

## **ETHNOCULTURAL MINORITIES AND THE CANADIAN CORRECTIONAL SYSTEM**

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2016

## DISCLAIMER

This document is a translation from the original French text. Due to Dr. Emerson Douyon's passing in 2016, the translated text has not been verified by him; therefore, the content in this document is a close representation of what Dr. Douyon may have intended. It was written from his personal experience and perspective.

## ISBN

1. Paper – Bilingual.

PS84-62/2017  
978-0-660-08449-7

2. PDF – English.

PS84-62/2017E-PDF  
978-0-660-08447-3

3. PDF – French.

PS84-62/2017F-PDF  
978-0-660-08448-0

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*“All truth passes through three stages. First, it is ridiculed. Second, it is violently opposed. Third, it is accepted as being self-evident.”* Arthur Schopenhauer

*“Every man I meet is in some way my superior; and in that I can learn of him.”* Ralph Waldo Emerson

*“Science without conscience is but the ruin of the soul.”* François Rabelais

*“One of the most difficult things is not to change society, but to change yourself.”* Nelson Mandela

*“If you’re born in America with a black skin, you’re born in prison.”* Malcolm X

## ACKNOWLEDGMENTS

I would like to thank Don Head, Commissioner, Correctional Service of Canada (CSC). His leadership led to the completion of this pioneering book that relies on the experience, expertise and collective work of the National Ethnocultural Advisory Committee (NEAC) over a period of more than 10 years.

Thank you to the late Marcel Kabundi (1954 – 2015), who was the first to highlight the importance of considering the substantial group of individuals representing Ethnocultural minorities.

Thank you also to the Correctional Service of Canada regional committees and regional directorates that facilitated our research.

A special thank you to Johanne Vernet, National Manager, Ethnocultural Services Section, and Donat Bilomba for their unfailing encouragement.

Lastly, thank you to the various groups of Ethnocultural offenders whose account of their experience in prison helped us understand relationships between culture, ethnicity and criminality.

## PREFACE

Dr. Emerson Douyon (1929 – 2016) was an internationally renowned psychologist who led the National Ethnocultural Advisory Committee (NEAC) and the Quebec Regional Ethnocultural Advisory Committee for 11 years.

He held a diploma in philosophy from the École Normale Supérieure at the Université d'État d'Haïti and doctoral degree in psychology from the University of Montréal. Dr. Douyon was very involved in causes associated with criminal psychology and human rights. Before becoming Chair of NEAC, he was a professor at the University of Montréal's School of Criminology, a member of the Law Commission of Canada and remains the Commissioner of the *Commission des droits de la personne et des droits de la jeunesse* (Quebec's human and youth rights commission).

Dr. Douyon has extensive knowledge of Correctional Service of Canada. Working with the late Marcel Kabundi, he published KARIBU, an educational textbook, at CSC. He has also prefaced a compilation of work by Marcel Kabundi, Donat-Tshibas Bilomba and Amandine Meniri on intercultural mediation at CSC.

The nature of this document is different. It is a personal and meaningful contribution to the concept of Ethnoculturalism, its introduction, implementation and development at CSC. It is Dr. Douyon's personal



assessment of CSC's evolution from a perspective of ethnicity and culture. It is the author's contribution to CSC's history.

After retiring from more than ten years as head of the NEAC, Dr. Douyon became the first recipient of the CSC's Emerson Douyon Multiculturalism Award. Other recipients have received this award in continuation of Dr. Douyon's past achievements, and based on their own initiatives that have been recognized as good practices.

This work is a tribute to former, current and future members of the NEAC/REAC and to the people who are prepared to rise to all of the challenges that accompany the emergence of culture and ethnicity at Correctional Service of Canada and in Canada.

Don Head  
Commissioner

## INTRODUCTION

My initial contact with the Canadian prison system was marked by a first observation. Here, I was told, everyone is on equal footing. A crime is a crime; one criminal is no different from another. He does his time and he returns to society at the end of his institutional journey. From the time he enters to the time he leaves, our programs strive to encourage his development in a secure space.

Behind this perceived democracy and equal treatment, many other realities are well hidden. Each prison has its own identity. The prison populations vary from one institution to another. Each offender has his own personality and particular background. His ethnicity and culture make him both similar and different at the same time. Behind each type of crime condemned by the law is a human being with traditions, values, a migratory journey, and the story of his confrontation with the culture of others.

In this small world that is somewhat reminiscent of a concentration camp system, the function of “overseeing and punishing” has evolved to one of rehabilitating and reintegrating, and the individual takes precedence over the system. No one is forced to change, but the offender is guided through other phases of personal achievements.

The Canadian correctional system generally refers to the treatment of offenders, issues, living conditions, inmates’ rights and human rights that do not cease to exist at the doors of the institution. Certainly, security is the primary concern of staff members, but in this secure setting, a new Ethnocultural direction has begun to take root and influence practices.

How did it start? Has it developed to the extent that it could now be introduced into the correctional system and prison culture? This book is designed to trace the evolution, operationalization and progression of Ethnoculturalism within Correctional Service of Canada and is presented as a modest contribution to CSC’s institutional memory.

It is a critical assessment based on the inmates’ perspectives, conversations with staff members, debates with Committee members and, at times, public debates on certain points. The author’s contribution also reflects the extensive research work conducted with the help of Karim Mikael, Paralegal and Research Assistant, and Nicolas Douyon-Harvey, Research Assistant.

# Part I

## Part I

# Ethnicity, culture and the correctional system

### 1. For institutional memory

Memory is a double-edged sword. It is one that both forgets and remembers, all at once. Some memories we prefer to block out, and others we want to recall for our own comfort. On one hand, the “duty to forget” as Dostoyevsky called it; on the other hand, the joy of remembering. From an institutional standpoint, it is normal that, over time, memory plays a selective role. Anything that provokes embarrassment, culpability and social stigma is buried in the archives. On the contrary, things that generate pride or collective admiration tend to be recalled in a loop in the institution’s history. That which is known as “best practices” belongs in that part of institutional memory.

We agree that in a prison, each stakeholder in the system, from the manager to the professional, from the security officer to the volunteer, contributes in his or her own way to the institution’s culture. Ultimately, each individual carries within them their own institutional memory. That of offenders differs necessarily from that of individuals whose mission is to promote individual change in a secure group setting.

However, in confronting our various perceptions and respective memories, we hope to better account for the evolution of certain ideas within an institution. The emergence and development of the Ethnocultural concept at Correctional Service of Canada represents this historic point of convergence which has introduced an irreversible dynamic of change across the entire correctional system.

## 2. The Ethnocultural concept and its trajectory at Correctional Service of Canada

- Where does the concern for Ethnoculturalism at Correctional Service of Canada stem from?
- Was Ethnoculturalism unknowingly practised in the past? It was not discussed explicitly. Is this key concept becoming a mantra?
- In the slang used by one Quebec inmate, what is this new “beast?” What is it all about?
- In what ways has the picture of crime changed to substantiate a now undeniable issue?
- Is a new phenomenon emerging in the criminal and penal realms?
- Has the Canadian prison system undergone such extensive changes that it is necessary to change our linguistic referents at Correctional Service of Canada?

The concept migrated from academia to enter Correctional Service of Canada in the 1980s with the arrival of hawkish youth with diplomas in criminology and trained in ethno-criminology, comparative criminology, clinical and penological criminology, psychology, sociology, criminal psychiatry, victimology, forensic sciences, and criminal and penal law. In the groups dedicated to the study of crime at the University of Montréal, new categories of crimes were habitually identified: ritual crimes, honour crimes, hate crimes, crime by ethnic gangs, crime spawned by the movement of migrants, crimes associated with the mafia, cross-border smuggling of monetary instruments, goods, drugs, humans, and computer and cyber crimes.

At the same time, media described the new face of crime. The new stereotypical face of a criminal was not only that of a White male, poor, alcoholic and violent, but increasingly, that of a tanned individual with a minority “look.”

Following the events of September 11, 2001, there was a review of policies on the perceived dangerousness of some ethnic groups and on national and international security, and the focus shifted from traditional crime to the arrival of new forms of crime. As the parameters of crime have changed, the custody of offenders has brought into question our penitentiary structures, programs and services, and staff members’ relations with an increasingly diversified prison population.

To describe these new realities, we could not talk about crimes committed by “foreigners,” as they do in Europe (France, Belgium, United Kingdom) to refer to both illegal residents and legal residents who do not have citizen status. We refused to conjure new races of criminals, because the biological notion of “race” became obsolete with the work of geneticists and anthropologists in that regard (Jacquard, A., (1978),<sup>1</sup>

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<sup>1</sup> Jacquard, A. (1978). *Éloge de la différence*. Éditions du Seuil. Paris.

Levi-Strauss, C. (1961)<sup>2</sup>). However, in terms of human rights, we will continue to use the racial category applied to designate victims of “racialized” groups (CDPDJ).<sup>3</sup>

This is the reason the correctional system uses the concept of Ethnoculturalism, a combination of ethnicity and culture. Stakeholders agreed to refer to Ethnocultural groups when designating offenders from minority ethnic groups. It was based on the principle that every human is characterized by his or her ethnicity in reference to a language, history and culture community. Each group has its own values that serve to delimit its identity. To communicate with this Ethnocultural community, it is important to understand these values and how they express themselves.

Since its introduction at Correctional Service of Canada, the concept has developed, based on administrative instruments (Commissioner’s Directive 767 and the Terms of Reference for this directive), national and regional advisory committees, the CSC Ethnocultural Section, operational units and penal institutions, the Parole Board of Canada, probation services and community organizations.

### 3. Prior considerations

Data on the ethnic stratification of the Canadian population, as reported by J. Porter<sup>4</sup> (1965) and Maryse Potvin<sup>5</sup> (2005), indicates a constant concern about “race,” ethnic origin, language, religion and culture. It also shows that, from the outset, Canada has had a great tradition of collecting statistical data on the various Ethnocultural groups that make up its population.

Statistics Canada,<sup>6</sup> which took over after the first census in New France in 1666, has always strived to refine its nomenclature to better account for Canada’s distinctive demographic features. In keeping with the historical, political and social context of each era, new statistical categories were created to better account for relevant needs, contingencies and issues. Consequently, along with the First Nations (or Indigenous people or Amerindians of North America and Inuit), the census took into account the descendants of the founding peoples (French and British) to which were added Black people, Jewish people and various ethnic groups resulting from successive migratory waves.

This statistical data, which is clearly useful, revealed inequalities in the legal status of White majorities and minority groups. It helped draw attention to historical patterns of discrimination against Indigenous people and “visible minorities,” primarily Black people.

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<sup>2</sup> Lévi-Strauss, C. (1961) *Race et histoire*. Éditions Gonthier. Paris.

<sup>3</sup> Commission des droits de la personne et des droits de la jeunesse. (2011). *Racial Profiling and Systemic Discrimination of Racialized Youth*. Montréal.

<sup>4</sup> Porter, J. (1965) *The Vertical Mosaic: An Analysis of Social Class and Power in Canada*, Toronto: University of Toronto Press.

<sup>5</sup> Potvin, Maryse (2010) *L'évolution des catégories statistiques sur l'origine ethnique et la race au Canada*.

<sup>6</sup> Statistics Canada. (1666-1960) Government of Canada, Ottawa.

Although Canada implemented a series of anti-discrimination measures (*Canadian Multiculturalism Act* 1988,<sup>7</sup> *Official Languages Act* 1969,<sup>8</sup> *Employment Equity Act* 1986,<sup>9</sup> *Canadian Human Rights Act* 1977<sup>10</sup> and the *Canadian Charter of Rights and Freedoms* 1982<sup>11</sup>), inequalities between the groups persist within the population. Discrimination, whether direct, indirect, systemic or crossed, continues to fuel complaints before human rights commissions and courts of law.

It must be acknowledged that Statistics Canada has succeeded in progressively purging its early nomenclatures of racist categories of the past (“Caucasians,” “Negroes,” “Mongols,” “Coloured,” “Savage”). Beginning in the 1960s, a commendable effort was made to replace the denominations based on “race” with categories more closely related to ethnic ancestry and origin, and less on stereotypes and biases. Nonetheless, the reference to “visible minorities” for purposes of employment equity is a nod to the old concept of “race.” And unfortunately, the identifier “colour” continues to tinge statistical data.

Hence the relevance of ethnic statistics that help paint an accurate picture of how relationships are structured between the majority and all minority groups in Canada. To rectify inequalities, it is necessary to start by identifying, gauging, assessing and accounting for them. That is the price of transparency in our intercultural relations.

Crime statistics involving Indigenous people and other minority groups are no exception to this rule. They do not seek to aggravate a situation of chronic discrimination or to emphasize a negative and stereotypical image of certain communities. They are useful as indicators of options to correct inequalities, prevent discrimination, and structure reintegration programs and policies.

Of course, crime statistics on Ethnocultural minorities have adverse effects. Thus, among the variables examined in crime analysis, “race” or ethnicity has always played a major role. This role, already amplified by the media, has apparently grown with migratory movement, which has emphasized the mixing of cultures and conferred upon some communities an increasingly multiethnic and multicultural image.

Although immigration prompts positive and beneficial effects for the economy, society, the arts and science, it sometimes produces certain undesirable effects, such as culture shock, the intensification of intercultural conflict, exacerbation of the inability to adapt and an additional push towards marginality and deviance.

While petty street crime is seen among maladjusted migrants, the same is true of serious criminality, such as organized crime, drug and human trafficking, fraud, robbery and homicide. This finding has led, on occasion, to an ideological shift to extreme-right discourse akin to xenophobia.<sup>12</sup> From that point on, it became easy to equate immigration with the cyclical rise in crime. New immigrants, in particular, were

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<sup>7</sup> *Canadian Multiculturalism Act*. (1988) Government of Canada, Ottawa.

<sup>8</sup> *Official Languages Act* (1969). Government of Canada, Ottawa.

<sup>9</sup> *Employment Equity Act*. (1986) Government of Canada, Ottawa.

<sup>10</sup> *Canadian Human Rights Act*. (1977) Government of Canada, Ottawa.

<sup>11</sup> *Canadian Charter of Rights and Freedoms*. (1982) Government of Canada, Ottawa.

<sup>12</sup> Le Pen, J.M. *La préférence nationale*.

made scapegoats in the random statistical series. This type of attitude was in its heyday until it was deconstructed by more meticulous research and observations.<sup>13</sup>

Making the connection between immigration, ethnoculture and criminality has given rise to controversy with regard to the following questions:

1. Should ethnic data associated with crime be recorded?
2. How does immigration contribute to delinquency?
3. If crime in general is diminishing, is ethnic criminality increasing?
4. Why does crime among the First Nations rise even though Indigenous people are not immigrants?
5. Are any Ethnocultural groups more inclined to offend than others in migratory situations?
6. Is there any relation between juvenile delinquency and crimes committed by adults from minority ethnic groups?

These are the many facets of the same problem—the relationship between minorities and crime. We will not reopen that debate here; however, it will be useful to consult the abundant literature in human sciences dedicated to this highly controversial subject.<sup>14</sup>

In 1925, Cressey<sup>15</sup> found that minority groups were at a disadvantage at every step of the judicial process in the United States. This finding was also made in more recent studies conducted in Europe and in Canada, for example. The path taken by racialized groups prior to the prison setting (police, child protection system, legal system) has always been a problem.

When considering criminality in general, we find that, based on crime statistics, its progression follows a sawtooth pattern according to socio-economic conditions (end of WWI 1914-18, economic crisis of 1929, etc.). After decades of constantly rising crime rates, Canada and the United States have seen significant decreases since the early 1990s (Ouimet M., 2003).

To consider solely the Canadian situation in 2010, we refer to the charts on crime prepared by Juristat. According to the charts, the crime rate in Canada had reached its lowest level since the early 1970s, whereas the Crime Severity Index had declined and was at its lowest level since 1998. Police reported declines in most categories of crime. The homicide rate, which is considered the barometer of violence in a country, was at its lowest point since the mid-1960s. Youth crime also declined both in volume and severity.

This general decline in crime rates can be attributed to various factors:

- Increased police vigilance with the support of municipal authorities: zero-tolerance policy following the “Rudolph Giuliani – United States” reforms (notwithstanding the adverse effects of this policy (social and racial profiling and police blunders).

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<sup>13</sup> Cusson, M, et al. (1982) Research report. School of Criminology, University of Montréal.

<sup>14</sup> Dobb. See “Rapport sur le racisme systémique en Ontario” in Normandeau, A., Douyon, E. (1995).

<sup>15</sup> Sutherland, E. H.; Cressy, D. R.; Luckenbill, D. F. *Principles of Criminology* (1992). New York.



- Professionalization of the police and use of the latest technological developments in policing techniques (investigation and identification techniques, IT support, weapons and biological products database, and crime mapping).
- Development of criminalities at the forensics laboratory (ballistic analysis, DNA sampling expertise, chemical and physical analysis of crime scenes to prevent the miscarriage and abuse of justice).
- Strengthening of laws and harsher sentences (United States).

Police forces adapted technological developments in response to the advanced sophistication of offenders' knowledge and practices. As the range of means for social control become more refined, we will be better able to distinguish between suicide and homicide, accident and crime, criminal offences and various forms of mental health disorders, deviance and marginality.

### **a. Incarceration and overrepresentation**

Is this general reduction in crime reflected in the prison population? Is the issue different, given the decision-making methods used exclusively by police and the legal system? Fewer criminals arrested and tried does not necessarily lead to fewer criminals incarcerated.

In parallel with this general decline in crime, an increase in ethnic crime is reflected in prison demographics (Indigenous people, recent or previously settled migrants, residents and citizens). One common problem does in fact exist among the visible minority groups: the overrepresentation of youth and adults at all levels of state involvement (child protection services, police, juvenile justice, penal and criminal justice, provincial and federal penitentiary system).

Documentation in this regard is abundant. The following works, relevant to Canada, will be consulted: Justice Dobb;<sup>16</sup> Normandeau, A.; Douyon, E.<sup>17</sup> (1995), Messier, C. 1980;<sup>18</sup> Crawford, Allison (2011).<sup>19</sup>

Our documentary research on prison populations revealed the following demographic findings for the two following periods:

#### **i. 2004 to 2006**

In addition to White and Indigenous offenders, correctional institutions housed four major Ethnocultural minority groups:

- Black (African/Caribbean/Afro-Canadian)
- Latino (South American/Hispanic)
- Asian + Arab
- Offenders not identified in terms of ethnicity.

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<sup>16</sup> Dobb, J (loc. cit.).

<sup>17</sup> Normandeau, A.; Douyon, E. 1995. *Justice et communautés culturelles?* Méridien. Laval.

<sup>18</sup> Messier, C. 1980. *Rapport sur les centres de la protection de la jeunesse*. CDPDJ. Montréal.

<sup>19</sup> Crawford, A. 2011. "Prison watchdog probes spike in number of Black inmates." CBC News.

1. Black inmates: proportionally larger number among visible minorities. They are located mainly in Ontario, Quebec and the Atlantic Region (Halifax). 60% of Black offenders are serving sentences for violent offences (robbery) or offences of a sexual nature.
2. Latin American/Hispanic offenders are located mainly in Quebec. They are in prison for offences involving violence, murder and sex.
3. Asian/Arab offenders: located mainly in Ontario and in the Pacific and Prairie regions. They are incarcerated primarily for violence, sex offences and drug trafficking.
4. The unidentified offenders are located mainly in Ontario and are serving sentences for various offences.

Overall, the majority of inmates from Ethnocultural groups are under the age of 50. They are less rooted in crime. They are Canadian citizens, for the most part, and are less likely to reoffend. They account for one-quarter of the offenders under federal supervision. A total of 11% are incarcerated and 16% are under supervision in society (2000).

The increased volume of minority groups in the prison population is measured as follows:

In 1994, the general population was 13%, while 9% were incarcerated and 10% were under supervision in the community. In 1997 and 2000, 11% were incarcerated and 16% were under supervision in the community in 2000. And “although they account for about 2% of the population in Canada, Black people make up 6% of offenders incarcerated in federal correctional facilities and 7% of those serving time in the community.”<sup>20</sup>

ii. 2010 to 2011

Although police-reported crime rates have declined since 1988, the number of federally sentenced inmates has risen. The rate of incarceration in Canada is relatively high compared to that of the majority of western European countries. 65% of federal inmates are “White.” Indigenous offenders (17%) rank second, followed by ethnic groups and “visible minorities.”<sup>21</sup> (Source: Corrections and Conditional Release Statistical Overview. 2010 Annual Report).<sup>22</sup>

From 2004 to 2010, the percentage of White inmates fell from 70% to 65%, whereas that figure for Black inmates rose from 6.2% to 7.9%, a notable increase given the demographic weight of Black people in the Canadian population (2%).<sup>23</sup> Evidently, compared to the other minority groups, there is an ongoing overrepresentation of Black people among the prison population. If this overrepresentation continues in future years, it would be apt for the Black community to question the meaning of this major trend and how to prevent it.

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<sup>20</sup> Excerpt of statistical data provided by Correctional Service of Canada. 1994-2000)

<sup>21</sup> Correctional Service of Canada. Research Branch. *Profil des délinquants issus des communautés culturelles*. CSC. 2014

<sup>22</sup> Source: Corrections and Conditional Release Statistical Overview. 2010 Annual Report.

<sup>23</sup> Note: Sapers, H. Report on overrepresentation of visible minorities in CSC. Correctional Investigator. 2013, Ottawa.

## **b. The Canadian Correctional System and Its Evolution**

### **a. Normative perspective**

The correctional system as we know it today does not have much in common with that of the past. It is the product of a lengthy historical evolution rather than the result of an isolated development. New ideas that emerged from elsewhere resulted in reforms that generated legislation and standards that are the basis for the various practices in Canada (Howard J. C. 1940)<sup>24</sup> (Fry, Elizabeth 1945).<sup>25</sup>

That link between historical events and social facts certainly applies to the history of the prison system. It mirrors the development of Canadian society in its relationship with the world. The numerous reforms that shaped the history of the correctional system left their mark because a system left alone typically replicates itself. In order to evolve, it needs impetus from outside the system. Change is brought about by the emergence of a concept or the discrete action of a leader or a group, which always precedes knowledge and new practices.

From a very lengthy chronological perspective, CSC has taken the initiative, with realism and transparency, to create a collective institutional memory of the Canadian correctional system. From its beginnings, known publicly as “difficult,” to current times in which Canada seems to be setting the pace in correctional matters, a great deal of water has flowed under the bridge. The following is an approximate summary of the milestones in the eventful history of the Canadian correctional system.<sup>26</sup>

### **b. Pre-institutional period (before 1835)**

This was a historical period in which other forms of confinement or exclusion preceded prison. A punitive ideology dominated. Everything came down to crime and punishment, to paraphrase the famous Dostoyevsky novel (1866).<sup>27</sup>

In Canada, “They could be whipped (called “flogging”) or branded (marked on the skin with burning hot metal); they could be put in pillories (wooden frames with holes for an offender's head and arms) or stocks (wooden frames with holes for an offender's arms and legs) and made to stand for hours or days on display out in the open. Other times, convicts were simply sent away, transported or banished to other countries and left to fend for themselves.”<sup>28</sup>

### **c. 1835 to 1865**

Emergence of the first “penitentiary houses.” The objective was to isolate the individuals to give them a chance to think about their actions and reform their behaviour. This idea came from elsewhere and was inspired by religion. In Kingston, Ontario, a series of penitentiary houses opened on June 1, 1835. In

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<sup>24</sup> Howard, J.C. (1940). Report on prisons in England and elsewhere.

<sup>25</sup> Fry, Elizabeth (1945). Report on women in prison. Canada.

<sup>26</sup> Combined sources (CSC and other sources). Ottawa/Montréal.

<sup>27</sup> Dostoyevsky, F. (1866) *Crime and Punishment*.

