are held in one of three youth custody centres located in BC. These centres are managed by the Ministry of Children and Family Development. Youth under age 12 cannot be prosecuted under the formal criminal justice system.

The new *Safe Streets and Communities Act* (former Bill C-10) received Royal Assent[f] on March 13, 2012, and has been coming into force over the past year.[39] This omnibus Act included changes to many federal acts, as seen in its full title: *An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts*.

The following section provides an overview of the intention of the new *Safe Streets and Communities Act* (SSCA) and some of the changes introduced in the Act, with a focus on those regarding mandatory minimum sentences and changes that impact young offenders. It also outlines some of the criticisms raised in opposition to Bill C-10 and the Act.

Intention of the *Safe Streets and Communities Act*

The SSCA groups together nine bills that had been developed separately but not passed during previous sessions of Parliament (for a complete list of bills incorporated into the

[f] Royal Assent is the final stage of the legislative process in which the Governor General of Canada gives assent on behalf of the monarch to bills that have been passed by Parliament and the Senate.

Act, see Appendix B). It includes one new piece of legislation and amendments to nine existing pieces of legislation.

According to the Department of Justice Canada, the federal government introduced the SSCA in September 2011 to fulfill its commitment to "move quickly to reintroduce comprehensive law-and-order legislation to combat crime and terrorism."[40] The Act includes amendments to criminal laws that are intended to make communities safer in three ways:

- "extending greater protection to the most vulnerable members of society, as well as victims of terrorism;
- further enhancing the ability of Canada's justice system to hold offenders accountable for their actions; and
- helping improve the safety and security of all Canadians."[40]

Despite these intended benefits, many concerns have been raised about the implications of the changes the SSCA introduces, and their potential impacts on vulnerable populations, including Aboriginal people.

Changes Introduced through the Act

The SSCA consists of five parts and introduces a wide variety of changes. Many of these changes focus on more severe penalties, such as more incarceration and longer sentences for offenders. For example, the Act includes an expanded list of offences under the *Criminal Code* for which conditional sentences[g] are not available.[41] It also authorizes police to arrest individuals who appear to be breaking their release conditions, without a warrant.[42]

Parts 2 and 4 of the Act have been the subject of much controversy and opposition. Part 2 amends the *Criminal Code* and the *Controlled Drugs and Substances Act* (CDSA). These changes include introducing new mandatory minimum sentencing (MMS) for drug offences, increasing existing mandatory minimum sentences, and increasing maximum penalties for certain offences. Part 4 amends the *Youth Criminal Justice Act* (YCJA). There are many changes to the YCJA, such as the addition of denunciation and deterrence as sentencing principles, and broader rules to facilitate keeping youth in custody prior to sentencing.

Mandatory Minimum Sentencing

One of the most controversial changes in the SSCA is the introduction and expansion of MMS. MMS aims to reduce disparities in sentencing among offenders. It does so by reducing the discretion employed by justice officials, such as sentencing judges, through predefined legislated minimum sentences. This includes mandated incarceration for minor and non-violent offences.

Mandatory minimum sentences were added to the CDSA for drug offences, including production, trafficking, and possession for the purpose of trafficking, importing and exporting. These changes apply to drugs identified in Schedule 1 (e.g., heroin, cocaine, methamphetamine) and Schedule 2 (e.g., marijuana) of the CDSA. These changes also increase the maximum penalty for the production of marijuana from 7 to 14 years, and add more drugs to Schedule 1 (e.g., date-rape drugs and amphetamine drugs), resulting in higher maximum penalties for crimes involving these drugs. The SSCA allows for suspension of a sentence while an offender completes a drug treatment program approved by the province under the supervision of the court, or a drug treatment court program approved by the Attorney General. The court may impose a suspended or reduced sentence if the offender completes the approved program.

[g] Conditional sentences are less than two years and served in the community. They were introduced in Canada in 1996 to support restorative justice and address overreliance on incarceration.

Mandatory minimum sentences within the CDSA range in length, based on the offence committed and related factors. For example, the mandatory minimum sentence for possession of marijuana is six months if the person is in possession of more than five plants (and less than 201) that are intended for use in trafficking. However, if certain health and safety factors are present (e.g., the commission of the crime posed a threat to the safety, health, or security of an individual under the age of 18), the mandatory minimum sentence increases to nine months. Section 5(3)(*a*) of the CDSA makes trafficking other substances an indictable offence, with a maximum punishment of imprisonment for life.[42]

The Department of Justice Canada has noted that MMS would generally apply when there is an "aggravating factor" involved. Aggravating factors include a variety of contextual circumstances identified in the Act, such as offences that involved the use or threat of a weapon, were committed by someone who has been convicted in the past 10 years of a serious drug offence, or involved property that belonged to a third party.[43] For example, for some drug-trafficking offences, an MMS of one year applies if any aggravating factors are present, which can include committing the crime for the purpose of organized crime, or carrying, threatening with, or using a weapon when committing a crime.[42] In effect, MMS requires justice officials to address the context of the offence, rather than the context of the offender.

Changes Affecting Youth

Other areas of controversy include amendments to the YCJA introduced with the SSCA. Under the SSCA, police are required to keep a record of all "extrajudicial sanctions" that do not involve formal or official actions, such as cautions and warnings given to youth. The purpose of this documentation is to keep a record of youths' criminal histories. The SSCA also allows these extrajudicial sanctions to be used instead of, or in addition to, "findings of guilt," as a reason to sentence youth to a custody centre. This creates more chances to sentence young offenders into custody. The SSCA also expands the definition of "violent offence" beyond an offence in which a young person causes, attempts to cause, or threatens to cause, bodily harm. It now includes offences where a young person's behaviour posed a risk to others, even if it was not intentional and did not result in an injury. Additionally, the Act expands the number of reasons why youth would be held in custody before they are sentenced.[40,42]

For youth who are sentenced, penalties can now be more serious. The SSCA now requires the Crown prosecutor to consider an adult sentence when a youth 14 years of age or older is found guilty of a "serious violent offence." The Act also adds denunciation and deterrence as sentencing principles with the goals of (1) reflecting general societal disapproval of the crime within the sentence, and (2) deterring youth from committing crimes through threat of more severe sentences. Previously, the YCJA was wholly focussed on accountability, rehabilitation, public safety, and penalties that suit the seriousness of the crime. The new principles of denunciation and deterrence are more similar to those in the adult criminal justice system.[40,42]

Other changes to the YCJA introduced with the SSCA allow the court to consider lifting the publication ban on names of youth who are convicted and sentenced if the Crown sought an adult sentence and a youth sentence was imposed instead. Prior to these changes, the publication ban of a young offender's name was lifted only if an adult sentence was imposed.[40,42]

Overall, these changes create a greater focus on penalization, deterrence, and denunciation, resulting in a movement away from rehabilitation. Further,

the changes imposed by the Act create a greater likelihood that youth will serve adult sentences and be publicly identified by name.

Criticisms of the Act

The SSCA has been criticized by many sectors, including the health, legal, and political sectors, and by Aboriginal communities. Some organizations prepared detailed submissions to the Standing Committee on Justice and Human Rights or appeared as witnesses to the Senate Committee on Legal and Constitutional Affairs to express concerns about the Act.[h] Many of these concerns were also submitted during the reviews of the original individual bills.

The Canadian Bar Association criticized the method in which the Act was put forward. They believe that bundling criminal justice initiatives that are unique and distinct into one bill is unsuitable and does not align with Canada's democratic process. Further, the Association pointed out that other than the exception concerning drug treatment courts, the Act does not include what is termed a "safety valve"—a legislative exception that would permit judges to consider personal circumstances such as mental illness or fetal alcohol spectrum disorder[i,44] when applying mandatory minimum sentences. A safety valve is an international standard that exists in many countries, including the United States, the United Kingdom, and Australia.[45] A November 2011 brief by the Canadian Bar Association, "10 Reasons to Oppose Bill C-10," argued that the SSCA (then known as Bill C-10) "...represents a huge step backwards" and prioritizes retribution above public safety. The brief projected that more young Canadians will spend months in custodial centres before trial, judges will be forced to incarcerate people whose offences and circumstances do not warrant time in custody, and the overrepresentation of Aboriginal people in correctional institutions in Canada will worsen.[46]

The BC Representative for Children and Youth has also expressed concern with the Act, and responded to amendments to the YCJA. The Representative argues that there is substantial consensus that the following strategies would further reduce youth crime:

- "Strong supports for mothers-to-be and young children, to develop healthy, resilient and responsible children and youth.
- Measured responses for early and first offenders, requiring accountability and nurturing pro-social relationships and behaviour.
- Robust interventions with high-risk offenders, to assertively manage their risk, in secure settings if necessary, while providing treatment with the best prospects of success."[47]

Several First Nations organizations and bodies have also voiced opposition to the Act. Grand Chief Doug Kelly and the First Nations Health Council (FNHC) declared their concern and opposition to Bill C-10, specifically MMS, since mandatory sentences can increase levels of incarceration of low-level offenders, who in Canada are often First Nations individuals. FNHC advocates for the allocation of resources for prevention, rather than penalties, for a greater impact on crime reduction and a more positive effect on communities.[48] In a submission to the Commons Standing Committee regarding Bill C-10, the Assembly of First Nations argued that the Act is contrary to a First Nations perspective on justice, which focuses more on rehabilitation and restoration for the victims of crime.[49]

[h] These two committees reviewed the legislation before it was passed into law, and made recommendations for changes, inclusions, and exclusions to the Act.

[i] Fetal alcohol spectrum disorder (FASD) refers to a range of harms associated with the maternal consumption of alcohol during pregnancy. Disabilities associated with FASD include behavioural problems, physical disabilities, and cognitive/neurological impairments.

Other concerns and opposition have similarly focused on the MMS components of the Act. Research has shown that imprisonment and longer sentences do not act as crime deterrents or reduce recidivism. A review by the federal government of 50 North American studies found that low-risk offenders with increased sentence length were slightly more likely than high-risk offenders to commit new offences, suggesting that imprisonment and longer sentences can actually increase crime.[50] Another study found that severe mandatory minimum sentences are least effective in relation to drug crime, as they do not address other key aspects of drug crime, such as drug consumption.[51] Furthermore, according to a study released in November 2012, the SSCA has the potential to increase overcrowding, increase costs, increase numbers of young people in prison, increase time spent in prison, and increase time spent in isolation. The researchers explain that "by incarcerating people, exposing them to an increased potential for violence, and keeping them in prison longer, the system will further foster an environment of mental, emotional, and physical degradation."[52]

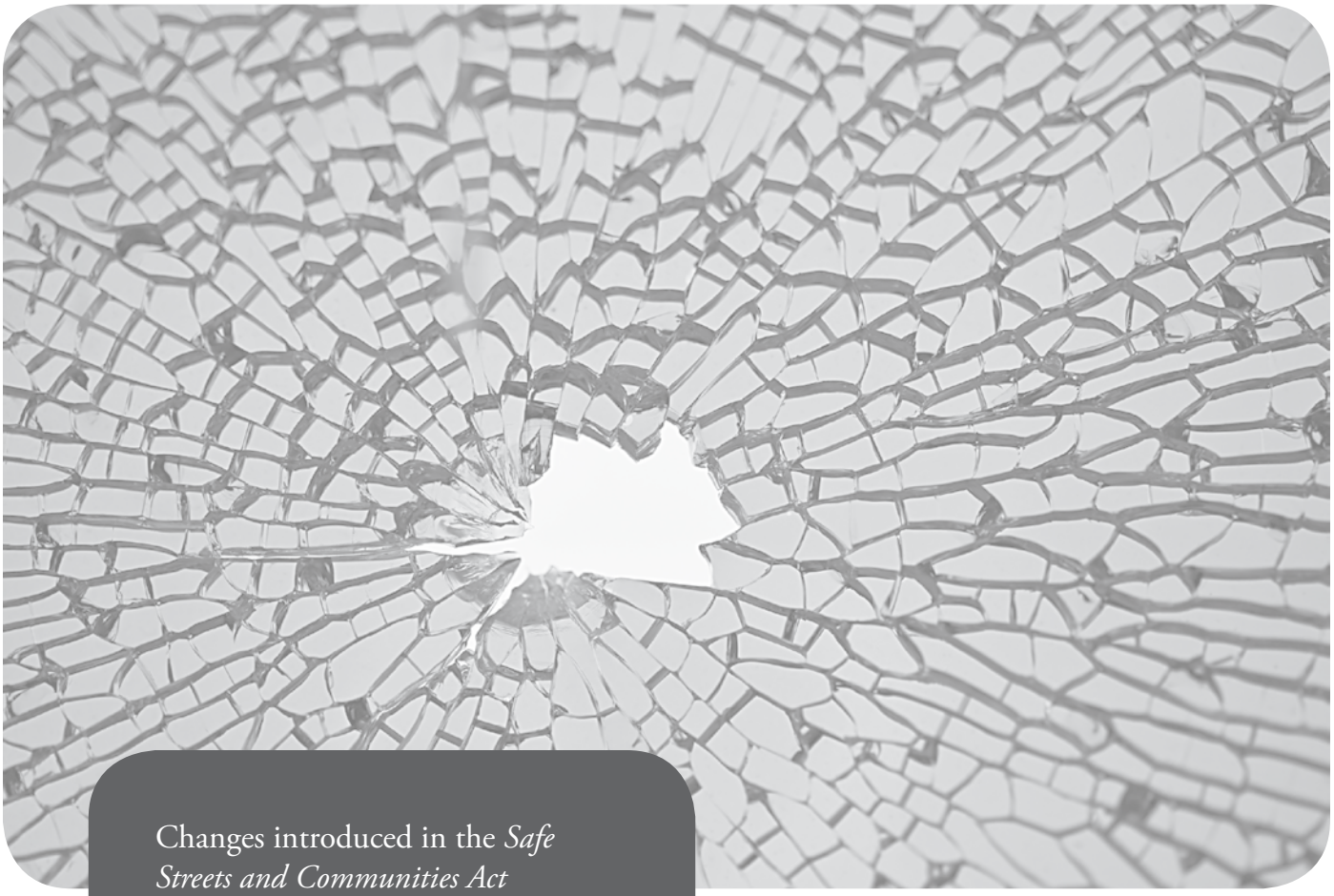
Members of the health community and researchers at the University of British Columbia (UBC), McGill University, the BC Centre for Disease Control, and the Collaborating Centre for Prison Health and Education, sent a brief to Members of Parliament providing an overview of the negative health implications of Bill C-10. One of their recommendations was for Parliament to not implement new or extended MMS for criminal activities. They noted that the majority of these activities are non-violent and/or result from disease, such as drug addiction or mental illness. They recommended a proactive (not reactive) approach to crime, with a focus on health promotion, and the allowance of the judicial system to exercise discretion in dealing with individuals. They further identified Aboriginal people, women and their children, youth, the mentally ill, and the elderly, as sub-populations who are particularly vulnerable to the negative health implications of Bill C-10.[53]

