

The West Coast Prison Justice Society (WCPJS) files this representative human rights complaint against Correctional Service Canada (CSC) on behalf of federal prisoners with opioid use disorder.

Over the last year, Prisoners' Legal Services (PLS), a project of WCPJS, has spoken with approximately 75 federal prisoners in BC who experienced barriers to treatment for their opioid addictions, many of whom described their fear of becoming victims of the opioid crisis by fatally overdosing.

WCPJS asserts that federal prisoners are subject to inhumane waiting lists for Opioid Substitution Therapy (OST), the only treatment available to most federal prisoners with drug dependencies, and that some have their medications are inappropriately terminated. We assert this amounts to discrimination on the basis of disability. We further assert that the particularly harsh impact on Indigenous and Black prisoners amounts to discrimination on the basis of race, national/ethnic origin, and colour. The discrimination took place in federal prisons in Canada and is ongoing.

We seek systemic remedies to ensure all federal prisoners with opioid addictions have access to timely medication-assisted treatment, robust and culturally appropriate psychosocial treatment, and meaningful harm reduction initiatives.

A. Discriminatory Conduct – Disability

Specifically, WCPJS asserts that CSC's treatment for prisoners suffering from opioid addictions fails to accommodate these prisoners' disabilities in the following ways.

1) Dangerously Long Wait Times for Medication-Assisted Treatment for Opioid Addictions

OST is one of the most effective types of therapy for opioid use disorder.ⁱ Yet federal prisoners who wish to access CSC's OST program (i.e., methadone or Suboxone treatment) are subject to extremely lengthy waitlists, significantly increasing their risk of overdose, HIV and hepatitis C (HCV) infection, and other related harms. These are compounded by inadequate access to naloxone (which can temporarily reverse the effects of an opioid overdose) and the absence of prison-based needle and syringe programs.ⁱⁱ

PLS has spoken to numerous prisoners who have waited months – and some more than one year – for OST while in custody. These include prisoners who have histories of overdoses and HCV, as well as prisoners who are actively using drugs in prison and prisoners who self-medicate with Suboxone obtained from other prisoners.

The inability to obtain treatment can compromise a person's ability to meet the goals of their correctional plan, achieve parole, and be successful upon release into the community. PLS has heard from prisoners who were released to the community without OST, only to find themselves returning to prison for reasons related to their addictions. PLS has also spoken to prisoners who have delayed their transfers to lower levels of security while they wait for OST in order to ensure they are stabilized before moving to an environment where illegal drugs may be more readily accessible.

BC Corrections/the Provincial Health Services Authority (BC PHSA) has reduced waitlists for methadone and Suboxone in BC Lower Mainland centres to almost zero and aims to eliminate waitlists entirely.

2) Inappropriate Medication Terminations

Many federal prisoners have reported to PLS involuntary discontinuation of OST in response to a diversion accusation. We are also aware of discontinuations upon admission to federal custody and in other contexts.

CSC policyⁱⁱⁱ allows prisoners on methadone and Suboxone to be cut off from their treatment if they are suspected of diverting their medication—i.e. saving it to share with other prisoners. CSC has implemented a series of security measures to prevent diversion, such as mouth inspections and monitoring periods after prisoners receive their medications. Some prisoners describe feeling like animals when they are forced to pull their lips apart with their fingers and show their teeth—sometimes without access to hand sanitizer or anywhere to wash their hands. We understand these practices were developed when methadone was the primary treatment but have carried over to Suboxone, even though Suboxone is significantly safer, with a far lower overdose risk.^{iv}

Many prisoners have reported to PLS that nurses have unjustly accused them of attempting to divert their medication and then terminated their OST without any proof of wrongdoing. CSC policy does not outline any standards of evidence, and as such allows any behaviours that *could* be suspicious to warrant the termination of medication. This practice is purely punitive. It is not based on the individual health care needs of the patient, and discriminates against prisoners suffering from addiction.

In contrast, BC PHSA policy emphasizes that diversion “is an indication for the prescriber to review the client’s treatment plan”—not necessarily to terminate treatment—and requires “documented proof of diversion” and that the patient be “seen by the prescriber prior to changes being made in the treatment plan.”^v

Compounding the absence of standards of proof is the lack of adequate recourse for prisoners facing involuntary tapers. While CSC policy specifies that termination of medication is a last resort and Intervention Teams (ITs) must meet to consider alternatives, clients have reported their dosages being slashed immediately following a diversion accusation. Some reported waiting weeks to meet with the prescribing physician and that that this meeting was *pro forma* at best, while others reported no opportunity to meet with the physician at all. Most clients did not even know they had an IT.

Many prisoners report to PLS that they suffered withdrawal when their medication was terminated. Some have reported being cut off their medications cold turkey, without a taper and without any monitoring or clinical management of painful and dangerous withdrawal symptoms.

Prisoners also report that once they have been accused of diversion, the “conviction” becomes part of their medical file and is used against them in the future—so if a second allegation is ever made, that person is already considered suspect because of past (unproven) behaviour.

In addition, some prisoners on OST in the community reported their prescriptions were not renewed when they entered CSC custody because, for example, they experienced a brief gap in treatment while in provincial custody or in the community immediately prior to arrest. Other prisoners (in Ontario) report their OST being suspended—with no taper—because they were suspected of having drugs inside their bodies and were placed in a “dry cell” to be monitored.