<sup>28</sup> Correctional Service of Canada. “Corrections in Canada: A Historical Timeline.” Website: [www.csc-scc.gc.ca](http://www.csc-scc.gc.ca). 2011

parallel with the principle-based correctional approach, the penitentiary became a daily tourist attraction that welcomed “paying visitors.” The regime was essentially punitive; inmates were prohibited from speaking to, looking at or gesturing toward other inmates. Flogging led to abuse applicable to everyone—men, women and children.

d. 1865 to 1890

Coexistence of asylums and penitentiaries, and controversy surrounding the potential prevalence of mental illness among the offenders. Was it a matter of confusion, or was the focus put on a specific nosological category within the vast array of personality and behavioural disorders, marginalities and deviances? Are we referring to distinct living spaces or the possibility of a gateway between the various psychological dysfunctions? History is unclear on this point for this era, where the line between the mentally ill and offenders seemed more blurred than it is today.

e. 1890 to 1920

The notion of helping offenders before and after release emerges. The objective is to prevent recidivism. This movement gave rise to Canada's first penal convention in 1891, where topics such as segregating inmates by gender and age, special tribunals for juvenile offenders and parole were discussed. The *Ticket of Leave Act* of 1899 accelerated the implementation of the first reforms.

f. 1920 to 1930

One of the consequences of the economic crisis of 1929 was a substantial rise in crime. New societies (John Howard, Elizabeth Fry) came to the defence of “new offenders” generated by the crisis overwhelming Western society's structures.

g. 1930 to 1940

This period was marked by an explosive overpopulation in prisons and a series of riots in penitentiaries across the country. In Kingston, Ontario, the first prison for women opened in 1934. The distinguished Archambault Royal Commission of Inquiry (1935-38)<sup>29</sup> paved the way to major penal reform. Emphasis was placed on recidivism (which accounted for more than 70% of the prison population), the operation of penitentiaries, conditional release and rehabilitation.

h. 1940 to 1960

Correctional development was interrupted by World War II, only to regain momentum as a benefit of the era of economic prosperity. A new *Penitentiary Act* was enacted in 1947. The National Parole Board (1959) is created to follow through on the recommendations of the Fauteux Report (1956)<sup>30</sup> as a continuation of the logic set out in the Archambault Report. The first ever Commissioner appointed at CSC, B. Gibson (1947), would leave his mark as a distinguished reformer of Canada's penitentiary institutions.

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<sup>29</sup> Royal Commission to Investigate the Penal System of Canada. Government of Canada. Commission Report [Archambault Report], 1938. Ottawa.

<sup>30</sup> Fauteux Committee. Report of 1956. Ottawa.

## i. 1960 to 1980

A major restructuring of the system (1960-70) prompted the creation of Correctional Service of Canada (1979). During these progressive years, a new vision of offenders was established. Sentences were based on behaviour and institutional progression; human rights were applicable to inmates who, from then on, kept their names instead of a number and who could have more contact with the outside world (1970). The elimination of flogging and lashing and the abolition of the death penalty in 1976, the creation of disciplinary committees, citizen committees and halfway houses helped form a more humane image of the prison system.

## j. 1980 to 2000

With the darker years of penitentiaries behind us, a new trajectory began. Attention was directed at new issues: health (AIDS, hepatitis C, tuberculosis, substance abuse), justice for minors, increased penalties for young offenders, the critical overrepresentation of Indigenous people in the system (Royal Commission on Aboriginal Peoples 1981-91),<sup>31</sup> victims' rights and their participation in the parole and mediation process as part of the "restorative justice" system.

With respect to rights, the rule of law is recognized and applicable, in conjunction with the work of the Arbour Committee (1987-1995),<sup>32</sup> to the prison system. This legal advancement compelled CSC to redefine its mission accordingly (1989). This meant that, far removed from the arbitrary rule that prevailed in the past, the system proclaimed the pre-eminence of human dignity among offenders and full respect of the values extolled in the *Canadian Charter of Rights and Freedoms* (1982). Inmates' rights are the fundamental rights of every human being and are conferred upon them.

## k. 2000 to 2012

Events outside of the country (Sept. 11) that had international repercussions pushed the correctional system to renew its operating strategy. The notion of public safety was brought to the forefront. In the name of integrated security, the new surveillance and prevention system cast the net wide, both inside and outside. Attention now turned to criminal organizations (gangs) that cause the level of violence to rise internally. A zero-tolerance policy was applied in particular to the proliferation of hard drugs in institutions and the prevention of trafficking using new detection technologies. A review committee (2007-08) for the priorities, strategies and planned correctional activities prompted the transformation that sought to reinforce and improve knowledge acquired (offender management, interventions, programs, services and reintegration).

Reforms to the criminal justice system were far from complete. Recent ideas about aggravated and harsher sentences, and "conditional release on merit," offer new perspectives. Is this the first move of the pendulum swinging back or a demonstrated willingness to play with subtlety?

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<sup>31</sup> Royal Commission on Aboriginal Peoples (1991). Ottawa.

<sup>32</sup> Arbour board of investigation (1995). Justice. Government of Canada. Ottawa.

Correctional Service of Canada's expertise is now recognized by international organizations. A strategy is currently being deployed abroad to arrange for knowledge transfer (staff training, institutional management, programs and services, and reintegration).

This retrospective look at the lengthy evolution of the correctional system shows us that the history of confinement in Canada is truly a saga. In particular, this history teaches us about the triumph of justice over foolishness and the rule of law over an arbitrary regime. One lesson learned from this retrospective: we at least know what happened in the correctional system before the progressive integration of human rights in institutional practices. Such revelations are far from the norm in correctional systems elsewhere in the world.

In the history of the Canadian correctional system, official texts make no mention of the presence of ethnic and visible minority groups in the institutions. Even though they lived alongside White and Indigenous inmates, they certainly did not pose a problem worthy of note. It was only when these minority groups reached a particular critical mass that it had to be determined how the system would deal with the emergence of a new and relatively recent issue.

Today, despite the correctional system's spectacular progress and development in terms of humanity, a penitentiary remains a penitentiary, and it will never become part of the star-hotel system. Joliette Institution in Quebec and Nova Institution in Nova Scotia are both penitentiary groupings comprising pretty cottages surrounded by flower gardens for women offenders clad in the latest styles. La Macaza Institution in Quebec has modern residential units where sexual offenders who are White, Indigenous and nationals from minority groups co-exist. The originality of these sites is such that each inmate has a key for his own individual and private space.

In Laval, Quebec, at the border of Nova Scotia and New Brunswick, in Saskatoon and in the Prairies, vestiges of penitentiary fortresses of old remain. However, despite this institutional diversity, a symbolic link exists: the penitentiary unit as a place of confinement, as per the etymological and psychological meaning of the term.

Furthermore, images to describe the penitentiary institution abound. It<sup>33</sup> describes "closed spaces" and "forced promiscuity," "penning," "distancing," "punishment through space" and "rejection" which generates the fear needed to maintain society, "limited exposure of incarcerated individuals" or "the institutions' authority over body and subjects" and "modern confinement methods," in the broad sense of the concept.

All of these strong images, inspired by contexts that are punitive or privative of various freedoms, refer to one fundamental concept: intimacy or relationships with others. "Hell is other people."<sup>34</sup> There is nothing like a prison or penitentiary, as a secure space, to understand the truth in this thought by Jean-Paul Sartre

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<sup>33</sup> Chantraine, G. "Le désastre humain de l'enfermement carcéral," *L'Humanité* (newspaper) (30 Sept., 2006) [L'humanité des débats. Prison. Recherche.] Paris.

<sup>34</sup> Sartre, J.P. 1945. *No Exit*. Paris.

(No Exit, 1945). A penitentiary unit, regardless of form, is first and foremost the impossibility of continuing to live in one's own personal bubble, to gain distance in that space, to avoid looks from other people. It is also the obligation to endure interaction with individuals and groups by constantly challenging their stereotypes, biases and exclusionary practices. In short, prison as a penitentiary is form of secure "extimacy."<sup>35</sup>

#### 4. The emergence of Ethnoculturalism at CSC

##### a. **Prison diversity**

Throughout the evolution of the prison system, under cover of equal treatment under the Act, great official discretion was observed concerning the presence of ethnic minorities and visible minorities in prison settings. It was a matter of pride to recognize neither the "race" nor colour of some inmates. "Visible minorities" were actually invisible; they did not receive any particular attention. Racial segregation was legally prohibited, but the specific needs of the various groups were not explicitly recognized.

The first diversity identified was that of young people compared with adults, and women compared with men. Age and gender served as criteria to break the cycle of promiscuity that reigned in the first penitentiary units. The concept of diversity gained ground with legislation on official languages and multiculturalism. Citizenship did not exclude the difference; in the words of Yolande Geadah, "the right to difference, rather than the difference of rights, was recognized."<sup>36</sup> (2007). Ethnicity and culture became undeniable realities in the penitentiaries. Authorities started to understand that the Ethnocultural diversity of prison populations was part of the order in the system.

Emphasis was placed first on Indigenous inmates who, as members of "First Nations," were considered both similar and different. They were Canadians given the shared territory, but "foreigners" without a migratory past. Conversely, the discovery of Indigenous heterogeneity (Amerindian Nations, Inuit, Innu, Métis) introduced a new diversity to diversity. The Ethnocultural pluralism of the Indigenous peoples themselves, resulting from history, traditions, languages and values specific to each entity, further enhanced the concept of difference.

The third diversity observed was that of ethnic and visible minority groups who, although different from the First Nations, were marked by their own ethnic culture. In reality, those designated by the term "ethnic minority" (Greek, Italian, Spanish, etc.) and "visible minority" (Black, Latino, Asian, Arab-Muslim, etc.), as ethnic and national groups, were as different as one could be from another. Thus, the concept of difference based on ethnic origin seems infinitely expandable. Taking into account this mix (White vs. non-White, Indigenous vs. ethnic and visible minority, Canadian citizen vs. non-Canadian citizen), reconciling security, specific statuses, criminal profiles, services, inmates' rights and reintegration while accounting for individual issues (health, alcoholism, substance abuse, mental illness and dangerousness, etc.) represent the overall challenge Correctional Service of Canada faces.

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<sup>35</sup> Extimacy (Note: concept on the border between social psychology and ecology. Opposite of intimacy.)

<sup>36</sup> Geadah, Yolande. 2007. *Accommodements raisonnables : droit à la différence et non différence des droits*. VLB éditeur. Montréal.

## b. Ethnocultural offenders

In the past, people were divided into two categories: individuals who are free and individuals who, following a criminal offence, have been judged by a criminal court and received a sentence or term of imprisonment in an institution. The residents of a housing centre at which freedoms were denied were perceived as “prisoners.”

This term did not include any nuances. Prisoners of common law, prisoners of war and mentally ill individuals were sent to the same space and subject to a regime of supervision and punishment. Encampments, asylums and prisons were interchangeable (Foucault<sup>37</sup>). Given that it is a confederation, Canada adopted a split correctional system: “prisons” for prisoners at the provincial level (offences subject to a sentence of less than two years) and “penitentiaries” at the federal level (crimes subject to a sentence of more than two years). The imperviousness of the two systems developing separately was only apparent from a jurisdictional and administrative perspective. In reality, most of the residents of penitentiaries had already been in prison. The severity of criminal acts and the propensity for recidivism often marked the difference between residents of a prison and residents of a penitentiary.

Throughout the lengthy evolution of the Canadian correctional system, policies affected not only offenders’ rights, but also their designation based on certain criteria. In the past, inmates were designated as such, all categories combined. They wore a number until the day came that they could identify themselves by their first and last names. Then came the difference between “inmates in custody” at the penitentiaries and the “inmates released” but kept under supervision in the community (conditionally released). The regime changed for these individuals. They moved from a repressive space that focused on punishment and penance, to an open environment focussed on rehabilitation (in the past) or reintegration (today).

Inmates who had committed a serious crime (murder, for example) or who had engaged in serious criminality based on a cycle of recidivism (revolving door syndrome) were designated as “criminals.” If the offenders were minors, children or adolescents, and had committed criminal acts under penal law, they were referred to as “offenders.” These youth were given the “benefit of age”<sup>38</sup> (Anna Freud 1973) because of their developmental immaturity. In doing so, a balance was struck between youth protection and public safety.

Through a reversal or inversion mechanism, criminals of the past became the offenders of today. Increasingly, the age barrier faded away, to be replaced with the potential continuity of offending from youth through to adulthood. From a legislative point of view, the tendency (Bill C-30) is to mirror that shift by emphasizing the concept of “serious crime,” regardless of the young offender’s age. Many people

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<sup>37</sup> Foucault, M. 1975. *Surveiller et punir*. Paris. Gallimard.

<sup>38</sup> Freud, Anna et al. 1973. *Dans l'intérêt de l'enfant*. [Works on delinquency and protection]



expressed reservations from a legal, judicial and social sciences perspective about this controversial subject (La Presse. Bill C-30. 2011).<sup>39</sup>

From the public's perspective, there has been a semantic shift in the use of the word "offender." However, at Correctional Service of Canada, "offender" means an individual who has contravened a provision of the *Criminal Code (Corrections and Conditional Release Act)*.<sup>40</sup>

Today, the term "inmates" is used less and less frequently in favour of the term "offenders," in part to distinguish between those who have committed a criminal offence from those who have contravened other legislation (security, immigration, citizenship). Because individuals who are incarcerated can be sent there by the justice system, the correctional system and the departments of security and immigration, it is not unusual to see offenders with varying statuses alongside each other. They also benefit from most of the services offered by the institution.

With so many distinctions in how individuals are designated, it was inevitable that the concept of difference would emerge as the marker of the identity for the various offender groups. As part of this terminological evolution, in relation to statuses (Canadian citizen offenders versus foreign citizen offenders liable to be deported at the end of the prison term), the expression "Ethnocultural offenders" was coined. Some call them "ethnos" for short.

Similar to Statistics Canada, the correctional service evolved from a racial stratification (White vs. non-White) to an ethnic and cultural stratification (White, Indigenous, visible minority, ethnic minority). Within each ethnic category lies a diversity of varying cultural groups. These groups stem from nations that are distant from each other and are sometimes the result of a vast mixing of the Canadian multiethnic and multicultural melting pot.

To be clear, this does not mean, for example, that Black people are not all black, but rather, that this semantic category includes a variety of nations, such as Jamaicans, Haitians, Somalians, African nationals, Afro-Canadians from Nova Scotia, etc. Nearly the same cultural distance exists between Black people as it does between Western nations or Indigenous nations amongst themselves. That cultural distance between Black people must be taken into account, even though the issue of "Black crime" and its relation to the correctional system remains identical for all Black people in Canada.

As shown, the concept of Ethnocultural diversity at Correctional Service of Canada is expandable. This polysemic concept can be further defined with the addition of ethnicity and culture to language and religion.

*The two official languages in penitentiaries are English and French (Official Languages Act). Although communication with staff and the administration occurs in either of the two official languages, offenders can*

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<sup>39</sup> La Presse (2011). Bill C-30. Previously Justice Bill. Ottawa.

<sup>40</sup> *Corrections and Conditional Release Act*.

*communicate amongst themselves in their first languages respectively, as long as security rules are followed. This shows that, on a day-to-day basis, linguistic diversity is present on a very extensive scale.*

The table below is a “snapshot” of a picture of ethnic and religious groups, which helps to provide an accurate picture in terms of the current prison populations.

<b>Religion by Race/Ethnicity<sup>41</sup></b>		
<b>Race</b>	<b>Religion</b>	<b>Total</b>
ARAB	Islamic	17
BLA	Catholic	58
BLA	Rastafarian	25
BLA	Islamic	74
CAU	Catholic	2,333
CAU	Islamic	117
CAU	Judaism	23
CAU	None	50
NAI	Catholic	32
INU	Anglican	12
OTH	Catholic	10
OTH	Islamic	12

Religion is an additional factor that contributes to enhancing the concept of diversity. This factor does not carry the same weight from one Ethnocultural group to another. Yet for some groups, such as Arab-Muslims, religion is a fundamental part of the Ethnocultural identity.

What findings can be made? Is it necessary to further qualify or refine the stratification of prison populations? Or, on the contrary, should each offender be seen as an individual, a unique personality, independent of his Ethnocultural identity? Given that prison culture is a reflection of Canadian culture in part, is it possible that the real issue is with relations between the majority and minorities? In other words, in the power relationships between the minority groups, offenders from the majority group, staff and the institution?

Some find that the expression “Ethnocultural offender” sounds wrong in terms of human rights, because it is more likely, in particular, to contribute to labels with negative connotations. This linguistic expression has been chosen over the designation “offenders from Ethnocultural minority groups.” The reason for this is that it was shorter, provided more imagery and was more understandable in both official languages.

In day-to-day living in the penitentiary units, the term “Ethnocultural offenders” refers to minority groups who have unequal bargaining power. They have specific needs, goals and claims to be taken into account.

<sup>41</sup> Dr. Douyon’s reference for this snapshot could not be found. The data may date back to any time between 2011 and 2014.

It is recognized that offenders do not all start out from the same point. They did not follow the same migratory path. Before entering the penitentiary, they had their own experiences in diversified cultural environments.

This gives rise to a compromise in the approach to Ethnocultural offenders: individualization, personalization and contextualization, based on ethnicity and culture as referents. Thus, from a human rights perspective, the principles of equality and fairness are fully respected.

In short, Ethnocultural offenders are a well-rooted reality in prisons. A new outlook on ethnicity, culture and diversity has developed parallel to the emergence of a new and diversified prison population.

## 5. Implementation of Ethnoculturalism

The willingness to regard ethnicity and culture from a new and different perspective at Correctional Service of Canada did not arise by chance. This idea germinated in favourable conditions; the ground was cleared and prepared to welcome it. Consequently, Ethnoculturalism's development benefited from a favourable situation. In difficult historical circumstances, men and women from different backgrounds were able to combine their efforts to take into account the specific needs of the new institutional clients.

### a. **Positive factors**

The School of Criminology at the University of Montréal provided the first opportunity to look at ethnoculture in criminology. The rise in migration to Canada was such that those interested in the topic found themselves in the presence of varied Ethnocultural groups with different traditions and values. As a university for training future managers in criminology, and particularly in a correctional setting, the School of Criminology had no choice but to look at the ethnic shift.<sup>42</sup> (1989)

As part of a training program focussed, in part, on juvenile crime and re-educating youth, the School took over from the institute of psychology, which considerably expanded perspectives on intervention with criminals. As a multidisciplinary institution (psychology, psychiatry, sociology, law, social services, education), the School of Criminology traditionally emphasized the four pillars of intervention: police, justice, youth protection and correctional services. Young offenders and adult criminals, as well as their victims, received special consideration. Criminal personalities, the context of offending, interaction in marginal and deviant settings, criminal and forensic psychology, the impact of sentence duration, the effects of imprisonment and inmates' rights are all examples of themes that served as the basis for courses, seminars, internships, research and publications, foreign missions, and participation in working groups and boards of inquiry.

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<sup>42</sup> Note: This new concept was proposed for educational and methodological purposes by Emerson Douyon for his courses, seminars and research in criminal psychology. (School of Criminology) University of Montréal.

Among the directions taken by the School of Criminology at the University of Montréal, two particular directions were mapped out: (1) comparative criminology that focused on forms of criminality in developed Western countries and in Third World countries (Black Africa, Maghreb, Near and Middle East, Latin America and the Caribbean); (2) The role of ethnicity and culture in relations between cultural communities, Quebec and Canadian society (culture shock, conflict of customs and traditions, shared values and the charter of rights, inability to adapt, deviance and marginality).

From a criminological perspective, two new issues have emerged in the training process for future stakeholders: minorities and crime (relations with police, protection and justice system, correctional environment), and intervention approaches and techniques for Canada's Ethnocultural clients (Indigenous, Black, Latino, Maghrebian, Asian and other ethnic groups).

Courses, seminars, research activities and debates led to the publication of the first French-language academic text on justice and cultural communities. Working with external resources, including anthropologists Guy Dubreuil and Nicole Cardinal, and sociologist André Jacob, professors André Normandeau and I mapped out in this reference book the conflicting relations between Indigenous people, ethnic groups, visible minorities and social control systems in Quebec and in the rest of Canada.

A publication entitled *Justice et communautés culturelles 1991-1995* [justice and cultural communities 1991-95] raised sensitive and relevant questions at the time that anticipated issues in years to come (late 1990s, early 2000s):

1. Are cultural communities responsible for the rise in crime in Quebec and elsewhere?
2. Do the police practise racial discrimination in their daily activities? Do police officers have a racist attitude?
3. In terms of the courts, do legal services employees (judge, Crown attorney, counsel for the defence, administrative and clerical staff) respect the rights of all persons charged, without regard for colour or language? Are the sentences truly fair for everyone?
4. In the correctional system, are inmates from cultural communities being treated fairly? Is conditional release granted less frequently to members of certain communities? (André Normandeau, Emerson Douyon)<sup>43</sup> (1995).

This intense academic activity has had positive effects for Correctional Service of Canada (CSC). This federal organization began recruiting some professionals among the new cohorts of recent graduates from the School of Criminology at the University of Montréal. Then, progressively, criminologists came to comprise a significant part of the management, executive staff and case workers at National Headquarters and in the penitentiary units.

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<sup>43</sup> Normandeau, A; Douyon, E. (1995) *Justice et communautés culturelles?* Méridien. Montréal.

This movement by Correctional Service of Canada to recruit new criminologists began to spread. After Montréal, new university centres for professional training in criminology were created in Ottawa, Toronto and British Columbia. Part of the team of trainers at the University of Montréal migrated and helped expand expertise in criminology to other university cities.

In the end, Correctional Service of Canada would benefit from the “brain drain.” Criminology, like psychology, became the preferred pool from which to recruit professionals. From then on, the psychologists focussed on clinical work and a more “individualized” approach to offenders; criminologists further focussed on management functions and security expertise (criminal profile and dangerousness, prevention of recidivism, relations with the criminal world, crisis management and mediation, gangs and prison culture, preparation for conditional release, community relations).

### **b. Convergence: Continuation of the concept**

Following the traditional relations between the School and CSC, a new era would be introduced thanks to an alliance in Ethnoculturalism. Through a combination of extraordinary circumstances, a convergence was established in the field between myself and former students, now managers at Correctional Service of Canada, in particular, Lucie McClung, a CSC Commissioner, and Marcel Kabundi, Manager, Ethnocultural Services at CSC.

In the late 1980s, to guarantee a balance between young teachers and senior research professors, the University offered the latter an opportunity to progressively offload a portion of their regular academic work. Some professors could take advantage of the privilege of early retirement without penalty and with additional compensation. Consequently, the pyramid of teaching staff ages could be maintained, given Quebec’s Charter of Human Rights and Freedoms and *Youth Protection Act*. As a result, the University would be able to better manage ongoing recruitment of aspiring professors and renew its faculty without adversely affecting the expertise acquired with maturity.

I took advantage of this exceptional privilege and opportunity, and returned progressively to professional practice at the Centre de psychologie René Laennec in Mont-Royal. As I left the University, I had promised myself that I would bring to the public’s attention the major issues concerning relationships between the minorities and society, for example, ethnic minorities and crime, tension and conflict with the police, the progression of minorities in the protection, legal and prison systems. Forensic psychology was my field of expertise. It placed me in regular contact with Legal Aid, child protection services and the courts. I was developing a particular expertise with young immigrants and their families in their run-ins with police and the protection and justice systems. My entry in the Law Commission of Canada and the *Quebec Commission des droits de la personne et des droits de la jeunesse* gave me an opportunity to address the same issues more systemically and from a more legal perspective.

Starting with a vision of criminal psychology, I was able to broaden my horizons in the field of law and human rights. My expertise with visible minorities in particular would occasionally be enhanced by a better understanding of the experiences of Indigenous children, their families and their environment.

My trajectory as a research professor, stakeholder and commission member peaked when I was elected head of the two Correctional Service of Canada advisory committees for Ethnocultural minorities: the Quebec Regional Ethnocultural Advisory Committee (REAC) and the National Ethnocultural Advisory Committee (NEAC). As part of these honorary appointments, I was to accompany volunteers in their visits to the country's penitentiaries.

As part of this professional and cultural volunteering, I was able to re-establish contact with criminologists, Marcel Kabundi in particular, when our respective paths crossed again. For me, things were coming full circle. After working with the Black youth who filled Quebec's youth rehabilitation centres, I discovered the overrepresentation of this minority group in the Canadian prison system.

## 6. My trajectory with Correctional Service of Canada: From institutions in Haiti to Correctional Service of Canada

Prior to making a commitment to volunteering at CSC, before my second career in criminology, in my past life in Haiti, I had discovered the prison system for the first time. As a psychologist, I was tasked by the Haitian government's *Institut du bien-être social* to help remove "street kids" from the central prison in Port-au-Prince. These young "delinquents" as Haitians call them, who served as intermediaries between American tourists and area prostitutes, would sometimes be left to languish in prison, subject to all kinds of harassment and cruelty. These young inmates were released on condition that they undergo a re-education process at a vast reception centre by the sea. I had built a model for this purpose, inspired by the work of Fritz Redl<sup>44</sup> and the work of his followers in Montréal (Noël Mailloux,<sup>45</sup> Jeannine Guindon<sup>46</sup> et al., Orientation Centre). Educators trained hastily and in the field were tasked with managing these new educational resources available to these underage boys.

