

_____ **Research Report** _____

**Aboriginal Social History Factors
in Case Management**

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Aboriginal Social History Factors in Case Management

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Executive Summary

Key words: *Aboriginal social history, Gladue, case management*

As has been acknowledged by the Supreme Court of Canada, Aboriginal Canadians are over-represented in correctional populations. This Court, in the landmark ruling in *R. v. Gladue*, interpreted section 718.2(e) of the Criminal Code of Canada to mean that sentencing judges must consider, in reaching their decisions, the effects of Aboriginal peoples' years of systemic disadvantage. Furthermore, the Ontario Court of Appeal ruled in 2005 that this principle must apply throughout the justice process, not simply at sentencing. As a result of this direction from the Courts, CSC ensures that Aboriginal social history is considered in case management decisions. Specifically, CSC created a suite of policy documents and, in 2013-14, delivered two days of training on how to incorporate these factors to all institutional and community parole officers.

The current study was undertaken to examine the extent to which Aboriginal social history factors were considered in assessments for decisions relating to two case management decision points: security classification and discretionary release. A total of 618 assessments for decision were manually coded to investigate the extent to which Aboriginal social history factors were mentioned and to which they were directly linked to decisional recommendations. Overall, it was found that Aboriginal social history factors were documented in virtually all cases – 98% – although it appeared that there may be room for improvement in the extent to which they were explicitly linked to the resulting recommendations. Among offenders, the assessments for decision written for Métis offenders were slightly less likely to include Aboriginal social history factors.

There was also variability among the individual factors cited. Substance abuse was mentioned most often, perhaps reflecting relatively high rates of individual, family, and community substance use among CSC's Aboriginal offenders. Histories of victimization, loss of cultural or spiritual identity, and direct or intergenerational effects of residential school attendance were also frequently linked to recommendations. There were some factors, including mental health, family and community history of suicide, and gang affiliation, which were frequently mentioned but not linked to the decision. It may be that parole officers require further training in how to consider certain specific factors.

Overall, based on comparisons with a matched sample of recommendations written for non-Aboriginal offenders, it did not appear that Aboriginal social history factors influenced decisional recommendations. In particular, there was no evidence that, as some have worried, these factors were misperceived as risk factors. Parole officers must consider Aboriginal social history factors in the broader context of other priorities, such as public safety; it may be that the inability to disentangle the relative effects of these priorities contributed to these findings.

Taken as a whole, this study indicates that CSC parole officers are complying with policy with respect to the inclusion of Aboriginal social history factors in assessments for decision. Future iterations of training may benefit from a focus on how to ensure these factors are explicitly linked to the recommendations, and perhaps on certain domains that are less well understood. Training could also perhaps be enhanced by including additional direction on how to consider both Aboriginal social history factors and other important priorities – in particular, public safety – concurrently.

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Introduction

Aboriginal Canadians are over-represented in the criminal justice system, making up 27% of offenders in provincial and territorial custody (Dauvergne, 2012) and 20% of the total federal offender population – including in-custody offenders and those supervised in the community (Public Safety Canada, 2013). This proportion is approximately seven to eight times higher than the proportion of Aboriginal people in the general population (3%; Public Safety Canada, 2013), and the rate of over-representation is continuing to rise (Public Safety, 2013). The issue of over-representation of Aboriginal people in the criminal justice system has been recognized for some time and was explicitly addressed in the landmark case of Jamie Tanis Gladue, which led to the Supreme Court of Canada’s direction that judges must consider individuals’ Aboriginal social history in sentencing decisions (*R. v. Gladue*, 1999). The Correctional Service of Canada (CSC) has incorporated the spirit of this ruling in all of its decision-making, requiring that Aboriginal offenders’ social history factors – often known as Gladue factors – be considered in reaching all correctional decisions (e.g., CSC, 2008; CSC, 2014a; CSC, 2014b).

Decision-making occurs throughout the entire correctional sentence, including initial penitentiary placement, security reclassification, and transfer and parole recommendations, and can have both positive and negative impacts. CSC is committed to ensuring decision-making reflects consideration of all relevant information, including Aboriginal social history factors. As such, the purpose of the current study was to examine the extent to which Aboriginal social history factors are being considered in the security classification and discretionary release recommendations made by parole officers.