Similar to this brief, a paper written in response to the Act from the Collaborating Centre for Prison Health and Education at UBC explains that the Act does not adequately address the social determinants of health and crime. Strategies focusing on prevention of criminal behaviour, as opposed to policing and incarcerating youth, would have more positive impacts on health, crime rates, and society.[54]

An editorial in the *Globe and Mail* on June 9, 2012, criticized the SSCA by highlighting the potential effects that increased numbers of incarcerated Aboriginal people would have on reported statistics of non-incarcerated people. The author used the American example of the *Sentencing Reform Act* (1984) to show that "sticking a country's social problems in a box does not make them go away" as prison populations are not included in national statistics such as unemployment, high-school dropout rates, and the gaps in employment and wages.[55] Similarly, statistics representing social and economic indicators and the health status of Aboriginal people in Canada and BC may appear to improve following the implementation of the Act. However, these statistics may be misleading since they will exclude incarcerated Aboriginal people, who are more likely to have lower levels of education and employment, and more health concerns than other BC residents (these indicators will be discussed in more detail later in this report).

Overall, the changes introduced in the SSCA related to MMS and young offenders put greater emphasis on punishment and incarceration, focus less on rehabilitation, and create less opportunity for consideration of an individual's personal health and cultural context during sentencing. The selection of criticisms outlined above highlight some of the potential negative implications of the Act for all Canadians, and show how the greatest harmful impacts will likely be experienced by vulnerable

populations who have lower socio-economic status, lower health status, and/or existing mental health and substance use issues, or who already have higher rates of incarceration. These variables, combined with the apparent conflict of the MMS components of the Act with sub-section 718.2(*e*) of the *Criminal Code* and related case law, requiring consideration of all possible appropriate penalties prior to choosing incarceration—particularly for Aboriginal offenders—put Aboriginal people at particularly high risk for greater levels of incarceration, and associated outcomes such as challenges with social determinants of health and poorer health status.



Changes introduced in the *Safe Streets and Communities Act* related to mandatory minimum sentencing and young offenders put greater emphasis on punishment and incarceration, focus less on rehabilitation, and create less opportunity for consideration of an individual's personal health and cultural context during sentencing.

The Incarceration of Aboriginal People in BC

As described earlier in this report, the last 20 years have brought many positive changes in the relationship between Aboriginal people and the Canadian criminal justice system. Changes to legislation and new or revised programs have created opportunities to address some of the unique challenges facing Aboriginal people. Despite these developments, Aboriginal people are overrepresented in BC custody centres compared to their proportion of the general population of BC, and this issue has worsened in recent years.

While Aboriginal people make up a relatively small proportion of the population of Canada (3.8 per cent)[1] and BC (4.8 per cent),[2] they represent a substantial proportion of the incarcerated populations in both the federal and provincial systems. There are also differences between Aboriginal offenders and other offenders for type of offences committed, rates of parole, and length of sentencing.

The following section looks at the current rates of incarceration of Aboriginal adults and youth compared to other BC residents, and explores the overrepresentation of Aboriginal people in custody and possible reasons for the overrepresentation.

Incarceration Levels of Aboriginal Adults

In Canada in 2010, approximately 163,229 adults were either in some form of custody (38,219) or in community correctional programs (125,010).[56] Of these individuals, 24,461 were in provincial or territorial custody, and 117,825 were in provincial or territorial programs.[56] Approximately 13,758 offenders were in federal custody, while 7,185 were under federal community supervision.[56] In 2008/2009, Aboriginal offenders represented 20 per cent of offenders in federal custody.[57]

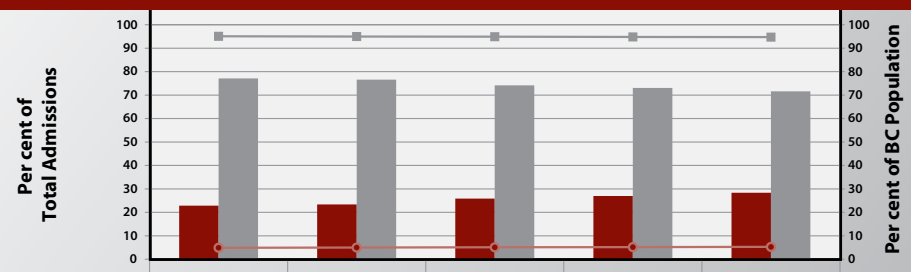
Overall, crime in Canada has been decreasing over the past 20 years. In 2011, 2 million *Criminal Code* offences were reported by police, down approximately 110,000 from 2010.[58] In BC, the overall crime rate[j] has been decreasing for eight years, and is at the lowest rate in almost 35 years. However, BC has the third highest crime rate in Canada, after Saskatchewan and Manitoba.[59]

In 2011/2012, about 2,634 adults were in BC provincial custody and 23,844 were in BC provincial community programs.[32,60]

[j] Crime rate is the number of *Criminal Code* offences or crimes reported for every 1,000 people.

Figure 1[k]

Percentage of Adult Admissions to Provincial Custody Centres and Adult Population, BC, 2007 to 2011



	2007	2008	2009	2010	2011
% Admissions - Aboriginal Offenders	22.9	23.4	25.8	27.0	28.4
% Admissions - Other Offenders	77.1	76.6	74.2	73.0	71.6
Count - Aboriginal Offenders	4,142	4,217	4,182	4,258	4,393
Count - Other Offenders	13,972	13,819	11,997	11,535	11,082
% of BC Population - Aboriginal	4.9	5.0	5.1	5.2	5.3
% of BC Population - Other Residents	95.1	95.0	94.9	94.8	94.7

Year

Population Data
Notes: Non-census years extrapolated using Census data 2001 and 2006 (not shown). For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Admission Count Data
Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity during BC Corrections admissions are excluded. Yearly counts are calculated using monthly averages for the year. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by BC Corrections, Ministry of Justice, and by Public Health Planning and Surveillance, Ministry of Health, February 2013.

Figure 1 illustrates the yearly counts of adults admitted into provincial correctional centres in BC from 2007 to 2011, comparing admission of Aboriginal offenders to other offenders. As this figure shows, Aboriginal adults are consistently overrepresented in the percentage of admissions to BC correctional centres compared to their percentage of the larger BC population. Furthermore, the percentage of Aboriginal offenders admitted is growing faster than the increase in percentage of the Aboriginal adult population in BC. In 2011, 28.4 per cent of the admissions to BC correctional centres were Aboriginal people, an increase from 22.9 per cent of admissions in 2007.

The increase in the percentage of adult Aboriginal admissions shown in Figure 1 is accounted for in part by the 20.7 per cent decrease over time in the number of other offenders admitted (from 13,974 in 2007 to 11,082 in 2011), and by the 6.0 per cent increase in the number of Aboriginal offenders admitted (from 4,146 in 2007 to 4,394 in 2011). The possibility that this increase in the number of Aboriginal offenders relates to changes in the age distribution of Aboriginal people in BC will be explored later in this report.

This worsening trend of Aboriginal overrepresentation is also occurring at a national level, and has been recognized by the Office of the Correctional Investigator Canada in a progress report on Aboriginal corrections in Canada.[61] In 1996/1997, Aboriginal people represented 15 per cent of offenders in federal custody. This increased to 20 per cent in 2008/2009.[57] If the federal trends are not addressed, projections suggest that Aboriginal representation has the potential to reach 25 per cent of federal offenders by 2020.[62]

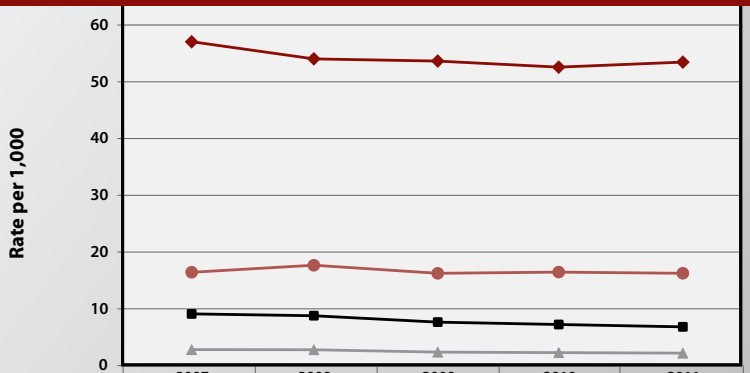
[k] Due to a change in the business rules in 2007 at BC Corrections that impacted the definition of ethnicity categories, only data after 2007 are presented and described in this report. For more information on these changes, see the discussion in sub-section "Data Collection and Reporting."

Despite the overall worsening overrepresentation of Aboriginal people in correctional centres in relation to their percentage of the larger BC population, admission rates for some age categories for Aboriginal offenders have actually decreased over the last five years. As shown in Figure 2, the admission rate of Aboriginal people aged 18 to 34 (the age group with the highest incarceration rate) to BC correctional centres between 2007 and 2011 decreased from 57.1 to 53.5 per 1,000 population. While this presents an encouraging picture, the rate of admission for Aboriginal offenders in this age group in 2011 is still much higher than the rate for Aboriginal offenders aged 35+ (16.3 per 1,000) and the rates for other offenders aged 18 to 34, and 35+ (6.8 per 1,000 and 2.2 per 1,000).

According to BC Corrections intake data of offenders in provincial institutions, there are some differences in the most serious offences committed by Aboriginal and other offenders. Aboriginal offenders in 2011/2012 had a greater percentage of "crimes against the person"[l] (49.6 per cent of Aboriginal offenders and 37.4 per cent of other offenders) and a lesser proportion of "crimes against property" (24.5 per cent of Aboriginal offenders and 30.0 per cent of other offenders). Aboriginal offenders were also less likely to be incarcerated in provincial institutions as a result of a "federal statute" (e.g., drug possession, drug trafficking, crimes under YCJA and other federal statutes) compared to other offenders (4.1 per cent compared to 10.5 per cent). It is unknown if the lower incarceration levels resulting from a federal statute are due to diversion programs available during the years analyzed.[60]

Figure 2

Admission Rate, Provincial Custody Centres, Ages 18-34 and 35+, BC, 2007 to 2011



	2007	2008	2009	2010	2011
Aboriginal Offenders Ages 18-34	57.1	54.1	53.7	52.6	53.5
Aboriginal Offenders Ages 35+	16.4	17.7	16.3	16.5	16.3
Other Offenders Ages 18-34	9.1	8.8	7.7	7.2	6.8
Other Offenders Ages 35+	2.8	2.8	2.4	2.3	2.2

Population Data
Notes: Non-census years extrapolated using Census data 2001 and 2006 (not shown). For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Admission Count Data
Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity during BC Corrections admissions are excluded. Yearly counts are calculated using monthly averages for the year. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by BC Corrections, Ministry of Justice, and by Public Health Planning and Surveillance, Ministry of Health, February 2013.

[l] "Crimes against the person" include homicide (murder), attempted murder, robbery, sexual assault, other sexual offences, major assault, common assault, uttering threats, criminal harassment, etc.

