

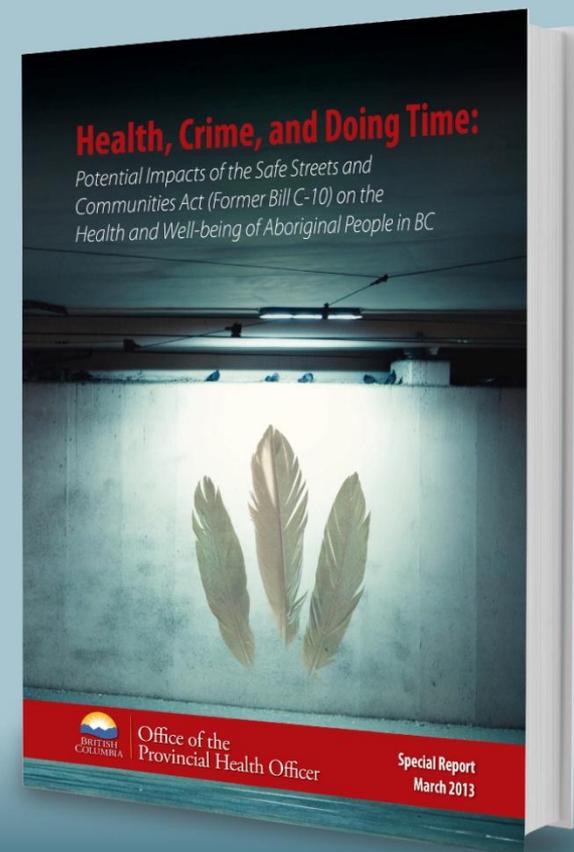
Health, Crime, and Doing Time:

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

Special Report
March 2013



Office of the
Provincial Health Officer



Overview

- The *Safe Streets and Communities Act*.
- Overrepresentation of Aboriginal people in BC provincial custody centres.
- Understanding contributing factors to this overrepresentation.
- Cycle of poor health and crime.
- Recommendations.

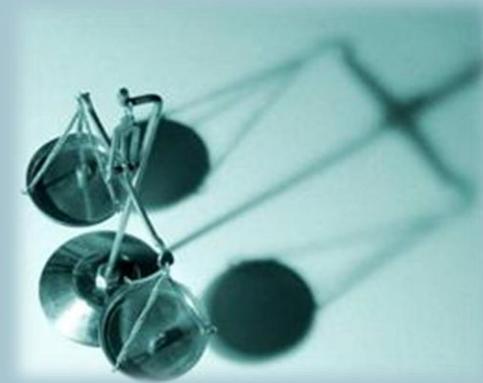


The *Safe Streets and Communities Act*

- New omnibus Act amending 9 pieces of legislation, intended to make communities safer.
- Concerns have been raised about the implications of the Act, particularly about:
 - Introduction and expansion of Mandatory Minimum Sentences under the *Criminal Code* and the *Controlled Drugs and Substances Act*; and,
 - Changes to the *Youth Criminal Justice Act*.

Mandatory Minimum Sentencing

- MMS aims to reduce disparities in sentencing by reducing the discretion employed by justice officials through predefined legislated minimum sentences.
- Appears to contradict section 718.2(e) of the *Criminal Code* and related case law that requires that judges consider all possible appropriate penalties prior to choosing incarceration, particularly in the case of Aboriginal offenders.

