

CORRECTIONAL SERVICE CANADA

CHANGING LIVES. PROTECTING CANADIANS.

Understanding Factors Related to Discordant Security Level Decisions Among Indigenous Persons in Federal Custody

Highlight: Professional judgement can complement the Custody Rating Scale (CRS) to capture nuance or contextual information that provides a more holistic and culturally-informed assessment of risk.

Background

Security classification within the Correctional Service of Canada (CSC) is determined using the results of actuarial tools in conjunction with the structured professional assessment of an offender's Public Safety Risk, Escape Risk, and Institutional Adjustment.¹ Security level designations are laid out in the *Corrections and Conditional Release Act (CCRA)*, namely, minimum, medium, and maximum security. The *CCRA* also holds that offenders are to be placed in the least restrictive environment, taking into account several considerations, including the safety of the public, the safety of other incarcerated persons, the security of the institution, as well as considerations tied to institutional compatibility and suitability.

Racial/ethnic disparities in security level have been raised by the Office of the Auditor General (OAG; 2022) as well as the Office of the Correctional Investigator (OCI; 2023). A key concern is the overrepresentation of Indigenous offenders in higher security settings. Prior research indicates that the actuarial tool at intake, the Custody Rating Scale (CRS), holds predictive validity for Indigenous individuals (e.g., Gobeil, 2011; Barnum & Gobeil, 2012; McKendy et al., 2023a). However, Indigenous individuals (along with Black individuals) are more likely than other groups to have a CRS rating of "maximum" (OAG, 2022; McKendy et al., 2023b; Public Safety Canada, 2024). Research findings have further illustrated that Indigenous individuals are more likely to receive a discordant decision involving a security level decrease rather than a security level increase in relation to the rating of the CRS (McKendy et al., 2023a).

What We Did

The current analysis was intended to understand factors contributing to discordant security level decisions among Indigenous men and women in federal custody. The focus was on cases in which the initial CRS rating was "maximum," but the final security decision was "medium." The purpose was to gain insights into case management considerations and areas of focus in addition to the actuarial tool that contributed to the final security level decision, including the analysis of Indigenous Social History (ISH) factors. ISH factors, which must be integrated into case management decision-making, are direct and indirect systemic and background factors relevant to the lives of Indigenous peoples, consideration of which may result in alternate options or solutions (see [Commissioner's Directive 702](#)).

Case reviews were undertaken for a sample of discordant decisions in 2021–2022 and 2022–2023 ($n = 58$). For comparative purposes, reviews were also conducted for a smaller sample of Indigenous individuals who had a concordant security classification of maximum ($n = 28$). The sample included both men and women, and was designed to capture cases across regions, and marked by diverse sentence and offence profiles.

¹The actuarial tool used to inform initial security level decisions is the Custody Rating Scale (CRS), while the tool used to inform security reviews is the Security Reclassification Scale (SRS) or the Security Reclassification Scale for Women (SRSW). The procedures for determining an offender's security level are laid out in [Commissioner's Directive 705-7 – Security Classification and Penitentiary Placement](#) and [Commissioner's Directive 710-6 – Review of Inmate Security Classification](#).

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What we Found

Decision documents revealed considerable diversity in structure, articulation of reasons for discordance, justification and rationale for domain ratings, and reference to ISH factors. Notwithstanding this variation, some general themes were evident within discordant decisions at the time of decision-making. Most commonly, there was an emphasis on behavioural change within the area of Institutional Adjustment, whereby prior incidents or challenges were followed by improvement or indicators of enhanced stability. This often related to *psycho-behavioural factors* (enhanced engagement and motivation), the *social environment* (improvement in behaviour upon transfer from provincial to federal custody), and/or a shift in *criminogenic risk factors* (gang disaffiliation, withdrawal from substances, mental health stabilization). The progression of behavioural change is an example of contextual nuance drawn from professional judgement assessments that can complement standardized elements of the CRS. In some cases, reference was made to certain items within the CRS contributing to a higher rating (e.g., age, prior security events and offence characteristics), but for which contextual assessment added nuance and lowered the perceived degree of security risk. Supportive factors, including safeguards to manage risk within a medium environment, were also noted.

Reference was made to ISH factors in most cases, with the most common factors relating to individual substance abuse (85%), family and/or community history of substance abuse (78%), experience of loss of, or struggle with, cultural or spiritual identity (78%), exposure to potential risk factors during childhood (80%), and family fragmentation (67%). There were three key challenges identified in the analysis of ISH factors, including *generalization* (i.e., reference to general factors without concrete articulation to the case at hand), *identification without application* (i.e., description of ISH factors as they apply to the individual, but without integrating the description into the decision rationale) and *limited detail* (minimal information pertaining to ISH, in some cases because this information was not available at the time of the assessment).

A concrete way in which ISH factors were more explicitly integrated in decisions was in the consideration of how cultural engagement served as a protective factor that in turn resulted in a medium security placement being feasible. This included articulating the ways in which risk factors were being mitigated (or could be mitigating) through a culturally-informed approach, such as following a traditional healing path, participating in cultural interventions and ceremonies, and working with Elders in order to address the adverse impacts of ISH factors. In other words, cultural engagement was presented as a case management component to managing risk in the lower security level.

What it means

Overall, this qualitative review highlighted how professional judgement can complement the CRS to capture nuance or contextual information that provides a more holistic assessment of risk, including protective factors, to promote culturally-informed decision-making. There is considerable diversity in reports and there remain key challenges in the integration of ISH factors into decisions; however, there are also illustrations of 'best practice' that highlight the structural utility of professional judgement, as well as the importance of including social histories and circumstances relevant to Indigenous peoples within decision-making and the larger case management process.

References

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