At the same time, in terms of adults, I had the opportunity to respond to the request of certain defence counsel to conduct forensic psychological assessments of a small number of inmates at the central prison in Port-au-Prince, the Fort-dimanche prison and the Beudet asylum. These three institutions were prisons of ill repute. The Haitian prison system, overpopulated with inmates and mentally ill individuals, all categories combined, was revealed to me in its horrific reality.

Several years later, having become a Canadian citizen, a professor at the University of Montréal, inspector and expert certified by the Ordre des psychologues du Québec (OPQ), I was tasked by the Order to

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<sup>44</sup> Redl, F. Wineman, D. *Children Who Hate*. Freepress 1951. USA.

<sup>45</sup> Mailloux, N. *Jeunes sans dialogues : criminologie pédagogique*. Fleurus. 1971. Paris.

<sup>46</sup> Guindon, Jeannine. *Les étapes de la rééducation des jeunes délinquants... et des autres*. Fleurus 1970. Paris.

explore the possibility of contacting psychologists at Correctional Service of Canada to conduct a routine professional inspection.

When I arrived as an inspector at the Laval penitentiary complex (Montréal suburb), I was kindly informed that the OPQ did not have jurisdiction, because I was on “federal territory.” In light of the territorial ambiguity and jurisdictional imbroglio, my welcoming committee—comprising criminologists and former students—nonetheless facilitated my access, subject to negotiations with the OPQ, which would eventually be successful.

It was during this first professional inspection on behalf of the OPQ that I discovered the daily reality of prison conditions in Canada. I came into contact with a world focussed on security where order, discipline and relative comfort reigned. Behind this screen, how was Ethnoculturalism handled? Separation on a daily basis, priority of human rights, and a harmonious space, or areas of tension, conflict and violence? Unpredictable danger that could arise at any time, out of the blue? My impressions of this first contact with Correctional Service of Canada were perplexing. It was only much later that I would have the opportunity, along with my regional and national advisory committees, to expand on the entire scope and complexity of the correctional system in Canada.

## 7. Reunited with Marcel Kabundi: Project development and shared path

Marcel Kabundi is a high-level jurist-criminologist. Over the course of his career, he has efficiently and effectively helped reinforce ties between the School of Criminology at the University of Montréal and CSC. Through his initiatives and positive activism, his work has helped make Ethnoculturalism part of CSC’s DNA.

Marcel Kabundi’s migratory and professional paths are impressive.

- Magistrate (children’s judge) and law professor in Zaire (Congo-Kinshasa);
- Graduate (M.Sc.) of the School of Criminology at the University of Montréal and researcher with the International Centre for Comparative Criminology, also at the University of Montréal;
- Institutional and community case management officer (Leclerc Institution, Québec, 1987);
- Member of the team responsible for verifying the special needs of Indigenous and Ethnocultural inmates (CSC, 1992-94). The report published by this group was used as the basis for Commissioner’s Directive 767;
- National Manager, Ethnocultural Programs, National Headquarters, CSC (2007-11);
- Lecturer (prison law), University of Ottawa (2010);
- Director, Education Section, CSC (2011);
- Mission in Africa for CSC and the United Nations (2012);
- Author of numerous collaborative articles and volumes the law and criminology in Canada and abroad.

From Black Africa to Canada, the University of Montréal to Correctional Service of Canada in Ottawa, penitentiary grounds to National Headquarters, Marcel Kabundi's career steadily grew. From his modest beginnings as a migrant, he had the humility to return to school to study criminology and law. From Leclerc Institution to senior administrative management (Ethnocultural Services Section), Marcel Kabundi acquired sound knowledge of criminal matters and correctional realities.

"When I joined Leclerc Institution in the Quebec Region in 1987," said Marcel, "I was surprised to discover the existence of a unit commonly known as THE UNITED NATIONS, where all ethnic minority offenders were assigned. I also found that our colleagues were having difficulties communicating when confronted with the various cultures of the offenders. Furthermore, the mediocre quality of language interpretation during some parole hearings could mislead the members of the National Parole Board (NPB) and result in decisions that were erroneous—granting parole or maintaining the detention of offenders."

From this springboard in Montréal, Marcel Kabundi moved on to Ottawa. After briefing the CSC Commissioner at the time, he was recruited to help make progress in Ethnocultural matters at CSC. From his collaborative work with then-Commissioner Lucie McClung and then-Assistant Commissioner, Correctional Operations and Programs, Mario Dion, emerged CD 767, the basis for correctional policies involving ethnic and visible minorities at CSC.

Marcel Kabundi and I had several experiences in common:

- A similar migratory experience (Africa-Caribbean) that prepared us to understand, from the inside, the experience of immigrants, minority groups, their adjustment process, their occasional blunders and their potential dysfunctions;
- Beginning with law and psychology, a shared path in criminology and interest in the fields of crime and prison;
- Development of our professor-student rapport in professional relations in the field of ethnicity and culture.

In particular, I felt that an implicit philosophy of life brought us closer together. Beyond our work, I shared with him a sense of having a mission to complete. Our work with minority offenders among the minorities could be inspired by the school of thought whereby "no one is willingly malicious" and when a human being is in distress; there is always something to be done.

## 8. Pioneers

Ethnoculturalism at CSC did not come about haphazardly. It is not a monumental accident, nor is it the work of one single person. It represents the result of team work throughout a lengthy development process. The highlights of this evolution can be traced back to the following target dates:



**a. 1992: Task force on Ethnocultural diversity**

On June 11, 1992, a task force on Ethnocultural diversity was created at CSC. The mandate and objectives of the group were essentially as follows:

- Report on increasing Ethnocultural diversity in the prison system (demographic profile, site conditions, projections);
- Assess the needs and communication issues that arise with this minority group population (citizens, residents, foreign nationals);
- Consider ways to adapt programs and services to the specific needs and characteristics of the new clients in the country's penitentiaries.
- Raise awareness among staff in terms of the challenges created by the increasing heterogeneity of prison populations;
- Examine the policies to be adapted to prevent and counter racial discrimination in prison settings;
- Analyze employment equity perspectives so that staff members better reflect the Canadian population in general.

Under the leadership of Irving Koulik, Assistant Commissioner, Correctional Programs and Operations, this task force, directed by Odette Gravel-Dunberry and coordinated by Marcel Kabundi, was also to consider the creation of a mechanism to consult with Canada's ethnic and visible minority groups and organizations. The work of this task force, overseen by a steering committee, would later result in the creation of a national Ethnocultural advisory committee at CSC.

**b. 1998: Pre-Consultations**

A broader CSC preparatory meeting was held in Québec City at the Hôtel le Concorde. CSC employees and managers met with a small group of external experts (Canada-U.S.) to introduce them to CSC's operations, programs and services. Marcel Kabundi and his colleagues wanted to hear the reactions of experts from minority groups concerning potential relations between CSC and the Ethnocultural communities. Some professionals, including Bessy Pang and myself, were invited to learn about certain programs that are subject to security and discretion.

The meeting was cordial and included a more social component attended by an African ambassador posted in Ottawa. This was followed by a visit to Donnacona Institution in the suburbs of Québec City. CSC souvenirs were distributed at the end of this historic meeting, which facilitated contact between correctional service staff and managers and representatives from Ethnocultural minorities.

**c. 1999: Creation of REAC (Quebec)**

Assistant Deputy Commissioner Watson from the Quebec Region organized a meeting at 3 Place Laval in the suburbs of Montréal with some 20 individuals, members of Quebec's ethnic and visible minority

communities. The purpose of the meeting was to initiate official contact between CSC and Ethnocultural minorities in the region.

From the first meeting, I was unanimously elected Chair of this group which would be the CSC Ethnocultural Advisory Committee (REAC) for the Quebec Region. I hesitated to accept the role, given my professional and academic activities elsewhere. Given my lack of administrative experience outside of the academic sector and faced with the perspective of entering an unknown world, I felt anxious and unsettled. Pressure from the group citing my expertise with the police, justice and Ethnocultural minorities helped me overcome my resistance.

Consequently, for 12 continuous years (1999-2011), I assumed leadership of the first Regional Ethnocultural Advisory Committee for CSC in Canada. Throughout this adventure, early veterans Giap N'Guyen and José Calderon accompanied me until my resignation as Chair of the REAC. From my personal perspective, it was time to make way for renewal by introducing new blood.

I wish to commend Deputy Commissioner Watson and Réjean Tremblay, his assistant at the time, who accompanied us during institutional visits and ensured that the Committee would have effective access to staff, managers and offenders. Without their assistance, personal involvement and encouragement, the Committee would still be unknown.

Daniel Amini at Leclerc Institution, our man on the ground, equally at ease with volunteers and offenders, all groups combined, made a significant contribution to the operation and image of the committee as role model. Meanwhile, the rest of Canada began referring with humour to the "Quebec model" for CSC consultations with Ethnocultural minorities.

#### **d. 2001: Creation of NEAC – from Montréal to Ottawa**

A small group, which would later comprise the core members of the National Ethnocultural Advisory Committee, met at the CSC Staff College in St. Vincent-de-Paul in Laval, Quebec, in the fall of 2001. I did not personally attend this first meeting owing to illness. Although I had been approached about chairing the committee because of my bilingualism and past involvement at CSC, I initially declined the role. I was kept abreast of deliberations from afar. However, I did agree to become a founding member of this national advisory group. Dr. Jeffers Tobe (Ontario) and Marge Nainar (Prairies) were elected Chair and Vice-Chair respectively. Thus, the NEAC (in English) or CCNE (in French) was established.

A second meeting, larger this time, took place in Ottawa. Commissioner Lucie McClung chaired the first and last deliberations for the three days of the NEAC's work. Surrounded by her key collaborators, Ms. McClung began by reminding everyone that I had been her professor at the School of Criminology at the University of Montréal. She welcomed the Committee to its first official contact with Correctional Service of Canada's National Headquarters. CSC then informed the Committee of the role expected of it: to operate as a national group of expertise on CSC relations with visible minority groups. NEAC did not represent the

voice of NGOs with CSC in Ethnocultural matters, but it was to be representative of Ethnocultural (minority) groups within the prison population.

CSC was already aware of the overrepresentation of certain groups in the country's penitentiaries; however, their needs, ethnic identity, values, characteristics and traditions were not well understood. How could the programs and services provided by CSC be made accessible to offenders from Ethnocultural communities? Which initiatives would serve as a bridge to reinforce relations with their communities of origin? How would we prepare for the safe reintegration of these offenders?

CSC was not only concerned with the increasing proportion of Ethnocultural offenders in the prison population. It also questioned the nature of relationships between these offender groups, other inmates and staff. The issue of overrepresentation also involved staff members from Ethnocultural minority groups. We knew that "federal jobs are not easily accessible to members of visible minorities." We also had to address the issue of employment equity. Staff members who are part of these groups were, consequently, underrepresented at CSC.

To carry out its work, NEAC was to take inspiration from Commissioner's Directive 767 and its terms of reference, which were under development. Those terms of reference, which were to be recorded by CSC and the Chair of NEAC, were debated at this meeting held in Ottawa. These turbulent debates focussed on the points that follow, in particular.

i. Nature of the National Committee

According to CSC, the NEAC is an advisory body in the strict meaning of the term. Consultations with Correctional Service of Canada are held on an ad-hoc basis, depending on needs. It is a volunteer group that does not deal with issues involving monetary compensation. CSC will make available all of the resources needed to accomplish our work (travel expenses, accommodations, meals, communications, stationery, document printing, etc.).

Although the NEAC is a mixed group (managers, staff, professionals, clerical members outside the public service, representatives of Ethnocultural groups), it works independently and autonomously. It is also separate from other advisory committees, such as committees for Indigenous people and for citizens. Everything is addressed from the perspective of ethnicity and culture for ethnic and visible minority groups.

Our mandate seemed well-defined, even though jurisdiction was not exclusive. Other groups or committees are welcome to share concerns regarding gender, religion, language, identity, symbols, traditions and values.

ii. Operation of the National Committee

From the outset, external members of the Committee questioned the terms and conditions of operations for the NEAC. The mandate, objectives or intentions stated by CSC were not completely clear. Many obscure

points would benefit from better definition; too much was left unsaid and not enough explanation was provided concerning CD 767 and the draft terms of reference.

The work of the Committee quickly pointed out the contradiction between what several members sought and what CSC proposed. The Committee realized that the intended model for visible minorities was not the one used by the Elizabeth Fry Society for women. It would not be equivalent to the advisory body for Indigenous people either. It would not have specific budget to allow for authorized management of Ethnocultural clients.

The Committee would not, at any time, be a substitute for CSC. Rather, it would serve as a source of free expertise, a mechanism for volunteer help. In terms of the day-to-day management of Ethnocultural affairs, CSC sets the pace. This appreciable consultation mechanism, activated as needed, would be both near and far.

CSC's original message was not without its difficulties. Representatives of the ethnic and visible minority communities demonstrated varying levels of distrust directed at CSC. Some participants from Nova Scotia in particular, apparently marked by their past relations with CSC, appeared defensive. We concluded that, in terms of Ethnocultural minorities, CSC perhaps did not have the means to match its ambition. Even though CSC seemed to have good intentions, members from the visible and ethnic minority communities started asking questions.

- Were we to act as volunteers or unpaid workers? The distinction was not apparent.
- Were we considered to be professionals or experts?
- Would we be perceived as spokespersons for Ethnocultural offenders or as an echo of the concerns in their communities of origin?
- Did CSC wish to improve its image in the media or place itself firmly at the service of ethnic and visible minorities?

Those questions about the mandate, role and resources of NEAC were never clearly answered. They would dominate the initial debates and later work. Several members resigned because they had the impression that our deliberations were circular. These difficult beginnings weighed heavily on the evolution of NEAC. It was only beginning in 2005-06, with the restructuring activities at National Headquarters and the National Advisory Committee, that we were able to make a new start, with:

1. the appointment of Marcel Kabundi as manager of CSC's Ethnocultural Services Section;
2. the election of Emerson Douyon as Chair and of Marge Nainar as Vice-Chair of NEAC.

In retrospect, 11 years later, looking at the issues and challenges, and looking beyond the rumours, barriers, resistance regarding territories and acquired rights (programs, services, staff-offender relations), two facts remain and dominate CSC-NEAC relations:

1. North American-style urban volunteering culture versus a tradition of solidarity more compatible with the history of Ethnocultural communities in Canada;
2. Disagreement between Canadian society and the Black minorities reflected in terms of the police, justice and prison system.

iii. Instruments for implementing Ethnoculturalism at Correctional Service of Canada

1. *Commissioner's Directive 767: Ethnoculturalism 101 – initial driving force*

Traditionally, the Commissioner issues directives. Directives cover such matters as Indigenous people, ethnic and visible minority groups, women, violence and substance abuse in the institutions. These are part of the Commissioner's prerogatives. They strive to mark out certain sectors and factors associated with crime or likely to affect its emergence, development or severity. These are not the direct causes of crime, but rather intermediary variables.

When the Commissioner wishes to draw attention to or emphasize such connections, he issues an individual directive identified by a series number. Thus, CD 767 is known as the directive that covers issues involving ethnicity and culture at Correctional Service of Canada.

CD 767 could be considered the first action that provided the initial driving force when it was issued. I view it as a courageous and visionary gesture that was to introduce new practices associated with prison diversity. Offenders from ethnic and visible minority communities, drowning in the mass of offenders, were recognized as having an identity with specific needs and specific traditions without denying them their fundamental rights. It was not a reflex to promote the concept of differences from as opposed to similarities with the majority.

As an instrument for implementing Ethnoculturalism, CD 767 was well-received from the outset. It helped project a modern image of Correctional Service of Canada. Giving a voice and a place to minorities was consistent with the democratic model sought by CSC and Canadian society.

Accordingly, CD 767 established the conceptual bases that encouraged the creation of Ethnocultural advisory committees at both the national and regional levels. However, although this instrument paved the way for discussions with the Commissioner, it was established in a context of authority. Although it was intended for the ethnic and visible minority groups, it did not set the tone well for direct dialogue within a joint committee such as NEAC.

Developed in a silo and in a theoretical manner, CD 767 contained obvious weaknesses and shortcomings that would be quickly revealed in practice on the ground. Until 2011, it had never been openly challenged by external members of the Ethnocultural advisory committees. It was the official vision, the seal of authority in a very hierarchical structure. However, these committees could rely on this instrument to engage CSC managers and staff.

Having personally seen CD 767 applied for more than six years as a volunteer, I can attest that this extraordinary instrument was not well-known or publicized at the outset. However, it could have made a difference if it had been fully applied; yet, this was far from the actual case. During our visits to the penitentiaries, we noticed fairly quickly that the message was not easily transmitted from the executive level to managers and staff on the ground. Some leaders among the offenders had heard rumblings about this Commissioner's Directive that involved them. They would eventually have access to it in order to make their claims with the authorities involved.

The example of the Quebec Region speaks volumes in this regard. We knew from the outset that each Region at Correctional Service of Canada is independent. What we discovered as Chair of NEAC and REAC (Quebec) was the extent to which this regionalism could be exacerbated on occasion. In this perspective, each penitentiary unit comprises, in itself, a territory with its own history and traditions. Each territory seemed to represent a stronghold with its own culture, management practices and *modus operandi*.

It was not surprising that in this context, CD 767 imposed from above and from afar, was more difficult to implement in some areas. Born of controversy, moving through invisible barriers and obstacles, CD 767 gave rise to a discreet defensive strategy. Like any general rule intended to bring normative change of a certain scope, CD 767 had both its detractors and defenders.

In short, resistance would have to be overcome on several levels. The Ethnocultural advisory committees would have to address that point. They found themselves in an uncomfortable position between the messenger and the recipients.

It was not difficult, from that point on, to understand why CD 767 took so long to produce meaningful and visible effects, despite that fact that it was relevant, current and modern. At first, CD 767 appeared to be a theoretical model for implementing Ethnoculturalism. It was the plan that preceded the operations. Were the expected results monitored? Only time would reveal whether the achievements were consistent with the targeted objectives and logistics put in place to succeed.

## *2. Terms of Reference as founding Act*

Commissioner's Directive 767 led to the production of a second instrument for implementing Ethnoculturalism. Referred to as the Terms of Reference for CD 767, they represent a code of ethics for members of advisory committees rather than instructions for using CD 767. Contrary to the CD, which was prefabricated, then imposed, the Terms of Reference were the result of joint work between CSC and NEAC.

These Terms of Reference served as the basis for negotiation at the outset, then as markers for defining how the Ethnocultural advisory committees would carry out their work. They were prepared by

Commissioner Lucie McClung and Dr. Jeffers Toby, the elected Chair at the time, on behalf of the NEAC members (2001).

The Terms of Reference dealt essentially with the mandate of the National Advisory Committee, its composition, operations, and frequency of meetings based on the Commissioner's agenda and members' availability. Although neither NEAC nor REAC were ever obligated to produce results, every opportunity was taken to remind Ethnocultural advisory committee members of the need to direct their actions toward volunteering, based on the good faith of partners.

However, some qualified Committee members acted as national experts knowing that other international experts were also approached to legitimize, for example, Correctional Service of Canada programs. The issue of conflicting expertise was occasionally raised with regard to ethnicity and culture. Who was in the best position to conduct relevant program assessment in this regard? The Programs Branch? CSC's program committees? National or international advisory committees? This issue of balancing programs from an Ethnocultural perspective has never been satisfactory for everyone.

Rather than wasting time and continuing its ideological opposition to CSC in the area of programs, the NEAC tried, finally, to forge an alliance with CSC. The most important issue in the deliberations was to try to achieve concrete results on the ground, in the units.

#### iv. National Ethnocultural Advisory Committee (NEAC)

This committee was never elected by the cultural communities across the country. Consequently, it did not represent the official voice of these communities, even though most of its members were from designated Ethnocultural groups. The only known criterion for selected external members was their community involvement with minorities represented in the prison population.

Because the other members represented Correctional Service of Canada (the Commissioner and some managers from National Headquarters), the committee was actually a joint committee. It was to represent a space for dialogue between CSC and Ethnocultural groups. This national committee was also responsible for coordinating advisory committees for CSC regions in Canada, namely the Quebec, Ontario, Pacific, Atlantic, and Prairies Regions.

Ensuring that this disparate group was united was quite a challenge. Resignations, departures and the renewal of Ethnocultural members in particular greatly transformed the face of the Committee. Only a hardened core survived the first ten years of the national committee's existence.

In parallel with its four annual statutory meetings, the NEAC and CSC organized a series of conferences and symposiums on various academic themes in most major cities in Canada (Montréal, Toronto, Vancouver, Halifax, Moncton, Saskatoon, and Edmonton). These meetings often provided an opportunity to raise awareness among the public about major issues surrounding incarceration for ethnic and visible minorities.

However, a large part of the national committee's activities were dedicated to touring certain major institutions in the country. For individuals outside of the prison system, these units represented the "hidden face" of Correctional Service of Canada. "For the love of God, what are you going to do there?"

These were sometimes the questions, tinged with anxiety and curiosity that we heard. How were we to respond? As professionals ethically interested in offenders and victims? As members of an Ethnocultural group overrepresented in the penitentiaries? Or as volunteers who feel a certain empathy for human distress?

We were able to make extensive observations about the prison settings during these periodic visits. We met with managers, professionals and officers responsible for security, evaluation, and program and service delivery. Small groups of Ethnocultural inmates, delegated by their respective associations, came to speak to us about their needs, issues, trajectories and aspirations.

In order to bridge the gap between Correctional Service of Canada and the cultural communities from which these inmates hail, community visits were organized by the Committee in certain ethnic neighbourhoods. As a result, strong contacts were established with the Black communities in Halifax, Toronto and Montréal. To a certain extent, a few other communities were also contacted (Sikh, Mi'kmaq, Métis, Greek, Latino, etc.) to understand the overall issues, the similarities and differences in relationships between the Ethnocultural minorities, Indigenous communities and the correctional system.

v. Regional Ethnocultural Advisory Committees (REACs)

1. *Evolution of the Quebec model: projects and initiatives (best practices)*

The regional advisory committees did not have specific, clearly defined mandates until 2010. With the exception of the Quebec Region, these committees existed virtually. They were to align with the National Committee by highlighting their own specific characteristics in the regions. Several attempts were made, particularly in Toronto and Vancouver. As a consequence of regional militancy and infighting, some Ethnocultural committees were unproductive for years. Recently, however, some initiatives and "best practices" projects have been reported (report: Johanne Vernet, CSC, 2011).

The regional committees began in the Quebec Region. With the dynamic team in place in the CSC Quebec Region and the use of numerous community resources available, a Regional Ethnocultural Advisory Committee was created. This committee, following the lead of the National Committee in terms of composition, quickly became a reference for its homogeneity, volunteerism and stability. A solid core comprising of one representative from the Haitian community (myself), one representative from the Salvadorian community (José Calderon) and one member of the Vietnamese community would ensure the continuity of the Committee, from its founding to 2012.

During these past ten years, the REAC Quebec has had highs and lows, depending on the circumstances. However, the originality of its structure and operations quickly led to its designation as the "Quebec model."



In addition to Correctional Service of Canada executives, representatives of the Parole Board of Canada and the Citizen Advisory Committee, the Committee included a wide range of Ethnocultural communities. No specific Ethnocultural group tried to impose itself or interfere with the balance of the entities present.

From the outset, the Quebec REAC understood the need to operate outside of the silo. The Committee had its “man on the ground” and could maintain constant communication with inmates in the units or in the community. Daniel Amini, who played this historic and pivotal role, worked from Leclerc Institution by ensuring close ties with the other units.

Along with Daniel Amini, other veteran members of the Committee (such as Jocelyne Simon) played an important and instrumental role in organizing REAC’s numerous activities. These activities, designed in accordance with an annual organizational plan, included the following:

1. Monthly meetings, held mainly in the Correctional Service of Canada offices at 3 Place Laval, the regional penitentiary units and the community correctional centre at Décarie Square in Montréal.
2. Extended visits to the major federal penitentiaries in the Quebec Region, including Donnacona, La Macaza, Archambault, Drummond, Joliette, Sainte-Anne-des-Plaines, Cowansville, Leclerc, Federal Reception Centre, etc. During these visits, the following were examined: site configuration, workshops, classrooms for programs, and inmate quarters and rooms. Meetings were held with staff representatives and representatives of small groups of offenders on various themes such as safety, ethnic gangs, tensions and conflicts, intercultural mediation and relations with communities of origin, etc. A far cry from superficial visits, these meetings went to the core of the problems experienced by the various Ethnocultural groups.
3. Academic conferences and community forums on certain problems, issues and challenges shared by CSC and Ethnocultural groups. These periodic meetings and debates in Montréal, which included professionals, ethnic minorities and Correctional Service of Canada staff, gave rise to interesting exchanges on various themes. For example:
  - a) Deportation of non-citizen offenders at the end of their sentence (Greek community centre, Côte-Ste-Catherine, Montréal, April 2003).
  - b) Public safety: the look of Ethnocultural communities (Côte-des-Neiges community centre, Montréal, March 2009).
  - c) The prison setting and Ethnocultural communities: expanding or closing the distance (Hôtel Universel, Sherbrooke Street East, Montréal, November 2009).
4. Strengthening ties with certain Ethnocultural communities interested in the issue of ethnicity and culture in the prison system. Various communities, including the Greek, Haitian, Latino and Arab-Muslim communities collaborated regularly with the Regional Committee on a wide range of activities, such as conferences, community meetings, participation in recreational programs, national celebrations and special days like anti-racism week and anti-discrimination week, under the leadership of José Calderon, Nguyen and Daniel Amini.