R. v. Gladue

The milestone case that initiated major changes in Aboriginal corrections is that of Jamie Tanis Gladue. Gladue pled guilty to manslaughter for the death of her common-law husband and was sentenced to three years imprisonment (*R. v. Gladue*, 1999). During the sentencing process, the judge considered various factors but did not consider her Aboriginal status due to the fact that she was living off reserve. The case was eventually brought to the Supreme Court of Canada, and though this Court upheld the original sentence, the reasoning provided was significant to the future of Aboriginal corrections. Section 718.2(e) of the Criminal Code of Canada (1985) states

that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.” The Supreme Court interpreted this section as one that was meant to address the issue of over-representation of Aboriginal peoples in the criminal justice system and to be applied to all Aboriginal offenders, whether they are residing on or off reserve (*R. v. Gladue*, 1999). More specifically, the Supreme Court of Canada ruled that sentencing judges are expected to consider that years of systemic discrimination and dislocation have translated into low incomes, high unemployment rates, lack of opportunities, lack of or irrelevant education, substance abuse issues, loneliness and community fragmentation (*R. v. Gladue*, 1999). This judicial interpretation was confirmed in *R. v. Ipeelee* and *R. v. Ladue* (2012), in which the Supreme Court of Canada concluded that the “tangible consideration” of Aboriginal social history factors is required in every case involving an Aboriginal offender, as a failure to do so may result in a sentence that is not consistent with principle of proportionality. Furthermore, the Ontario Court of Appeal has concluded that the principles underlying *Gladue* should not be limited to sentencing, but apply throughout the entire justice process (e.g., *R. v. Sim*, 2005).

Circumstances Faced by Aboriginal Offenders

As reflected in the Supreme Court of Canada’s decisions (*R. v. Gladue*, 1999; *R. v. Ipeelee* and *R. v. Ladue*, 2012), there is abundant evidence of the disadvantages encountered by Aboriginal Canadians, including lower employment rates, lower average hourly wages among the employed, and lower rates of postsecondary qualification than non-Aboriginal offenders (Statistics Canada, 2011; Usalcas, 2011). Aboriginal Canadians also face challenges relating to their cultural history. For instance, Bombay, Matheson, and Anisman (2011) found that residential school exposure had adverse intergenerational effects. First Nations adults with a parent who attended residential school were more likely to report symptoms of depression – and, in fact, such exposure intensified, in the next generation, the depressive effect of other life stressors such as traumas and discrimination. In addition, among Aboriginal offenders (but not their non-Aboriginal counterparts), suicide is a leading cause of death for both youth and adults up to age 44 (Health Canada, 2009).

Differences identified among Aboriginal Canadians also exist for Aboriginal offenders (Thompson & Gobeil, in press; Farrell MacDonald, in press). In addition, however, Aboriginal offenders differ from their non-Aboriginal counterparts on incarceration rates, parole decisions,

and security classification decisions. Specifically, Aboriginal offenders are more likely to be incarcerated (rather than supervised in the community) than non-Aboriginal offenders, less likely to be granted parole, and, when granted parole, receive it later in the sentence (Public Safety Canada, 2013). Compared to non-Aboriginal offenders, a lower percentage of Aboriginal offenders are classified as minimum security and a higher proportion are classified as medium and maximum security (Public Safety Canada, 2013). Trevethan, Moore, and Rastin (2002) also compared Aboriginal and non-Aboriginal offenders and found Aboriginal offenders more likely to be assessed as high need, especially relating to employment, personal/emotional functioning, marital/family functioning, substance abuse, and associates. Similar results were found in a study that examined Aboriginal federally-sentenced women (Dell and Boe, 2000), both in terms of the level of security and their assessed needs. Some of these differences may be linked to Aboriginal offenders' unique social history factors.

Policy and Practice at CSC

CSC recognizes effective interventions with Aboriginal offenders as one of its strategic priorities and has implemented multiple relevant initiatives. For instance, in 2006, the Strategic Plan for Aboriginal Corrections was put into practice to ensure the availability of culturally appropriate interventions that address the specific criminogenic needs of First Nations, Métis, and Inuit offenders; enhance collaboration, for example with Aboriginal communities; and, address systemic barriers internally and increase CSC cultural competence (CSC, 2006). In addition, CSC offers Aboriginal-specific correctional programs and accommodation options that reflect Aboriginal spirituality and culture. Finally, a suite of policy documents provide guidance on the provision of culturally-appropriate/restorative interventions, when these are consistent with offenders' wishes, and the incorporation of Aboriginal social history factors throughout correctional decision-making (e.g., Commissioner's Directives 702, 705-6, 705-7, and 712; CSC 2007a, 2007b, 2008, 2012, 2014a, 2014b).