3) Lack of Psychosocial Services for Prisoners with Opioid Addictions

Barriers to OST are compounded by a lack of complementary supports for prisoners with opioid addictions. Research shows that psychosocial therapy adds to the effectiveness of medication-assisted treatment.^{vi} Indeed, many prisoners have significant histories of trauma,^{vii} and some use drugs in order to cope with that trauma. While we understand an addictions counsellor attends the federal women’s prison in BC, male prisoners report no access to similar counselling or therapy. WCPJS also understands from both prisoners and practitioners that mental health resources generally are very limited in CSC facilities; many prisoners report they can access mental health clinicians only when in acute crisis.

Treating prisoners' addictions requires providing adequate and culturally appropriate psychosocial services in addition to medication.

B. Discriminatory Conduct – Race, National/Ethnic Origin and Colour

WCPJS asserts that CSC's failure to treat prisoners with opioid addictions also amounts to discriminatory treatment on the basis of race, national/ethnic origin and colour for Indigenous and Black prisoners, both of whom are overrepresented in the federal prison system. Indigenous people make up more than 26% of federal prisoners, despite comprising less than 5% of the Canadian population as a whole. And Black people make up 8.6% of federal prisoners but only 3.5% of the general population.^{viii} Both groups are also likely to serve more of their sentences in prison and to receive higher security classifications.^{ix} And Indigenous prisoners are also more likely to have histories of substance misuse, addiction and mental health concerns.^x

In addition to suffering disproportionately by virtue of their overrepresentation in prison and high need for drug dependence treatment, Indigenous and Black prisoners may also experience discrimination in their ability to access treatment while in federal custody. For example, CSC prioritizes OST for prisoners within six months of release. Since Indigenous and Black prisoners are less likely to be released on parole and Indigenous prisoners are more likely to remain in custody until their warrant expiry dates, they may also be less likely to receive OST.

This inability to get adequate treatment perpetuates the over-representation of Indigenous and Black people in prisons generally and in the most restrictive environments, since people with unmanaged drug dependence face difficulties cascading to lower security environments, achieving parole and being successful upon release.

C. Alternative Redress

In July and August of 2017, WCPJS wrote to CSC leadership on behalf of approximately 50 BC federal prisoners to raise concerns about barriers to treatment for prisoners with opioid use disorder. While initial conversations were promising and complaints to our office about inappropriate involuntary OST termination dropped significantly, we are no longer receiving meaningful information from CSC about its actions to address the remaining issues. We continue to hear from clients who have been waiting months or even years for treatment, and we understand many of the concerns we raised—including around involuntary tapers—remain unaddressed in at least some other provinces.

Access to timely and adequate treatment for opioid use disorder is an urgent matter, as prisoners and former prisoners continue to die in the fentanyl crisis.^{xi} CSC's failure to provide treatment is discriminatory, fails to meet international guidelines on prison health,^{xii} and exposes prisoners to significant physical and mental harm.

ⁱ "Management of opioid use disorders: a national clinical practice guideline." *Canadian Medical Association Journal* 190:5 (March 5, 2018).

ⁱⁱ Canadian HIV/AIDS Legal Network, "Brief to the Standing Senate Committee on Human Rights regarding its study on human rights of prisoners in the correctional system: The public health and human rights rationale for prison-based needle and syringe programs" (June 2017). See also Canadian HIV/AIDS Legal Network, "Health Care in Provincial Correctional Facilities – Joint Submission to the Ministry of Health and Long-Term Care and the Ministry of Community Safety and Correctional Services (May 3, 2018).

ⁱⁱⁱ Correctional Service Canada, "Specific Guidelines for the Treatment of Opiate Dependence (Methadone/Suboxone)," September 2016.

^{iv} "Management of opioid use disorders: a national clinical practice guideline." *Canadian Medical Association Journal* 190:5 (March 5, 2018).

^v Provincial Health Services Authority, "Diversion of Medication in Correctional Centres (Interim Policy)."

^{vi} Dugosh et al, "A Systematic Review on the Use of Psychosocial Interventions in Conjunction With Medications for the Treatment of Opioid Addiction." *J Addict Med.* 2016 Mar; 10(2): 91–101. See also WHO/UNODC/UNAIDS, "Substitution maintenance therapy in the management of opioid dependence and HIV/AIDS prevention" (2004).

^{vii} Nancy Wolff, Jing Shi, and Jane A. Siegel, "Patterns of Victimization Among Male and Female Inmates: Evidence of an Enduring Legacy" (2009) *Violence Vict.* 24(4) at 469-484.

^{viii} Office of the Correctional Investigator, "Annual Report of the Office of the Correctional Investigator 2016-2017" (June 28, 2017) ("OCI 2016-2017"); Census Profile, 2016 census.

^{ix} Office of the Correctional Investigator, "A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries" (2013).

^x OCI 2016-2017 and Office of the Correctional Investigator, "Annual Report of the Office of the Correctional Investigator 2015-2016" (June 30, 2016).

^{xi} Blair Bigham, "A human rights issue: Lack of treatment for drug users means deaths behind bars," *CBC News* (April 3, 2018). See also Jonny Wakefield, "More than 120 overdoses in Alberta jails since 2016, dozens more in federal facilities," *Edmonton Journal* (December 22, 2017) and Andrea Woo, "Two-thirds of B.C. overdose victims spent time in prison, report finds," *The Globe and Mail* (April 5, 2018).

^{xii} *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, (adopted December 17, 2015). See also United Nations Office on Drugs and Crime, "HIV prevention, treatment and care in prisons and other closed settings: a comprehensive package of interventions" (June 2013).