5. Monitoring relations with the Parole Board and community corrections, meeting with commissioners, participation in the Board's sessions, meetings with former inmates on supervised release.
6. Interviews and group discussions on minorities and Correctional Service of Canada (Radio-Centre-ville, Radio Haïti, Radio McGill, Centre communautaire latino, Maison d'Haïti).

All of these REAC activities have had an impact in the Quebec Region's Ethnocultural communities. They all shared the same objectives:

- a. Determine how Correctional Service of Canada, its agencies and the Parole Board of Canada take ethnicity and culture into account;
- b. Serve as a bridge between Ethnocultural offenders and their respective communities, in accordance with the spirit of Commissioner's Directive 767.

vi. Correctional Service of Canada's Ethnocultural Section

Correctional Service of Canada's recently created Ethnocultural Section (2006) was established to handle the administrative management and implementation of Ethnoculturalism in the penitentiary units. Limited from the outset in its evolution because of reduced staffing (three people, including a national head, an assistant and a secretary), this minimalist organization with a symbolic budget managed to survive and develop thanks to the numerous support resources.

These resources came from the various CSC branches, penitentiary units, the Parole Board of Canada, Canadian Heritage and agencies with an interest in promoting Ethnoculturalism at Correctional Service of Canada. The lack of funding certainly created major barriers, but with the dynamic nature and creativity of Marcel Kabundi, the first national head of the Section, and his immediate collaborators, a true synergy emerged, to dedicate all available resources to the Ethnocultural "cause" at CSC.

It is surprising that a small team with modest means was able to achieve such positive results within a relatively short period. In addition the organizing conferences and symposiums of high academic standing; ensuring remarkable media contribution to CSC's newsletter, *Let's Talk*; and strengthening ties between CSC and Ethnocultural minorities, the Ethnocultural Section provided a series of "spin-off" products to the community. For example:

- a) Text on Ethnocultural resources at CSC (see D. Bilomba).
- b) A guide on using an Ethnocultural approach to training offenders (Karibu).
- c) A book on intercultural conflict mediation in the penitentiary units (see D. Bilomba).

vii. Discontinuity versus continuity

In recent years (2009-11), many events have taken place and given rise to a review of directives at Correctional Service of Canada. Did it suggest a break with the past? Discontinuity of policies and practices? Or continuity of a promising line of thought concerning Ethnoculturalism? Given these events, all of the partners (CSC, CSC's Ethnocultural Section, the National Advisory Committee, the regional committees) felt drawn in from various perspectives.

The following is a chronological account of these historical facts.

1. *A boost from the Parliament of Canada: House of Commons Resolution*

Further to strategic activities with influential members of the Parliament of Canada, the House of Commons resolved as follows, after committee deliberations:

“That this House take note of the importance of the contribution that the Ethnocultural communities make to the prevention of crime, social reintegration of offenders and rapid growth of safer communities and that it recognize the need to ensure every means and resource to allow police departments, the Correctional Service of Canada, the National Parole Board and the Ethnocultural communities to respond better to the new needs of the increasingly diversified offender and prison population.”

This parliamentary motion drew attention to the needs of Correctional Service of Canada in particular. It did not seek to change legislation. It was submitted as [translation] “a strategic tool to help obtain financial resources, for example” (based on the presentation by myself and Luketa M’Pindou at the meeting of the National Ethnocultural Advisory Committee, held May 31 to June 2, 2007, in Moncton, NB). It provided a glimmer of hope that funding would be unblocked for the development of Ethnoculturalism at CSC.

Further to the motion by the Parliament of Canada, NEAC felt it was appropriate to express its satisfaction to the office of the Honourable Marlene Jennings, P.C., M.P. A letter dated May 24, 2007, from the Chair on behalf of the Committee reads as follows:

[translation]

“The National Ethnocultural Advisory Committee (NEAC) is aware of the notice of motion presented by Marlène Jennings on behalf of the Standing Committee on Justice and Human Rights as well as the positive outcome of the House of Commons vote that took place on February 28, 2007. The NEAC, as a partner of the Correctional Service of Canada, is particularly sensitive to the fact that your committee highlighted the important role that contributions from Ethnocultural communities play in preventing crime, reintegrating offenders back into society and the need to make every effort (in terms of resources and means) to better respond to the new needs of a significant portion of the offender and inmate population, which is increasingly diverse. The NEAC expects that this historic motion will have a positive impact on the Correctional Service, its partners and Ethnocultural communities. (Letter to the office of the Honourable Marlène Jennings, House of Commons. Ottawa, May 24, 2007).

2. *Toronto Symposium: Creating inclusive institutions for public safety (March 27, 2009)*

This symposium was a key moment in the development of the National Ethnocultural Advisory Committee. At that time, the NEAC was experiencing a small internal crisis. Lacking resources, forced to spin its wheels from one meeting to the next since 2001, the NEAC decided to take action. Believing that it had come to a turning point in its relationship with CSC, the National Committee, after deliberations, formally requested

that, I, its chair, review the evolution of the NEAC since its creation in 2001 and provide an overview of the situation at the time.

The following results were presented during a special session at the symposium on March 27, 2009:

### 9. Review and overview by Chair Emerson Douyon

Based on my contact with inmates and staff at Correctional Service of Canada, my connections with representatives from the Quebec Region's Ethnocultural communities, the three consultants' reports we heard yesterday and the reactions from communities represented here, I have come to certain conclusions.

- a) The field work conducted by these three independent consultants (Guy Leblanc, Anna Chiappa and Tim Mills) thoroughly confirm the Ethnocultural Advisory Committee's summary as it appears in meeting minutes, its consultation reports and its letter to the Commissioner of Correctional Service of Canada. It was subject to a methodological validation based on external criteria.
- b) Based on all the data available, the following can be stated:
  1. Correctional programs are not adapted to Ethnocultural realities, as opposed to those for Indigenous, who seemed to be given preference in many ways.
  2. Persistent prejudice among staff results in offensive comments, stereotypes and favouritism. These daily manifestations of racism breed distrust, misunderstanding and insecurity in everyone. Staff racism is reflected among the inmates. Communication is blocked by a lack of understanding of the other's culture.
  3. Inmates complain about health and hygiene products and food which are inappropriate for the needs of Ethnocultural groups, particularly those with a religious orientation. Ignorance of other cultures is a significant irritant.
  4. Language barriers limit accessibility to correctional services and programs.
  5. Inmates are unaware of their rights and the possibility of exercising them. The grievance system does not work. It is paralyzed by fear of reprisals and trouble obtaining access to the Office of the Correctional Investigator.
  6. Procedures for the initial intake of inmates must be revised and brought up to standard with respect to ethnoculture.
  7. Overall, staff does not reflect the general population or the prison population. Its homogeneity tends too much toward power relations disguised by security.
  8. Diversity is increasing. The over-representation of certain groups, particularly Black people, may become a major problem, a crisis even.
  9. There are a few signs of Ethnocultural progress. They are too tenuous, too dispersed and too slow despite the best intentions shown. CSC underestimates the obstacles and resistance to real change.

10. The offender is sometimes the breadwinner in disadvantaged families: what alternative resources would prevent a slide from poverty and illiteracy toward forms of marginality and deviance? Access to and the diversification of CORCAN programs are called into question.
11. CSC is not sufficiently concerned about the repercussions of the eventual deportation of a segment of its clientele.

There is a consensus emerging on the following key points. Priority must be given to:

1. completing the creation of regional Ethnocultural committees;
2. placing Ethnocultural coordinators in all regions and institutions;
3. tying liaison officers permanently to the institution and the community;
4. creating a critical mass of staff to represent Ethnocultural minorities;
5. making CORCAN more accessible and tailored to Ethnocultural diversity;
6. providing human rights and intercultural relations training to staff and offenders;
7. building bridges with communities by increasing contact with businesspeople, NGOs and minority group leaders;
8. creating a prison setting more favourable to the offender's return to his or her family, neighbourhood and workplace;
9. tailoring correctional programs more to cultural diversity and the particular case of eventual deportees;
10. creating more ties with immigration and countries of origin for successful reintegration strategies.

What about the three fundamental questions asked at the beginning of the symposium yesterday?

1. Is the Correctional Service proud of its product? Can it provide an eventual employer with a guarantee? Has the inmate changed?
2. If so, do others believe this change? Will they continue to be afraid and reject them because trust has been broken?
3. How can the community assist the offender finalize the change process?

There is no answer today any more than yesterday. Someone in the audience was right to quote Nelson Mandela when he said it is easier to change things than to change oneself. Be careful of the signals we send to offenders. That is the price of his or her reintegration or re-offending.

### **a. Correctional Service of Canada Review Panel**

In letters dated April 25, 2007 and May 10, 2007, the CSC Review Panel formally addressed the National Ethnocultural Advisory Committee to request its cooperation in fulfilling its terms of reference. These terms of reference included reviewing the Correctional Service of Canada's standards, practices and procedures.

Although there is no mention of the Ethnocultural reality in a correctional setting in its terms of reference or objectives, the CSC Review Panel decided to expand the scope. Following a working lunch with the Chairperson, Robert Sampson, and the members of the CSC Review Panel in Moncton, the National

Ethnocultural Advisory Committee sent a formal report to the CSC Review Panel. (Ottawa, June 27, 2007).<sup>47</sup>

An assessment of correctional programs from an Ethnocultural perspective:

### **b. First period of reflection**

Following an extended series of visits to correctional institutions across the country, numerous contacts with their respective staff, interaction in the field with diverse inmate and former inmate groups, we will endeavour to personally reflect upon group correctional programs.

Before we begin, we would like to quickly point out that the objective of these programs is to change the offender, that is, to modify his or her behaviour, attitudes, values, perceptions, relationships with others and with the surroundings. In other words, to change the negative to the positive, look beyond appearances or cosmetic changes in order to reach all levels of the human being.

This requires a multifactor vision of the offender. The only one taken into account in the apparent behaviour (acts committed in the past, conduct in correctional context, confessions and reluctant acknowledgments, simulated contrition and repentance) is not enough. The marginal, deviant or criminally structured conduct must be acknowledged and organized in a larger Ethnocultural framework.

An “Ethnocultural offender” has different roots, a different trajectory, a different destiny than his or her peers based on the types of encounters with schools, police, juvenile justice, the prison system in Canada, and the institutions in his or her country of origin. Understanding and changing this type of offender requires on our part a comprehensive and more nuanced restructuring of the institutional approach or the philosophy of change in the correctional setting.

In my opinion, four conditions are required for this type of change:

- a) An evolutionary and interactionist perspective on offending: The offender is the final product of an assembly line. There is something in the individual who is to become an identified offender what he or she was born with and the contribution of peers in the environment. Only the hazards of the existential meeting of others results in a criminogenic potential becoming a reality and developing. Be it individual delinquency being incorporated into a larger structure or group criminal activity committed by gangs, our objective is the criminal activity of youth from minority ethnic groups and their trajectory in the correctional environment.
- b) The issue of change in the offender: Everyone can be considered a person for him or herself (self-image), a person for others (projected image) or an interacting person (self-image as modified by the person’s environment). Which of these dimensions of the person do we want to change in the offender? Must we use cognitive, behavioural or systemic human science approaches or

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<sup>47</sup> Ibid.

philosophical or religious meditation techniques? We agree that the offender is a client, not a patient, although in many cases, this has yet to be shown. Whether he or she victimizes others, we are keenly interested in that compulsion to reoffend, that repeat mechanism.

- c) The critical impact of Ethnocultural diversity on the corrections system: Canada is currently characterized, in particular, by the following traits:
1. The persistence of low fertility.
  2. The growing weight of immigration, which is changing the face of the country.
  3. From one census to the next, a marked increase in the percentage of people born abroad, people whose mother tongue is neither English nor French, people belonging to visible minority groups (*Employment Equity Act*).
  4. These rapid changes are primarily seen in large urban areas in Canada (Vancouver, Toronto and Montréal), which attract most new arrivals and where they are concentrated. New projections on the diversity of Canadians (2006 to 2013) carried out by Statistics Canada on the initiative of the departments of Canadian Heritage, Human Resources and Skills Development, and Citizenship and Immigration, confirm these trends in the rapid evolution of the Ethnocultural population. In short, based on the micro-simulation model (Demossis), the following are the Ethnocultural diversity projections for the thirty-three metropolitan areas and the rest of the provinces and territories for the next two decades: Three out of ten Canadians could belong to a visible minority group in 2031, and that percentage could be twice as large in the greater metropolitan areas of Toronto and Vancouver. Without prejudicing the increase in delinquency and incarceration rate based on migratory waves, we can presume that the prison population will change dramatically within fifteen to twenty years. Correctional Service executives are aware of these data. Has the specific impact on correctional programs been sufficiently measured further to the Motiuk report on this topic?
  5. Making a case for a new programming vision: change. In most “developed” countries in the West, there are two main currents for stakeholders of all stripes who want to help someone change.
    - a) The analytical orientation following in the footsteps of Sigmund Freud, his colleagues and disciples. The focus here is on the psyche, the unconscious, speech, as the preferred means of an individual’s expression.
    - b) The behaviourist or cognitive-behaviourist orientation, which involves conditioning and de-conditioning. This is the focus outside the medical/psychiatric domain.

Whether they use an individual, family or a more systemic approach, the behaviour “modifiers” relate in some way to these two main orientations, insofar as they are used exclusively on a proximal population (preferably a white, middle-class population). However, those who were trained in the “West” and who practise in other Ethnocultural contexts or on mixed-race, Diaspora populations, quickly understood the need to re-do their classes.

Following these new intercultural meetings, these types of stakeholders realize that in order to be taken seriously by their clients and to achieve a minimum of effectiveness, they had to turn attitudes on their heads. Behavioural change methods must be adapted to these populations based on local practices and traditions. They learn to emphasize bodies, the extended family groups, spaces which are more often symbolic and mythical than real. They also find that the individual's problem is a collective problem first. The latter expresses itself through its symptoms, social ills, marginalities and deviances, the indisposition of its entire group.

This relatively new school of thought makes sense for migrants and their descendants who remain faithful to or support these traditions through three generations.

### **c. Second period of reflection**

I will discuss a proposed template of programs being developed, not on a specific, existing program. It will be the principles on which an adapted content and appropriate pedagogy could eventually be based. It will be an overview from the perspective of criminal psychology and transcultural studies. My job will be to see how we could develop a new approach to stimulate reflection and eventually end up with a program template for adapting to the increasingly diverse prison population.

In order to build this new program, a specific number of parameters must be verified in relation to the management of the prison diversity. It is most commendable that the Correctional Service takes the needs and expectations of Ethnocultural groups into account even before new correctional programs are launched.

#### *Context*

We know today that most young offenders leave their life of crime behind when they are around 18 years of age. This reverse is not, however, the rule for everyone. Those who continue include repeat offenders, tough types, those who have decided to see their criminal trajectory to the end. A small number of these persistent offenders commit most of the criminal offences reported (Fréchette, M., Leblanc, M., 1987). These identified criminals share a few traits, such as those described by Samuel Yochelson and Stanton Samenow (1976, 1984). These individuals do not, however, fall into mutually exclusive fixed categories. They are not on the whole specialized for life in a specific type of crime. They are crime generalists (Cusson, M. 2005), who build bridges from one category to another depending on the circumstances. This is the "polymorphism" of criminal careers (Fréchette, M, Leblanc, M, 1987).

Researchers note that truly maladjusted offenders differ in terms of neuroses or psychoses from those who act alone and occasionally commit crimes. Offenders by choice tend to associate with criminal peers in order to make their activities more efficient and profitable. This propensity to join a group encourages the formation of gangs to pool profits, knowledge, experience and expertise. (Perreault, M; Bibeau, G)



We were struck by how young, dynamic, and confident the inmates we met and associated with, and with whom we had lengthy discussions during our many encounters in the penitentiaries in Canada, as well as by their defensive and demanding approach. We do not doubt their psychological distress; it is masked by a misleading appearance. To an outside observer, they are far from the stereotype criminal: a man who is always violent, impulsive and aggressive. There are no obvious signs that they have lost control of their emotions. They know how to act and bluff. Their calmness is even rather surprising.

However, criminologists (Kherfi, Y; Le Goaziou, V, 2000, Chantraine, G, 2004) as cited by Maurice Cusson, gave us an otherwise more picturesque portrait of certain prisons: inmates swapping tips and tricks; thieves exaggerating their feats and expanding the network, defrauding and ripping off their fellow inmates and fighting among themselves for drug stories... In reality, prison is a crime school teeming with scheming large and small hoodlums. Do Canadian penitentiaries escape all or some of these aspects of prison culture? It would be very dangerous to attempt to answer such a question with any certainty.

Since Michel Foucault (1975) and Jean-Paul Sartre (1952), we know that starting when the individual is introduced onto the grand stage of judicial theatre, so begins the offender manufacturing process. An individual who committed a crime enters a penitentiary. An offender exits. Courts provide penitentiaries with offenders undergoing changes, semi-finished offenders. The penitentiary completes this manufacturing process by producing a new being who will confirm his or her appointment or designation through others, based on the comments of Foulek Ringelheim (1982).

In a telling example, when I congratulated an inmate at Donnacona Institution on the item he had just made, for learning the new techniques involved in a new trade which would later assist in his reintegration into society, he told me that he is a thief, that he was born a thief and that he will die a thief. This inmate, who spoke in such matter-of-fact terms, made me think of Genet, of whom Jean-Paul Sartre said that he was not only a thief when he was stealing, but he was also a thief when he eats, sleeps and kisses his foster mother.

This offender at Donnacona Institution holds onto his identity as a past, present and future thief. He is fundamentally a Québécois, who is incidentally an occasional thief. He can also be a father, a craftsman, a potential community leader, a future businessman. Why would he reduce himself to a single dimension of his personality when he could see himself becoming something else? Paradoxically, a program, for example, for fraudsters can contribute to pigeon-holing them as fraudsters, who are unable to escape their fate. We risk making permanent what is accidental or passing in some people.

## 10. Programs

### **a. The objectives to be sought in order to change an offender.**

In our opinion, the issue of change in the offender is less about the outward behaviour than the development and structure of the personality and fundamental values. How can the mistakes made one

day, occasional errors of judgement, be prevented from becoming permanent, individual destiny or negative self-images? There are several competing schools of thought in this regard in criminology. We will identify the following main questions without developing them:

1. What change must be effected in the offender? Behaviour? Personality? Values?
2. How can cosmetic changes be avoided by targeting "the inner person," the person hiding behind the mask of circumstance?
3. To understand and assist the offender, must the causes of his or her offences be identified at the risk of simultaneously providing him or her with pretexts or excuses?
4. Must some insight into the criminal be sought by exploring his or her past which may lead to repeat offending?
5. Must he or she be made accountable by using punishment and rewards often by simplifying the complexity of things?
6. Is it realistic to address the mental or cognitive aspects, not emotions?
7. Must the image of a passive victim be replaced by that of an individual who actively victimizes others?
8. Must more effort be made to try to break in him or her the old "criminal thought" processes and archaic behavioural patterns?
9. Did the offender deliberately choose crime, through calculation and strategy, with forethought, adaptation, feedback or eventual corrective adjustments or did he or she strike randomly depending on his or her opportunities? Did he or she develop a preferable option for marginal friends, a deviant context, a sanctuary territory to defend, a partying and risky lifestyle which in the end, always results in failure?
10. Is his or her alleged choice a series of events where the interplay of variables is so complex that it is impossible to separate the descriptive facts from intellectual constructs, the circular causality of carryover effects, conscious and subconscious determinisms of rational justifications?

### **b. Cultural pluralism and the prison setting**

Generally speaking, criminology theorists base their theories on research, investigations, and observations of national majority groups. They do not take enough into account the massive presence of new groups of offenders from cultural minorities in prisons. Aside from the fact that it changes the prison setting, this new datum forces us to rethink offenders' issues from a cultural and an ethnic standpoint.

In the opinion of Albert Jacquard (1978, pg.206), because of our superficial need for intellectual comfort, we break everything down into types and make judgments based on conformity to type; but isn't diversity an asset? Instead of viewing diversity as a problem we don't have the proper tools or methods for, think of it as an additional feature or dimension for testing the validity of our assessment and policy instruments.

A Canadian penitentiary is a microcosm which increasingly represents the meeting place of cultures. Nationals from these cultures speak different languages and live in different sensory worlds, to borrow an

expression from Édouard T. Hall (1979, pg.15). We must learn to understand how ethnic groups filter the environment using different senses, and how they communicate using “silent messages.”

The senses of smell and touch, respecting intimate distance, direction of gaze, pitch and modulation of voice, tolerance of crowding, organization of space around oneself, relationship over time, and communication intensity are all “proxemic structures,” which must be taken into account in the handling of cultural differences.

These differences are undoubtedly not always visible. They are part of the “hidden dimension” of our basic personality. They underlie our culture which is our mode of production, thought, world view, code of conduct, relationship and values systems, resulting from a learning process in the opinion of René Mokoukolo (1979). But culture is never a closed, rigid system. It is open to external input from discussions and modulated by social cleavages. The relationship to culture differs depending whether it is seen as a place of origin or experience in Diaspora. (See in this regard the interesting article by ethnologist Denis Cuche, 1998).

Given the composite and changing nature of culture, how can the issue of cultural diversity be addressed from a methodological standpoint when developing new correctional programs? According to Georges Devereux (1972), who cited Henri Poincaré, if an explanation is accepted for a phenomenon, there will also be other explanations as capable as the first to clarify the nature of the phenomenon in question. When studying man, it is not only possible, but mandatory; to explain conduct already explained one way, to also explain it another way, that is, using another system of reference.

The psychological explanation does not necessarily contradict the sociological explanation. Similarly, the behaviourist standpoint does not exclude an Ethnocultural perspective. They are two complimentary perspectives, which are valid within their respective frame of reference.

Other researchers before me have asked themselves the same questions concerning the effectiveness of the correctional system in modifying criminal behaviour in general. It has become a “running gag” in some criminological contexts to wonder whether:

1. Do corrections correct? Answer: no;
2. What works in rehabilitation programs? Nothing, says Martinson (1974).

Criminologists’ findings on the successes and failures of correctional programs have no doubt raised questions or calls for the findings to be put into perspective. They were passed along with observations from the inmates of Ethnocultural origin we met with during our professional visits to the sixteen penitentiaries across the country. The overall trend is dissatisfaction with the programs these inmates struggled to navigate.

The following is a summary of the criticism Ethnocultural offenders had of the programs in prison:

### 1. Objectives

These inmates say they know that the purpose of correctional programs is to change them. However, they had several reservations about these programs:

- They think that the programs are designed more to protect the public. That is another approach which must not be confused with the philosophy to bring about real change.
- This program places too much emphasis on the criminal mentality to be changed and not enough on problems in life unrelated to crime. They would be treated as “accidental things,” not their real problems.
- Staff is not interested in what is behind their crimes. They place the inmates’ original ethnic identity, their cultural traditions and values in quotation marks. They hide the normal aspects of their personality behind their criminal behaviour. As one inmate said about the attitude of staff, you are a criminal first and that is what interests us.

### 2. Content

From the inmates’ standpoint, there is no Ethnocultural perspective when programs are launched. The programs should be more specific or tailored to the cultural diversity of minority groups. They could better reflect the needs and concerns of the various categories of inmates.

Black inmates in particular say there are of none of their traditions or values from their home environments or their ways of expressing themselves emotionally, physically or behaviourally, or their spiritual orientation.

### 3. Motivation

The inmates claim they would be extremely motivated to participate in correctional programs despite being skeptical about their effectiveness or their potential for effecting any real changes in them. They take these programs because it is cost-effective: they facilitate access to services and privileges. They find the Correctional Service’s approach to motivating them to take these types of programs too negative. The lack of personal choice and the unavailability of some desired programs in another language affect their level of motivation. Instead of forcing them to take limited or standard programs, they should ask what programs they would like in keeping with their needs and expectations, both as individuals and as members of minority groups.