Recently, training for parole officers on the incorporation of Aboriginal social history principles in correctional decision-making was implemented. During March and April 2012, CSC piloted this training with 93 participants nationally. This training consisted of information regarding the social history of Aboriginal peoples, the details of the Gladue decision, and information on Aboriginal offenders. Workshops that allowed staff to practice identifying Aboriginal social history factors and writing decisional recommendations were also

incorporated. In an evaluation of the training's effectiveness, Gottschall (2013) found that Aboriginal social history factors were more likely to have been documented in post-training assessments.

Following the pilot, the training was expanded and implemented as a two-day component of the 2013-2014 mandatory Parole Officer Continuous Development Training sessions. Training elements were similar and extensive application and practice opportunities were provided. The training was delivered nationally throughout the latter half of 2013-2014 to all community and institutional parole officers employed with CSC.

The Current Study

Given CSC's focus on the consideration of Aboriginal social history factors in correctional decision-making and this recent training initiative, this study was undertaken to examine the extent to which these factors are considered, as well as the impact of their consideration in decision-making. Building on the preliminary study conducted by Gottschall (2013), the current study involved a larger sample and focused on two decision points: security classification and discretionary release (i.e., day parole and full parole). The following specific research questions were examined:

1. To what extent are Aboriginal social history factors documented and linked to recommendations in assessments for decision focused on security classification and discretionary release?
2. Is the inclusion of Aboriginal social history factors associated with decisional recommendations?
3. How do offenders for whom Aboriginal social history factors were considered differ from those for whom they were not?

Method

Sample

Aboriginal offenders' assessments for decision. A total of 618 assessments for decision completed for federal Aboriginal offenders were coded for their inclusion of Aboriginal social history factors. Training on the consideration of Aboriginal social history factors was included in the 2013-14 Parole Officer Continuous Development; as such, to be eligible to be coded, the assessments for decision had to be written after the author was recorded as having completed training and prior to the data collection date of May 4, 2014.

Of the assessments for decision, most (86% or 534) were assessments for decision relating to security classification decisions (364 initial security classification decisions and 170 security classification reviews¹), and 14% (84) were for pre-release recommendations to the Parole Board of Canada (i.e., a recommendation produced by CSC to the Board as to whether to grant the offender day or full parole).² It was originally intended that the total number of assessments for decision equally represent cases of offenders identified as presenting low, moderate, and high levels of static risk. However, due to availability of cases, this was not possible. Of the assessments for decisions, two-thirds ($n = 414$) were offenders assessed as high risk. The proportion of offenders assessed as high risk was lower among discretionary release decisions (52%) than among the security classification decisions (69%).

Overall, the sample of assessments for decision coded in this study was generally representative of the population of offenders in custody. Similar to the gender distribution within the federal correctional population (Public Safety, 2013), almost all (96%) of the assessments were written for men offenders. The distribution among Aboriginal subgroups also paralleled the correctional population (Farrell MacDonald, in press), with 65% of assessments completed for First Nations offenders, 27% for Métis offenders, and the remaining 8% for Inuit offenders. That being said, regional patterns were less consistent with expectations. As can be

¹ Initial security classification decisions are based on consideration of results on an actuarial measure, the Custody Rating Scale, together with the parole officer's professional judgment. In turn, security classification reviews are based on results on the Security Reclassification Scale or Security Reclassification Scale for Women, again together with professional judgment.

² Possible decision points were limited because Gottschall (2013), in her examination of the pilot training, identified including too many decision points as a possible confound contributing to difficulty in reaching clear conclusions. These specific decisional opportunities were selected because they occur for all offenders and have significant potential impacts.

seen in Table 1, the Ontario region was over-represented among coded assessments while the Prairies region was under-represented. Given that the files selected for coding were largely dependent on when each region completed their 2013-14 Parole Officer Continuous Development training, these regional differences likely simply reflect differences in when each region was able to complete that training.

Table 1.

Regional Distribution of Coded Files and of Aboriginal Offenders in the Inmate Population

Population	Region (Percentage)				
	Atlantic	Quebec	Ontario	Prairies	Pacific
Assessments for Decision	4	17	28	32	19
Inmate Population ^a	5	12	14	51	18

^aInmate population numbers for May 5, 2014, drawn from CSC's Corporate Reporting System.