Incarceration Levels of Aboriginal Women

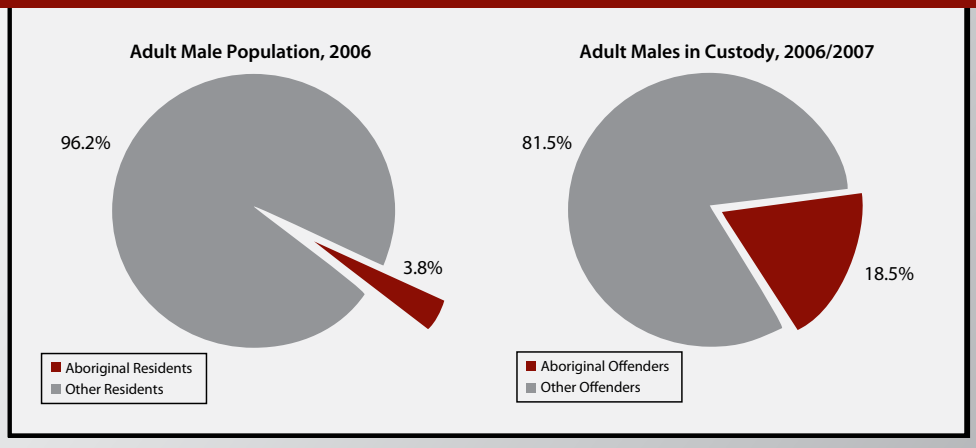
According to a 2009 report by Statistics Canada, women are more likely to be admitted to provincial and territorial facilities than federal facilities, and to be admitted to community sentences than into custody.[63] A report by the Canadian Centre for Justice Statistics determined that while men are more frequently sent to prison for most crimes, women were more likely than men to be sentenced to prison for charges of prostitution and drug possession (32 per cent compared to 9 per cent for prostitution; 26 per cent compared to 20 per cent for drug possession).[64]

The incarceration of women has additional impacts when the women are mothers. When children have mothers in prison, the children are more likely to have a destabilized life, move homes and schools, and live in foster care. Further, they may attempt to rationalize the criminal behaviour of their mothers and as a result, develop dysfunctional perspectives regarding criminal behaviour that the children themselves may commit. When mothers are released from prison, they often have challenges finding stable housing and employment, and suffer from marginalization and poverty. These elements can then be risk factors for their children's potential later involvement in crime.[65]

Figures 3 and 4 illustrate the proportion of Aboriginal adults and other adult residents in the general BC population compared to the proportion of adults incarcerated in BC correctional centres in 2006. These two figures show that while Aboriginal males incarcerated in BC are overrepresented compared to their proportion of the general population, the overrepresentation is even more pronounced for Aboriginal females.

Figure 3

Proportion of BC Population and Average Custody Centre Population, Adult Males, BC

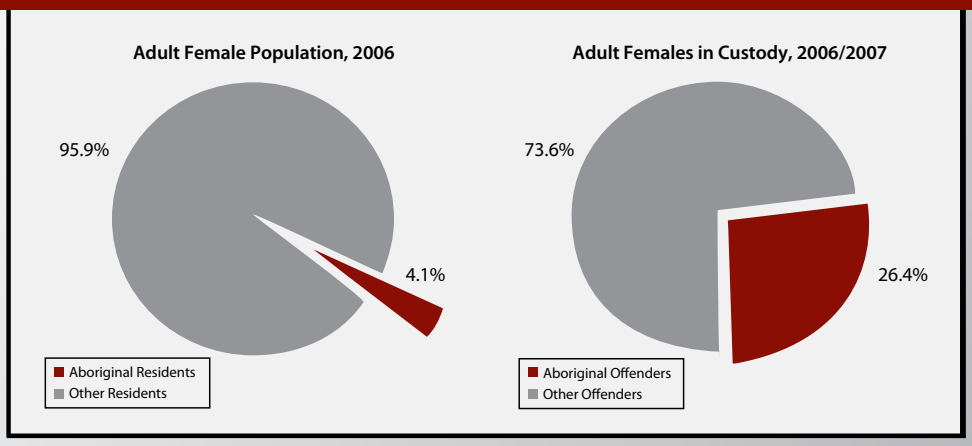


Adult Male Population Data
Notes: "Adults" includes all individuals age 18+. For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Male Admissions Data
Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity are excluded. Yearly counts are calculated using monthly averages for the fiscal year. "Adults" includes all admissions for individuals age 18+. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by Public Health Planning and Surveillance, Ministry of Health, February 2013

Figure 4

Proportion of BC Population and Average Custody Centre Population, Adult Females, BC

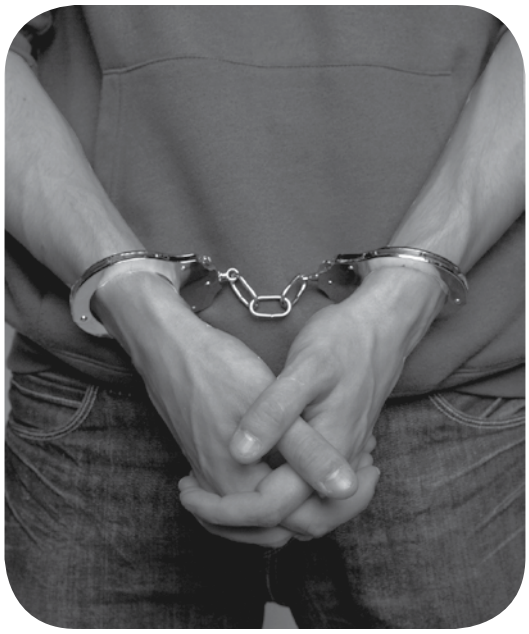


Adult Female Population Data
Notes: "Adults" includes all individuals age 18+. For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Male Admissions Data
Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity are excluded. Yearly counts are calculated using monthly averages for the fiscal year. "Adults" includes all admissions for individuals age 18+. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by Public Health Planning and Surveillance, Ministry of Health, February 2013.

According to data from BC Corrections for the last 13 years, Aboriginal females have consistently made up a much greater proportion of females in BC Corrections centres than their proportion of the overall female population in BC.[60] Statistics Canada data shows a similar trend of increasing overrepresentation of females within the federal system, with the number of Aboriginal females rising from 15 per cent of females incarcerated in federal institutions in 1997 to 25 per cent in 2006.[64]

Incarceration Levels of Aboriginal Youth



Rates for youth in custody[m] in BC have been falling in recent years. A 2009 joint special report by the BC Representative for Children and Youth and the BC Provincial Health Officer entitled *Kids, Crime and Care - Health and Well-Being of Children in Care: Youth Justice Experiences and Outcomes*[n] discussed this trend and drew attention to public misconceptions about youth crime rates.[66] This report explained that while youth crime is actually decreasing, rare but high-profile violent offences committed by troubled youth affect public perceptions about crime rates, and can lead people to believe that youth crime is more pervasive than it actually is. This report found that the youth crime rate in BC declined by 54 per cent between 1991 and 2007.[66] According to the Ministry of Children and Family Development, the decline has continued, with the per capita youth crime rate declining by 59 per cent between 1991 and 2010. They also report that the number of youth in custody has declined by 75 per cent between 1995/1996 and 2011/2012, from an average of approximately 400 to an average of 105.[67]

These low numbers of youth in custody are supported by the decrease in youth crime reported by the Ministry of Justice. The rate of youth charged[o] dropped from 30.4 per 1,000 youth population in 2002 to 14.1 per 1,000 youth population in 2011.[59] In 2010, BC had the third lowest youth crime rate in Canada.[67] In fact, the rate for female youth in custody has dropped so much that the custody centres underwent a redesign in early 2012, focussing on female-oriented programs in Burnaby and reducing female services at other centres in BC.[67]

Despite these declining rates in overall youth crime, the same decreases have not been observed among Aboriginal youth. As shown in Figure 5, in 2006/2007, when "unknown" ethnicities are removed, Aboriginal youth accounted for 37.6 per cent of admissions to open and secure custody in BC.

Considering that in 2006, Aboriginal youth made up 7.9 per cent of the total BC population of youth aged 12 to 17,[68] Figure 5 demonstrates an overrepresentation of Aboriginal youth among BC's young offenders. This overrepresentation is also evident in pre-trial detention.

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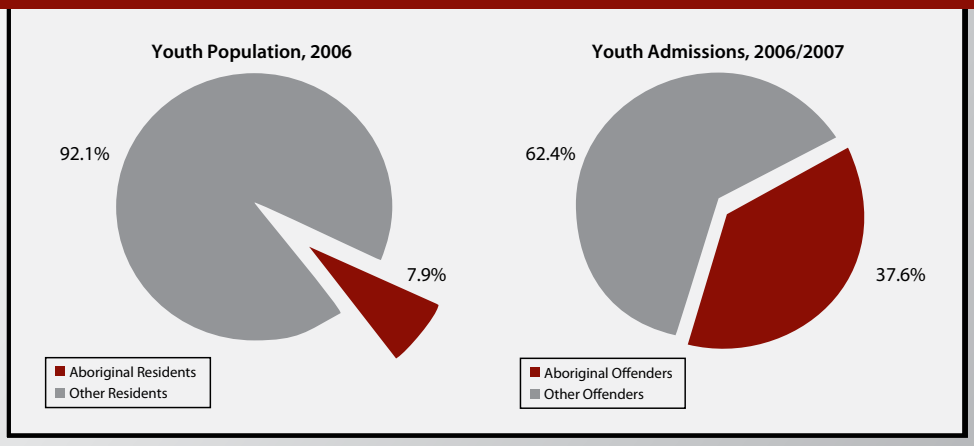
[m] Youth in custody refers to youth aged 12 to 17 who are held in open or secure custody. Youth found guilty of serious offences, or youth with a pattern of offences are placed in secure custody. Youth who cannot be placed in a community setting but need fewer controls are placed in open custody. Both are types of custody at correctional centres for youth, with secure custody having more restrictions and controls than open custody.

[n] This report is the third in a series of three special joint reports released by the Representative for Children and Youth and the Provincial Health Officer. The series examines the health and well-being of children in government care in BC, and each report had a different focus. The first report, released in 2006, is entitled *Joint Special Report: Health and Well-Being of Children in Care in British Columbia: Report 1 on Health Services Utilization and Mortality*. The second report, released in 2007, is entitled *Joint Special Report: Health and Well-Being of Children in Care in British Columbia: Educational Experience and Outcomes*.

[o] Youth charged with *Criminal Code* offences per 1,000 youth population aged 12 to 17.

Figure 5

Proportion of BC Population and Admissions to Open and Secure Custody, Youth Ages 12-17, BC



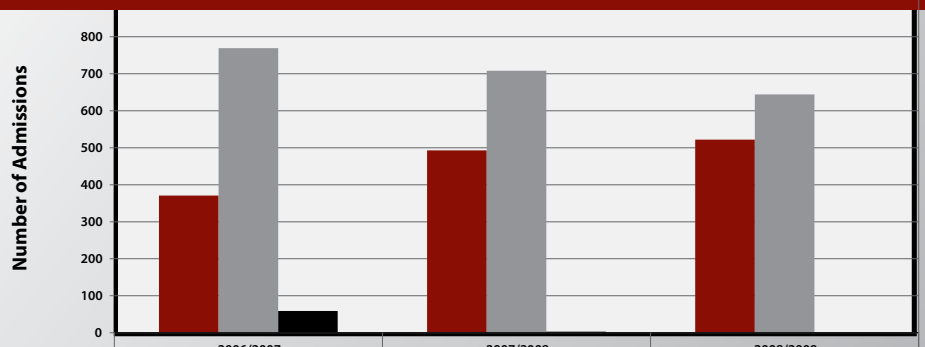
Youth Population Data
Notes: For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Admissions Data
Notes: Fiscal year. Not all variables are applicable to or available for all jurisdictions. Inter-jurisdictional comparisons of the data should be made with caution. "Unknown" ethnicities have been removed. For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada, CANSIM, Tables 251-0010, 251-0012, 251-0015, 251-0016, and 251-0017, October 30, 2012. Prepared by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Pre-trial detention is when youth are held in custody while awaiting trial. As Figure 6 illustrates, the number of Aboriginal youth offenders admitted to pre-trial detention increased between 2006/2007 and 2008/2009, while the number of other youth offenders admitted during that time decreased. In 2006/2007,

Figure 6

Admissions to Pre-Trial Detentions, Youth Ages 12-17, BC, 2006/2007 to 2008/2009



	2006/2007	2007/2008	2008/2009
Aboriginal Offenders	371	493	522
Other Offenders	769	708	644
Aboriginal identity unknown	59	3	1
Total	1,199	1,204	1,167

Fiscal Year

Notes: Fiscal year. Not all variables are applicable to or available for all jurisdictions. Inter-jurisdictional comparisons of the data should be made with caution. For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada, CANSIM, Tables 251-0010, 251-0012, 251-0015, 251-0016, and 251-0017, October 30, 2012. Prepared by Public Health Planning and Surveillance, Ministry of Health, December 2012.

"Aboriginal youth are experiencing increasing numbers of pre-trial detentions and are not experiencing the same decreasing levels of admissions as other youth offenders."

371 Aboriginal youth made up 30.9 per cent of youth admitted to pre-trial detention; in 2008/2009, the number of Aboriginal youth admitted had increased to 522 (44.7 per cent). This may be due in part to Aboriginal youth re-offending, which reduces eligibility for release while awaiting trial. It may also be due in part to assumptions, prejudices, or other attitudinal factors by justice personnel regarding Aboriginal youth returning to their communities while awaiting trial.