### 4. Instructional methods

Staff should be more familiar with the original cultures of the inmates in various ethnic minority groups. This would prevent some stereotyping and prejudices, and negative attitudes which are harmful to intercultural harmony. The inmates claim they want to change and see staff assist them in this process. They would also like to change at the same times as those around them in their day-to-day interactions. They suggest holding workshops to discuss in small and mixed groups: correctional officers and Ethnocultural inmates would learn more about themselves and communicate better in an atmosphere of mutual respect.

## 5. Programs

According to inmate groups, programs arrive too late in their institutional journey. A number of offenders would be encouraged to take them near the end of their incarceration in order to prepare themselves for possible conditional release. Supposed result: staff would not have enough time to assess the changes in or progress made by the inmates.

### **c. Prerequisite conditions for new Ethnocultural programs**

Most existing correctional programs are based on a behavioural approach: they postulate that certain aspects of crime can be learned and unlearned using an operant conditioning approach. However, these programs remove culture, which is a hidden dimension of personality. Behind criminal offences and activities, there are attitudes, beliefs and values which are modulated by culture. Individuals do not express their distress, emotions, feelings, needs and desires the same way in all cultures.

Consequently, all programs should have a specific cultural component based on ethnic groups. This Ethnocultural approach would likely cast a different light on a new diversity management philosophy in prisons. This approach is in keeping with the nine parameters that John Lewis (1985) drew up to guarantee the success of a correctional program. In his opinion, there are counselling techniques that work with Asian people, others with White people, Black people.....given the cultural background or cultural orientation of the various groups involved. In addition to being more intensive and skillfully provided, the programs should have multiple facets and not be based on a single model.

In our opinion, we are convinced that ethnicity and culture are not the same problems as drug addiction, alcoholism or spousal abuse, for instance, are problems. Instead, they are frameworks within which these problems can be examined. In other words, they are categories or filters which can help us with the assessment, orientation, treatment and reintegration of inmates. Any program restructuring project in an increasingly diversified prison setting should take these new parameters into account. This means that we are not asking for a specific program for each group. We are asking for "culturally sensitive" programs that can accommodate various groups, taking the overall cultures into account, the similarities and differences among cultures, specific features, such as psycho-cultural invariants. (E. Ondong-Essalt, 1998).

At some point, we may have been talking about Haitians and some Indigenous thought we were talking about them! There is no doubt that traditional cultures in the South and North have more in common than we thought. The extended family, parenting, community approach, a child being perceived as the village's child, seeking a consensus, unconditional respect of elders, healing circle, oral tradition, mythical concepts, incantation rituals, spiritual mediation, culture of the dead, etc., are some of the cultural traits shared by Black and Indigenous communities in Canada.

In our opinion, if new correctional programs are to meet the expectations of this diverse clientele, they must be created using a specific number of principles:

1. A correctional program should reflect the prison population concerned, that is, aligned with the “overall cultures” represented in the institution;
2. It must not endeavour to automatically adapt to the majority group only. There should be room for reasonable accommodations with the values of the minority groups in a pluralistic environment, in keeping with charters of human rights and multicultural standards.
3. It should reflect a minimum knowledge of the basic requirements and restrictions, that is, the cultural codes in effect in certain cultures. Proverbs, myths, rites and ritual practices found in all societies, provide a good idea of the basic philosophy, cultural orientation, rationale for certain behaviour.
4. The program is a text without context. The program must be used to personalize the intervention as well as the cultural “background,” migratory history, trajectory in the correctional environment, life context in Diaspora.
5. For those who will be deported at the end of their incarceration, the focus of the program should be the home environment: emphasis on reintegration abroad, survival mechanisms, the re-appropriation of the new cultural space and its networks, re-offending prevention using the proper tools, enhancing the business sense as part of a reconversion of civic and community values.
6. The program should be based on the Ethnocultural intervention model, some distance from the traditional model: a program officer from the majority group who teaches a small, diverse group using a program focused on the values of white, middle-class North Americans. The new general criminality program should be given by three individuals: (a) a program officer from the majority culture; (b) an individual representing the culture of origin or same cultural area as that of the offender; (c) an individual representing a nearby or distant cultural area likely to be used as an interface between the culture of origin and the host culture. The main idea is to diversify both the container (cultural format) and the content (values, needs, interests and concerns of the minority groups).
7. The objective of this model is to transform the program meeting into an intercultural dialogue during which each inmate may feel valued, particularly if he or she can occasionally speak his or her mother tongue. Remember that the program officer is a central figure whose impact on the program cannot be ignored. In order to properly play his or her role with minority groups, he or she must delve into the cultures of others to facilitate discussions. Never underestimate how useful even a very basic knowledge of the other person’s language can be in thawing a relationship and de-escalating some attitudes. This step toward the other person is a sign of empathy which paves the way to contacts.

## 11. Conclusion

I would like to finish with what I consider a fundamental issue in the development of a new prison program: by introducing culture as a new key to approaching offenders, can we hope to radically change individuals in the long term or create a better intercultural climate within penitentiary walls?

In response, I will let you reflect on the following: the proposed intercultural approach is complementary, not exclusive. It also involves differences and invariants in the human condition. When we think of our offenders and their friends in crime, we cannot help wondering, even when culture is taken into account, how their behaviour, personality and fundamental values can be changed. The wise words of Saint Augustin spring to mind: I see the good, I approve of it, but I am bad...

He studied human nature and passed on this cautionary principle above and beyond knowledge of human science.

Everyone who studies correctional programs with a view to modifying existing programs or creating new ones using different parameters must bear in mind that human beings are as diverse as they are deep.

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### **b. Relations with staff**

Commissioner's Directive 767, as amended on June 26, 2013, specifies that the National Ethnocultural Advisory Committee (NEAC), "advises the Commissioner on CSC's efforts to obtain a workforce representative of the diverse Ethnocultural population." The Regional Ethnocultural Advisory Committee (REAC): "assists CSC in raising awareness on issues relating to multiculturalism, including employment equity and discrimination in the workplace." (CD 767, para. 12-13)<sup>48</sup>.

In the spirit of Commissioner's Directive 767, we focussed not only on the programs and services provided to minority group inmates, but also specific issues, such as staff relations (security officers and change agents), employment equity issues (hiring, promotion and reserved competitions). We took a three-pronged approach to our examination of Correctional Services staff: quality of inmate relations, staff professionalization and diversification. Since the first prong has already been addressed during our visits to the institutions, we will focus here on the other two aspects associated with the issue of staff relations with Ethnocultural offenders.

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<sup>49</sup>NOTE: The advantage to this amended directive, which resulted from broad consultations, is that it contains the basic concepts and the distribution of roles and responsibilities.



### **c. Staff professionalization**

History reminds us that Canadian penitentiaries started out in a military context. Relations between guards and inmates were essentially power relationships. Gradually, thanks to new integrity based values, respect of human rights and professionalization, the security guards' role changed. They became corrections officers who had taken the Correctional Training Program (CTP) on line and in classrooms (Staff College, training academy). Above and beyond monitoring offenders, maintaining order in penitentiaries and other detention facilities, they were required to acquire other technical knowledge, such as:

- first Aid, CPR;
- legislation and policies;
- handling firearms and chemical agents;
- fire safety, self-defence;
- arrest and control techniques;
- suicide prevention;
- crisis management model, etc.

In addition to correctional officers, the correctional world grew enormously with the addition of diverse human science specialists. Aside from psychologists focused on clinical work (assessment, therapy, opinions on behavioural issues, such as isolation, suicide attempts, repeat offending), there were social workers (relations with families, the community, etc.) and criminologists.

Based on a study conducted by the *Association des services de réhabilitation sociale du Québec* (2011) on the evolution of Canadian correctional staff, criminologists started working at CSC in the early 1960s. Considered first as classification and conditional release officers, the criminologists were quickly seen as “guardian angels” that played a support role for inmates. They worked alongside the offender in the penitentiary through to social reintegration. Then the terminology and role changed. From an assessor the criminologist became a case management officer who worked to prepare the inmate for conditional release and a return to the community.<sup>49</sup>

Using a “broader” vision of the penal system as a result of their cross-training, the criminologists became “grid analysis” and “risk management” specialists in the 1980s. The societal changes resulting in more emphasis being placed on security played a big role in the evolution of criminologists' role at CSC. This evolution, due in part to the progress of new criminology, could only benefit Ethnocultural offenders.

### **d. Staff diversification**

Staff diversification at CSC went beyond professional levels. It also involves the issue of employment equity in the federal public service. Is the public service representative of the diversity of Canadians? Is there discriminatory bias against minority groups? In its preliminary findings, the Standing Senate Committee on

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<sup>50</sup> Roy, Jean-Yves; Cusson, Jean-François (SCC). File “50 ans de criminologie au Québec : impacts sur le Service correctionnel du Canada au Québec” in *La Porte ouverte*, vol. 24, no. 1 (2011), Association des services de réhabilitation sociale du Québec.

Human Rights (2007) wrote that: “Employment Equity in the Federal Public Service: Not there yet.” In the very words used in the report, the so-called public service is a “closed shop.”(2007)<sup>50</sup>

This confirms the public’s worst fears; confirms the trends that it has known for years. Based on Treasury Board’s annual report (2013), progress toward equity is 8 to 8.1%. Once again, a large gap must be closed before true employment equity in management is achieved in the federal public service.

As the second largest employer in the public service, what is the status of the Ethnocultural issue at CSC? The Correctional Service is all too aware of how difficult it is to enforce equity, which is provided for in three statutes:

- the *Employment Equity Act* - four designated groups (Indigenous peoples, women, persons with disabilities and members of visible minority groups);
- the *Canadian Human Rights Act* – prohibited discrimination based on characteristics such as race, religion, marital status, sexual orientation;
- the *Public Service Employment Act* - recommends flexibility in the hiring of members from the four designated groups in relation to organizational needs.

Despite the recognized benefits of workforce diversification (innovation, development of different approaches based on different perspectives and leveraging all human experience), it took a long time to overcome obstacles. Hence the reason for highlighting a comment from an employee from an Ethnocultural group on CSC’s website: “I think it is hard for members of the mainstream culture to understand the disadvantages faced by minority groups when it comes to hiring practices. All else being equal, people tend to hire people that look like them, and right away that puts someone who looks like me at a disadvantage.”<sup>51</sup>

We were often struck by this reality during our visits to the institutions. Visible minorities are increasingly becoming over-represented in penitentiary populations while these same minorities are under-represented in Correctional Service staff. However, Ethnocultural offenders themselves, all groups combined, are the first to call for staff diversification in order to assist them in improving their intercultural relations in prison. Has the “equity gap” been closed at CSC as a result of all the reforms implemented by the new correctional administration? There is hope based on the progress made. For example, steps have been taken to encourage offenders to self-identify Ethnoculturally and guarantees have been made that treatment will not change as a result of this process. It should be clear that the real issue here is the representativeness of staff given the increasingly diverse prison population. What has been accomplished for Indigenous in this regard should be applied to all minority Ethnocultural groups.

Similarly, CSC is to be commended for “reserved competitions.” These competitions were held to facilitate and activate the recruitment of correctional officers from visible minority groups. The National Committee as

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<sup>51</sup> Senate of Canada, Standing Senate Committee on Human Rights. *Employment Equity in the Federal Public Service – Not there yet*, February 2007, Ottawa.

<sup>52</sup> Quote from CSC’s official website. *Employment Equity and Diversity*. 2012.

well as the Quebec Regional Committee were involved in these competitions (promotion, structuring questionnaires and interviews) to take into account Ethnocultural pluralism. Were these competitions held more than once? Were candidate lists published with success rates? Did candidates who passed the exam stay on the waiting list or were they in fact recruited by CSC? These “reserved competitions” must be tracked on a regular basis to ensure adequate transparency in the hiring process for visible minorities. Otherwise, there is the risk that the very concept of employment equity will remain vague, ambiguous and too extensive to achieve the intended purpose.

# Part II

## Part II

# The Canadian prison environment and specific issues

### 1. Prison Environment

Repeat offenders discover that the justice system is like an obstacle course. On their journey, they successively encounter the police, the child protection system, youth court, adult justice jurisdictions, provincial jail and the federal penitentiary. However, another system inherent in prison culture runs through the criminal justice system—“indiscipline management,” which falls under prison or penitentiary law. Alongside the rights of the guards and security officers are the rights of the inmates subject to disciplinary systems. There is also a grievance table, which is the responsibility of disciplinary boards (See: Kabundi, M., 2006 and M. Jendly, 2002), for the development and technical aspects of this penitentiary law.

In short, penitentiaries are not lawless environments. In some internal justice cases, the inmate is even entitled to legal counsel. The inmates maintain that ultimately, they can always appeal to the ombudsman, or “correctional investigator,” as well, for protection against “possible reprisals.” During one of our visits to a penitentiary, an inmate told us that “[translation] from the first day, as soon as you come through the doors,

you have to let others know who you are. In other words, you have to ‘show your colours.’” Those who are not affirmed from the outset risk getting trampled underfoot and having their rights violated.

It is true that “prison culture” has its distinguishing characteristics:

- Affirmation of self in relation to a group identity (Inmate Committee)
- Tendency to form mini-societies
- Hierarchy to ensure dominance and submission
- Consensus of hostility towards staff
- Cult of secrecy: “loyalty to fellow inmates”
- Deterrence of informing
- Symbolic language or code
- Prison jargon to cover illegal acts
- “Prisonization” or acculturation to the traditions of the environment

However, the presence of these various forms of adaptation to the penitentiary does not necessarily mean that there is a climate of general anomie. This entire “in-house justice system” is regulated by the *Corrections Act* and rules based on the *Charter of Rights and Freedoms* (CCRA – 1992).<sup>52</sup> One of the special features of this “internal justice” system is “intercultural mediation,” which is an original initiative of Correctional Service.

In an increasingly diversified prison setting, it is to be expected that the various subgroups, with their standards, values and specific traditions, would occasionally come into conflict. How can they resolve these differences amicably through crisis prevention rather than resorting to reprisals?

Correctional Service has developed a mechanism that could serve as an alternative dispute resolution model. Using the basic notions of conflict, crisis, stereotypes, prejudices, ethnocentrism, prison subculture and restorative justice, it provides a method of managing conflict between inmates on the one hand, and those inmates’ interactions with staff on the other.

Within the penitentiary context, intercultural mediation emphasizes the importance of the cultural factor in managing conflict resolution. An adequate knowledge of the differences between the cultures involved and effective techniques for overcoming the barriers to intercultural communication are key to creating a winning human relations situation.

In the preface to this manual for guiding professionals and trainers in the prison setting, we deemed it important to reiterate Kurt Lewin’s contention that “the group to which an individual belongs is the ground for his perceptions, his feelings, and his actions.” In order to understand and resolve a conflict between parties with different cultural referents, it is important to take into account their “life space,” reference group

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<sup>53</sup> “Offenders retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted,” *Corrections and Conditional Release Act*.

and affiliations. An alternative to the justice system within the penitentiary requires an understanding of the terms of the relationship through contextualization.

Despite the reality of prison culture imposed on all offenders, Canadian penitentiaries have particular problems associated with demographic diversity. Besides the long-standing overrepresentation of Indigenous offenders (Inuit, First Nations...), there is an overrepresentation of Ethnocultural offenders involving emerging groups such as Latinos, Arab Muslims, Asians, Blacks (African-Canadians, Black Nova Scotians, English-speaking Blacks from the Caribbean, and French-speaking Blacks from Africa and the French West Indies). For every problem, there is a corresponding concept and tradition of criminal justice.

In Canada, these various directions coexist with or are juxtaposed against the “White justice” of the majority. Correctional Service reflects this pluralism: in some Canadian penitentiaries, such as La Macaza Institution (Montréal – Hautes Laurentides), or in Vancouver, space is shared for rituals and common activities within the same institution. Two particular problems (among others) tend to mark the direction of criminal justice in Canada—the Indigenous issue and the problem of Black offenders in federal penitentiaries. The Correctional Investigator’s recent investigation<sup>53</sup> (see 40th Annual Report of the Office of the Correctional Investigator) intentionally focused attention on these two issues in the context of the changing demographics of Canada’s penitentiaries.

A brief review illustrating the main stages of these two issues will provide an understanding of the overrepresentation of these two minority groups in the penitentiaries.

## 2. Specific Issues

There is relevance for a parallel discussion about Indigenous peoples. Why discuss Indigenous peoples in a paper on cultural minorities and the prison system, the reader may wonder. It is true that, traditionally, Indigenous people were excluded from discussions about minorities, as though Canada’s Indigenous peoples were a special case that had to be kept separate from the issue of Ethnocultural minorities.

However, a reading of the reality suggests a far more convergent observation. “When you talk about Black people,” Indigenous people say, “We often get the impression that you are talking about us.” The problems experienced by our respective communities are so similar and our spiritualist approach to the realities of daily life evoke elements of shared history and future prospects that are similar yet at the same time different.

First, where are you speaking from and what knowledge do you have of Indigenous realities from the perspective of a member of Quebec’s and Canada’s Black community? How can a different view of a

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<sup>53</sup> Correctional Investigator, Ottawa, November 26, 2013 – The 40th Annual Report of the Office of the Correctional Investigator was tabled in Parliament today. The report contains a special focus on ethno-cultural diversity in corrections.

“Black person from the South” help in understanding the relationships between “White institutions” (police, justice, prison system) and Indigenous communities?

### **a. The Indigenous issue**

There are two parts to the Indigenous Issue: Inuit justice north of the 38th parallel and Indigenous crime.

Inuit justice: We now know that before the Europeans arrived in Canada, Indigenous peoples (Inuit and Cree) had their own conflict resolution system. They had no words in their language for “justice,” “guilt,” “sentence” or “incarceration.” They had their own list of offences, and it did not correspond with that of Western justice (NFB 1980 – documentary on White justice).

Once the factual question was settled (did you do it – yes or no?), the offender’s degree of closeness to or distance from the group was settled. The conflict resolution system was essentially based on each individual’s place in the community and on restoring equilibrium and social harmony. Repairing the harm done to the victim was central to this mechanism.

When the Inuit encountered the “White justice” from the South, with its system of repression (police, prosecutors, circuit court rituals), they experienced serious culture shock, made all the more traumatic if an offender was taken away to a “southern jail” such as provincial institutions: Amos, Abitibi or Port-Cartier.

Indigenous crime: The problems associated with the Indigenous nations or “First Nations” are known and well documented: abnormally high rates of suicide, homicide, alcoholism, drug addiction, and spousal and sexual abuse. In short, an examination of life in villages far removed from the large urban centres reveals that all of the indicators of family, social and economic dysfunction are negative. (Royal Commission on Aboriginal Peoples, Ottawa, 1996)<sup>54</sup>

The profile of Indigenous crime, the over-representation of Indigenous offenders in the criminal justice system, institutionalization and the revolving-door syndrome associated with Indigenous offenders who spend more time incarcerated and return to prison more frequently, are historical, complex and multifactorial realities (inadequate living conditions, lack of education, cultural alienation, disconnect from the traditional justice system, discrimination, dispossession, abuse and mistreatment of youth in reform schools, violation of land rights, family breakdown and dissolution of the Indigenous identity).

Referring to such a situation—one often criticized by Canadian human rights organizations—an observer of the Indigenous scene once asked, “[translation] Before asking what they did, let us first ask ourselves what we did to them....”

On the other hand, this intercultural meeting between “White justice” and other facets of delinquency was an opportunity to advance law and the justice system. New concepts, such as Indigenous law, circuit courts, a justice system adapted to the people’s needs, restorative and collaborative participatory justice,

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<sup>54</sup> Ibid.



justice committees, diversion, mediation and healing circles present alternatives to traditional criminal justice.

### **b. National Ethnocultural Advisory Committee (NEAC) and the Indigenous issue**

The following facts led the National Advisory Committee to focus on the Indigenous condition in penitentiaries:

1. We saw one another during penitentiary visits, conferences and forums, so we eventually started working together.
2. Participating in certain group therapy sessions.
3. Attending certain family meals (Vancouver) as observers.
4. Being invited by the Mi'kmaq chief (Moncton) to speak at the NEAC.
5. Discovering shared paths in the justice system and the prison system.
6. Observing similar phenomena of over-representation in the court cohorts and in the prison population. Beyond the figures, hidden in the anonymity of official statistics, day-to-day discrimination no doubt exists.
7. Questioning by virtue of the fact that cultural minorities and First Nations share the same status as ethnic and cultural minorities. Even though the historical conditions that explain their journey across the land and the method of contact with the majority differ, the fact remains that, in the case of visible minorities, their status within the population goes back to the same position of groups that are racialized and lack power.

### **c. Conclusion with regard to the first of the two cases**

Now that we have taken a brief look at the Indigenous situation and the prison system, we conclude this allusive discussion with the following questions:

1. Is it relevant to include the Indigenous situation at penitentiaries in a discourse on Ethnocultural minorities in penitentiaries?
2. Should similar problems be dealt with in the same way or differently?
3. The two cohorts of offenders (Indigenous and Black) have elements of common history. Both have the status of racialized categories, even though social and cultural distance varies from one group to the other. Should we stop dealing in silos with Ethnocultural and Indigenous offenders because there are more commonalities than differences between these two groups?

**Final observation:** CSC and NEAC should therefore consider building bridges between these communities of origin within Correctional Service.

- a. The Black issue
  1. *First component: Quebec Region*

The problem of Black offenders in federal penitentiaries was not a chance discovery on the part of the National Ethnocultural Committee. This problem is the second-largest among the racialized minorities at Correctional Service. We were afforded the opportunity of a special visit to the Donnacona Institution. The Black Inmate Committee wrote us a special letter inviting us to meet with them to discuss their problems, needs and staff-related grievances. The Committee decided to spend an entire day at Donnacona Institution, meeting first with all of the staff in the morning and then with the inmates in the afternoon. What was at issue? The offenders wanted to talk to us about their relational problems with staff. They wanted to inform us that they could not communicate among themselves because this communication was intercepted by staff, while staff complained that the Black offenders in particular used a non-verbal language that was difficult to decipher. When asked to help staff decipher this secret, non-verbal language, the Committee refused on ethical grounds.

The second part of the day was spent with Haitian offenders, whose complaints were essentially the following:

1. They felt abandoned by their own relatives, friends and the Black community. One offender bitterly complained that his own mother had abandoned him. If my own mother has abandoned me, he said, who will remember me? We later found out that this mother had not abandoned her son, but could not bear to see him in the penitentiary.
2. The Haitian offenders complained that they were not understood when they expressed their culture. They explained to the Committee that Haitians love noise and interacting through games. Some games occasionally involve role play within the group—the winner stands up, sings and dances Haitian-style to booming music that really bothers the other offenders from other cultures. They also yell back and forth to each other, creating a disturbance for those in the immediate area. The loser has to wear either a special cap or a nasal device that is called *bois lan nin* in Creole. The twofold objective of this role play is to designate a winner to the group and humiliate the opponent or loser through a penalty imposed by the group. This typically Haitian role play provides a look at an important aspect of Haitian culture as contributing to prison culture.
3. The communication issue. Haitian offenders would like to continue to communicate freely among themselves without interference from staff. In short, crisis management between Haitian offender groups and penitentiary staff concerned not only communication, discipline and leadership problems, but also the issue of recreation in the penitentiary. This day in the life of Black offenders at Donnacona Institution was a powerful moment in the National Committee's experience at the institution, and one that made us realize that beyond the issue of over-representation of young Blacks at the penitentiary, it is clear that there are other issues that are equally important. The penitentiary staff therefore informed the Committee that the real issue with the Black offenders essentially consists of managing conflicts with this group. Actually, Correctional Service's problem with the Black group at the penitentiaries (Donnacona Institution, Leclerc Institution, or any other institution) is the Black offenders taking power within the penitentiary. Although prison administration staff are well aware of the issue of Black over-representation, they did not anticipate how the

Black offenders would be grouped at the penitentiary. We know that in the United States, Black offenders are separated from the other inmates, not because of a tradition of racial segregation, but because when Black offenders were put together, there was concern over certain negative effects such as strengthened leadership, reassembly inside the penitentiary of gangs from the outside, interference with the penitentiary's disciplinary system, and reinforcement within the group of certain negative influences. Canada seems to have drawn from this American model and practises a policy of concentrating Black minorities as opposed to diversifying minority groups in the penitentiary. Despite appearances, this is not racism or racial segregation, but rather an aspect of prison policy that favours grouping along cultural and ethnic lines. In no way does it constitute a departure from the *Multiculturalism Act* or the *Charter of Human Rights*.