Matched non-Aboriginal comparison sample. Given that it was not possible to directly measure the impact of Aboriginal social history factors on recommendations, comparisons were conducted between recommendations written for Aboriginal and non-Aboriginal offenders. The coded recommendations corresponding to Aboriginal offenders were matched to similar recommendations for non-Aboriginal offenders based on the decision type, offender region, overall offender dynamic need, overall offender static risk, offender reintegration potential, sentence length for the current sentence, and whether the current sentence involved a violent offence. Only recommendations involving men offenders were included given the low numbers of recommendations for women offenders. The procedure resulted in exact matches (i.e., identical distributions on the matching variables for both groups of recommendations) in almost all cases. Ten of the 595 coded recommendations for men Aboriginal offenders did not result in an exact match and were dropped from the analysis. This resulted in a final sample of 1170 recommendations evenly divided between Aboriginal and non-Aboriginal offenders; among these, there were 160 discretionary release recommendations, 676 initial security classification recommendations, and 334 security reclassification recommendations.

Procedure

Coding of assessments for decision. All the identified assessments for decision were

reviewed and coded for the presence or absence of a variety of indicators. The coding guide was modeled on that previously used by Gottschall (2013), though a number of modifications were applied. In addition to identifying the type of recommendation being formulated, the guide directed coders' identification of a variety of Aboriginal social history factors, such as residential school attendance and an individual, family, or community history of suicide. For each, coders identified not only whether the relevant factor was noted, but also whether the staff member explicitly linked the factor to their recommendation.

A number of measures were undertaken to limit the subjectivity and inconsistency common in file coding. A comprehensive manual was drafted to accompany the coding guide; this document provided additional information on interpretation of each item. In addition, an iterative training approach was used to train coders. First, a number of practice cases were coded as a group, including discussions of particular items and disagreements. Next, further practice cases were coded independently, followed by group discussion of results and resolution of any differences. Finally, regular meetings and updates occurred throughout coding to ensure all coders were made aware of any decisions and key issues. Overall, across seven coders, the percentage agreement on the coding guide items ranged from 77% to 100%, with a mean overall percentage agreement of 93%. All values were in the satisfactory range (Stemler, 2004).

Analyses. First, in order to examine the Aboriginal social history factors considered, frequencies and cross-tabulations were computed. The next series of analyses focused on whether the recommendations made in assessments for decision for Aboriginal offenders differed from those of non-Aboriginal offenders who were matched on a number of relevant variables. Preliminary analyses of the recommendations for Aboriginal offenders resulted in the identification of a small number of variables to be included in developing a matched sample: decision type, institutional region, overall offender dynamic need, overall offender static risk, offender reintegration potential, sentence length for the current sentence, and whether the current sentence involved a violent offence. Recommendations involving Aboriginal and non-Aboriginal offenders matched on these characteristics were compared on their security classification and pre-release recommendations using cross-tabular analysis. In addition, analyses were confirmed using additional statistical approaches, including logistic regression models (both ordinal and binary logistic) with controls for substance abuse need and risk as well as conditional logit models that used the matched pairs as strata (where possible), in order to

control for the non-independence of the matched pairs of recommendations. Given that results were similar across methods, the cross-tabulations were reported for simplicity.

Results

Aboriginal Social History Factors in Assessments for Decision

The first series of analyses focused on identifying the Aboriginal social history factors mentioned in assessments for decision, and, among those, those that were directly linked to the documented recommendation.³ In total, 16 factors previously identified as part of the 2013-14 training were identified for coding, such as the effects of residential school attendance (direct or intergenerational), the Sixties Scoop, racism, or experience in the child welfare system (see full list in Table 3). Some of the factors were specific to specific Aboriginal subgroups (e.g., dislocation and dispossession is specific to Inuit offenders). The median number of Aboriginal social history factors mentioned was 6, whereas the median number of factors linked to a recommendation was 4. As can be seen in Table 2, virtually all coded assessments for decision included a mention of at least one factor; about three-quarters of assessments had at least one factor directly linked to the recommendation. Almost a third had six or more. Notably, however, assessments for decision focused on security classification were much more likely to include Aboriginal social history factors linked to the recommendation than were those focused on discretionary release (78% vs. 52%).

Table 2.

Number of Aboriginal Social History Factors in Assessments for Decision

Number of Aboriginal Social History Factors	Percentage of Assessments in which Factor	
	Mentioned ^a	Linked to Recommendation
0	2	26
1 to 3	24	22
4 to 5	19	23
6 or more	55	29

^aAll linked factors are also counted as mentioned. *N* = 618.