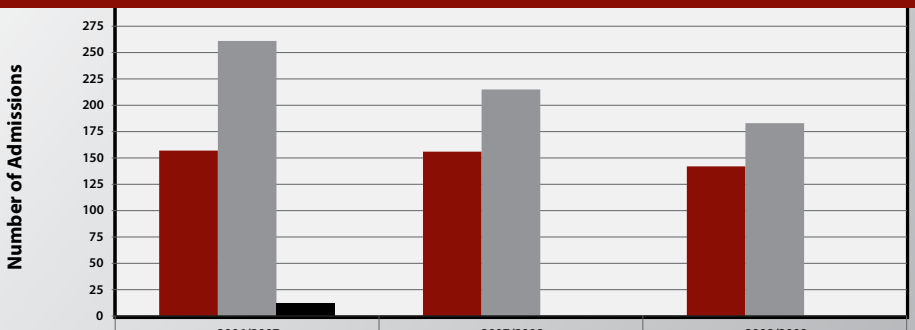
Figure 7 demonstrates that the total number of youth offenders (Aboriginal and other) admitted to open and secure custody in BC has decreased over time. The magnitude of the decrease in Aboriginal youth admissions is less than that of other youth offenders, but it is encouraging that the number of Aboriginal youth being admitted into custody is showing relative stability and even a slight decrease.

While Figure 7 shows that the number of youth in custody has been declining over time, the overrepresentation of Aboriginal youth is still worrisome, since the decrease in other youth offenders has resulted in an increase in the proportion of Aboriginal youth represented (from 37.6 per cent of youth in open and secure custody in 2006/2007 to 43.7 per cent in 2008/2009).

Since Aboriginal youth are experiencing increasing numbers of pre-trial detentions and are not experiencing the same decreasing levels of admissions as other youth offenders, more action is required to address Aboriginal youth crime. Changes introduced in the *Safe Streets and Communities Act* will likely create additional challenges for Aboriginal youth, additional increases in the levels of pre-trial detention of Aboriginal youth, and ongoing high levels of custody for Aboriginal youth offenders. The following section explores the many reasons for the overrepresentation of Aboriginal youth and adults within the criminal justice system.

Figure 7

Admissions to Open and Secure Custody, Youth Ages 12-17, BC, 2006/2007 to 2008/2009



	2006/2007	2007/2008	2008/2009
Aboriginal Offenders	157	156	142
Other Offenders	261	215	183
Aboriginal identity unknown	12	-	-
Total	430	371	325

Notes: Fiscal year. Not all variables are applicable to or available for all jurisdictions. Inter-jurisdictional comparisons of the data should be made with caution. For more information about Statistics Canada data, see Appendix A.
Source: Statistics Canada, CANSIM, Tables 251-0010, 251-0012, 251-0015, 251-0016, and 251-0017, October 30, 2012. Prepared by Public Health Planning and Surveillance, Ministry of Health, December 2012.

Understanding the Overrepresentation of Aboriginal People in the Criminal Justice System

The reasons for the overrepresentation of Aboriginal people in levels of incarceration relative to their proportion of the population in BC and Canada are complex and multifaceted. Multiple factors interact to play a role in this disproportionate representation and the inequitable trends identified, including root historic causes discussed earlier in this report. Other factors include the age distribution of the Aboriginal population; changes in self-reporting of Aboriginal identity; challenges in the implementation of legislative changes and justice programs for Aboriginal people; and systemic bias.

Age Distribution

Criminal inclination is not caused by age, but incarceration rates are highest among those aged 20 to 34.[63] Therefore, one can reasonably assume that the more people aged 20 to 34 that are in a population, the greater the possibility of higher crime rates. Thus, changes in age distribution over time may affect rates of observed crime.

As shown in Figure 8, there appears to be a relationship between total crime rate in BC and the percentage of the BC population aged 18 to 34. A reduction in the percentage of the BC population aged 18 to 34 from 2002 to 2010 could be one factor in the reduction in crime rates observed in BC between 2003 and 2010. The percentage of the Aboriginal population aged 18 to 34 decreased from 25.4 per cent to 23.3 per cent between 2002 and 2010, while the percentage of other BC residents aged 18 to 34 decreased from 21.9 per cent to 20.4 per cent. Similarly, the crime rate in BC decreased from a high of 121.4 per 1,000 population in 2003 to 84.5 per 1,000 in 2010.

As reported in the Provincial Health Officer's Annual Report *Pathways to Health and Healing: 2nd Report on the Health and Well-Being of Aboriginal People in British*

Figure 8

Total Crime Rate and Percentage of Population, Ages 18-34, BC, 2002 to 2010

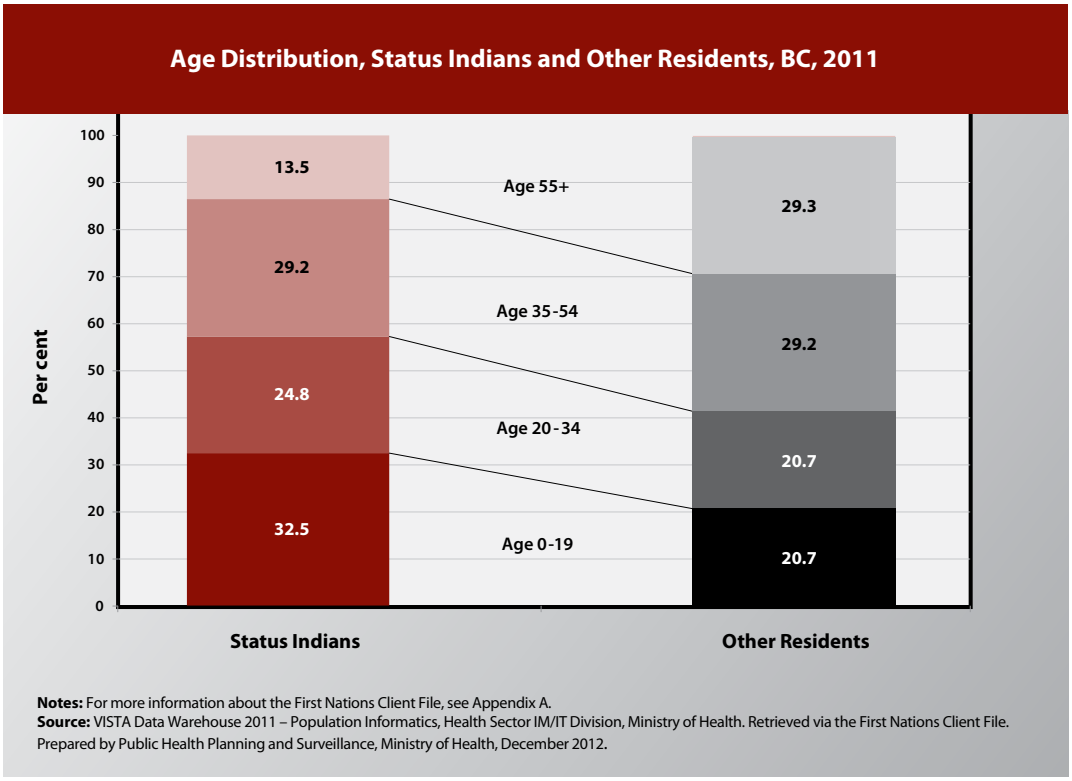
	2002	2003	2004	2005	2006	2007	2008	2009	2010
% of BC Population Ages 18-34 - Aboriginal Residents	25.4	25.1	24.8	24.5	24.2	23.9	23.7	23.5	23.3
% of BC Population Ages 18-34 - Other Residents	21.9	21.7	21.5	21.3	21.1	21.0	20.8	20.6	20.4
Total BC Crime Rate	115.0	121.4	120.5	115.4	111.8	104.6	95.8	89.9	84.5

Year

Population Data
Notes: For more information about Statistics Canada data, see Appendix A. Non-census years extrapolated using Census data 2001 (not shown) and 2006.
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

Crime Rate Data
Notes: Total Crime Rate is total number of *Criminal Code* offences reported for every 1,000 persons.
Source: Police Services Division, Ministry of Justice, *Crime Statistics in British Columbia*, 2011. Prepared by Police Services Division, Ministry of Justice, October 2012, and Public Health Planning and Surveillance, Ministry of Health, January 2013.

Figure 9



Notes: For more information about the First Nations Client File, see Appendix A.
Source: VISTA Data Warehouse 2011 – Population Informatics, Health Sector IM/IT Division, Ministry of Health. Retrieved via the First Nations Client File. Prepared by Public Health Planning and Surveillance, Ministry of Health, December 2012.

Columbia, the Aboriginal population in BC is younger than the non-Aboriginal population. Almost half (46 per cent) of the Aboriginal population was under 25 years of age in 2006, compared to only 29 per cent of the non-Aboriginal population.[10] As shown in Figure 9, a greater proportion of Status Indians are in the 20 to 34 age group compared to other residents. This creates the potential for higher rates of custody centre admissions based on age distribution alone. Furthermore, as the large cohort of Status Indians aged 0 to 19 move into the 20 to 34 age group, there is a risk that the age distribution of Aboriginal people will further increase the current overrepresentation in the adult criminal justice system, since that age category is most at risk for criminal involvement.

Data Collection and Reporting

Changes and inconsistencies in monitoring and reporting Aboriginal ethnicity may also be affecting the apparent rise in incarceration rates for Aboriginal people. This may be due to changes in methodologies used by organizations collecting and reporting information, or to changes in the patterns of self-identification of Aboriginal ethnicity to those organizations.

It can be difficult to analyze data regarding Aboriginal identity that is collected during criminal justice system processes and procedures, since different administrative sources, including police, courts, and correctional services may use different definitions of "Aboriginal," or the data collection methodologies used may make data not comparable to other sources.[69] For example, in 2007, BC Corrections changed data collection business rules to align with BC Ministry of Aboriginal Relations and Reconciliation standards for Aboriginal administrative data. This change resulted in new categories of ethnicities. Although these new categories were not significantly different from previous ones, the change might have resulted in clients altering their responses when self-identifying their ethnicity or staff altering their data entry practices. As a result,

it is difficult to compare incarceration rates before and after 2007, since it is unknown how much of the increase reported before and after 2007 is a result of the change in methodology, or reflects actual increased rates. For this reason, data from BC Corrections presented in this report show rates after the changes were introduced in 2007.

A changing trend in self-reporting patterns of Aboriginal ethnicity has already been observed in analyses of Canadian census data. Increases in counts of self-identified Aboriginal people are much greater than would be anticipated due to natural increases in the population. Statistics Canada has explored the issues surrounding the considerable growth in the self-identified Aboriginal population and determined that some of this growth represents "ethnic mobility," whereby there is a change in ethnic identity between census cycles. This might reflect either a change in the ethnic identification of an individual or a change in the ethnic identification between parents and children. For example, a parent with Aboriginal heritage may choose not to identify themselves as Aboriginal, but their child with the same heritage might choose to do so. Changes in self-identification have not been consistent across all Aboriginal groups, with those self-identifying as Métis having the greatest amount of change. As a result, the proportion of the BC population that self-identified as Aboriginal changed from 3.9 per cent in 1996, to 4.6 per cent in 2001, and then to 5.1 per cent in 2006.[70]

There also may be a change in whether Aboriginal people self-identify within the criminal justice system. As shown in Figures 6 and 7, from 2006 to 2008, fewer youth were identified as "Aboriginal identity unknown," which may indicate a change in data collection, or that youth were more or less willing to self-identify as Aboriginal over time. Aboriginal people may also self-identify in some circumstances and not others; for example, an individual might be more willing to self-identify as Aboriginal for the Canadian census, but less willing when data is collected by justice sector employees, such as police officers or intake officers.

Potential administrative and data reporting changes may have played a role in the reported increase in Aboriginal people involved in the criminal justice system, but they are not sufficient to explain the extent of the increases recorded over the past 20 years.

Legislative Challenges

While steps have been taken to address the relationship between Aboriginal people and the criminal justice system, these good intentions have been met with challenges. In fact, a backgrounder accompanying the Office of the Correctional Investigator Canada 2005/2006 Annual Report stated that "despite years of task force reports, internal reviews, national strategies, partnership agreements and action plans, there has been no significant progress in improving the overall situation of Aboriginal offenders during the last 20 years."[62]

Some lack of progress is rooted in challenges with the interpretation and application of sub-section 718.2(*e*) of the *Criminal Code*, which requires judges to consider all possible appropriate penalties prior to choosing incarceration, especially for Aboriginal people.[p] According to the Ipeelee decision in 2012, challenges with the application and interpretation of the sub-section after precedence was set in the Gladue decision "have significantly curtailed the scope and potential remedial impact of the provision."[24] For example, some courts have misinterpreted the section, believing that it is necessary to establish a causal relationship between the crime and relevant background factors. In fact, according to the justice in the

[p] See the section of this report entitled Aboriginal Offenders and the *Criminal Code* for more information about *Criminal Code* sub-section 718.2(*e*).

Ipeelee case, a causal relationship does not need to be established, and the background factors are to be taken into account to understand the context of the offender. Further, some courts have interpreted the 1999 Gladue decision to indicate that the section should not be applied in cases of serious or violent offences; however, judges have a statutory duty to consider the unique circumstances of Aboriginal offenders in all cases.[24]

Challenges in Aboriginal Justice Programming

Additional reasons for the lack of progress in improving the situation of Aboriginal offenders are challenges in implementing Aboriginal justice programs, including programs offered within institutions, and in implementing the federal Aboriginal Justice Strategy (AJS).