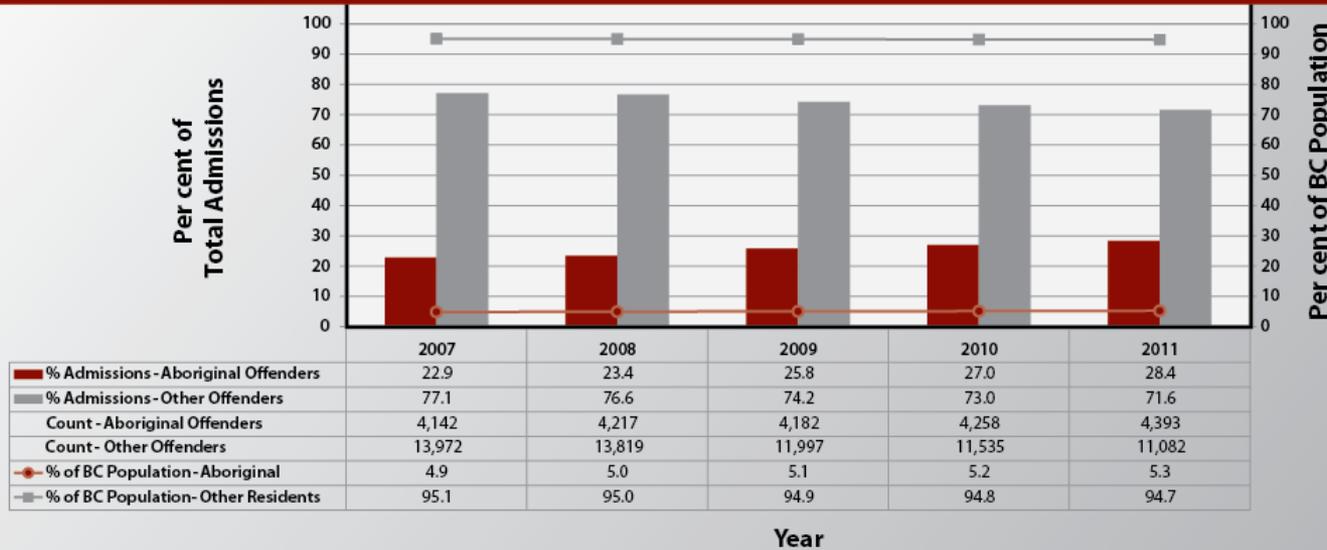


Changes to the *Youth Criminal Justice Act*

- The YCJA previously focussed on accountability, rehabilitation, public safety, and penalties that suit the seriousness of the crime.
- The *Safe Streets and Communities Act* now adds denunciation and deterrence as sentencing principles in the YCJA, shifting the focus from rehabilitation to penalization.
- Some of the implications of changes to the YCJA are:
 - Increased tracking in youth criminal records;
 - Increased chance young offenders will be held in custody before sentencing;
 - Expanded definition of “serious violence offense;”
 - Requirement that the Crown considers adult sentences when youth 14+ are found guilty of a “serious violent offence;” and,
 - Ability for court to lift publication ban on names of youth who are convicted and sentenced if the Crown sought an adult sentence.

Overrepresentation of Aboriginal Adults

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



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.

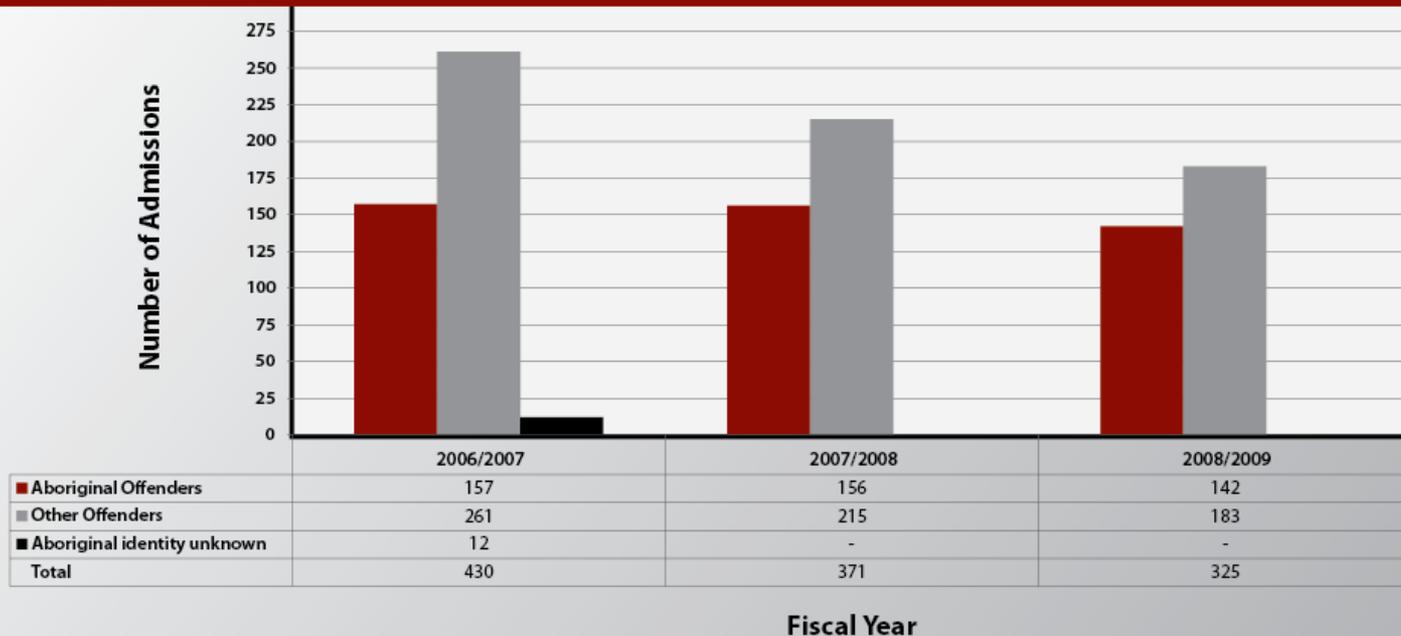
Admission Count Data

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.