³ As previously stated, a factor was coded as mentioned if it was simply identified as present, and as linked if it was directly tied to the recommendation (e.g., “after considering the effects of residential school placement, the following is being recommended...”). In addition, factors were *not* coded as either mentioned or linked if they were documented solely as a criminogenic need or risk factor – that is, if they were not tied to the offender’s Aboriginal status.

The inclusion of Aboriginal social history factors seemed to be related to the offenders' Aboriginal subgroup. In particular, while almost all assessments included mention of Aboriginal social history factors, assessments for Métis offenders reflected over half of those where this was not the case (8 of 14 assessments). Similarly, larger proportions of assessments written for First Nations and Inuit offenders (81% and 76%, respectively) than for Métis offenders (58%) linked the Aboriginal social history factors to the recommendation. Offenders' static risk, however, was unrelated to the inclusion of Aboriginal social history factors.

Specific Aboriginal social history factors. Some social history factors were more frequently mentioned and linked to recommendations than were others. By far the most common was an individual, family, or community history of substance use, which was directly linked to a recommendation in over half of the assessments for decision (see Table 3). Other frequently linked factors were victimization, loss of or struggle with cultural or spiritual identity, and residential school attendance. Mental health and gang affiliation were both frequently mentioned but were infrequently linked to a recommendation, in comparison with the previously mentioned factors.

Though the infrequency with which certain Aboriginal social history factors were mentioned restricted the possible follow-up analyses, certain patterns emerged. In keeping with previous analyses, the assessments for decision written for Métis offenders were less likely than those written for First Nations or Inuit offenders to include an explicit link between the recommendation and information relating to substance abuse, victimization, family or community fragmentation, or mental health concerns. Further, both Inuit and Métis offenders' assessments were less likely to include a link to residential school attendance or limited connection to family/community than were First Nations offenders' assessments. Finally, a larger proportion of Inuit offenders (25%) than of First Nations (16%) or Métis (10%) offenders' assessments included a recommendation linked to an individual, family, or community history of suicide.

Table 3.

Specific Aboriginal Social History Factors in Assessments for Decision

Aboriginal Social History Factor	Percentage of Assessments in which Factor	
	Mentioned ^a	Linked
Individual, family, or community history of substance abuse	87	57
Individual, family, or community history of victimization	57	47
Loss of, or struggle with, cultural or spiritual identity	49	45
Residential schools (including intergenerational effects)	49	44
Family or community fragmentation	38	34
Experience in the child welfare system	34	30
Low level of connection with family/community	30	28
Low level of or lack of formal education	24	17
Individual, family, or community history of suicide	34	15
Gang affiliation	58	13
Experience with poverty	15	13
Sixties scoop	13	12
Dislocation and dispossession (Inuit offenders) ^b	10	10
Racism	7	6
Mental health disorder	65	4
Fetal Alcohol Spectrum Disorder	5	2

^aAll linked factors are also counted as mentioned. ^bThis factor is considered relevant only for Inuit offenders and was therefore scored only for the 45 Inuit offenders in the sample. $N = 618$.

Associations between Aboriginal Social History Factors and Recommendations

Type of decision being considered – that is, security classification or discretionary release – and the decisional recommendation formulated were also associated with differences in the proportion of assessments wherein Aboriginal social history factors were linked to recommendations. As can be seen in Table 4, Aboriginal social history factors were more frequently considered in assessments for decision focused on security classification than on those focused on discretionary release. There were also some differences according to the specific

recommendation formulated, though no consistent pattern emerged. Among initial classification recommendations, a greater proportion of those to maximum security than to minimum security were linked to at least one factor. Among security reviews, however, the reverse pattern was found. In that case, recommendations that an offender be reclassified to a lower level of security were slightly more frequently linked to Aboriginal social history factors than were those where those that an offender be reclassified to a higher level of security. In turn, with respect to discretionary release, recommendations that release be granted and denied were approximately as likely to include a link to at least one factor.

Table 4.

Aboriginal Social History Factors in Assessments for Decision, by Decision Type and Recommendation

Decision Type and Recommendation	<i>N</i>	Aboriginal Social History Factor Linked to Recommendation (%)
Security Classification		
All	534	77
Initial classification	364	79
Recommended to minimum	45	69
Recommended to medium	274	78
Recommended to maximum	45	96
Security review	170	74
Recommended to lower level	41	85
Recommended to higher level	31	77
Recommended not to change level	97	68
Discretionary Release		
All	84	52
Recommended to be granted	38	50
Recommended to be denied	46	54

Note. *N* = 618.