The Correctional Service of Canada has made commitments to incorporate Gladue principles in decisions involving Aboriginal offenders. However, a review by the Office of the Correctional Investigator Canada found that while correctional staff had knowledge of the principles put forward in the Gladue decision, "they were unable to fully operationalize the practical intent of these principles."[71] This has resulted in a lack of support for the development of Aboriginal-specific programs designed to respond to the number of incarcerated Aboriginal people—such as access to Elders, and access to spiritual and cultural interventions—to the level required by the law and national policy.[71]

Many Aboriginal offenders are restricted in their ability to access Aboriginal spiritual and cultural programming in correctional centres. Access to core programming to assist offenders in federal facilities is dependent on the security level at the facility; the number of offenders who participate in core programming decreases as the security level of an institution increases. According to the 2011/2012 Annual Report by the Office of the Correctional Investigator Canada, in a random snapshot in 2012, only 8.4 per cent of offenders in maximum security facilities were enrolled in core correctional programming designed for rehabilitation. Medium-security facilities have 12.0 per cent enrollment, and multi-level institutions have the highest, with offender enrollment at 35.6 per cent. Reasons for low enrollment include limited access to and delivery of the programs, and long waitlists, especially in higher security facilities.[72] Lack of access to these types of programs in higher security prisons can be problematic for Aboriginal offenders, since they are more frequently assessed at a higher security level than other offenders. In fact, Aboriginal offenders are placed in minimum security half as often as other offenders.[62] Without available Aboriginal programming at higher security institutions, Aboriginal offenders are not able to complete their correctional plans for rehabilitation, which would allow them to transfer to lower security institutions where they could take part in available Aboriginal programs. Further, Aboriginal offenders are more frequently placed in segregation compared to other offenders, which limits access to programming designed to prepare them for release and reintegration.[62] Reasons for these discrepancies have not been adequately explored, and may be attributable to systemic bias in the assessment tools or assessor bias, or may be associated with the types of crime committed that resulted in incarceration.

The federal AJS has also faced numerous challenges. A mid-term evaluation of the AJS revealed that one such challenge is unstable staffing at the Aboriginal Justice Directorate at the Department of Justice Canada. This has resulted in barriers to accessing information and program development. The mid-term evaluation also raised concerns that regional coordinators who work at the community level were not included in policy decisions, resulting in a disconnect between community-level issues and policy decisions.[73] Similarly, a review of the AJS in BC revealed concerns about

how the AJS was developed in Ottawa, and that First Nations communities were not adequately consulted.[27]

Funding continues to be a concern for the AJS. Funding is not continuous, and is dependent on renewals from the federal government. As a result, many community-based programs have laid-off staff or shut down because they were unsure of whether program funding would continue. This constant uncertainty of program sustainability also affects individual and community healing.[73] What's more, the funding levels for alternative dispute resolution are quite low compared to funding for the traditional justice system in Canada, resulting in minimal impact.[27] In fact, one of the biggest challenges for the AJS is the ability of the program to reach enough people to make a large-scale difference. A summative evaluation[q] made the comparison that for every 4,500 Aboriginal people in community-based justice programs, there are over 17,000 in the regular justice system for non-violent criminal offences. As long as this discrepancy exists, it is unlikely that the AJS will single-handedly result in major shifts in incarceration rates and crime.[74]

Systemic Biases

An additional contributing factor to the overrepresentation of Aboriginal youth and adults may be systemic challenges and biases within the criminal justice system that have persisted despite legislation and program changes. A recent report by Public Safety Canada showed that Aboriginal adult offenders in Canada were more likely to be sentenced to incarceration than other adult offenders. Aboriginal offenders were also less likely to get parole, and when they did get parole, were more likely to have already served a higher percentage of their sentence.[75] In federal custody, the proportion of Aboriginal offenders increased from 15 per cent in 1996/1997 to 20 per cent in 2008/2009, while the proportion of Aboriginal admissions remained steady at 18 per cent. A report by the Correctional Service of Canada indicated that since the number of Aboriginal people entering the federal system was not increasing, the increasing overrepresentation in prison was due to longer sentences for Aboriginal people.[57]

The Report of the Aboriginal Justice Inquiry of Manitoba in 1999[76] identified multiple discriminatory factors that impact systemic biases in Manitoba's criminal justice system. While Manitoba's experiences are undoubtedly unique, some of these impacts are likely similar in BC.

[q] The summative evaluation of the Aboriginal Justice Strategy was completed in 2007 as a concluding evaluation for the funding period from 2002/2003 to 2006/2007.

For example, the report found that judges often consider economic disadvantage, such as unemployment, when determining sentencing. Those who are employed may be seen as more trustworthy, or having more to lose by continued involvement in the criminal justice system. As such, populations with low levels of employment (such as Aboriginal populations) may be less likely to be released on bail and more likely to be incarcerated. Other factors influencing systemic bias are language and cultural differences in justice concepts, such as guilt, or in differences in the direct translation of justice terms such as "arrest" and "bail," all of which can make comprehension of the system even more challenging. The report also highlighted other systemic discriminatory factors, including low levels of Aboriginal people employed in the justice system and the unavailability of justice system services outside of urban centres.[76]

Despite changes made in the last 20 years to address the systemic discrimination and vulnerabilities of Aboriginal people, the figures presented in this report indicate that there is still much work to be done. Aboriginal age distribution, data collection and reporting policies, implementation challenges in Aboriginal justice programs and legislation, and systemic biases may all play a role in the observed overrepresentation of Aboriginal people in the justice system. However, each of these individual factors alone cannot fully explain the drastic differences between incarceration levels of Aboriginal and other offenders. The interaction of these factors create an environment in which Aboriginal people are not only more at risk for becoming involved in the system, but also less likely to leave the system. The continuing disproportionate representation of Aboriginal adults admitted to correctional centres and the high levels of Aboriginal youth in custody relative to other youth in custody, show that more work to prevent involvement in crime is needed. Further, opportunities for diversion, rehabilitation, and other alternatives to incarceration should be actively pursued. Until the systemic discrimination and vulnerabilities of Aboriginal people can be addressed, the introduction of items such as mandatory minimum sentencing in the *Safe Streets and Communities Act* will likely increase both the total number of individuals incarcerated in BC, and the proportion of Aboriginal people among those offenders.

Aboriginal People and the Relationship Between Health and Crime

There are many factors that can affect the likelihood of an individual becoming involved in crime, including the social determinants of health, protective factors for health, risk and protective factors for crime, and health status. Incarceration can negatively impact an individual's health and well-being and the well-being of his/her family and community. Incarceration can also negatively impact some known determinants of health and risk factors for crime. This can create a cycle of poor health and vulnerability for incarceration. Research has shown that social and economic disadvantages, such as those experienced by many First Nations and Métis people, can interact to create a negative feedback loop that leads to poorer health outcomes.[77] Aboriginal people are particularly vulnerable to this cycle of poor health and crime as a result of a lower status in both the social determinants of health and health outcomes, as well as higher rates of incarceration.

The following section discusses risk and protective factors for crime and social determinants of health, examines the education and employment backgrounds of offenders in BC, and discusses several determinants of health and crime for youth in BC.

Determinants of Health and Crime

Risk and Protective Factors for Crime

Involvement in crime is complex, as it is linked to personal, behavioural, societal, environmental, and other factors. In 1993, the House of Commons Standing Committee on Justice and the Solicitor General[r] stated

> there is no single root cause of crime. Rather, it is the outcome of the interaction of a constellation of factors that include: poverty, physical and sexual abuse, illiteracy, low self-esteem, inadequate housing, school failure, unemployment, inequality and dysfunctional families.[78]

Social science literature usually groups risk factors for involvement in crime into five areas: individual (e.g., alienation, early use of substances); family (e.g., parent or family member involved in crime, addictive substance use, little parental involvement); peer (e.g., deviant or criminalized friends); school (e.g., dropping out of school); and community (e.g., availability of firearms or

[r] The House of Commons Standing Committee on Justice and the Solicitor General (now called the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness) was responsible for investigating the operations of the Department of Justice Canada and the Department of the Solicitor General, and the operations of their associated agencies.

drugs).[79] Research has shown that the risk factors associated specifically with young Aboriginal offenders include substance use, poverty, unstable living environment, and negative peer association.[80,81]

Risk factors for crime are cumulative—exposure to more risk factors and for a longer period of time throughout an individual's development increases the likelihood that he/she will commit violent acts as an adult.[82] However, an individual with these risk factors does not necessarily engage in criminal activity; their presence simply makes it more likely that that individual may commit a crime or be arrested.

Public Safety Canada reports that chronic offenders have been shown to present multiple risk factors and to lack protective factors.[79] Protective factors for crime are the elements that reduce the risk of young people becoming involved in a criminal life. Some protective factors include connection with parents and school, parental expectations, high grade-point average, and religiosity,[s,83] an intolerant attitude toward deviance, positive social orientation, and commitment to school.[84] These protective factors pertain to all youth, although particular factors may have more impact depending on an individual's cultural background. Research about what prevents criminal behaviour for Aboriginal youth still focuses on risk factors; however, the absence or prevention of those risk factors will likely act as protective factors for these youth and decrease the likelihood of their involvement in the criminal justice system.[85] Thus, addressing these risk factors may result in the promotion of protective factors for Aboriginal youth.

Social Determinants of Health

Social determinants of health are environmental, social, cultural, economic, and individual conditions and contexts that directly or indirectly affect health and shape lifestyle choices.[86] Key determinants of health include income, education, employment, early childhood development, food security, housing, social safety net, Aboriginal status, gender, race, community identity, connectedness, and other societal factors.[10,86] According to the National Collaborating Centre for Aboriginal Health, social determinants of health for Aboriginal people in Canada range from those that directly affect a person's health to those that are more contextual. More direct or immediate (proximal) determinants include health behaviours, physical environments, employment, income, education, and food insecurity. Intermediate determinants include environmental stewardship, health care systems, community infrastructure, resources and capacities, educational systems, and cultural continuity. More removed (distal) determinants are colonialism, racism and social exclusion, and self-determination.[11] The Commission on Social Determinants of Health, established by the World Health Organization, also names "self-determination" as a specific social determinant of Indigenous health.[87]

Protective factors for health are those that promote positive health outcomes and reduce risk behaviours and/or negative impacts of related vulnerabilities.[88] Some protective factors for health among BC youth that were identified by the BC Adolescent Health Survey[t] (AHS) include family connectedness (relationships with parents and family); school connectedness (relationships with teachers, and sense of belonging at school); cultural connectedness (knowledge about one's ethnic/cultural group and sense of belonging or attachment to that group); youth engagement (extracurricular involvement, perception of activities as meaningful, and feeling engaged and valued in activities); and peer relationships (having peers with healthy attitudes about risk behaviours).[88]

[s] Religiosity is defined as "the valuing of religious observance and personal prayer."

[t] The BC Adolescent Health Survey was administered in schools and included responses from youth in grades 7 to 12.

The report *Raven's Children III: Aboriginal Youth Health in BC*[89] presented data from over 3,000 Aboriginal respondents of the AHS, and identified protective factors for Aboriginal youth health. Cultural connectedness was especially important for Aboriginal people, as it acts as a positive influence for Aboriginal youth and impacts most aspects of life. For example, females with high cultural connectedness were more likely to report a positive health status and less likely to participate in binge drinking. When youth felt skilled at something, they were less likely to skip school, binge drink, and use other substances, and were more likely to report more positive health. Supportive relationships with adults and peers were important as well; strong relationships with adults were associated with positive behaviours (e.g., high school graduation) and with low rates of risky behaviours (e.g., gambling). High levels of family connectedness are associated with good and excellent health. Youth who reported feeling connected to their families were more likely to have plans to complete high school or post-secondary school, less likely to binge drink, and less likely to have tried alcohol or marijuana. School connectedness was related to positive educational aspirations and behaviours, and this can lead to better health outcomes, even for children who are experiencing challenges, such as living in government care. Lastly, engagement in activities acted as a protective factor, especially for youth who were experiencing challenges (e.g., youth who had been abused, or youth who had a friend or family member attempt or commit suicide). When these youth were engaged in activities, they were less likely to have tried alcohol and more likely to plan to obtain further education after high school.

Since there is such overlap and interconnection between determinants of health, protective factors for health, and protective and risk factors for crime, it is possible to reduce involvement in crime by improving the social determinants of health and health outcomes. The complex web of risk factors and vulnerabilities begins in childhood and continues throughout one's lifespan.

Determinants of Health and Crime among Children and Youth

Risk factors for crime and determinants of health are framed around their influence on the trajectories of children and youth. Considering the compounding nature of risk factors, Aboriginal children and youth are among the most vulnerable and susceptible for future involvement in the criminal justice system. According to *Kids, Crime and Care*,[66] many of the children and youth who are most vulnerable and at a higher risk of becoming involved in the criminal justice system are Aboriginal and in government care. Frequently these children and youth experience poor attachment to positive adults and peers, experience instability, and have been removed from their home. Many of these children do not have the necessary resilience and strength to lead successful lives.

This section explores the impact of unstable housing, family member involvement in crime, living in government care, and problematic substance use on children and youth. It also discusses statistics in these areas for Aboriginal children and youth where data are available.