Our visit ended with group feedback on this day in the life of this institutional unit:

1. Before going to Donnacona Institution and to other units such as Cowansville Institution, we had heard of gangs such as C.D.P, the Beaux Gars, the 67s, Master B., Bélanger and O.G. These gangs were characterized by the fact that they existed outside the prison walls. For the first time, we were given the opportunity to see gangs interacting in prison, in a secure environment.
2. The problem of gangs in the penitentiary was summed up as follows, from the staff's perspective: it would seem that, for the penitentiary administration, street gangs represent a threat. The question is how to manage such a threat to ensure the safety of the environment.
3. What approach should be taken in working with these young offenders on a daily basis?
4. These young offenders do not want to hear anything about managing and resolving conflicts between staff and inmates, claiming that it is difficult for them to approach staff and sit down to talk with them. This is a major irritant for staff. There are about 20 inmates who can sometimes take up to 80% of the staff's time. Moreover, the number of incidents is increasing, not only between the gangs, but also between staff and the gangs. Here, everyone works together. While the penitentiary does not support colour-based groups, young Haitians defend the homogeneous nature of their group and their membership in the Blacks-only Omega group. The administration promotes unity and harmony and dislikes ghettos. Gangs bring in outside conflicts.
5. At Cowansville Institution, the Beaux Gars and the C.D.P. formed without staff noticing.
6. Most of these offenders are young; how can they be reached? This Black population in the Donnacona section of the penitentiary system includes about 60% of Haitians and 40% of Jamaicans. They are difficult to approach; how can they be motivated? These young people fought organized battles and had problems with authority in juvenile detention at the Rivière-des-Prairies facility. An effective solution to this problem would be to identify and use their positive leaders.

7. In short, Donnacona Institution is three penitentiaries in one. Even though the Black inmates have succeeded in forming their own separate culture, they still come into conflict with staff over recreation, for example. They complain about being restricted to indoor soccer, while the others (“the Whites”) can play hockey and volleyball outside. They claim that the only explanation they are given is that “those are the rules.” They find this conduct arbitrary, rigid and racist.

## 2. *Second component: Ontario Region*

To reiterate, there are three components to the overrepresentation of Black offenders in the prison setting: Quebec, Ontario and Nova Scotia (Halifax). Here, the problem takes a different form. In the Quebec Region, the issues centred more on incidents with the police.<sup>55</sup> In Ontario, there was a broader relationship between racism and the administration of justice, which is why the report by the Commission on Systemic Racism in the Ontario Criminal Justice System<sup>56</sup> focused on allegations of racism at every stage of the administration of justice (police, courts, probation, case law, criminal sentence, incarceration and parole).

The results of this systemic investigation confirmed the fears of Black people concerning the system and its relationship with racialized minorities. This report underlined what Stephen Lewis had already observed with regard to the condition of Black people in Ontario. According to Lewis, who authored a study on racism in Ontario, discrimination against Black people is more prevalent than discrimination against any other minority. The following findings were contained in the report by the Commission on Systemic Racism in the Ontario Criminal Justice System:

1. Correctional workers are as influenced by stereotypes or as likely to favour punitive goals as anyone in society.
2. Although the rules are strictly framed, prison discipline is highly discretionary.
3. Prisoners insist that correctional officers punish Black prisoners, more frequently, more severely and for less reason than White prisoners. ...On the other hand, based on a small exploratory study, in punishing Black and White prisoners at selected Ontario institutions, staff used the power to punish differently against White and Black prisoners.
4. The availability of such broad discretion provides greater opportunities for racist attitudes to influence decision making, with adverse consequences for racialized communities.
5. In terms of parole, it is harder for racialized prisoners to get permission for temporary absence; they apparently inspire less trust for accompaniment and are less prepared to face the Parole Board. During a Parole Board hearing, they may be questioned more extensively.

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<sup>55</sup> Commission des droits de la personne du Québec. Comité d'enquête sur les relations entre les corps policiers et les minorités visibles et ethniques. (1942). See documentary *Tout le monde en parlait*, Radio-Canada, 2015.

<sup>56</sup> *Racism Behind Bars: The Treatment of Black and Other Racial Minority Prisoners in Ontario Prisons: A Community Summary*, Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (December 1995).

### 3. *Third component: Nova Scotia (Halifax) Region*

We made the following observations based on the claims of the African Black Inmate Forum (ABIF) (report on the Springhill Institution community forum):

1. There is a state of distrust and anger among Black inmates towards the correctional system.
2. Black Nova Scotians are apparently disappointed with regard to their formal approach and would expect more action on the part of the penitentiary administration.
3. There is no clear response from CSC to the over-representation of Black inmates. The community is having difficulty in getting across to the authorities the condition of Blacks in the penitentiary system and the changes they are undergoing in Halifax.
4. They are demanding programs that are better adapted to their culture, crime prevention, training and rehabilitation.
5. Upon reflection, Black crime in Halifax is an unknown quantity, owing to lack of appropriate research.
6. We wanted to understand the connection between the problems of this small community and the condition of young Black people in the penitentiary system. This community with its well-integrated identity is representative of Black Nova Scotians. They have a stronger spiritual connection to Black Africa. The community that we visited was displaced from Africville, a community formerly located on the outskirts of Halifax.
7. In 1840, the Black people were forcibly evicted from the city of Halifax and resettled in an isolated area of Halifax called North Preston.
8. The Black community has very bad memories of this forced emigration and resettlement at a location segregated from the rest of the area.
9. Living conditions in this small Black community show traces of colonization and bear witness to its survival, reflecting a thinly disguised neo-colonialism in Canada. This underdeveloped living environment is a breeding ground for delinquency and crime.
10. This Black community represents a microcosm that is more transparent, less complex and easier to read, though not to decipher.
11. Relations between these Black youths and the police and the justice system are distorted by their living conditions.
12. It is easy to understand the relationship between a traumatic, collective past event (the great displacement) and current living conditions and poor treatment by neighbours and authorities on a daily basis.
13. Halifax's Black Museum (Black Cultural Centre in Dartmouth) provides a good summary of the trajectory of this Black community, which suffered a historical and systemic human rights violation.
14. With no educational means or technical skills, these Black youths of Halifax face a future that seems closed and unfortunately leads to delinquency and crime. What is more, they are evolving within a criminal justice system that is not adapted to their needs and traditions.

A quick look at the condition of Black people in relation to the police, the justice system and the prison system clearly reveals Ethnocultural affinities not only with Indigenous people, but also with Black

Americans and African Canadians. Just as there is an Indigenous condition in relation to the system, there is also the problem of the position of Black people in relation to the justice, protection and prison systems. Our Halifax visits differed from our visits in the Quebec and Ontario Regions in that they were always very emotional. From the tour of the Black Museum, to meditating and pausing to reflect on the Africville memorial, to seeing the small Black community's school and recreational equipment, we could not help but shed a few tears, and in a departure from their routine, the National Committee members experienced a feeling of silent protest and indignation rise in spontaneous empathy with the Black community of Halifax.

Out of this came the following questions:

- Is the condition of Black offenders in federal penitentiaries in the Quebec region the same as that of Black offenders elsewhere (United States, Toronto, Halifax)?
- Is over-representation the only problem that Black offenders have in common with other racialized minorities?
- First of all, what is the reason for this over-representation? Is the issue individuals, minority communities or the reactions of the majority?
- Are reactions such as aggressiveness, hostility, the propensity for conflict and the inclination towards violence—which underlie the violations, offences and crimes—part of the DNA of certain racialized communities?
- Can such reactions be attributed to a past of slavery, to the effects of colonialism that currently distort the interpersonal relationships between these minorities and the majority on a daily basis?
- Or is it conditioning to the institutional protection and justice systems that typically produces an overreaction to the problems of racialized persons in our environment?
- What casts suspicion on this problem is the fact that Indigenous people (First Nations, Métis, Innu and Inuit) differ from one another. However, in the case of Black offenders, the response of the majority institutional community remains the same, despite the fact that they come from different cultures and dissimilar environments. What is behind this paradox?

Last, the problem of over-representation of young Haitians in penitentiaries is similar to the problem of Africans (Somalis) in Ontario's criminal justice system and of African-Canadians in Halifax (hence the need for greater vigilance with regard to how these racialized groups are dealt with throughout the criminal justice process, from questioning to arrest, appearance to judgment, trial to sentencing, and the prison path). Although Ethnocultural offenders are partially responsible for their contacts and their treatment within the system, it will eventually become necessary to determine the corresponding responsibility of the community for pushing them into prisons as a result of its indifference or hostility to the problems of the racialized groups.

Towards the end of the day, the Committee clearly understood that we were not dealing with isolated individuals, but with a specific prison culture that had relationships with other Black groups such as BIFA and ONYX.

Before that day at Donnacona Institution, the Committee had prior knowledge of the Black gangs neighbouring other gangs: an academic study by myself at the University of Montréal had been conducted with the assistance of a gang leader with his entourage. The purpose of this study was to compare Black gangs in Montréal with those in Toronto. The results were surprising. We observed in particular a very clear desire to distance themselves from the Black community, on the pretext that none of the Black community leaders had stood up to help them confront racism, particularly racism on the part of the police and the justice system.

They felt that the community had been too quick to abandon them to the system, resulting in the well-known problem of drifting into crime among these youths.

Like the other racialized communities (Indigenous and Black), they were obviously aware of the problem of their community's over-representation in the prison setting.

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### 3. Inmate needs and reasonable accommodation: Perceived application limits, adverse effects and abuses of multiculturalism

Different cultures tend to interact and conflict with each other wherever they coexist, hence the need for intercultural negotiations. This principle also applies to relationships between penitentiaries and Ethnocultural offenders. This issue is of particular concern to us in determining the needs of this offender class and in evaluating these inmates in a neutral and objective manner.

To our knowledge, no academic studies have been conducted on the specific needs of Ethnocultural offenders because little attention is attached to their cultural traditions and there is a lack of interest in the matter among staff at certain penitentiaries. However, we do have some indirect knowledge of the needs of these inmates based on their occasional demands.

Our rudimentary knowledge of Ethnocultural offenders' basic needs has improved as a result of the National Committee's visits to the penitentiaries and of offender meetings and comments.

The main areas into which these needs fall are food and personal care. Penitentiary food is a particular bone of contention and is contrasted with ethnic cooking or the cuisine of the group concerned. Some inmates emphasize the emotional significance of food by their references to home cooking. Inmates pay particular attention to their hair, and skin care also requires the use of specific skin care products.

However, penitentiaries have quickly realized in their summary assessments of the needs of these offender groups that some limits must be respected. Are certain demands always relevant, fair and reasonable? Some demands, for example, border on insult, provocation and humiliation and are thus unacceptable on their face.

Basic needs may also extend to the spiritual sphere, as in the case of inmates belonging to the Black Muslim group.

In addition, certain prayer rituals may also lead to misunderstandings between inmates and staff.

Conflicts may arise between offenders' rights and those of institutional staff and the majority in negotiations over offender needs. Since the penitentiary unit is part of a democracy and the rule of law and must protect the rights of minority groups, it is necessary above all to respect cultural differences and to preserve the dignity of every individual.

An example of best practices in certain penitentiaries is to avoid having the institution prepare ethnic food and to distribute the ingredients of each specific cuisine to Ethnocultural offenders themselves. The idea here is to establish a negotiation that represents a compromise. This offer of accommodation seems reasonable to both parties. This type of amicable negotiation is based on an implicit rule recommended by

Quebec's Commission des droits de la personne et des droits de la jeunesse.<sup>876</sup> Within this negotiation framework, each party undertakes in good faith to seek a compromise: in this way, there are no winners or losers. The purpose of demands is not to gain individual privileges to the detriment of the rights of others, and the entire process is conducted within the framework of the statutes and regulations in force.

NB: The idea here is especially not to rely on the *Multiculturalism Act*. This statutory framework may be used whenever needed to recognize, value and respect cultural differences, not to create ghettos by making unrealistic demands. In short, every negotiation on the basic needs of Ethnocultural offenders must be conducted in a climate of neutrality<sup>57</sup> and within reasonable limits to avoid exacerbating intercultural conflict.

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Proximity: "The existence of regular relations with persons of different social profiles as a factor explaining differences of opinion of and attitude toward other groups." See *Droits de la personne et diversité* (2015), p. 18.

"Greater or lesser openness to diversity of origins, references and ways of life and the predisposition of opinion about accommodation that may resolve a situation of discrimination based on relations of proximity maintained...with individuals of other origins, social conditions and orientations.... From an empirical standpoint, the level of proximity among individuals increases or decreases their interest in diversity." (*loc. cit.*, p.19)

Tribal parochialism. (See Malouf, A., *Les identités meurtrières*.)

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<sup>57</sup> Commission des droits de la personne et des droits de la jeunesse, *The Duty to Accommodate*, 2015.

#### 4. Canada's racialized minorities: Myths and realities

Statistics on crime and criminal justice often suggest that Indigenous and Black individuals are special targets of police and social regulatory bodies. Do the statistics conceal any patterns that need to be deconstructed? What do Indigenous and Black people have in common in their relations with Canada's heritage? What factors can explain their relationship to crime and the criminal justice system's strong reaction to them?

To avoid confusion and excessive generalization, let us begin by acknowledging that, although the criminal justice system overreacts in some cases, the data and the realities behind it also provoke a profound sense of unease.

We will start by examining a list of seven myths about the relationship between Indigenous and Black individuals and the justice system. Following that comparison, we will address the "Black question" and its specific characteristics by region.

1. *The myth of a connection between migratory movements and crime*

There is no causal link between the arrival of immigrants and crime levels in this country. To our knowledge, no such connection is demonstrated by any objective study. Indigenous persons are not immigrants, and yet they have the highest crime rate in Canada. Indigenous crime and Black crime are separate categories. Other specific cases exist and involve different causes.

2. *The myth of Ethnocultural homogeneity*

As in the case of Indigenous peoples, who constitute different nations, it is difficult to discuss Black people in general terms and to reduce them to the single characteristic of skin colour. Black people in Canada belong to various cultures, even though they claim a distant common heritage: African ancestry. However, whether born here or elsewhere, Canada's Black citizens share a single destiny in the penal system. It is as though they were subject to more rigorous control mechanisms specifically designed for them, even though they live in different regions of the country.

Indigenous people complain of the same problems with the justice system regardless of where they live in Canada. Their differences (language, tradition and culture) are papered over by purportedly neutral statistics.

3. *The myth of dysfunctional adjustment*

Whatever the terms used to describe the socio-economic development of Indigenous citizens – "separate" or "delayed" – they do not develop at the same rate as other ethnic groups in Canada. This socioeconomic gap may be explained as the result of historical and legal factors.

The *Indian Act* has done much to reinforce the after-effects of colonization, just as slavery has done for Black Canadians. In both cases, it may be said that the residual effects of cultural genocide have had an impact from generation to generation.

4. *The myth of “savage spirituality”*

Black people and Indigenous were “evangelized” on false pretenses that thinly veiled intentions that were not always good. Behind the Christian veneer, however, survived alternative beliefs and practices that had a place in the sacred and transcendent. The cult of the dead, of the ancestors and “spirits”, the respect owed to the environment and healing rituals are among some of the most honourable of Ethnocultural spiritual traditions. Indigenous African traditions are similar in many respects.

5. *The myth of nostalgic identity*

North American Black people often hearken back to Africa and its colonial history (a once flourishing kingdom, inter-ethnic relations respectful of human dignity and relations with ancestors such as Toussaint-Louverture, Léopold Senghor, Aimé Césaire and Jean Price-Mars). Iconic models of the past and present are often cited as examples to encourage the young to challenge their limits.

Indigenous people feel their history was interrupted by the arrival of European colonists on their land. There followed an endless saga of dispossession of ancestral lands, repeated violations of treaties signed with their ancestors, isolation on “reserves”, non-compliance with their human rights and the removal of their children from their families and territorial homes through the traumatizing experiences of the Christian residential reform schools.

Like Indigenous, Black people can give the impression that their real history is behind them and that they now live in a society in which they are seeking their true place, hence their feelings of dispossession, distance and alienation, which help maintain a negative self-image.

6. *The myth of belonging to the category of “racialized groups”*

Neither Indigenous nor Black persons constitute “races” in the biological sense of that term. And yet they are intentionally categorized for ideological classification purposes and thus become “racialized groups” in accordance with the definitions of the human rights commissions.

In practice, both of these minority groups face the same stereotypes, prejudices and discriminatory practices. In some circumstances, perceptions (of physical strength and biological vitality) play in their favour, but this positive appeal may cause reactions of anxiety in others. Fear of Blacks and “Indians”, like fear of the unknown, is part of folklore and the fantasies of certain persons.

7. *The myth of internal causality to explain the purported inclination of these groups to commit crime and be incarcerated in penitentiaries*

Indigenous and Black people are indeed overrepresented in the criminal justice system in Canada. This is emphasized *ad nauseam* in reports, as if to suggest a hypothetical genetic predisposition in these two minority groups. However, it should not be forgotten that, regardless of the community observed and the class of crimes reported, the criminal phenomena described in such reports are indicative of marginality and not normalcy.

The stark truth of the statistics creates a recurring malaise, but what do those figures conceal? What is needed here is context. Indigenous and Black crime are over-determined social phenomena shaped by multivariate causality. These social phenomena are as much the result of individual initiative as socio-economic conditions. The vulnerability of Indigenous and Black youth in Canada is indicative of the way they connect with history, and the harsh social reaction of the criminal justice system unfortunately reinforces that individual and collective vulnerability.

#### The “Black question” and the criminal justice system in Canada

In Canada’s criminal justice system, the over-representation of offenders from Black communities in Canada is a problem in three main regions:

- Quebec Region,
- Ontario Region,
- Nova Scotia.

#### The “Black question” in the Quebec Region

Black people in the Quebec Region constitute a variegated minority group, each component of which (African, Caribbean, Guyanese, Jamaican, Afro-Québécois, Haitian and so on) has a specific history. However, Black people from the French-speaking Caribbean dominate Black organized crime. While this is not a popular theme among the well-to-do members of the Diaspora, it is a topic of great concern to them and one from which, as a group, they wish to keep a certain distance. We will nevertheless explore this marginal world of prime interest to the Black community and its relations with the criminal justice system because it involves a collective responsibility for the abuses of certain marginal sectors.

### 5. Haitian youth offenders in Quebec

When I arrived in Durham, North Carolina, in 1966, I was struck by the way some people rushed from the scene of a crime the moment the incident was reported. My Black friends warned me from the moment I set foot in the United States that I should avoid crime scenes because I might be singled out as a suspect. I did

not really understand this at the time, feeling that these were cryptic comments, an American joke or the reflection of a reality that I would eventually come to discover.

The statistics on the progress of Black youth in the US justice system later helped me understand the basis of that collective perception.

According to the American academic Michelle Alexander (*The New Jim Crow*, 2010), American Black people are increasingly targeted by police and incarcerated in disproportionate numbers. “More African American adults are under correctional control today – in prison or jail, on probation or parole – than were enslaved in 1850.” (Cited by Richard Héту, “La ségrégation aujourd’hui,” 15.1, *La Presse*, August 18, 2014.)

Other sources report, for example, that 60% of African American males who have not earned a high school diploma wind up in prison (Bruce Western, *Punishment: The US Record*, New School for Social Research, December 1, 2006).

Today I can see that being Black and fantasizing about the fear of becoming, at any time, a player in or a victim of the system is a part of everyday life in the United States.

Having emigrated from the United States to Canada, I later came to ask myself the same question: do young Haitians here, as Black youths, represent a high-risk population in the same way as their American counterparts, even though the context appears to be different? In Quebec in particular, where the majority of the population is Francophone and Catholic by tradition and there is a strong emerging Black Diaspora, where does Haitian crime stand and how can the path of these Black youths through the system as a whole be characterized?

During my meetings with the transcultural section of McGill University’s psychiatry department in the 1970s, I submitted the idea that we knew very well what Haitians did with their libidos, but not what they did with their aggression. I claimed that much of that aggression was released through voodoo, which acted as a kind of filter, basing that view on the rare occurrence of phenomena such as suicide, homicide, serious crime and organized crime in Haiti. Can the same be said today in the Haitian Diaspora, which is cut off from its roots?

Crime among young Haitians in Quebec is not solely a consequence of migration to Quebec, as certain rumours would suggest.

Previously unknown forms of crime began to appear in Haiti in the early 2000s, including *zokiki*, a class of crimes committed against Haitian values and attitudes by groups of Haitian youth. Is there a connection among these changes in Haiti that may affect deviant behaviour among the country’s youth? In addition to *zokiki* in Haiti, people began to discover among the Haitian Diaspora in Quebec a certain youth segment

that, thanks to technology and intercultural exchange, was opening up to the modern world and its avatars (or demons, to be consistent with the logic of a certain tradition among Haitians).

Quebec's Direction de la protection de la jeunesse raised the alarm in reaction to an excessive number of reports from schools that had decided to count heads in rehabilitation centres for youth in difficulty. An overrepresentation of young Haitians was thus discovered among the province's social/emotional misfits. Several of these cohorts subsequently entered the adult system, in provincial prisons such as Bordeaux and the federal penitentiary system.

Extensive academic research has focused on various dysfunctional behaviours observed among young Haitians in Quebec. That research includes studies by:

1. Jean Métellus: *Étude exploratoire de la délinquance de jeunes Haïtiens au Québec*. Université de Montréal, 1988. Increasing note was being taken at the time of the emergence of ethnic gangs, their operations in the province and organized crime.
2. Léonel Bernard. *Les trajectoires des jeunes d'origine haïtienne dans le système québécois de la protection de la jeunesse*. Doctoral thesis, department of applied humanities, Université de Montréal, 2001.

That same department has also produced research reports on:

- a. conflictual relations between young Blacks and Montréal police;
- b. minors entering the justice system as a result of an abnormally large number of stops of and reports on those youths by police in particular.
  1. Quebec's Commission des droits de la personne et des droits de la jeunesse produced an influential report on racial profiling which has contributed to the rise in violence and gangs in response to a certain degree of distress in the Diaspora. What is the situation regarding the correctional system and young Haitians?

## 6. Studies by Emerson Douyon on ethnic gangs: *Gangs en liberté* (Gangs at large)

This study was commissioned by the Solicitor General of the time. Its purpose was to compare Montréal gangs with those in Toronto. Authorities were witnessing the emergence of the gang phenomenon in Montréal and were interested in obtaining an analysis of the situation.

With the help of a well-known gang leader, I was thus able to assemble a small group of individuals who agreed to speak anonymously about their experience as gang members. They also agreed, as a security measure, that all recordings would be destroyed in their presence.

At the time, people talked about gangs elsewhere, but not in Montréal. Apart from their violent aspect, the gangs were largely inspired by local cultures such as the hip hop culture in the United States and "gangsta

rap". The gangs were particularly well known in California, and two became famous: the Crips and the Bloods.

Gangs in France were inspired by African sources in particular and were mainly associated with African culture and music. Some called themselves the "Zulu-Chaine", thus simultaneously expressing their Zulu roots and Zulu music.

Following the example of North American youth, they relied on Black identity as a way of expressing their distress, suffering and violence.

In Montréal, the meeting between two cultures (Québécois majority and Haitian minority) resulted in an unexpected clash. What had initially seemed a mixed intercultural affair ultimately degenerated into violent group antagonism. Gang numbers then increased in certain neighbourhoods across the city, with Francophone gangs appearing in the east end of Montréal, particularly in the outlying neighbourhoods, and the majority of Anglophone gangs in the poor neighbourhoods in the west. Even though Montréal was becoming increasingly multi-ethnic, its mental map did not always correspond to its geographic map.

Haitians are a highly artistic people. When young people from the Haitian Diaspora cannot express themselves by ordinary means (literature, poetry, the arts, painting, their own dances and so on), they tend to do so in other ways that unfortunately involve gratuitous violence. In other words, everything that cannot be expressed by thought or feelings is expressed by action.

Canada's correctional system is divided into two parts: a provincial component, which administers prisons (for inmates serving sentences of less than two years), and a federal component (for sentences of two years or more). For reasons that are hard to explain, Quebec maintains no statistics on minorities in prisons, which is not the case of federal penitentiaries, where statistical transparency is required.

In chairing Quebec's provincial committee and a national committee on the situation of Ethnocultural offenders in Canada's federal penitentiaries over a period of some 10 years, I realized the scope of the problem of young Haitians in Quebec and of Black youths in the rest of Canada.

The issue has been well documented for Somalis, Jamaicans, Barbadians from Ontario and African Canadians from Nova Scotia, and the question of Black inmates has often been raised by the Black Inmate and Friends Assembly (BIFA). BIFA is a non-profit community organization that was established by a group of Black inmates at Millhaven Institution in 1975. One of its objectives was to facilitate the social rehabilitation of Black and Caribbean offenders and to provide support and assistance to their families. In October 2003, BIFA offered programs at one provincial and 12 federal institutions.