Some patterns also existed between specific Aboriginal social history factors and decisional recommendations. Similar to previous results, in initial security classifications, a number of specific factors were less likely to be linked to recommendations to minimum security

than they were to maximum security. This was the case for residential schools (including intergenerational effects), substance abuse, experience with the child welfare system, and individual, family, or community history of suicide. With respect to security reviews, the following specific factors were more frequently linked to recommendations to a lower than higher security classification: residential schools (including intergenerational effects), substance use, low level of or lack of formal education and individual, family, or community history of victimization. In addition to these, the following were also less likely to be linked to recommendations that the security classification not be changed: family or community fragmentation, low levels of connection with family or community, experiences with the child welfare system and with poverty, and gang affiliation.

When discretionary release was examined, most Aboriginal social history factors were equally likely to be linked to recommendations to grant or to deny. The two exceptions were family or community fragmentation, and, to a lesser extent, low levels of connection with family or community. Both of these factors were less frequently linked to recommendations to grant parole than to recommendations to deny parole.

Comparisons to non-Aboriginal offenders' recommendations. An alternative way of trying to determine whether the inclusion of Aboriginal social history factors in assessments for decision had an impact on recommendations is to compare the recommendations made for this group of offenders to those made for another group of offenders – specifically, non-Aboriginal offenders, for whom Aboriginal social history factors are irrelevant (though, of course, other social history factors may be important). To do this, recommendations were compared for the Aboriginal offenders whose assessments for decision were coded and a sample of non-Aboriginal offenders matched on a number of relevant factors.

As can be seen in Table 5, the two samples' recommendations were very similar. In particular, there were negligible differences between the two groups on initial security classification and security reclassification reviews. The difference between the two groups on recommendations relating to discretionary release was slightly larger – 10 percentage points – but did not attain statistical significance when models were computed.⁴ Follow up analyses showed that the difference among discretionary release recommendations was largely driven by

⁴ As previously mentioned, cross-tabular results were confirmed via logistic regressions and conditional logit models with matched pairs as strata to account for non-independence of observations.

those focused on day parole, where the difference between groups was of 12 percentage points. In contrast, those focused on full parole differed only by 7 percentage points. Separate analyses for the recommendations corresponding to the two types of parole, however, were also both non-significant, meaning that no statistically reliable differences could be identified. In other words, overall, recommendations formulated in cases where Aboriginal social history factors were considered and where they were not did not differ.

Table 5.

Decisional Recommendations for Study Sample and a Matched Comparison Sample

Decision Type and Recommendation	Percentage	
	Aboriginal Offenders' Recommendations	Matched Non-Aboriginal Offenders' Recommendations
Security Classification		
Initial classification		
Recommended to minimum	13	15
Recommended to medium	76	72
Recommended to maximum	11	12
Security review		
Recommended to lower level	17	17
Recommended to higher level	58	61
Recommended not to change	25	23
Discretionary Release		
Recommended to be granted	46	36
Recommended to be denied	54	64

Note. $N = 1170$.

Given that not all assessments for recommendation included links to Aboriginal social history factors, these analyses were replicated with a sub-sample of recommendations. In these analyses, restricted to only assessments for decision wherein Aboriginal social history factors were linked to the recommendation and their matched counterparts corresponding to non-Aboriginal offenders, the same patterns of results emerged. Specifically, there was no association between the two groups (Aboriginal and non-Aboriginal) and decisional recommendations.

Patterns in the Documentation of Aboriginal Social History Factors

The final series of explorations focused on understanding the differences between assessments for decision with recommendations that were and were not linked to Aboriginal social history factors. A series of variables were examined for possible associations with the linking of Aboriginal social history factors: type of decision (security classification or discretionary release), gender, sub-group of Aboriginal offender (i.e., First Nations, Métis, Inuit), risk and need, reintegration potential, seven criminogenic need domains, responsivity, motivation, engagement, and institutional charges incurred while in custody. Very few significant patterns emerged.⁵ The two variables associated with whether one or more factor was linked to a recommendation were type of decision and sub-group of Aboriginal offender. Consistent with earlier findings, assessments focused on discretionary release were less likely to include a recommendation linked to one or more Aboriginal social history factor than were those focused on security classification (52% vs. 78%). In addition, assessments written for Métis offenders were less likely to include a recommendation linked to one or more Aboriginal social history factors (58%) than were those written for First Nations or Inuit offenders (81% and 76% respectively). This latter finding was consistent with the file coders' anecdotal impressions. In a number of cases, coders noted that Aboriginal Social History sections were included in the assessments for decision written for Métis offenders, but these sections were relatively short.