Unstable Housing

Unstable housing has been identified as a negative social determinant of health and a risk factor for involvement in crime.[80,86] This association is reflected in the BC criminal justice system. According to a 2005 study of BC youth in custody, more than half of youth in custody experienced unstable housing. In the year before moving into custody, 56 per cent had moved more than three times, 17 per cent had moved twice, and 10 per cent moved once.[90] Strong connections with family, schools, and communities help youth feel safe and take

fewer risks. Moving frequently disrupts this connection and limits access to social supports.[90]

Familial Involvement in Crime

In their profile of BC youth in custody, the McCreary Centre Society found that 39 per cent of youth in custody have a parent with a criminal record, and 47 per cent have another family member with a criminal record.[90] Since Aboriginal people experience higher rates of incarceration than other BC residents, Aboriginal children and youth may be more likely to experience this risk factor for crime.

Children in Government Care

Joint special reports released in 2007 and 2009 by the BC Provincial Health Officer and the BC Representative for Children and Youth have examined the health and well-being of children in government care in BC, and the relationship between being in government care and involvement in crime. According to the 2007 joint special report, *Health and Well-Being of Children in Care in British Columbia: Educational Experience and Outcomes*,[91] education is a challenge for children in government care. By age 18, children in care had changed schools almost seven times (compared to less than four times for the general population). They were also less likely to complete high school than the general population, which is a trend especially pronounced among Aboriginal children. Only 15.5 per cent of Aboriginal children in care completed high school, compared to 45.0 per cent of Aboriginal children not in care. Children in care that do graduate have a grade-point average that is about one letter grade below the general population. This report also revealed that 65 per cent of children in continuing custody were diagnosed with a mental disorder at least once in their childhood.

The 2009 joint special report, *Kids, Crime and Care*,[66] found that nearly 72 per cent of youth in care who are also involved in the youth justice system are reported to have a serious mental illness or intensive behavioural problems.[66] This report also revealed that children in care had substantially higher rates of involvement in the criminal justice system than other children (35.5 per cent compared to 4.4 per cent). Children in care were more likely to be incarcerated than children in the general population (10.4 per cent compared to 0.5 per cent).[66] In fact, the McCreary Centre Society has found that the majority (73 per cent) of youth in custody have been in government care at some point.[90] Considering that in October 2005, 55 per cent of children in care were Aboriginal,[91] Aboriginal children and youth have a related higher likelihood of becoming involved in the criminal justice system. Therefore, high rates of Aboriginal children in care may be one factor contributing to higher proportions of Aboriginal youth in custody.

Problematic Substance Use

Substance use is a risk factor that is strongly associated with involvement in the criminal justice system. In their report on BC youth in custody, the McCreary Centre Society[90] reported that all youth in custody had used marijuana, and 74 per cent had tried it before age 12. Comparatively, only 8 per cent of youth in school had tried marijuana by age 12. Almost all youth in custody (99 per cent) had used alcohol at least once, and 84 per cent used alcohol in an average month before entering custody. According to the 2008 BC AHS, only 9 per cent of youth in school first drank alcohol before they were 10 years old, while almost half of youth in custody did (49 per cent). For other drugs, in an average month before entering custody, youth in custody used cocaine (58 per cent), mushrooms (51 per cent), hallucinogens (50 per cent), and amphetamines (46 per cent).

Aboriginal youth in BC also experience higher levels of substance use than the general youth population. Results from the 2008 AHS revealed that Aboriginal youth were more likely to have participated in binge drinking in the month prior to the

As reported in the joint special report *Kids, Crime and Care*:

- Nearly 72 per cent of youth in care who are also involved in the youth justice system have a serious mental illness or intensive behavioural problems.
- Children in care have substantially higher rates of criminal justice system involvement (35.5 per cent compared to 4.4 per cent of other children).[66]

survey (48 per cent compared to 44 per cent). They were also more likely to have tried marijuana (45 per cent compared to 30 per cent) and to have tried other drugs, including prescription pills, mushrooms, hallucinogens, cocaine, and more. Aboriginal youth also reported more negative consequences due to their alcohol or substance use than other youth, such as getting in trouble with police.[89,90] While these statistics have improved somewhat in recent years,[89] more work must be done to address high levels of problematic substance use among Aboriginal youth.

In combination, factors such as unstable housing, having a family member involved in crime, living in government care, and problematic substance use are associated with risk factors such as lower educational attainment. They also pose challenges to developing protective factors such as school and family connectedness. This combination of variables makes it imperative that action be taken to foster protective factors and address risk factors experienced by all youth, and particularly Aboriginal youth. Interventions introduced at this stage in life can impact the trajectory of a youth's life course, including preventing involvement with the criminal justice system, and increasing status within the social determinants of health.

Determinants of Health and Crime among Adult Offenders

The impacts of the risk factors for crime and social determinants of health on Aboriginal youth and adults can be seen in the overrepresentation of Aboriginal people in the prison system. This section examines the prevalence of some risk factors and social determinants of health in incarcerated populations in Canada and BC.

Offenders in Federal Institutions

Evidence from a 2003 review of all federal offenders in Canada showed that people in prison are more likely to have experienced challenges with the determinants of health and risk factors for crime, and that this problem is more pronounced among Aboriginal people. For example, over two-thirds of Aboriginal offenders had not completed high school compared to just over half of other offenders. Further, 45.4 per cent of Aboriginal females and 39.8 per cent of Aboriginal males had experienced unstable accommodation prior to incarceration, compared to 32.2 per cent of other female offenders and 29.8 per cent of other male offenders.[92] Research examining a one-day snapshot of offenders in federal correctional facilities in August 2000 revealed that Aboriginal groups (Inuit, Métis, and First Nations) required different levels of substance use interventions, but all required more than other offenders. While 70 per cent of other offenders exhibited "some or considerable need" for substance abuse interventions, the comparative rates were higher for all Aboriginal offender groups (94 per cent of First Nations, 92 per cent of Inuit, and 91 per cent of Métis). This study also found that a higher proportion of Aboriginal federal offenders exhibited "some or considerable need" for interventions related to employment, marriage/family, and associates/social interaction than other offenders. A lower proportion of Aboriginal offenders exhibited "some or considerable need" for interventions related to community functioning and attitudes.[93]

A report by the Office of the Correctional Investigator Canada noted that the make-up of Aboriginal offenders in Canada differs from other offenders:

> The offending circumstances of Aboriginal offenders are often related to substance abuse, inter-generational abuse and residential schools, low levels of education, employment and income, substandard housing and health care, among other factors. Aboriginal offenders tend to be younger; to be more likely to have served previous youth and/or adult sentences; to be incarcerated more often for a violent offence; to have higher risk ratings; to have higher need ratings; to be more inclined to have gang affiliations; and to have more health problems, including Fetal Alcohol Spectrum Disorder (FASD) and mental health issues.[61]

As this profile demonstrates, while many offenders have often experienced a cumulative effect of risk factors for crime during their lifetime, Aboriginal offenders have experienced these factors along with additional risk factors resulting from a long history of discrimination and marginalization. This makes Aboriginal people more vulnerable to experiencing risk factors for crime, and to experiencing a greater number of risk factors in their personal, social, and cultural context.

Limited data are available about offenders' experiences of risk factors for crime prior to incarceration in BC provincial institutions; however, some data for select social determinants of health—education and employment—are available and will be explored in the sections that follow.

Education and Offenders in BC

Level of education is both a social determinant of health, and a risk or protective factor for crime. Disparities between Aboriginal and other residents in student achievement are evident at a young age. In the joint special report *Growing Up in BC*,[u] the Representative for Children and Youth and the Provincial Health Officer highlight the Foundation Skills Assessment[v] as an area in which Aboriginal children score lower than their peers. In fact, the percentage of Aboriginal children who meet or exceed the academic expectations is 15 to 18 per cent lower than their peers in Grade 4, and 18 to 23 per cent lower in Grade 7, across reading, writing, and numeracy. Further, Aboriginal children who are in continuing custody have the lowest scores of any group on provincial achievement tests. Literacy and numeracy skills are critical components of educational and employment opportunities,[94] and low scores in these areas would likely affect later educational achievement.

According to an analysis of 2006 Census data for highest level of education completed, 25.9 per cent of other adult residents in BC have completed up to high school and 62.5 per cent have completed post-secondary education or training. Comparatively, 24.4 per cent of Aboriginal people in BC have completed up to high school education but only 45.0 per cent have completed post-secondary education or training. In addition, a much larger percentage of Aboriginal adults in BC had no certificate, diploma, or degree compared to other adults (30.6 per cent compared to 11.6 per cent).[95] Since lower educational achievement is a risk factor for involvement in crime, these reports of lower levels of education completed by Aboriginal populations create additional vulnerabilities for involvement in crime that warrant preventive action.

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[u] *Growing Up in BC* is a special joint report by the BC Representative for Children and Youth and the BC Provincial Health Officer that explores child and youth well-being in BC, reports on consultations that took place with over 200 youth, and focuses on disadvantaged children and youth. The report explores many topics, including child health, child learning, child safety, family economic well-being, child behaviour, and family, peer, and community connections.

[v] The Foundation Skills Assessment is a province-wide assessment delivered annually in BC to children in Grades 4 and 7. It measures students' academic skills in reading comprehension, writing, and numeracy.

Figure 10 shows the highest level of education self-reported during offender intake at BC Corrections centres, as a five-year average from 2007/2008 to 2011/2012, for both Aboriginal and other offenders. Compared to Aboriginal and other residents of BC who have not been involved in the criminal justice system (described above from 2006 Census data), offenders in BC institutions during this five-year period were much less likely to have completed high school. This is particularly pronounced for Aboriginal offenders, with the majority (70.9 per cent) having less than a Grade 12 level of education (no certificate, degree, or diploma). While other offenders were less likely than the general population of BC to have completed high school or post-secondary education, Figure 10 shows that they were still more likely to have a higher level of education than Aboriginal offenders.

These findings are similar to the results of a study of offenders in BC sentenced between 1997/1998 and 2003/2004, completed by the Centre for Applied Research in Mental Health and Addiction at Simon Fraser University. That study showed that Aboriginal people involved in the criminal justice system had lower educational achievement than other offenders, with 61 per cent of Aboriginal adults reporting less than a Grade 11 level of education or having an unknown level of education.[96]

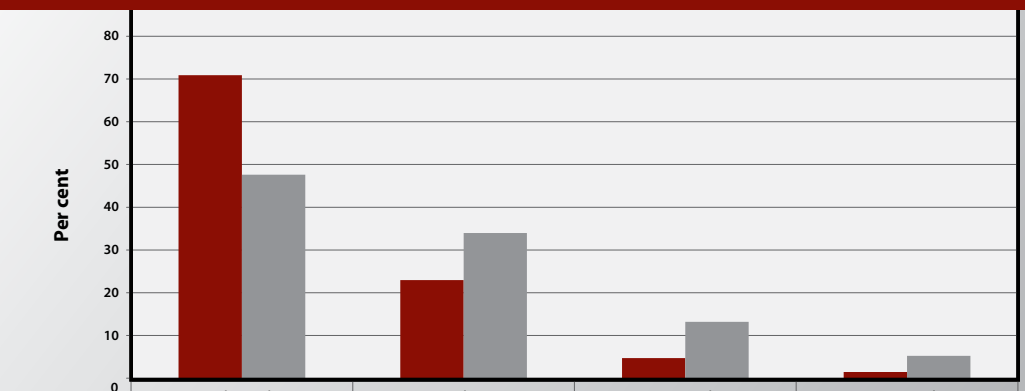
These results demonstrate that in BC, incarcerated individuals have lower levels of education than other residents, and Aboriginal people in BC have lower levels of education than other residents. As these factors compound, Aboriginal offenders are a sub-population with even lower levels of completed education and greater associated vulnerabilities. Lower levels of education also create difficulty in obtaining employment; the combination of low educational attainment and a criminal record can create serious challenges for securing employment.

Employment and Offenders in BC

Similar to education, employment status is both a social determinant of health and a risk or protective factor for involvement

Figure 10

Average Annual Proportion of Adult Admissions, by Highest Level of Education Completed, BC, 2007/2008-2011/2012



Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity during BC Corrections admissions are excluded. Yearly counts are calculated using monthly averages for the fiscal year. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by BC Corrections, Ministry of Justice, and by Public Health Planning and Surveillance, Ministry of Health, February 2013.