Overrepresentation of Aboriginal Youth

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

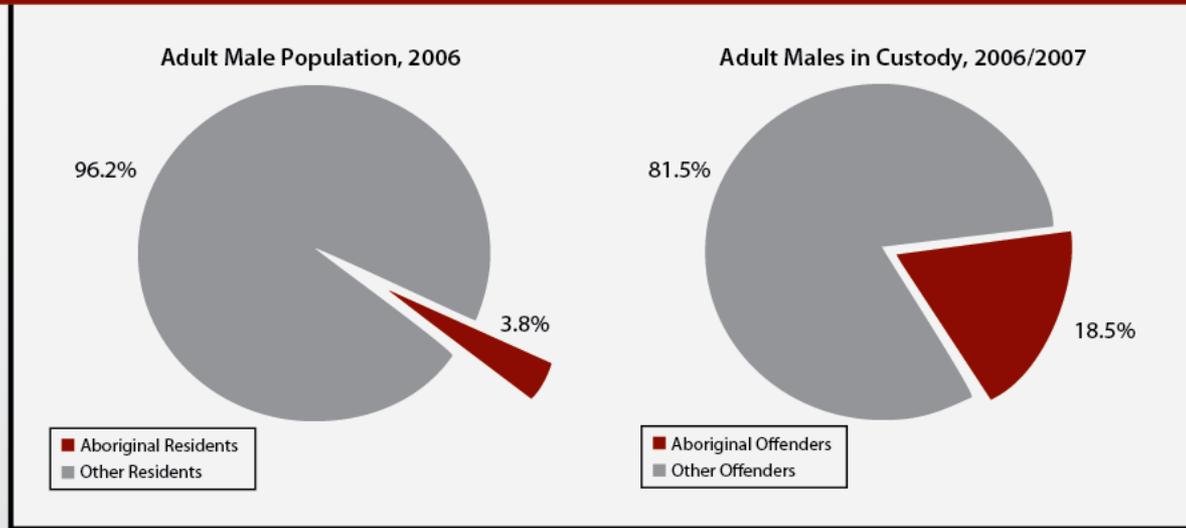


Notes: Fiscal year. Not all variables are applicable to or available for all jurisdictions. Inter-jurisdictional comparisons of the data should be made with caution. For more information about Statistics Canada data, see Appendix A.

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.

Incarceration of Aboriginal Men

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.

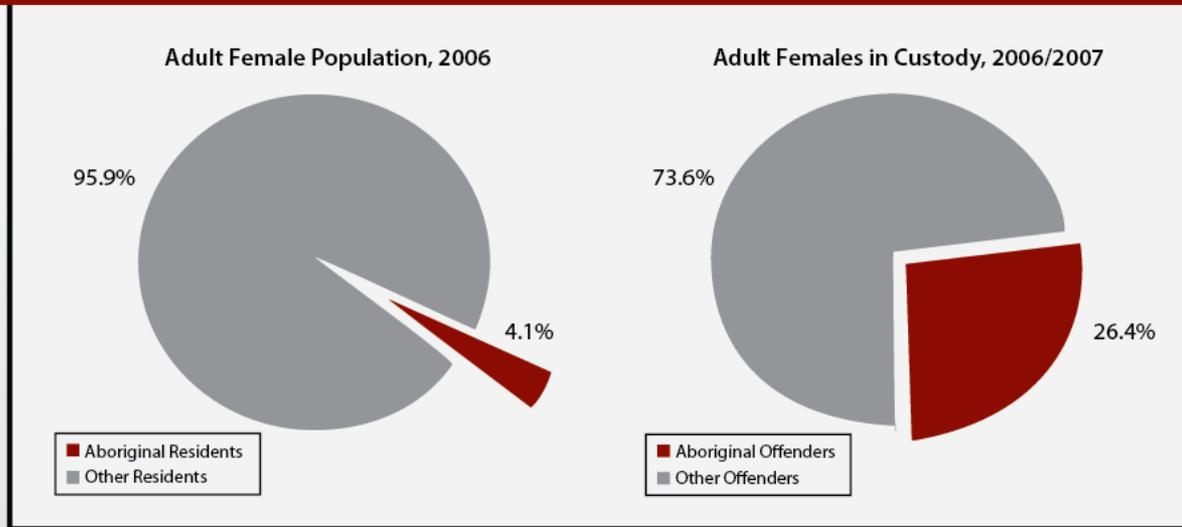
Male Admissions Data

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

Incarceration of Aboriginal Women

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.