⁵ Given inter-relationships among variables, logistic regressions were computed to identify significant patterns. For ease of comprehension, simple proportions are reported and discussed for the variables identified in these multivariate analyses.

Discussion

Case law clearly states the importance of the consideration of Aboriginal social history factors in correctional decision-making for Aboriginal offenders. As part of its commitment to ensure that case management decisions reflect these factors, CSC has formulated a suite of policies (CSC 2007a, 2007b, 2008, 2012, 2014a, 2014b) and implemented a two-day training initiative for all parole officers to provide practical guidance on how to incorporate these principles. The current study aimed to examine the extent to which these factors are considered in decision-making, with a focus on decisions relating to security classification (both initial classification and security reviews) and discretionary release.

Documentation of Aboriginal Social History Factors

Overall, parole officers consistently included Aboriginal social history factors in their assessments for decision. Among the 618 assessments reviewed, only 2% omitted these factors. Moreover, most assessments included relatively thorough examinations of social history factors, with more than half mentioning six or more. Individual, family, or community histories of substance use and victimization; loss of, or struggle with, cultural or spiritual identity; and, direct or intergenerational effects of residential school were included the most often. Notably, there may be room for improvement in terms of moving beyond simply *mentioning* a social history factor to directly *linking* it to the decisional recommendation.

The inclusion of Aboriginal social history factors in assessments for decision varied according to offender subgroup, with assessments for Métis offenders less likely than First Nations and Inuit offenders to include them (though this difference was small since such a large majority of assessments included Aboriginal social history factors) or to link them to decisional recommendations. Variability in the extent to which various social history factors were mentioned may also be attributable to their relative representation in the broader Aboriginal population. For instance, substance use was mentioned the most often, in keeping with the fact that alcohol and drug abuse has been cited as a significant challenge by over 85% of Aboriginal communities (First Nations Information Governance Centre, 2011). Another contributor to this variability may be knowledge of various factors and their influence. For instance, direct and intergenerational effects of residential schools were mentioned in almost half of all assessments,

whereas the Sixties scoop was mentioned much less frequently. This may reflect the fact that, in addition to the information included in training, staff may have become quite familiar with residential schools and their impacts given sustained media and political attention to the topic in the last decade or more (e.g., Truth and Reconciliation Commission of Canada; Indian Residential Schools Settlement Agreement). Knowledge of other factors may be less extensive.

Association with Decisional Recommendations

Of particular interest was whether the inclusion of Aboriginal social history factors in assessments for decision contributed to different decisional recommendations. This question was particularly important given that when considering Aboriginal social history, some may find it challenging to differentiate between factors indicative of elevated risk and those indicative of systemic disadvantage. A possible concern is that greater attention to certain Aboriginal social history factors would lead to them being perceived as risk factors and result in more negative recommendations and decisions (e.g., Warner, 2011). Substance use is an excellent example of a factor which may lead to just such confusion. Though there is ample evidence that substance abuse is consistently and reliably associated with criminal offending (i.e., is a risk factor; Andrews & Bonta, 2010), in some circumstances, it may be appropriately considered a mitigating factor. This interpretation has been well-articulated by Warner (2011):

When alcohol and substance abuse by indigenous offenders are linked with social disadvantage, dispossession, loss of culture, and demoralization, it can be justified as a relevant difference which helps to explain offending behaviour. [...] In such cases it is the reduced culpability by reason of the relationship of such factors with [both substance use] and offending which justifies giving mitigatory weight to such factors. (p. 139)

Overall, the inclusion of Aboriginal social history factors in the assessments for decision did not seem to be associated with recommendations. Across all decision types examined, recommendations written for Aboriginal offenders (and therefore including Aboriginal social history factors) did not differ from those written for non-Aboriginal offenders matched on relevant variables. In other words, this examination does not provide any evidence that Aboriginal social history factors are being misperceived as risk factors and leading to more negative security classification and discretionary release recommendations.