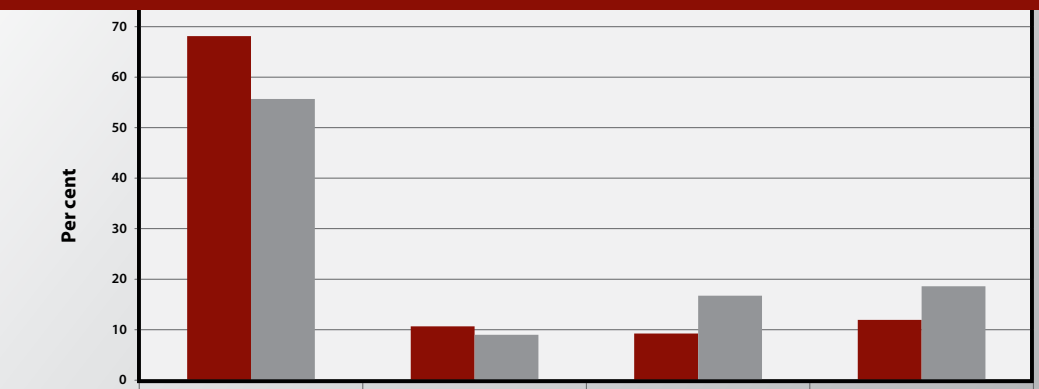
in crime. According to the 2006 Census, among people aged 15 to 64 in BC in 2005, 80.2 per cent of other residents worked, compared to 70.3 per cent of Aboriginal residents. Among people who worked that year, Aboriginal people were slightly more likely than other residents to have part-time employment (27.7 per cent compared to 24.5 per cent) and less likely to have full-time employment (52.5 per cent compared to 63.6 per cent).[95] Further, 53.2 per cent of Aboriginal people (aged 15+) earned less than $20,000 per year through employment, compared to 41.3 per cent of other residents.[95]

Figure 11 shows the self-reported level of employment prior to incarceration, provided during offender intake at BC corrections centres, as a five-year average from 2007/2008 to 2011/2012. In comparison to the general population as reported in the 2006 Census, incarcerated individuals in BC were much more likely to be unemployed. Aboriginal offenders were more likely than other offenders to be unemployed (68.1 per cent compared to 55.7 per cent). Approximately 20.0 per cent of Aboriginal offenders and 25.7 per cent of other offenders were employed prior to incarceration, but Aboriginal offenders were more likely to have had part-time employment (10.7 per cent compared to 9.0 per cent) and less likely to have had full-time employment (9.3 per cent compared to 16.7 per cent).

These findings are similar to survey findings reported by Statistics Canada about characteristics of adults entering correctional services among select provinces and territories in Canada in 2007/2008.[w] According to this study, the incarceration rate for Aboriginal adults 20 to 34 years old who were unemployed and without a high school diploma was higher than the rate for Aboriginal adults who were employed and had at least a high school diploma. This

Figure 11

Average Annual Proportion of Adult Admissions, by Employment Level, BC, 2007/2008-2011/2012



	Unemployed	Part-Time Employment	Full-Time Employment	Unknown/Not Stated
Aboriginal Offenders	68.1	10.7	9.3	11.9
Other Offenders	55.7	9.0	16.7	18.6

Level of Employment

Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity during BC Corrections admissions are excluded. Employment level indicates level of employment prior to incarceration. Yearly counts are calculated using monthly averages for the fiscal year. These data are accurate as of February 2013 but are subject to change over time. For more information about BC Corrections data, see Appendix A.
Source: CORNET, BC Corrections Business Intelligence System, Ministry of Justice. Prepared by BC Corrections, Ministry of Justice, and by Public Health Planning and Surveillance, Ministry of Health, February 2013.

[w] The Integrated Correctional Services Survey was developed by the Canadian Centre for Justice Statistics. For the 2007/2008 reporting year, Alberta, Saskatchewan, Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, and the Correctional Service of Canada all participated.

survey also indicated that education and employment alone are not the cause of the overrepresentation of Aboriginal people in the prison system. Their analysis revealed that the incarceration rate for Aboriginal adults aged 20 to 34 was still higher than the rate for their counterparts after high school graduation and employment status were taken into account.[63]

This discussion has shown that in BC, involvement in crime may have a relationship with unemployment and less than a grade 12 level of education. However, lower levels of education and unemployment or under-employment are only two risk factors for criminal involvement. Health status, especially mental health status and substance use behaviours, may also impact involvement in crime.

The Link between Mental Health, Substance Use, and Crime

In addition to larger contextual factors for involvement in crime, such as education level and employment status, there is also a relationship between a person's health status and the likelihood of their involvement in crime. As discussed earlier in this report, the Aboriginal population in BC has a lower health status than other residents in areas such as life expectancy, mortality, and HIV/AIDS rates. In addition to general health, mental health, substance use, and concurrent mental health and substance use issues have both direct and indirect relationships with crime. Stigma associated with mental health, substance use, and addictions can cause those affected to become marginalized and experience discrimination in education, housing, employment, justice, and health care. These individuals often do not receive the services they need and can potentially live in poverty and experience unstable housing and employment. These factors can then affect their ability to function in society, to benefit from available supports and services, and to maintain or improve their health status.[x,97] With a lack of a support network and limited or no ability to access rehabilitation services, these individuals may turn to criminal activities to meet their addictions-related needs. This section discusses mental health and substance use experiences of Aboriginal people in BC, and explores the link between mental health issues, problematic substance use, and crime.

Mental Health and Substance Use among Aboriginal People in BC

The 2009 PHO annual report on Aboriginal health (*Pathways to Health and Healing*) showed that some progress has been made to improve the health of Aboriginal people in BC since 2001, but that Aboriginal people in BC continue to experience higher rates of mental health issues, suicide, and substance abuse problems compared to other residents.

[x] For more information on mental health and substance use, see *Healthy Minds, Healthy People: A Ten-Year Plan to Address Mental Health and Substance Use in British Columbia*.

According to that report, although the Aboriginal suicide rate has been declining overall since 1993, in 2006 it was still more than twice the rate of other BC residents (1.7 per 10,000 compared to 0.7 per 10,000).[10]

From 2004/2005 to 2006/2007, Status Indians had higher hospitalization rates due to issues such as substance use, schizophrenia, and other stress-related disorders. As shown in the 2009 PHO annual report, the rate of hospitalization for mental and behavioural disorders due to substance use was 50.6 per 10,000 for Status Indians, compared to 11.7 per 10,000 for other BC residents. Further, some research indicates that fetal alcohol spectrum disorder (FASD) may have higher prevalence rates among Aboriginal woman compared to non-Aboriginal women.[10] According to the 2009 PHO annual report, Status Indian mothers reported higher levels of substance use during pregnancy, compared to other residents.[y,10] However, other research claims that the true extent of any differences between Aboriginal women and other residents is unknown and impossible to determine.[98] A study of residential school survivors in BC found that survivors had high levels of mental health disorders, including post-traumatic stress disorder (64.2 per cent), major depression (21.1 per cent) and dysthymic disorder[z] (20 per cent).[6] Survivors also had high levels of substance abuse problems (26.4 per cent).

According to the responses of the 1,944 First Nations people who participated in the BC First Nations Regional Longitudinal Health Survey in 2002/2003, First Nations communities had lower rates of frequent alcohol use (11 per cent) compared to the general population in BC (44 per cent), as reported by the 2003 Canadian Community Health Survey. However, of those who drink, Aboriginal people were more likely than the general population of BC to report binge drinking (five or more drinks). For example, 29 per cent of the general population of BC aged 20 to 34 reported binge drinking 12 or more times per year, compared to 80 per cent of First Nations adults aged 18 to 34. This difference is evident across the life span, and may indicate increased likelihood of problematic drinking. Survey participants also identified low rates of illicit drug use such as PCP, LSD, cocaine, and ecstasy, but common use of marijuana (37 per cent for those aged 18 to 34).[99]

Mental Health, Substance Use, Addictions, and Crime

Research has shown that among offenders in BC, Aboriginal offenders have lower mental health status than other offenders.[96] A Simon Fraser University study of incarcerated offenders in BC sentenced between 1997/1998 and 2003/2004 found that 19.2 per cent of the Aboriginal adult offenders had a mental disorder, and 11.2 per cent had a substance use disorder. They also had disproportionately high levels of concurrent disorders: 28.5 per cent had concurrent mental and substance use disorders as compared to 23.6 per cent in the entire study population of Aboriginal and other offenders.[96]

Mental health and substance use can also have immediate linkages to criminal activities and incarceration. Longitudinal research at UBC is currently investigating the health of females after incarceration. The study includes 394 females released from prison (186 Aboriginal female offenders and 208 other female offenders). According to this research, the most common reasons for participants' most recent incarceration were breach of conditions (34.9 per cent for Aboriginal females and 34.1 per cent for other female offenders); theft under $5,000 (31.2 per cent compared to 28.4 per cent); and drug offence (24.7 per cent compared to 29.3 per cent). Almost all participants in

[y] This finding could mean that there was increased substance use, or that health care providers screened Aboriginal mothers more often for substance use, or that health care providers answered based on previous knowledge or assumptions.
[z] *Dysthymic disorder* is a type of chronic depression.

this research (85.5 per cent of Aboriginal females and 83.3 per cent of other female offenders) reported that these offences and their incarceration were related to drug use, substance use, or addiction. This may include, for example, theft to support drug addiction, theft while under the influence of substances, or situations in which possession or use of drugs is considered a breach of conditions and results in a return to incarceration. Approximately one-third of respondents were injection drug users, although the rates were slightly lower for Aboriginal females than for other female offenders (31.2 per cent compared to 34.1 per cent).[100]

FASD is a birth defect related to substance use that has a recognized link to involvement in the criminal justice system. While epidemiological evidence indicating the incidence of FASD is inconclusive,[98] research appears to show that nearly half of incarcerated populations might be affected by FASD.[101] Criminal involvement can be seen as a secondary effect of the disorder, resulting from poor reasoning skills, impulsivity, and victimization.[101] According to the Correctional Service of Canada, reliable and valid screening instruments are not available, and incarcerated individuals with FASD are not usually diagnosed.[102] Further, research has shown that correctional facilities usually do not meet the needs of individuals with FASD.[101]

While drug offences may account for a relatively low rate of immediate reasons for incarceration, mental health, substance use, and related issues can be seen as being both directly and indirectly related to involvement in crime. Any sub-populations experiencing high levels of mental health and substance use issues and related challenges, such as Aboriginal people in BC, are then at greater risk for involvement in the criminal justice system. This also means that treatment of mental health issues and support for addictions are likely to be effective in preventing involvement in criminal activities and reducing rates of crime.

The Cycle of Poor Health and Crime

More negative experiences of the determinants of health and health status can make a person more likely to be involved in crime. Once incarcerated, that person is at greater risk for further challenges to their health and well-being. The following section discusses the health status of incarcerated populations, focusing on the health of Aboriginal offenders.

Health of Incarcerated Populations

Individuals in prison have been shown to have lower health status than the general population.[103] Incarcerated populations experience higher rates of mental illness, infectious disease,[104] and chronic conditions.[92] In Canada, approximately 80 per cent of offenders enter federal correctional institutions with a history of problematic substance use. In 2008/2009, 73 per cent of offenders in federal custody were admitted with substance use health needs.[71] The hepatitis C rate for federal offenders is 30 times higher than for the general population, and HIV rates are between seven and 10 times higher.[105]

Health concerns experienced prior to incarceration are exacerbated by conditions found in prisons, including violence, overcrowding, and stress. This worsens the health of already marginalized populations.[103] The isolation from friends and family, lengthy confinement, discrimination, bullying, and other factors in prison can also be stressful for prisoners. Combined with the availability of illicit drugs, these factors have the potential to worsen the mental health of offenders.[106] Research in the United States has shown that the longer offenders stay in prison, the greater the impact of incarceration on their health.[103]

Once offenders are released from prison, they must then manage health challenges that developed or worsened during

incarceration. Upon release, the high incidence of infectious disease from formerly incarcerated individuals may pose a health threat to their families and communities. A history of incarceration can also pose challenges for individuals to be employed, earn income, and obtain stable housing. This then impacts their health status and the health status of their families. For Aboriginal people with lower levels of education, employment, income, and access to housing prior to incarceration, a criminal record and additional health conditions from incarceration then become added challenges to achieving positive outcomes of health and well-being.

Health of Incarcerated Aboriginal People

Data regarding the health of incarcerated Aboriginal populations are not routinely collected in the federal system. However, some research shows that Aboriginal men and women experience poorer health status than other offenders when looking at specific conditions. Overall, Aboriginal offenders disproportionately experience more self-harm incidents.[71] Further, according to data collected in the 2007 National Inmate Infectious Diseases and Risk-Behaviours Survey of federal offenders, Aboriginal men have higher rates of sexually transmitted infections after admission than non-Aboriginal male offenders (22 compared to 14 per 1,000 person years). Further, they also reported more frequent positive hepatitis C test results when compared to other male offenders (34.3 per cent compared to 29.4 per cent).[108]

For women in correctional centres, negative health effects are prominent. Among federal offenders, Aboriginal females have been identified as an especially vulnerable population, with the highest reported rates of HIV and hepatitis C in federal institutions (11.7 per cent and 49.1 per cent respectively).[108] Difficulties can also include mental health challenges due to separation from family, housing with other women experiencing mental health issues and drug withdrawal, and the shock of being imprisoned.[109] Other longer term effects can include increased smoking and poor nutrition. While this is true for all incarcerated individuals, the impact may be even greater for women as there are less female institutions in BC, which then requires women to be imprisoned farther from their families and communities.[65] For Aboriginal women living in rural and remote areas, this practice removes them from their communities and creates additional barriers for visitation by their families and children. These challenges are compounded by limited social networks and by poverty, which further limit the access of incarcerated women to their children.[110]

According to initial findings of the longitudinal UBC study of 394 females released from prison, female offenders had many mental and physical health conditions. The most common self-reported conditions experienced are shown in Table 1. As this table shows, Aboriginal female offenders reported higher levels of HIV/AIDS than other female offenders, but lower levels of depression or anxiety. The percentages of those who reported receiving treatment are lower than the percentages of those reporting conditions, suggesting that many offenders reporting these conditions may not have received treatment. Among those who did report treatment, Aboriginal females were more likely to report receiving treatment than others female offenders for the majority of conditions examined.[100]

Table 1

Health Conditions Self-Reported by Females After Incarceration

	Current Health Conditions			Received Treatment in Prison Last Time	
	Overall	Aboriginal Female Offenders	Other Female Offenders	Aboriginal Female Offenders	Other Female Offenders
Hepatitis C	40.8 %	39.2 %	41.8 %	8.1 %	4.3 %
Depression	25.8 %	23.7 %	28.8 %	10.8 %	8.2 %
Anxiety	24.4 %	22.0 %	27.9 %	9.1 %	6.3 %
Bipolar Disorder	11.8 %	11.3 %	13.0 %	5.4 %	5.8 %
HIV/AIDS	10.4 %	14.5 %	7.2 %	6.5 %	3.8 %
MRSA Infection	10.4 %	10.8 %	11.1 %	4.8 %	2.9 %

Note: MRSA stands for methicillin-resistant staphylococcus aureus.
Source: Martin R., Janssen P. 'Doing Time' Project (preliminary results); 2012.