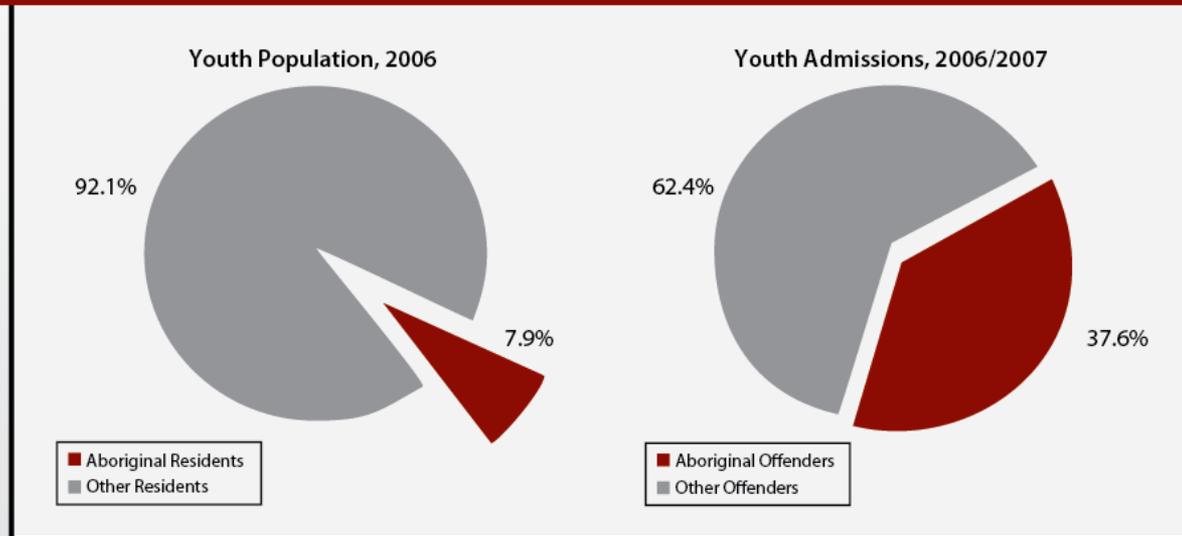
Male Admissions Data

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.

Incarceration of Aboriginal Youth

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.

Understanding Overrepresentation

- Multiple factors interact to play a role in this disproportionate representation and the inequitable trends identified, from broader historic and societal factors to more immediate and personal elements.

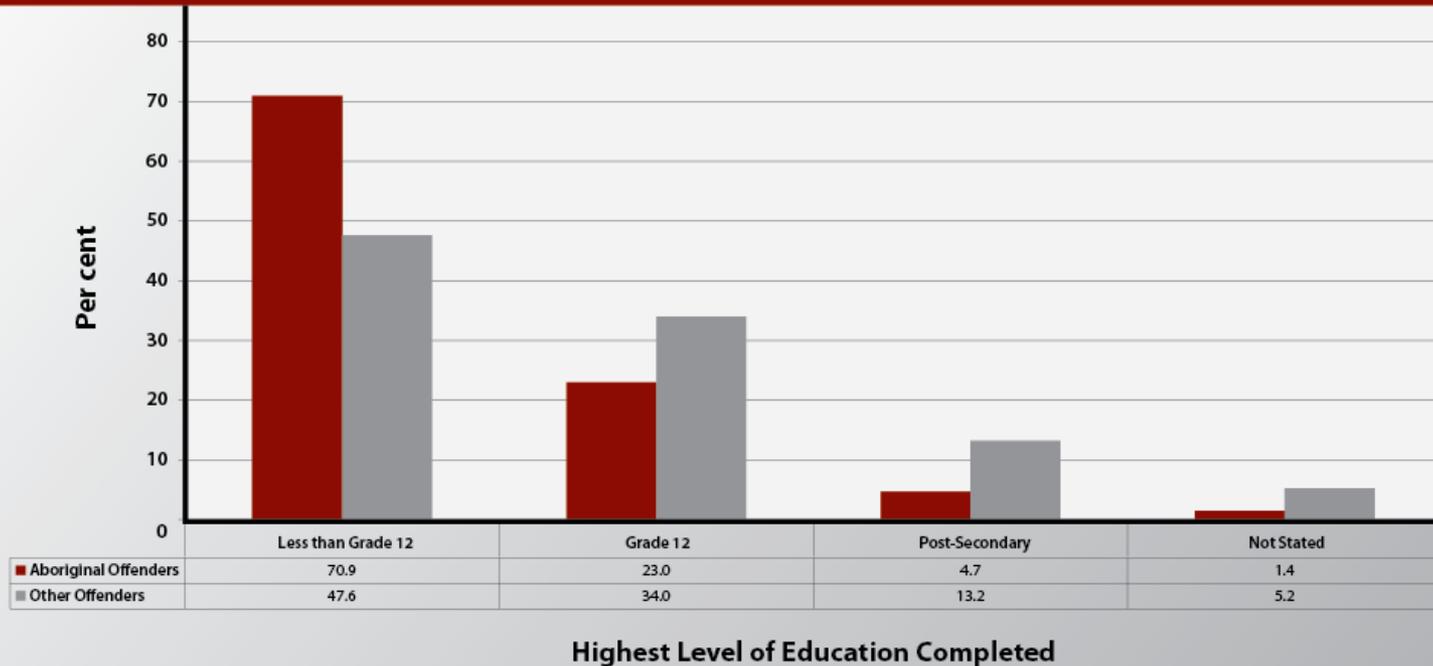
These include:

1. Social determinants of health, and risk/protective factors for involvement in crime (e.g., educational attainment, level of employment, whether children live in government care);
2. Overall health status (e.g., mental health conditions, problematic substance use);
3. Population age distribution; and,
4. Systemic factors.



1. Social determinants of health, and risk and protective factors for involvement in crime

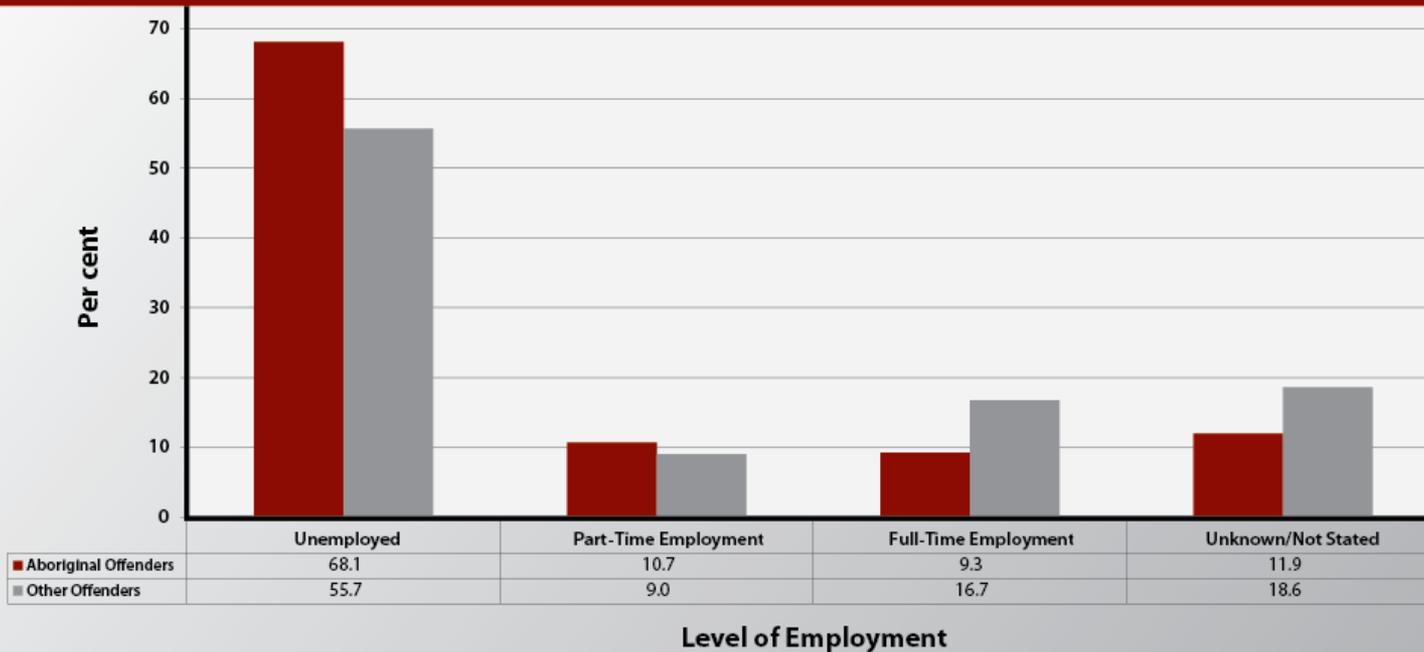
**Average Annual Proportion of Adult Admissions,
by Highest Level of Education Completed, BC, 2007/2008-2011/2012**



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.