It was not until his 40th annual report that Howard Sapers, Correctional Investigator and Ombudsman for federally sentenced offenders, discovered that there was a Black offender overrepresentation problem in



Canada's correctional system. In that independent study (November 26, 2013), Mr. Sapers expressed alarm at the increase in the number of inmates from visible minorities in Canada's penitentiaries, a 75% rise over the previous 10 years (2003-2013).

Following are a number of findings that were made respecting Blacks in that study on Ethnocultural diversity in the correctional system.

1. Although Black Canadians represent less than 3% of the total population, 9% of federal inmates are Black.
2. The majority of Black inmates (60%) are incarcerated in the Ontario Region, whereas 17% are incarcerated in the Quebec Region.
3. In the Quebec Region, six out of 10 Black inmates are incarcerated at two institutions: Cowansville and Archambault.
4. Black inmates face systemic discrimination in federal penitentiaries:
  - a) they are overrepresented in categories of charges that may be considered discretionary and that require judgment on the part of correctional officers;
  - b) Black inmates are more likely to be incarcerated at maximum-security institutions and to be granted fewer escorted or unescorted temporary absences even though they exhibit lower rates of recidivism.
5. In response to the finding that Indigenous people represent 23% of federal inmates but comprise 4.3% of the Canadian population, Mr. Sapers, Correctional Investigator, noted: "These are disturbing trends that raise important questions about equality and our justice system in Canada."

Hence the inevitable question: are we reproducing the American model of wrongly incarcerating Ethnocultural minorities?

## 7. Female offenders: culture and ethnicity

We cannot pass over in silence the situation of women inmates in Canadian penitentiaries. Our committee met a number of female inmates at two institutions considered as models of modern practice:

- the Quebec model: Joliette Institution;
- the Anglophone model: Nova Institution.

We made a number of findings respecting architecture and environment and the "spirit" prevailing at those institutions.

### **a. Joliette Institution**

Joliette is a pleasant small city situated on the highway to Quebec City. It is a semi-industrial, semi-agricultural region well-equipped with material, human and educational resources. In summer, it is invaded by artists and tourists seeking new discoveries and musical creations offered at international musical events.

A living witness to regional Quebec culture, Joliette Institution is located midway between the cultural metropolis of Montréal, a multicultural city open to the world, and Quebec City, Quebec's so-called "capital", which focuses more on Quebec-style authenticity. In a rustic setting just outside the city lies a small "prison-village". This is Joliette Institution, the women's penitentiary built in the wake of an attempt to improve conditions for women inmates in Canada, a research effort initiated by Dr. Marie-Andrée Bertrand and four other criminologists from the Université de Montréal. Joliette Institution replaces Maison Tanguay, the former federal section of the women's prison that was previously attached to the Bordeaux provincial men's prison.

Joliette Institution consists of a suite of modern living units equipped with large windows opening to the outdoors and a small garden in summer. Inmates pool their personal resources in a small inmate community for the purpose of shopping for groceries, cooking and other necessities of life. The structure is reminiscent of a suite of small hotel units but with a combination of security and more freedom of movement in a controlled space and a high degree of flexibility.

Inmates with babies are even allowed to keep their children with them, with the help of Quebec's Direction de la protection de la jeunesse, which affords a suitable mother-child living experience in a multi-parental setting.

Cultural and ethnicity issues do not appear to be a problem for the women at Joliette Institution, who focus more on day-to-day concerns such as family relationships and maintaining a pleasant environment. Generally speaking, they pay a great deal of attention to grooming and maintain good community spirit.

We noted no violence or gang conflicts at the institution.

### **b. Nova Institution**

Some background is required in order to understand the situation at the Nova Institution for Women. The fact that there is a marginalized Black population in Nova Scotia was an eye opener for the Committee.

In contrast to the prison-village of Joliette Institution, which reflects Quebec culture, the prison-village of Nova is situated in a more diversified agricultural area where Black and White people live in separate groups as a result of their different historical development.

The Whites are the descendents of Nova Scotian colonists. In theory, they were not slave-owners but rather the natural masters of that era. Their influence and Scottish ancestry are part of a strong identity that is both European and Canadian.

Contrasting with that identity is a very strong conflictual Black identity based on Afro-centric ethnicity and culture. They are Black Canadians but different from Black Québécois and Ontarians. Some are the

descendants of American slaves who fled or were freed by generous Canadians. Others are the survivors of African navigators who ventured to Nova Scotia's shores. They are not Caribbean migrants like the Francophone Haitians.

All Black people were well received by the Mi'kmaq Indians regardless of their origins.

Black people in Nova Scotia live outside Dartmouth, a farming region on the outskirts of an industrialized urban area.

To get to Dartmouth, one must set out from the seaport of Halifax and cross the historic settlement of Africville, the former concession of the Black people of Halifax.

The area has a moving history that has kindled considerable emotion in visitors, including the members of the National Ethnocultural Advisory Committee (NEAC). The entire settlement was demolished in order to build the Halifax bridge that towers above Africville and spans the city's harbour. The adverse effect of this modern port facility is that the city's Black people lost their historic village and were cast out into the countryside, later settling near Dartmouth, thanks, purportedly, to the generosity of a wealthy American.

Before reaching Dartmouth, one passes by the historic cemetery where the victims of the Titanic are buried and a monument commemorating the Expulsion of the Acadians, similar to those that have been erected for the Acadians of New Brunswick. The Black people of Halifax live separately as they do in South Africa and as Canada's Indigenous tribes have lived to date. This has been a historic trauma for Halifax's small Black community.

This history has served as a crucible in forging the African Canadian identity of the Blacks of Halifax on which the community relies in the event of intercultural conflict or interaction.

Ethnocultural offenders have grown up in this culture of victimization, mistreatment, spousal abuse and dysfunctional relations with the Black community and its ethnocentric White neighbours.

We were interested in determining the connections between prison and the community's lifestyle. In addition to seeing the museum commemorating Black history (Black Cultural Centre for Nova Scotia) and the associated historic monument, we visited a youth recreational area and observed that it was under extensive police surveillance.

Then we met the women of the Nova Institution. We wanted to meet with the Black women separately, but the others wished to attend the same group session without any distinction between Black and White inmates. They wanted to be together and to support the comments of their Black fellow inmates.

Nova Institution is a more luxurious version of the Joliette prison-village. A violin set out on the piano achieved a pleasant effect that surprised us.

The women seemed very supportive of each other and not at all concerned by matters of colour, culture or ethnicity. There was no segregation among them or between them and institutional staff. In their view, their problems were more psychological than sociological in nature (suicide attempts, self-mutilation, spousal abuse, community violence, substance abuse and prostitution).

They noted only that institutional staff were predominantly male, something that was likely to make the inmates relive their problems as women (reminding them of pimps and violent husbands).

The women offenders differ from the men offenders in both models in that:

1. culture and ethnicity are not priority issues for them;
2. they seem to focus more on everyday life, family and interpersonal relationships;
3. they seem to be more supportive of each other and help each other;
4. we observed less open violence and confrontation and fewer violations of institutional rules and regulations;
5. they had acted more as accomplices than instigators in the offences for which they were charged.

Since we lack the appropriate research on which to determine whether the results of these two pilot experiences are conclusive, we cannot say with any certainty whether the village-type environment and its more open style of operation promote more positive progress among female inmates or whether lighter architecture is more suitable for women than the former fortress-style institutional buildings.

# Part III

## Part III

# Racial Profiling and Criminalization of Youth Belonging to Racialized Groups

As we begin to reflect on profiling, it is worth considering these three inspiring thoughts:

- “To wrongly name things is to add to the misery of the world.” Albert Camus
- “Racism must be described as any action that creates separation, with a suggestion of permanence.” Collette Guillaumin.
- “The answer? The prevailing majority must feel sure enough of itself to not feel the need to humiliate the minority.” Daniel Sibony.

With that background, we can now determine how much racial profiling has decreased.

The term “profiling” refers to a police technique that involves creating a psychological profile of an unknown repeat offender. The concept has evolved from criminal profiling to racial profiling. How can we explain that semantic evolution or subtle shift in meaning in the relationship between police and the public? Is this a question of contamination or a tendency to confuse concepts? A critical look at the relationship between

police and ethnic minorities may shed some light on this movement towards a new type of categorization based on differences.

### 1. The dispute between the police and ethnic minorities

It is well known that the traditional role of police is to intervene in the case of an illegal act. From the outset, the focus is on the marginalized, the deviant, the delinquent, basically, on anything that is different or not the same; someone who appears the most likely to potentially commit a crime. In keeping with police culture, this authority figure develops a dark classification structure that helps uncover the stranger under that superficial difference. In an officer's mind, in an increasingly diverse society, the face of crime tends to be personified by a dark-skinned individual, a typical member of these new, so-called dangerous classes. As a result, the officer's method of intervention is based on the argument of comply or contravene.

With that in mind, it is not surprising that inadvertent interactions between Ethnocultural youth and the police are sometimes risky situations. In addition to the opposition between two antagonistic groups or cultures, any use of discretionary power—which is perceived to be arbitrary—is likely to create an explosive situation. That is the basis of the accusation, founded or not, that police surveillance of minorities is entrenched in the system.

Given that the police culture continues to replicate itself despite the officers' individual differences, "racialized youth," as the case may be, find it difficult to determine a way forward. Neighbourhood police appear to be offering an interesting alternative. This good news hints at a change on the horizon. Cynicism had to be left by the wayside. New police in the area had to eliminate the longstanding dispute between the police and minorities. As one qualified police observer delicately noted, it was the structure that changed, not the mentality.

It is worth noting that even at the post-secondary level, when police studies begin, typical police characteristics begin to surface. That virtual identity sets boundaries, favours the use of distinctive symbols, and makes it clear what it takes to belong. Before the final selection is even made for the police force, it is already clear that a mentality exists within the network that will serve to reinforce the police culture. That self-sufficient culture, closed off and secret, has proven to be a mould that is strong enough to shape everyone's behaviour, even that of the rare officers who are themselves ethnic. Their presence, and that of women, does nothing to change the situation. What must change is the group culture that prevails within the police force and the group's tendency to search for that which is different.

Considering the growing place that race, ethnicity and culture occupy in Canadian and Quebec culture, society has, with good intentions, put an emphasis on the Charter of Rights and Freedoms and Quebec's Charter of Human Rights and Freedoms and *Youth Protection Act*. Whether a question of multiculturalism or public choice, it became apparent that various cultures were involved in the discussion about rule of law, policy statements, and civil standards without eliminating discriminatory practices. Today, we see that

multiculturalism and racial profiling are the two faces of Ethnocultural diversity. We have successfully dismissed differences while celebrating that which is different, as noted by Pierre-André Targuieff (1997). How do we resolve that contradiction in our collective effort to share a group of common values?

There is little risk in noting that the scourge of racial profiling spreads under the protection of multiculturalism. This scourge went unnoticed, save for Indigenous people in urban settings, until it was time for visible minorities to face this terrible experience. Multiculturalism in Quebec has become an alibi, just as the Republican mask was for France. Neither of them has prevented the urban landscape from being carved up into ethnically profiled areas. Multiculturalism, without a cultural transformation of the migrant and his counterpart, is a shell with no substance. It cannot ignore racism without erasing a significant part of minority groups' cultural life.

## 2. The shift towards new types of discrimination

The paradox of the co-existence of racial profiling and multiculturalism in a context built on new legislation is obvious. In the past, we spoke of hard racism based on stereotypes, prejudices, xenophobia and ethnocentrism. We have moved from hierarchical classification based on the genetic distribution of intellectual and moral traits, to exclusion and permanent inclusion in a specific category. Segregation in the United States, apartheid in South Africa and Nazism in Germany are examples of this ideological trend in recent history.

Since UNESCO's historic 1967 declaration denouncing against the mythical basis of race, the western world's recognition of human rights, we have seen an ideological metamorphosis. The discourse has evolved towards a new type of racism, one with no reference to race. It is a veiled racism, symbolic, implicit, one that focuses on culture, not race. The concepts of cultural differences and ethnic identity are based on groups that are completely homogenous. There is more talk of being culturally incompatible and a breakdown in communication between vastly different cultures. Behind the anti-immigrant and anti-minority policies and attitudes lurks the ideology of national preference. However, that type of neo-racism does not effectively hide the same mechanisms of depersonalization, stigmatization, stereotyping and exclusion. Hence the need to decrypt all of the subtle discriminatory practices that do not reveal their name and that hide behind masks that are difficult to remove.

Albert Memmi (1994) noted that the concept of difference is not neutral. It has two facets. On one hand, difference is a right to defend and, on the other hand, difference is an absolute, according to Colette Guillaumin (1982). Respecting difference while exploiting differences creates ambiguity in the discourse, one that racists can exploit. If a racist individual differentiates, it is in order to classify, to create a hierarchy, to dominate. He or she remains identical under the cloak of ethnicity or culture. Racist individuals can distance themselves from others and discriminate against them, consciously or otherwise, without being accused of racism.



To understand the spread and scope of racial profiling discrimination in Canada, it is necessary to consider two aspects: the prevailing discourse and the unspoken truths. Quebec is open and welcoming while also being closed at the same time. Rights are upheld and deadlocks are acknowledged. While friendly on the surface, it maintains its distance. Racism in Quebec is not obvious, and it sometimes hides in the blind spots. Discrimination is illegal yet, at the same time, they overlook racial profiling. How can we gain insight into this cleaved and disassociated world? New rights, new faces, alternative communication strategies in a different context all while remaining politically correct. Racism survives in certain areas, but it keeps a low profile. In that way, it is able to be discreet, almost indiscernible, inconspicuous. This racism walks silently, remains anonymous and is scrubbed clean. This neo-racism is expressed in coded language, in that which is implied; it is understood by insiders, and exists in communication between employers and recruitment organizations, for example. Never would it be said that there is a preference for or an aversion to a particular group. But arrangements are made to accommodate, without leaving any identifiable tracks. This implicit message must be interpreted within the process of meta-communication. The key points are in the context and that which is left unsaid. That's what the Charter decrees!

Subsequent to Boring (1950), experimental psychology affirmed that everything that exists, exists to a certain degree and can therefore be measured. The bar is placed much lower in forensic psychology. Human nature is not always quantifiable. However, it is always possible to assess actual behaviour even in the context of the irrational. Is it legitimate to question whether there are markers of racial discrimination?

Researchers have tried to explore that avenue through various means. For example, Bogardus (1959) created a social distance scale which measures the perception people have of foreign-born individuals living here. There are two lists, between which there is some crossover. Faced with someone from Europe, the Middle East, Asia, Africa and Latin America, the participant is asked whom they would spend time with as a guest, colleague, neighbour, friend, son-in-law, brother-in-law, or sister-in-law. Generally speaking, the results indicate that there is more acceptance or rejection depending on whether the cultural distance was near or far. Clearly, the closer the stranger got to our protective bubble or private life, the stronger the feeling of a threat or fear on the horizon. Certain individuals or groups could be accepted on the condition that they operate at a distance, in their respective territory. These psychological concepts of social and territorial distance can be found in the more modern form of discriminatory practices.

### 3. The systematic profiling and the situation of Black people in Quebec

Today, to distance ourselves from vague terms such as racism, xenophobia and ethnocentrism, researchers use the concept of racial profiling, which is advantageous in that it is more meaningful and does not judge the other's intentions. Ethnic groups are being profiled, as are individuals. Both their genotypes and their phenotypes are frequently subjected to open profiling. Black communities are a case in point.

Researchers have noted that at a systemic level in Quebec, for example, a segment of the population still maintains distance from immigrants. In particular, there are certain reservations, hostility even, towards new Black immigrants. According to an official public consultation document (Ministère de l'Immigration et des Communautés culturelles, 2005), the Black population, even those born and educated in Quebec, have difficulty integrating into the network that leads to stable, well-paid employment.

Quebec's Commission des droits de la personne et des droits de la jeunesse states the following in its analysis of access to equality (1998): "Members of the Black communities generally face prejudice and direct and systemic discrimination when looking for employment." That same commission also highlighted the fact that in public organizations, representation of cultural minorities has remained relatively stable at approximately 2.5% as far back as records have been kept (Overview 2005). The report by the Task Force on the Full Participation of Black Communities in Québec Society states that the proportion of members of cultural communities among all regular employees in the civil service was 2.6% in 2004-2005. According to this report, the Treasury Board Secretariat did not release any data for visible minorities, and members of the Black community in particular. The possibility or eventuality of exceptional remedial action (such as competitions open only to visible minorities) is an option that should be explored once again to move this static situation in the right direction.

The unemployment rate of Black youth under the age of 25, which represents half of the Black population in Quebec, is twice as high as the overall youth level. Recent studies (Torckzyner et al. 2001; L. Bernard, 2001) provide an accurate picture of this marginalized population: caught in a tide of exclusion from the labour market, these youth are destined for far lower income levels. They are more often referred to youth protection services and overrepresented in social welfare centres. Many of them, often victims of racial profiling, develop a growing affiliation with criminal groups because they identify with negative North American role models.

#### 4. Markers that help detect racial profiling

From a more methodological standpoint, after the highly publicized release of the astounding film titled *Zero Tolerance* by Michka Saal, NFB (March 2004), which documents the strained relationship between the police and young visible minorities, a collective awareness about racial profiling and its negative effects began to emerge. According to youth, this profiling, both criminal and racial, has come to the forefront since the fateful day of September 11, 2001, which acted as a catalyst in the breakdown of relationships with authority and security. There is a tendency to place more security officers everywhere and to put more "racialized" groups under surveillance, and far beyond just the traditional group of Black people.

As a result of the research/action centre's work on racial relations regarding criminalization and profiling of young visible minorities (CRARR, February 2005); debates within and publications by the Quebec Bar on profiling; and the historic ruling of Justice Juanita Westmoreland-Traoré (Turenne, M, 2005), which further adds to the case law on this issue, the Commission des droits de la personne et des droits de la

jeunesse—on the initiative of Me Michèle Turenne—developed a practical, unique approach that culminated in the development of guidelines for proving racial profiling during the court process. One indirect effect is that it will undoubtedly have a positive impact on investigations into this area, which is laden with pitfalls. There would be a better framework for investigations that are eventually closed due to lack of evidence.

The Commission was careful to distinguish criminal profiling, which uses objective facts, from racial profiling, which is based on stereotypical assumptions. This profiling, which is a variant of racial discrimination, is described as “any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or scrutiny. Racial profiling includes any action by a person in a situation of authority who applies a measure in a disproportionate way to certain segments of the population on the basis, in particular, of their racial, ethnic, national or religious background, whether actual or presumed.”

In that context, racial profiling can be put to use in myriad daily circumstances, such as the following:

1. Questioning, pursuit and searches with no valid reason.
2. Fines for unreasonable or unusual reasons.
3. Motor vehicle being pulled over under the highway safety code which then leads to a criminal investigation for no valid reason.
4. Arbitrary decision to intercept, arrest and detain all Black youths or the first Black individual encountered in order to shed light on an ongoing investigation, based on lack of a specific description in the alert.
5. A young Black man driving a luxury vehicle is a treat for a profiling police officer.
6. A young Métis Francophone, who looks Arabic but does not speak Arabic, wants to board an airplane. He is the typical suspect they are looking for! It is guaranteed that he will be checked and checked again.
7. Targeting certain groups or individuals with no specific justification because of their customs, look or appearance, gestures or accent during a periodical sweep under the guise of a preventative intervention.
8. Unfair use of sweeping discretionary powers against certain target groups as a result of public standards that could, in the end, result in an overrepresentation of these profiled groups in the justice and correctional system. Incarceration statistics on Indigenous people and Black people are particularly telling.

Given that racial profiling is often subtle, insidious and difficult to prove, reference is sometimes made to the victim’s silent suffering. Now, with these new markers, we know where to look to gather hints for circumstantial evidence. With the new investigation directives from the Commission, there is no need to try and prove that there is a racist or discriminatory intention. From the moment when treatment differs from

the norm or habitual actions, and there is no reasonable reason other than racial grouping to justify it, there is reason to assess whether it is a matter of racial discrimination or racial profiling.

This is clearly a methodical effort to help establish a balance of probabilities. The objective is to assess the discriminatory effects that racial profiling has on human rights. We must include a clinical criterion on the list of markers: the quasi-automatic, repetitive characteristic of some of authority's interventions involving the same people and the same circumstances should be a reminder of the relevance of Sigmund Freud's warning concerning certain traumatic events. He states that in life there are, for certain people, accidents that are far from accidental.

### 5. Racial profiling and the mobilization of Ethnocultural groups

Of the various components of ethnic identity, the phenotype of colour may emerge as the most likely aspect to result in profiling the entire personality. In racial profiling, individuals are reduced to one dimension, undoubtedly the most superficial. Being reduced to one dimension in that way can result in a dysfunctional group, individual and environment. (G. Devereux, 1972, E. Douyon, 1979, A. Jacquard, 1982).

Visible minorities are becoming the new target for identification work carried out by police or security agents. They are looking for a petty street criminal but it is the Black youth who pays. It seems as though they are interchangeable in some eyes. Throughout North America, it is being reported that there is less crime overall but an increase in crime involving young ethnic minorities. Racial profiling is undoubtedly one contributing factor behind the bias in the hypothetical relationship between crime, ethnicity and culture.

In the opinion of ethnic minorities, the police and private security have too wide a reach. Under those conditions, criminal profiling is at risk of transforming too quickly into racial profiling. The authorities' excessive zeal may create a false impression that young minorities are, generally speaking, committing more crimes than others. In reality, as a representative of visible minorities, they are more easily identifiable. From a systemic point of view, despite what they do, they come into contact with the repressive system too quickly, too frequently and for too long. We can therefore talk about the process of criminalizing youth.

Consequently, we must beware that we do not allow racial profiling to create another negative or undesired effect by overloading the system and creating a new clientele for the juvenile justice and incarceration system. If nothing else, we risk creating a false relationship with profiling as well as developing Ethnocultural solidarity as the result of a generalized discontent. The danger is in mobilizing minority groups for the wrong cause because we have not uncoupled true criminal profiling from an unreliable ethnic underpinning.

### 6. The implications of profiling for penitentiary administration

What we have seen up until this point has addressed the use and experience of profiling prior to prison. In some cases, the experience is shared by Ethnocultural offenders. It has been part of their daily lives outside prison walls. For a young Black offender, this daily experience is part of urban life. It could be said that Ethnocultural offenders are well aware of the parameters of racial profiling. Has their overly traumatic experience with the police left a mark and tarnished their relationship with authorities inside prison?

We know that Ethnocultural relationships in prison are based on a policy of offenders themselves identifying which Ethnocultural group they belong to. Offenders adhere to a policy of self-designation.

Perhaps this policy could be described as a paradox: it is as if they are being asked to do to themselves what no one else is allowed to do to them.

It could be said, based on appearances, that prison administration does not engage in racial profiling. Inmates feel they are more respected and that someone is concerned about their dignity. It is the inmate himself who engages in Ethnocultural targeting, not others.

The two concepts—profiling and self-designation—seem to be at odds. In addition to that dilemma, the prison saves face by claiming that it does not target inmates in the prison environment.

In reality, inmates from minority groups profile themselves and self-designate so they have people to associate with and with whom they can form a group and to fulfill demands so they can have their basic needs met.

The prison uses this policy of self-designation for statistical purposes.

The authorities' skilful use of the idea of profiling as a statistical designation means there are no victims, and it seems to be accepted by all minority groups.

However, Ethnocultural offenders, and members of the Black community in particular, remain emotionally scarred by previous negative experiences with the police. As a consequence, they are highly sensitive to the issue of racism and racial profiling.

Consequently, it would be worth researching the various aspects of group life in prison, where the custom is to label yourself, identify yourself and self-designate so that you can become part of an Ethnocultural category and remain part of it permanently.

## 7. End of the prison journey, parole, return to baseline community or community of origin

In principal, offenders always hope to leave prison and regain their freedom, which is the most valuable asset in the world.

Even those serving life sentences will be released one day, despite the legal jargon and sophisticated laws. There is always an opportunity for release in the Canadian penal system.

To paraphrase a Stoic philosopher speaking about suicide (life would be horrible if there were no way out): life in prison would be horrible if there were no way out, eventually.

## 8. Steps to freedom

### a. Parole

The purpose of parole is to teach inmates to learn to cope with freedom again. It happens in stages to ensure that they are confident and will therefore avoid re-offending or the revolving door syndrome.

How many members of the Black community or other racialized minorities obtain parole in accordance with the law?