Removing oneself from the cycle of poor health and crime can be challenging. Personal, behavioural, familial, and community factors may result in challenging experiences with the social determinants of health, poor health outcomes, and continual social exclusion. The same factors and related health outcomes then impact the likelihood that an individual will become involved in the criminal justice system. Incarceration then tends to worsen the health status of offenders. This perpetuates a cycle that can result in further criminal involvement. Aboriginal populations already experience lower health outcomes than the general population, and are disproportionately represented in the criminal justice system, meaning that if mandatory minimum sentencing results in more incarceration of Aboriginal adults and youth, there will likely be a further reduction in health status.

The overlapping and cumulative nature of elements of this cycle also means that many actions can be taken to improve health and reduce rates of incarceration through the consistent application of a prevention and health promotion approach. This would require greater consistency, collaboration, and integration between health and justice sectors, as has been recommended by the World Health Organization in their *Health in Prisons Project*.[111] Outcomes from such collaboration and integration would also be enhanced through greater coordination between the health sector and other sectors that support the social determinants of health and protective factors for involvement in crime. These sectors include, but are not limited to, education, employment, housing, and economic development.

A preventive approach also includes a shift in emphasis from punishment to rehabilitation in the justice system. While an emphasis on rehabilitation and alternatives to incarceration for Aboriginal offenders has become a more common point of view in the last 20 years, the *Safe Streets and Communities Act* will likely begin to undo that progress, and reinforce the cycle of poor health and crime. Actions should be taken to improve health determinants and health outcomes and reduce the likelihood of involvement in crime *before* an individual becomes involved in the criminal justice system.

Summary and Recommendations

As this report has shown, the Aboriginal population in BC has generally poorer health status, vulnerabilities related to the social determinants of health, and higher than proportional rates of incarceration than other residents. These outcomes are rooted in historical trauma, including residential schools, discriminatory child welfare practices, and damaging legislation. Despite some improvements, Aboriginal people in BC are still, on average, at higher risk for, and more likely to experience and exhibit, behaviours and conditions that are associated with involvement in the criminal justice system. Other socio-economic, health, and systemic issues continue to place Aboriginal people in challenging contexts for health promotion and prevention of involvement in crime. Changes in legislation over the last 20 years have attempted to address the complex historical relationship between Aboriginal people and the criminal justice system, and introduce positive changes that focus on remediation, cultural connectivity, restorative justice, and other alternatives to incarceration. These initiatives and intentions represent positive changes, although their impact has been limited in many ways. New health policies and approaches to Aboriginal health in BC have developed alongside these changes in the justice sector, and have recently begun to show positive outcomes in health indicators.

The evidence reviewed in this report strongly suggests that the new *Safe Streets and Communities Act* will undermine these achievements and represent a reversal in direction within the justice sector. For adults, the Act introduces new mandatory minimum sentences and expands existing minimum penalties. It also effectively eliminates the requirement to consider the unique circumstances of Aboriginal offenders in accordance with existing legislation. For youth, the Act shifts the focus of sentencing toward denunciation and deterrence, resulting in a de-emphasis on rehabilitation. Other changes in the Act increase the likelihood that youth will be held in pre-trial detention and be sentenced to custody. These changes represent a step backward, and create circumstances that will likely result in more Aboriginal youth and adults in prisons, and lower health status for both Aboriginal people in correctional centres and for their families and communities.

The following recommendations are made with the intention of continuing to advance the overall status, improve health outcomes, and reduce the ongoing high proportion of incarceration, for Aboriginal people in BC.

Focus on Relationships

The Act undermines the 20 years of work undertaken in Canada towards recognition and reconciliation, and does not reflect a new and more equitable relationship with Aboriginal people, or recognize the unique history, context, and complex relationship between First Nations and the Canadian criminal justice system. Better health and

well-being can be achieved by changing or revoking the Act, and by refocusing on relationships and prioritizing collaboration.

Recommendation 1: Revoke or amend the *Safe Streets and Communities Act* to ensure that the legislation recognizes the unique history and context of Aboriginal people in Canada, and considers the mental, physical, and emotional health and well-being of Aboriginal offenders.

Recommendation 2: Increase collaboration, coordination, and integration between health and justice sectors, and with Aboriginal people, communities, and organizations. This collaboration should recognize the interrelationship between the determinants of health and risk factors for crime, and between health status (including mental health and well-being) and involvement in crime.

Focus on Prevention and Diversion

The Act appears to conflict with other federal programs aimed at reducing incarceration, such as the $85 million the federal government has invested in the Aboriginal Justice Strategy, which included support for 30 programs in BC that provide diversion, alternative measures, and restorative justice for Aboriginal people. The Act also contradicts existing case law and appears to override section 718.2(*e*) of the *Criminal Code*, which requires sentencing judges to consider all options other than incarceration, with particular attention paid to the circumstances of Aboriginal people. Focusing on preventive approaches and diversion programs will restore a focus on reducing incarceration levels while upholding the spirit of sub-section 718.2(*e*).

As discussed in this report, Aboriginal people in general, and Aboriginal women and Aboriginal children in government care in particular, are vulnerable groups for experiencing increased incarceration levels as a result of the Act. Targeting interventions at young people to reduce risk factors and support protective factors can have far-reaching impacts. According to *Kids, Crime and Care*, components of these interventions should reinforce empathy, motivate learning, increase school connectedness, build resiliency, and encourage acceptance of diversity.[66] More generally, programs and services should be made available to mitigate the cycle of poor health and involvement in crime described in this report.

Recommendation 3: Focus resources on programs and initiatives that support preventive approaches, including those with the potential to enhance the determinants of health and protective factors against involvement in crime for all British Columbians. This includes, but is not limited to, employment, education, culture, and economic development.

Recommendation 4: Support and expand existing programs designed to provide support for vulnerable populations, including Aboriginal children and youth in government care and children whose parents or guardians have been involved in the criminal justice system.

Recommendation 5: For individuals involved in criminal activity, increase access to diversion programs and alternative justice strategies that focus on alternatives to imprisonment, especially those with a focus on Aboriginal offenders.

Recommendation 6: Work with corrections officials and input and leadership from Aboriginal partners and communities to enhance availability of health services in prison, including support for mental health and substance use issues, to ensure incarceration includes culturally appropriate health promotion and rehabilitation opportunities that can break the cycle of poor health and crime.

Monitor and Evaluate the Impact of the Act

The combination of existing health status, socio-demographic factors, mental health and addictions issues, and current

incarceration rates put Aboriginal people at risk of further overrepresentation in correctional centres as a result of the *Safe Streets and Communities Act*. The Act also has the potential to create additional challenges for the health and well-being of Aboriginal offenders, their families, and communities. To fully understand the impact of this Act, these factors must be actively monitored and evaluated.

Recommendation 7: Enhance monitoring of the incarceration rates of Aboriginal people in all provincial and federal institutions, as compared to the rates for other residents, and evaluate the impact of the Act on these rates.

Recommendation 8: Enhance surveillance and evaluation of the direct and indirect impacts of the Act on the health of Aboriginal people inside and outside of provincial and federal institutions. This includes monitoring the risk factors and protective factors for involvement in crime experienced by Aboriginal offenders prior to incarceration, and the health and well-being of Aboriginal offenders, their families, and their communities.

Recommendation 9: Enhance screening, monitoring, and reporting of the number of offenders with mental health and substance use issues admitted into provincial and federal institutions, and evaluate the impact of the Act on these numbers.

As BC moves forward with a new way of working with Aboriginal people in the health sector, action must be taken to ensure that legislation only strengthens these achievements. Criminal justice programs should address interrelated issues of health and crime, and reflect a collaborative and holistic approach for Aboriginal offenders. Implementation of these recommendations will help to curtail the potentially detrimental impacts of the *Safe Streets and Communities Act*, and re-focus on health promotion and crime prevention.

Appendices

Appendix A

Primary data sources used in this report include the Canadian census, CORNET – BC Corrections database, the First Nations Client File, and a survey underway at the University of British Columbia. As a result of the different data collection methodologies used by these sources, counts of Aboriginal people will vary according to each source. In this report, only comparable measures of data collection and analysis have been used.

Table 2

Primary Data Source	Notes
Canadian Census	Census data use self-identified measures that include Status Indians, Non-Status Indians, Métis, and Inuit, but do not include individuals who chose not to identify as Aboriginal, who chose not to participate, or who were excluded based on data collection methodology (e.g., people who are homeless or live in rooming houses). For the most part, these population data were collected from a 20 per cent sample of households (long-form census); however, they also include some areas, such as First Nations communities and remote areas, where long-form census data were collected from 100 per cent of the households. Included in the Aboriginal identity population are those persons who reported identifying with at least one Aboriginal group (i.e., North American Indian, Métis, or Inuit), those who reported being a Treaty Indian or a Registered Indian, as defined by the *Indian Act* of Canada, and those who reported they were members of an Indian band or First Nation. In BC, for the 1996 Census, 19 reserves were incompletely enumerated and were not included in 1996 Census counts. In 2001, three reserves (Esquimalt, Pavilion1, and Marble Canyon 3) were incompletely enumerated and were not included in 2001 Census counts. Only one reserve in BC (Esquimalt) was incompletely enumerated in the 2006 Census and is not included in 2006 Census counts.
CORNET	Data from the BC Corrections database CORNET are collected during the custody intake process, and reflect self-identified measures of ethnicity. In the CORNET database, the ethnicity categories of Aboriginal and Métis are separate. Métis includes those who have self-reported as Métis, and the Aboriginal category includes those who have self-identified as Aboriginal, Inuit, or First Nations. However, for the purpose of this report, "Aboriginal" includes both "Métis" and "Aboriginal" categories. Admission counts are based on offenders admitted to adult custody in BC provincial custody centres. This includes adult offenders on remand and those with sentences of two years or less, any youth sentenced into adult custody, and federally sentenced offenders in provincial custody centres with upcoming transfers to federal institutions. They do not include adults incarcerated in the federal system who are housed in federal penitentiaries located within BC. Yearly counts are calculated using monthly averages for the fiscal year. These data are accurate as of November 2012, but are subject to change over time.
The First Nations Client File	The First Nations Client File (FNCF) is a data file, or cohort of Status Indians, and their unregistered children for whom entitlement-to-register can be determined. It is not an independent database, but rather is the product of a record linkage between an extract of the Aboriginal Affairs and Northern Development Canada Indian Registry and the BC Ministry of Health Client Registry and subsequent probabilistic matching. The FNCF is governed by a Tripartite Data and Information Planning Committee, which consists of representatives from the First Nations Health Authority, BC Ministry of Health, and Health Canada. The file's veracity is dependent on (1) the effectiveness of data linkage methods; (2) an individual's decision to register as a Status Indian; and (3) legislative entitlement changes affecting an individual's eligibility to have recognizable Status. As a result, the population within the FNCF may change from year to year for reasons other than births, deaths, and migration. For more information see *The Health and Well-being of the Aboriginal Population: Interim Update* at www.health.gov.bc.ca/pho/reports/special.html.
"Doing Time" Project, University of British Columbia	The UBC "Doing Time" study collected data from 394 women released from BC provincial correctional centres (186 Aboriginal female offenders and 208 other female offenders). Interviews were conducted every three months for up to 12 months following release from correctional centres. "Aboriginal" includes those women who self-identified as Aboriginal.

Appendix B

Table 3

Legislation Affected by the *Safe Streets and Communities Act*	
Title of Former Bill	**Legislation Affected**
Better Protecting Children and Youth from Sexual Predators (Bill C-54)	*Criminal Code*
Increasing Penalties for Serious Drug Crime (Bill S-10)	*Controlled Drugs and Substances Act*
Protecting Society from Violent and Repeat Young Offenders (Bill C-4)	*Youth Criminal Justice Act*
Ending House Arrest for Property and Other Serious Crimes (Bill C-16)	*Criminal Code*
Increasing Offender Accountability (Bill C-39)	*Corrections and Conditional Release Act*
Eliminating Pardons for Serious Crimes (Bill C-23B)	*Criminal Records Act*
Adding Criteria for the International Transfer of Canadian Offenders Back to Canada (Bill C-5)	*International Transfer of Offenders Act*
Supporting Victims of Terrorism (Bill S-7)	*Amends the State Immunity Act and enacts the Justice for Victims of Terrorism Act*
Protecting Vulnerable Foreign Nationals against Trafficking, Abuse and Exploitation (Bill C-56)	*Immigration and Refugee Protection Act*

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