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

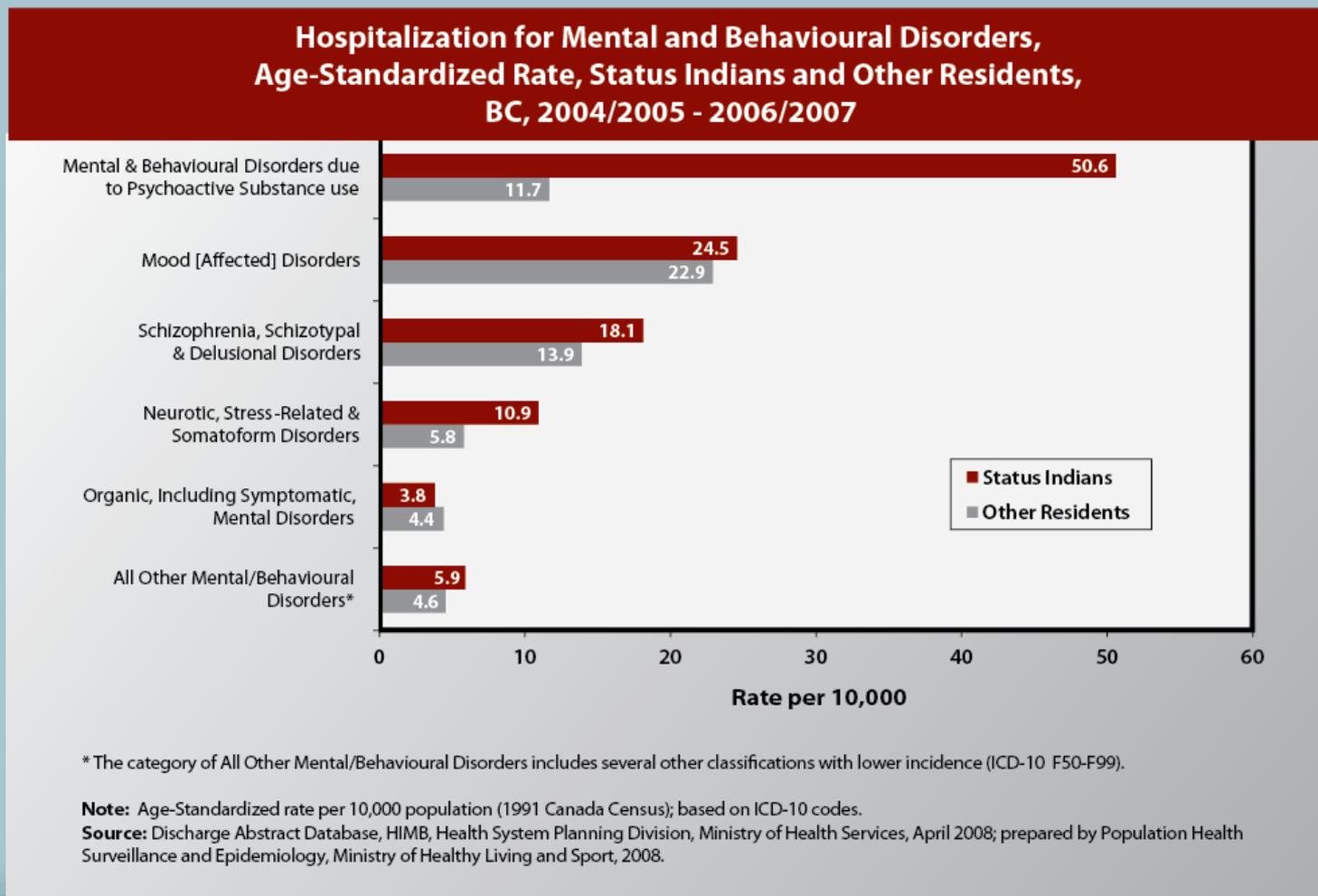


Notes: "Aboriginal" includes combined CORNET categories "Aboriginal" and "Métis." Those who self-identify as "unknown" ethnicity during BC Corrections admissions are excluded. Employment level indicates level of employment prior to incarceration. Yearly counts are calculated using monthly averages for 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.