Average Proportion of Sentence Served at First Federal Full Parole Release by Indigenous and Race (%) <sup>58</sup>						
	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	5-yr. Avg.
<b>Indigenous</b>	42	42	41	41	41	41
<b>Asian</b>	37	37	35	35	35	36
<b>Black</b>	38	37	38	37	37	37
<b>White</b>	40	39	40	38	39	39
<b>Others</b>	37	36	37	36	38	37

The data on this topic is not transparent. We cannot talk about discrimination or racism in the parole process. To be clear, what is needed is a comparative study that focuses specifically on parole—the characteristics of racialized groups and the majority of inmates. Ethnocultural offenders are often interested in the parole system and wonder if it is just and fair to all groups. Unfortunately, requests from the National Committee did not go anywhere. The Committee cannot competently speak to a topic without a reliable set of data to build on.

<sup>58</sup> Parole Board of Canada. Performance Monitoring Report, 2008/2009.

To our knowledge, there are no recent publications that shed light on this question, which is important to the progression and placement of the idea of Ethnoculturalism.

A non-citizen Ethnocultural inmate, no matter how ready they are for prison, is already destined to return to their country of origin. Legislation concerning the expulsion of non-citizens is absolute and does not take human rights into consideration.

This point has often been debated during the plenary meeting involving Black lawyers and legal experts in Quebec at the Barreau du Québec in Montréal. Few lawyers have stood to speak out against this degrading situation. There is no contract between an immigrant turned former inmate and the state, which expects that if he re-offends he will be deported to Haiti, for example. He was convicted once, he cannot be convicted again for the same offence. The double conviction is an injustice that reveals the dual nature of the Canadian penal system: one truth for those born here and another for those born abroad. In other words, they are considered Canadians for their entire life, but as soon as they commit a serious crime or re-offend, we send them back to their roots and they again become ethno-racialized offenders. The system's double-speak must be denounced one day.

While Canadian re-offenders quietly go back home with full parole, those who do not have Canadian citizenship are sent elsewhere. An organization known as FURI (see letter from Carmeta Albarus-Lindo to myself), based in the United States and in Jamaica, is addressing this problem by presenting a reintegration strategy with the help of the American and Jamaican governments to aid deported Jamaican nationals. Land has been distributed to former inmates, who have become "gentlemen farmers" and who have regained their dignity. It is to be hoped that the Canadian justice system will do the same. The bad news is that Canada has not yet opened its eyes. This rehabilitation strategy stands in contrast to Canada's former inmates turned re-offenders who form gangs in Haiti and organize drug shipments to Canada. They have acquired new techniques abroad that flout Haitian justice. These Haitians, who have been trained in Canada, return as experts.

The Canadian government's overseas aid must be reassessed as a consequence. It is no longer a question of transferring foreign Canadian crime but of controlling the networks that interfere with positive reciprocal development.

All the more so given that the offenders who are often involved in gangs are a product of Canada. In fact, these are not Haitians who are arriving from Canada, it is Canadians who disembark. The Haitian government is powerless in the face of these experts in group crime. The Canadian government, with its new development plan, must help Haiti address this new criminality.

## 9. The future of Ethnoculturalism and the Correctional Service

When our Committee began studying the question that dominated inter-ethnic relationships in a pluralist, open and welcoming country, racism was present but discreet. It was the blind spot in our inter-racial relationships. That racism advanced, silently, less visible or obvious, for certain groups of Europeans, for example. It was a racism that was characteristic of the Canadian approach. When Quebec's Commission des droits de la personne et des droits de la jeunesse investigated the relationship between the police and members of Quebec's Black community, when the Ontario Human Rights Commission conducted a systemic investigation into Ontario's penal justice system, it was that racism that caused so much damage to the relationship between the police and racialized minorities. The example of the overrepresentation of Indigenous and Black people in the penal system is well known.

As for racism in Halifax, no one spoke about it publicly, as though the case had already been heard. In public forums, only the Black community echoed what was being said by the guests of honour, the Mi'kmaq, because they share the same cause. It should be noted that there has been great progress at CSC since CD 767 was introduced. That directive outlines acceptable exchanges in prison. Overt racism is no longer acceptable within CSC, where the concepts of ethnicity and culture have replaced the term race, which is now considered obsolete, both in terms of genetics and the evolution of society.

"Because it's 2015," as one of our leaders recently said. That means that as an egalitarian society, we have moved on. I do not expect resistance to foreign elements or differences to be overcome from one day to the next, but hopefully the hidden racism gives way to pluralism based on genuine, fraternal multiculturalism. Human rights must be at the heart of our day-to-day relationships.

Under the enlightened leadership of Don Head, the Correctional Service has become a model of equality with respect to staff, training, balanced panels and the type of relationship between Ethnocultural offenders and staff.

Program assessment is no longer the traditional irritant it once was for the relationship between NEAC and CSC.



## 10. Conclusion

1. Crime evolves in cycles. During its evolution, it passes through phases of growth and decline. The only constants are its diversification and the fact that it is getting qualitatively worse (violence, street gangs). In addition to the known contributing factors, there is the failure to integrate certain Ethnocultural groups. The fact that these groups are overrepresented in the prison system poses a particular problem with respect to managing diversity in prisons.
2. In the fight against crime, the focus was traditionally put on public safety, neutralizing offenders and focusing on their rehabilitation. It is time to put more emphasis on individuals and the community in order to prevent recidivism or the revolving door syndrome.
3. Crime prevention must be expanded to include both time prior to and after the prison system. We must work to prevent people from entering into and returning to the system.
4. It is increasingly difficult for the correctional system to exercise its dual function as guardian and educator in light of the overrepresentation and management of new clientele.
5. Consequently, it is imperative that we make every effort (in terms of means and resources) in order to allow Correctional Service of Canada to better respond to the new needs of an increasingly diverse prison population.

Emerson Douyon

## 11. Historical Notes

### a. NOTE I

Comparison of “White justice” and “Inuit justice.”

- According to Inuit terminology, “White justice,” or that used in the south, is perceived as a form of punitive justice. It focuses on finding the guilty party and incarcerating him in a secure place. It strikes a balance between the offender and his victim by looking at the individuals, the facts and the circumstances. Each crime receives a corresponding sentence, sanction or punishment. The itinerant court dispenses justice in the name of “White society” which, to the Inuit, is invisible, unknown, and far removed.
- In contrast, “Inuit justice” focuses on the group (the Inuit). It punishes the perpetrator of the “crime” by disgracing him and making him lose face in front of the group.
- Inuit justice has its own list of “crimes” and “sentences.” It does not use the concept of “guilt” (guilty or not guilty) as that concept does not exist in the Inuit language. An Inuit offender does not have to respond to the traditional question that is asked in justice of the south: “Guilty or not guilty?” However, in front of the itinerant court, they must answer the following question: “Did you do it – yes or no?” In their culture, one does not hide the truth, so the Inuit offender responds, “Yes. I did it,” or “No, I did not do it.”
- The offender is seen as an individual who has upset the group’s balance and harmony. Those two elements must be restored because they are crucial to everyone’s well-being. To restore that balance, the group implements the appropriate collective framework for changing the behaviour of the “individual who did it.” With the exception of “banishment,” which is applicable to rebellious re-offenders (for murder and other serious crimes), Inuit justice is a form of “gentle justice” that recoils at the idea of punishment or prison in accordance with the provincial or federal model.

That is why the Inuit community sometimes reacts negatively to the itinerant court’s sanctions. In the case of a prison sentence, for example, the community speaks of how remote the guilty party will be in the south and they see the event as culture shock. They speak of his good traits; his role as a father, neighbour, friend; what he brings to the community. They miss him, they want to him to be reintegrated into the community when the sentence is pronounced and, later, when the sentence has been served. There is a lesson to be learned with respect to Inuit criminality and “tribal justice”. (Personal reflection based on the information in the InformAction Films documentary titled *White Justice*).

*White Justice*. Documentary about itinerant law courts in Québec. InformAction Films. Directors: Françoise Wera, Morgane Laliberté. (InformAction Films), Montréal, 1985.

**b. NOTE II**

The *Indian Act* (1876): Inspired by *An Act for the Gradual Civilization of the Indian Tribes in this Province, and to Amend the Laws Respecting Indians* (1857); following the legal measures of 1850 to protect Indian land (Upper and Lower Canada).

**c. NOTE III**

The *Indian Register*.

Amended in 1985, in compliance with the *Canadian Charter of Rights and Freedoms*. This register was notorious for its discriminatory criteria: marrying a non-Indian would impact 1) inclusion in the official list of Indians 2) Indian status 3) membership in a band 4) the right to live on-reserve 5) eligibility for federal housing and education programs. An Indian woman who entered into a mixed marriage was no longer an Indian. She was seemingly “emancipated” and therefore lost all of her rights. The same held true for children of that ethnic blending. Based on a fear of “diluting” Indian culture and on the small land size on-reserve, these Métis were no longer band members and could not live there.

**d. NOTE IV**

The *Indian Act* (1951).

Amended numerous times (1985).

Main features:

- Content: 124 clauses which supersede all federal, provincial or municipal legislation. Is this fundamental piece of legislation quasi-constitutional?
- The *Indian Act* governs land ownership, estate, taxation, the Indian Register and band lists, collective land ownership on Her Majesty’s reserves.
- The land belongs to the Crown. No purchases, no individual sales, no mortgages, no seizures. The Crown may approve leasing of land to non-Indians.
- Quebec’s civil code and the *Criminal Code* apply to all Canadians, notwithstanding the *Indian Act* (exclusive provincial and federal jurisdiction).
- Ancestral rights (hunting, fishing, treaties, etc.) are not impacted by *The Indian Act*. No mention whatsoever.
- The *Indian Act* is known to be overtly racist, segregationist and discriminatory. It does not comply with the *Charter of Rights and Freedoms* (Ottawa) and Quebec’s Charter of Human Rights.

**e. NOTE V**

A critical view of the *Indian Act*

- Indigenous people are ambivalent about this law, which protects their ethnic identity and specific status from cultural assimilation, pure and simple. *The Indian Act*, despite its paternalistic intentions (Indians are “wards” of the state and the state acts as a “fiduciary”). This law acknowledges the “differences” between Indigenous people and other Canadians. They are First Nations with ancestral rights, which have been consistently upheld by the courts.
- The *Indian Act* is undoubtedly an after-effect of colonialism. In the past, it acted as a safeguard for Indigenous traditions, cultural characteristics, *values*, *ethnic* identity and history. Today, in a pluralistic Canada that is governed by the Charter, it has become obsolete to talk about percentage of “Indian blood” and quantifying how “Indian” each member of the band is. With respect to that last question, in the 21st century, debates continue about Indian-ness and Indian ethnogenesis as an identifying category.

#### **f. NOTE VI**

Band list (1985). Held by the Department of Indigenous Affairs. The band council controls the addition of new names, based on the criteria in the “membership code” approved by the Department. That point gives rise to varying interpretations and legal challenges.

#### **g. NOTE VII**

Evolution of Indigenous peoples’ situation in Quebec and the rest of Canada

- Indigenous people live throughout Canada in two categories: those who live on-reserve and those who live “off-reserve”. However, there is a third mixed category, that of the Métis, who are more numerous in western Canada (history of Batoche: 1) Red River War, Batoche, Saskatchewan, May 9-12, 1885, Prairies 2) story of Louis Riel, hero venerated by the Métis, founded the province of Manitoba and defended Métis rights and culture, hung for treason on Nov. 16, 1885).
- According to journal *Justice* (Dec.1987), there are 35,000 Indigenous people in Quebec. They belong to nine First Nations and the majority live on one of 38 reserves.
- Certain off-reserve Indigenous people sometime find themselves homeless in large cities and can be subject to ethnic and social profiling.
- In the wake of the Paix des Braves agreement and the historic agreement with the Cree and Innu to develop northern Quebec, a new dynamic was established in the intercultural relationship between these First Nations and the “White southerners.”
- Unfortunately, those development projects had a limited impact. They did not generate positive spin-offs for other First Nations. Many of them still live in what are considered to be third-world conditions.
- However, certain collective action movements, such as Idle No More, combined with other indicators of socio-political involvement, suggest that First Nations have had a wake-up call. It is highly desirable that First Nations locked in a “culture of silence” emerge from their traditional role as victims of the system and assume the role of full partners.

- This Indigenous movement may modify the image of Indigenous people, their relationship with other Canadians and their rapport with the police, justice and the correctional system. Fear and mutual distrust, which create tension, conflict, and intercultural violence, must give way to something more than ethnocentrism and colonialism. They must give way to new types of relationships that are built on openness, confidence, sharing, empathy, understanding and mutual respect.

#### **h. NOTE VIII**

##### Development /modernity/cultural genocide

- Canada has evolved significantly as a country since it was first discovered by Jacques Cartier. While French and English colonies once took turns occupying the country, Canada has become a middle power with a highly developed economy. It has a wide variety of natural and human resources. Immigration sustains it and provides a qualified labour force and ensures steady population increase.
- Question: Why did Canada's collective progression towards modernity benefit everyone except the Indigenous population? They were not the victims of a physically brutal genocide similar to elsewhere (Bosnia-Herzegovina, Armenia, Nazi Germany, Russia under Stalin, Latin America, post-Columbian Caribbean, Rwanda). Instead, Canada's Indigenous people were entrenched in a slow, subtle "cultural genocide,"<sup>59</sup> according to the United Nations (UN-2015).
- That cultural genocide, comprised of exclusion, indifference, aloofness, contempt and distrust, meant that Indigenous peoples have remained at a standstill at a certain point in history. They developed a sense of identity that contributed to their segregation from the rest of the population. That tribal isolationism<sup>60</sup> persists despite all of the commissions and boards of inquiry that were tasked with decolonization and improving the quality of life for Indigenous people. In light of the welcome extended to refugees from elsewhere (those from Vietnam, Haiti, Bosnia, Syria), it is hoped that the Indigenous people here would benefit from the same empathy and openness from the people and public authorities that live up to their expectations.

#### **j. NOTE IX**

##### New issue: social distance and proximity

All too often, the Indigenous issue relates back to the *Indian Act*. What would happen if this law were abolished? Would Indigenous identity flourish? Would it be the end of reserves, tribes and bands? Would Indigenous identity fade away into the melting pot of Canadian multiculturalism? Could we expect to see a unified Indigenous society, one distinct First Nation, within a single Canadian state? Is Indigenous multiculturalism conceivable given Canada's model of multiculturalism? These questions should fuel debate in the distant future.

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<sup>59</sup> Cultural genocide: limited concept. According to the Truth and Reconciliation Commission, generations of residential school children were deprived of their identity, language and culture.

<sup>60</sup> Maalouf, Amin. *In the Name of Identity*. Grasset, Paris, 2015.

At a less macroscopic level, would Indigenous people in the regions migrate to large centres such as Montréal, Quebec City, Ottawa, Toronto, Vancouver, Halifax? Would eliminating the social distance between cities, regions and reserves create a new proximity that would be a better predictor of interethnic or intercultural relationships, or lack thereof, in Canada? Clearly that new proximity between Indigenous people and other Canadians could work in two ways. The closer we are, the more we like one another. But, the better we know one another, the greater the risk of perpetuating the tension and conflicts that divide us.

## APPENDIX 1

### CORRECTIONAL SERVICE OF CANADA

#### Disciplinary offences<sup>61</sup>

#### Translated into several languages

#### 40. An inmate commits a disciplinary offence who

- (a) disobeys a justifiable order of a staff member;
- (b) is, without authorization, in an area prohibited to inmates;
- (c) wilfully or recklessly damages or destroys property that is not the inmate's;
- (d) commits theft;
- (e) is in possession of stolen property;
- (f) is disrespectful toward a person in a manner that is likely to provoke them to be violent or toward a staff member in a manner that could undermine their authority or the authority of staff members in general;
- (g) is abusive toward a person or intimidates them by threats that violence or other injury will be done to, or punishment inflicted on, them;
- (h) fights with, assaults or threatens to assault another person;
- (i) is in possession of, or deals in, contraband;
- (j) without prior authorization, is in possession of, or deals in, an item that is not authorized by a Commissioner's Directive or by a written order of the institutional head;
- (k) takes an intoxicant into the inmate's body;
- (l) fails or refuses to provide a urine sample when demanded pursuant to section 54 or 55;
- (m) creates or participates in a disturbance, or any other activity that is likely to jeopardize the security of the penitentiary;
- (n) does anything for the purpose of escaping or assisting another inmate to escape;
- (o) offers, gives or accepts a bribe or reward;
- (p) without reasonable excuse, refuses to work or leaves work;
- (q) engages in gambling;
- (r) wilfully disobeys a written rule governing the conduct of inmates;
- (s) attempts to do, or assists another person to do, anything referred to in paragraphs (a) to (r)

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<sup>61</sup> List: Disciplinary offences

CSC: Prison Law. (40). Excerpt from *Disciplinary Code*. CSC. OTTAWA. 2016

Translated into:

- English (Disciplinary Offences)
- Arabic (Arab-Muslim)
- Chinese (Chinese)
- Portuguese (Infração disciplinares)
- Vietnamese (Vi Pham Ky Luat)
- Spanish (Infracciones disciplinarias)
- Somalian (Ciqaabta Dambiyada)
- Hindi (dqL pjhnje yjhegyj apjrhDj)
- Punjabi (anusSfsni AullMGxfvF)
- Italian (Infrazioni disciplinari)

## APPENDIX 2

Official authorization

Scott Harris

Associate Assistant Commissioner's Office

Correctional Service of Canada

Dr. Emerson Douyon

Chair REAC, Quebec Region

Montréal, Quebec

Dear Sir,

Thank you for your offer to produce a written project documenting the history and evolution of services for offenders who are members of Ethnocultural minority groups for Correctional Service of Canada (CSC). I am pleased to inform you that your proposal has been approved.

CSC will provide the following support to help you with the project:

- Access to a computer for the six-month duration of the project;
- An administrative assistant to help with writing and research;
- Access to relevant instructional material;
- Translation services at the end of the project.

The Ethnocultural Services Section will be in contact with you to provide the necessary support during the duration of the project.

If you have questions, please do not hesitate to contact Johanne Vernet, National Manager, Ethnocultural Services Section, at (613) 996-9744 to confirm your availability for this project.

We hope that CSC will continue to benefit from your valuable contribution. I am looking forward to seeing the final product.

Sincerely,

Scott Harris

Associate Assistant Commissioner

Correctional Operations and Programs

Correctional Service of Canada



## APPENDIX 3

### 40th Annual Report of the Office of the Correctional Investigator

*In releasing his report, the Correctional Investigator, Mr. Howard Sapers, noted that recent inmate population growth is almost exclusively driven by increases in the composition of ethnically and culturally diverse offenders. Over the past 10 years, the Aboriginal incarcerated population increased by 46.4% while visible minority groups (e.g. Black, Asian, Hispanic) increased by almost 75%. During this same time period, the population of Caucasian inmates actually declined by 3%. Nearly one-in-four visible minority inmates are foreign-born, many practice religious faiths other than Christianity and a number speak languages other than English or French. “Accommodating ethnic, cultural, language and religious diversity and facilitating meaningful participation in correctional programs and community reintegration for these offenders poses significant challenges for the Correctional Service of Canada,” said Sapers.*

*Diversity in corrections reflects larger demographic trends in Canadian society. However, there are some groups that are disproportionately over-represented in federal penitentiaries and growing at alarming rates. For example, 9.5% of federal inmates today are Black (an increase of 80% since 2003/04), yet Black Canadians account for less than 3% of the total Canadian population. Aboriginal people represent a staggering 23% of federal inmates yet comprise 4.3% of the total Canadian population. One-in-three women under federal sentence are Aboriginal. “These are disturbing trends that raise important questions about equality and our justice system in Canada,” added Sapers.*

*Taken as a whole, visible minority inmates often have better correctional outcomes when compared to the total offender population. Over the last 7 years, on average, less than 5% of visible minority inmates have been readmitted within two years of their warrant expiry date. The rate for the general population is 10.1%. Notwithstanding, visible minority inmates face considerable challenges. A case study conducted by the Office in 2012-13 on the experiences of Black inmates under federal custody found that they are over-represented in maximum security and segregation, incur a disproportionate number of institutional charges, and are more likely to be involved in use of force incidents.*

*The report points out that discriminatory behaviour and prejudicial attitudes by some CSC staff were reported as common experiences among many Black inmates. “CSC needs to do a better job of recruiting and retaining a more diverse front-line and program delivery staff, especially in institutions which house the greatest proportion of visible minority offenders,” stated Sapers.*

*The Correctional Investigator recommends that CSC develop a national Diversity Awareness Training Plan to provide practical and operational training in the areas of diversity, sensitivity and cultural competency. Sapers also recommends the establishment of an Ethnicity Liaison Officer responsible for building and maintaining linkages with culturally diverse community groups and organizations which at present are very limited.*

*Other sections of the 2012-13 Annual Report address ongoing priorities of the Office – mental health care, prevention of deaths in custody, conditions of confinement, issues affecting Aboriginal and women offenders and access to correctional programs.*

*As the ombudsman for federally sentenced offenders, the Office of the Correctional Investigator serves Canadians and contributes to safe, lawful and humane corrections through independent oversight of the Correctional Service of Canada by providing accessible, impartial and timely investigation of individual and systemic concerns. The report cited in this release is available at: <http://www.oci-bec.gc.ca>.*

*For more information, please contact:*

*Ivan Zinger, J.D., Ph.D.*

*Executive Director and General Counsel*

## APPENDIX 4



May 21, 2009

Dr. Emerson Douyon  
Chair, National Ethnocultural Advisory Committee (NEAC)  
Montréal, Quebec

Dear Dr. Douyon:

I had the pleasure of meeting you at the recent Symposium held in Markham, Toronto. I was truly impressed to hear of the work that correctional Services of Canada (CSC) is doing relative to cultural sensitivity and the reintegration of ex-offenders into the wider community. I also realize that there is much we here in the United States still need to do in order to promote ethno-cultural sensitivity and competence.

I feel truly blessed for the recognition and promotion that you given to the work Family Unification & Resettlement Initiative (FURI) is doing for the reintegration of persons deported to Jamaica. With the passing of the resolution between CSC and FURI for the reintegration of persons deported to Jamaica from Canada, I look forward to your continued support and encouragement.

Again, I was truly gratified for the opportunity to address the participants, and appreciate the courtesies that were extended to me and my organization.

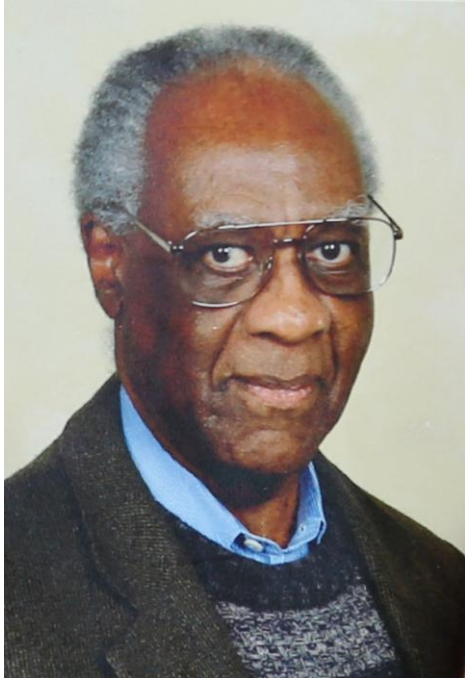
Respectfully yours,

Carmeta Albarus-Lindo  
(President/Founder FURI)

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## Biography

### Dr. Emerson Douyon (1929 - 2016)



Academic, researcher and author of several works, Dr. Douyon obtained his PhD in psychology in 1965 at the Université de Montréal, where he was an associate professor at the school of criminology (1967 to 1994). Author of several studies, research works and publications, he developed an expertise in the fields of juvenile delinquency, criminal personalities, and the connection between culture and deviance.

In addition to participating in teaching and research assignments abroad, Dr. Douyon, alongside André Normandeau, published in 1995, the first French-language work in Quebec that addressed justice and cultural communities. He was closely involved with various inquiries into the relationship between police officer and ethnic minorities, one in 1988 (human rights commission) and another in 1992 (Corbo working group). He was a member and chair of the Correctional Service of Canada's National Ethnocultural Advisory Committee for 10 years (2001-2011).

Engaged in his community, Dr. Douyon has been honoured with numerous awards, including citizen of honour, bestowed by the City of Montréal in 1998, and the Multiculturalism award bestowed by Correctional Service of Canada in 2010. In 2012, the award was renamed the Emerson Douyon Multiculturalism Award.

Dr. Douyon was a member of the Commission des droits de la personne et des droits de la jeunesse since 1999.