While social history factors were more often cited in recommendations to deny than to grant discretionary release, the matched comparison group analyses suggest this was for a reason

other than the inclusion of Aboriginal social history. A plausible explanation is that negative recommendations simply include more comprehensive explanations of the reasons for recommendations than do positive recommendations. In turn, likelihood of a negative recommendation is associated with risk (with those who are higher risk being more likely to receive a recommendation that release be denied); once risk was statistically removed from consideration using the matching analyses, no association existed.

In sum, then, across all decisions types examined, the inclusion of Aboriginal social history information was not related to decisional recommendations. This finding was consistent with what was found in Gottschall's (2013) previous examination. While it was positive that staff did not erroneously perceive Aboriginal social history factors as risk factors, there are additional implications. Though it is impossible to know what recommendations would have been produced had Aboriginal social history factors not been mentioned, the results do suggest that the inclusion of Aboriginal social history factors did not lead to alternative recommendations. Two additional points provide context for this interpretation. First, in this study, it was only possible to identify Aboriginal social history factors that were documented in the assessment for decision – examining the extent to which decisions were actually considered during the recommendation formulation process was impossible. It may be that the inability to do so means certain meaningful nuances were not captured. The second point is that the incorporation of Aboriginal social history factors into recommendation formulation happens in a broader context where, in addition to these factors, other considerations must simultaneously be considered – most importantly, public safety. It was impossible to disentangle the relative impact of these various considerations.

Operational Implications

Clearly, parole officers are consistently incorporating Aboriginal social history factors in their assessments for decision, and thereby meeting expectations in terms of current policy. That said, there may be room for improvement regarding the extent to which they move beyond merely *mentioning* to *linking* these factors to their recommendations. There were a small number of factors that appeared to be especially likely to be mentioned but not linked, including mental health, gang affiliation, and individual, family, or community history of suicide. It may be that parole officers find incorporating these areas somewhat more challenging; future training initiatives could benefit from a particular focus on how these factors should be reflected in their

case management recommendations. Future training could also perhaps be enhanced by including additional direction on how to consider Aboriginal social history factors and other important priorities – in particular, public safety – concurrently.

Limitations

In interpreting findings, it is worth noting that the collection of data occurred shortly after the 2013-2014 Parole Officer Continuous Training component on Aboriginal social history was delivered. This has a number of implications in terms of the interpretation of findings, the first of which is that the relative recency of training may have had an impact on findings. For instance, it is possible that the level of demonstration of new skills related to Aboriginal social history analysis was higher than would otherwise have been the case due to the short period of time elapsed since the training and its included practice opportunities. Conversely, it may be that skills in this area would be expected to continue to increase given continued application into the future; which of these competing possibilities was actually the case, if either, is unknown. Another consequence of the timing of training is that the regions were not proportionately represented in this analysis. Given some regions completed their training earlier than others, it was possible to obtain more assessments for decisions for those regions. Finally, the limited timeframe since training completion meant that assessments for coding were selected based on availability, rather than via a random sampling design. Though it is unlikely that either of these issues had an impact on results, future examinations may benefit from using a random sampling design and ensuring proportionate regional representation. Other methodological limitations include small sample sizes with respect to discretionary release decisions and for certain groups – such as women and Inuit. These sample sizes limited the analyses that could be conducted and conclusions that could be drawn in these specific areas.

The final limitation, more conceptual than methodological, was previously alluded to. Given that the only data available for analysis of this research question were documented assessments for decision, analyses focused on the inclusion of Aboriginal social history factors in these documents. However, as previously stated, documenting a factor is not necessarily the same as considering it when formulating a recommendation. An attempt was made to address this issue by focusing on factors that were explicitly linked to a recommendation rather than solely those mentioned, but this still represented only an approximation. Though measuring the actual thought process underlying recommendation formulation is likely impossible, this

approximation remains a weakness given research showing differences in what correctional decision-makers say they consider, think they consider, and actually consider in reaching decisions (Holland, Holt, & Brewer, 1978).

Conclusion

CSC policy requires that Aboriginal social history factors are reflected in case management decision-making, and this study clearly shows that this was the case in virtually all assessments for decision reviewed. That said, there may be room for improvement in the extent to which these factors were explicitly linked to the resulting recommendations, and future iterations of the training offered in 2013-14 may benefit from a greater focus in this area. Additional direction on how to consider Aboriginal social history factors and other priorities concurrently may also be of use. A program of ongoing and ever-improving training in the area, together with CSC's comprehensive suite of relevant policies, ensures CSC is well-positioned to continue to meet its commitment to appropriate case management decision-making for Aboriginal offenders.

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