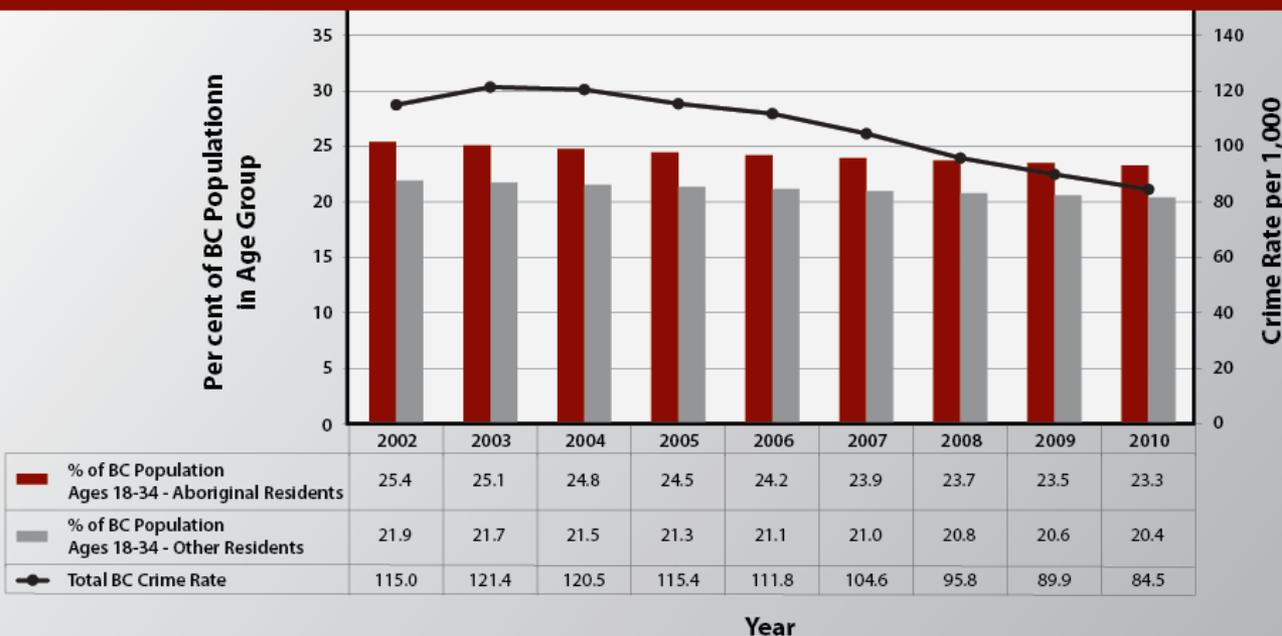
2. Mental health and substance use

Figure 6.7 – Pathways to Health and Healing: Provincial Health Officer's Annual Report 2007



3. Population age distribution

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



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.

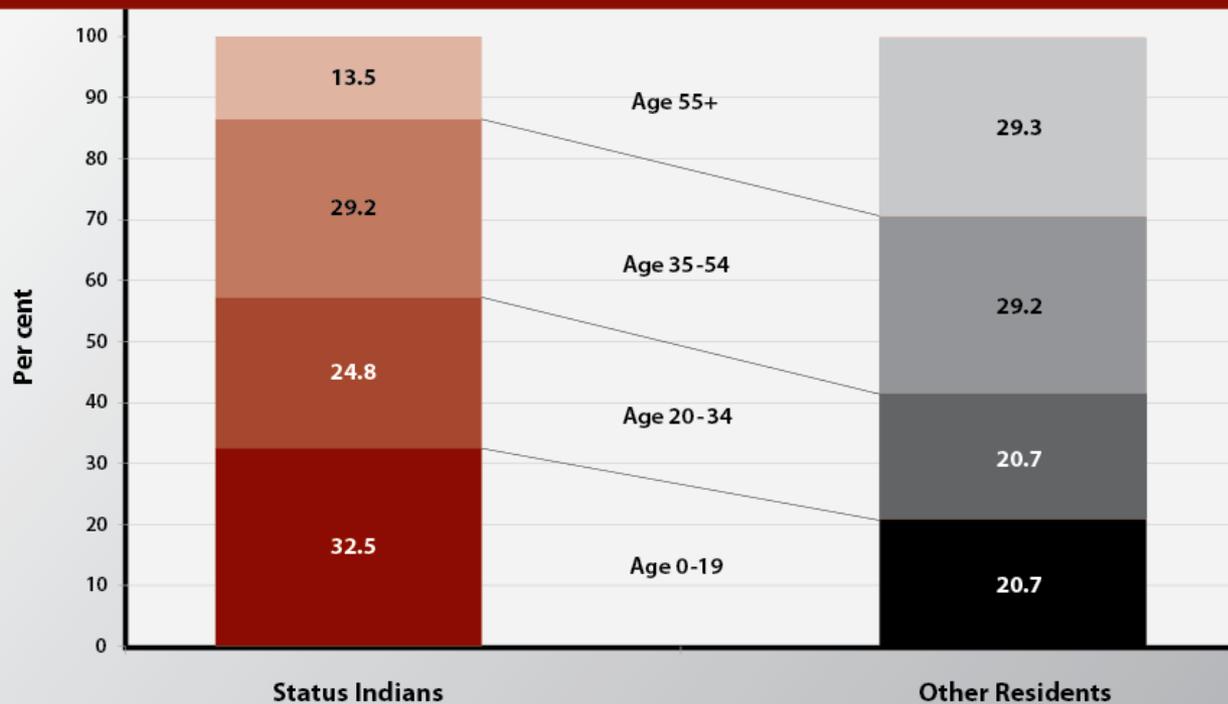
Source: Statistics Canada Census data. Prepared by BC Stats, Ministry of Labour, Citizens' Services and Open Government, and by Public Health Planning and Surveillance, Ministry of Health, January 2013.

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.

Age Distribution, Status Indians and Other Residents, BC, 2011



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.

4. Systemic factors for overrepresentation

- Legislative challenges
 - Misinterpretation and/or lack of understanding of *Criminal Code* sub-section 718.2(e).
- Aboriginal justice programming challenges
 - Lack of continuous and/or reliable funding for Aboriginal justice programs; and,
 - Limited availability and/or accessibility of Aboriginal focused programming in correctional facilities.
- Systemic biases
 - Sentencing practices and parole patterns (e.g., higher likelihood of sentencing, lower likelihood of parole);
 - Lack of Aboriginal personnel within the criminal justice system;
 - Language and cultural differences;
 - Bias/assumptions about unemployed people; and,
 - Less availability of justice system services outside of urban centres.

Vulnerability of Aboriginal Children and Youth

- According to previous joint report by the PHO and Representative for Children and Youth (*Kids, Crime and Care*), **Aboriginal children and children in government care**, are most vulnerable for becoming involved in crime.
- Compounding risk factors make **Aboriginal children and youth in government care** very vulnerable for future involvement in the criminal justice system.
 - Among youth in custody, **73%** have been in government care.
 - Among children in government care, **35.5%** have been involved in the criminal justice system (vs. **4.4%** of children not in care), and **10.4%** were incarcerated (vs. **0.5%** of children not in care).
 - Nearly **72%** of youth in care who are involved in the youth justice system have a serious mental illness or intensive behavioural problem.

The Cycle of Poor Health and Crime

- ⌚ Aboriginal people are more vulnerable to poor health and at higher risk of incarceration as a result of vulnerabilities within social determinants of health, and risk and protective factors for crime.
- ⌚ Many offenders are incarcerated with health concerns, like mental health conditions and/or problematic substance use.
- ⌚ Individuals in prison have lower health status than the general population (e.g., hepatitis C, HIV).
- ⌚ Violence, overcrowding, and stress worsens the health of already marginalized populations, during incarceration.
- ⌚ Offenders are released into their communities and must manage health challenges that developed or worsened in custody.
- ⌚ Incarceration can create challenges in obtaining employment, income, and stable housing (social determinants of health, and risk and protective factors for crime).



Conclusions and Recommendations

- The PHO is very concerned about changes introduced with the *Safe Streets and Communities Act*. Evidence reviewed in this report strongly suggests that changes in sentencing and the inherent ideological shift from prevention to punishment, will adversely affect vulnerable populations in BC – particularly Aboriginal peoples.
- The following recommendations have been endorsed by many of our colleagues, including:
 - Mary–Ellen Turpel–Lafond, BC’s Representative for Children and Youth;
 - National Chief Shawn Atleo, from the Assembly of First Nations;
 - Grand Chief Doug Kelly, from the First Nations Health Council; and
 - other colleagues in private and research sectors.
- These recommendations are made by the PHO with the intention of continuing to improve health outcomes, reducing the ongoing high proportion of incarcerated Aboriginal people in BC, and helping to break the cycle of poor health and crime.

Recommendations

Focus on Relationships

Recommendation 1: Revoke or amend the *Safe Streets and Communities Act* to ensure that 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

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

Recommendation 7: Enhance monitoring of the incarceration rates of Aboriginal people in all provincial and federal institutions, as compared to the 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.

Questions?



Office of the Provincial Health Officer

4th Floor, 1515 Blanshard Street

Victoria BC V8W 3C8

Phone: (250) 952-1330

Fax: (250) 952-1362

Website: www.health.gov.bc.ca/pho/