



Correctional Service
Canada

Service correctionnel
Canada



SAFETY, RESPECT
AND DIGNITY
FOR ALL

LA SÉCURITÉ,
LA DIGNITÉ
ET LE RESPECT
POUR TOUS

AUDIT OF MANAGEMENT OF SECTION 81 AGREEMENTS

Internal Audit Branch

378-1-241

Approved by Audit Committee

October 21, 2008

Canada

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EXECUTIVE SUMMARY

Section 81 of the Corrections and Conditional Release Act (CCRA) sets out a provision that allows the Minister of Public Safety to enter into an agreement with an Aboriginal community or organization for the provision of correctional services to Aboriginal offenders. Correctional Service Canada (CSC), as third party to the agreement, provides funding and assists the Aboriginal community or organization to set-up what is referred to as a “Section 81 Healing Lodge”. In accordance with any agreement entered under this provision, the Commissioner of CSC may transfer an offender to the care and custody of an Aboriginal community, with the consent of the offender and of the Aboriginal community.

There are currently four Section 81 Healing Lodges across Canada that have a total of 111 beds. These Healing Lodges include the Stan Daniels Healing Center, O-Chi-Chak-Ko-Sipi Healing Lodge, Prince Albert Grand Council Spiritual Healing Lodge and Waseskun Healing Lodge. Although Section 81 staff are not bound by CSC policy, Section 81 Healing Lodges have to be managed in a manner that complies with the applicable CCRA sections. The agreement specifies mutually agreed-upon procedures and protocols to provide appropriate conditions to ensure the safety of staff, offenders, and the public, and to meet the criminogenic needs of the offenders in these facilities.

Essentially, CSC transfers minimum security offenders interested in pursuing an Aboriginal healing path to these facilities as per the National Aboriginal Strategy¹ and in accordance with the guidelines set forth in Commissioner’s Directive (CD) 710-2 – *Transfer of Offenders*².

The establishment and effective operation of Section 81 Healing Lodges is a key component of CSC’s plans to respond to two of its corporate priorities; enhanced capacity to provide effective interventions for First Nations, Métis and Inuit offenders and safe transition of eligible offenders into the community.

This audit was undertaken to provide assurance to CSC senior management that the controls in place to support the management of Section 81 agreements are adequate and effective. More specifically, the objectives were:

- To assess the adequacy of the CSC management framework related to offenders placed in Section 81 Healing Lodges; and
- To determine whether the identification, preparation and placement of offenders in Section 81 Healing Lodges complies with CSC policies and its obligations under the agreements.

In order to examine these objectives, we reviewed key documentation and examined policies, procedures and guidelines. In addition, interviews were conducted with national, regional and local CSC staff, Section 81 Healing Lodge staff, offenders currently incarcerated in federal correctional institutions and residents of Section 81 Healing Lodges.

1 <http://www.csc-scc.gc.ca/text/prgrm/abinit/agenda/5-eng.shtml>

2 CD 710-2 states that in rare cases the offender can be classified as Medium security.

Overall Conclusion

Key elements of the management framework are in place for the provision of correctional services by Section 81 Healing Lodges for Aboriginal offenders. For example, the Section 81 Agreements are compliant with existing legislation and CSC departmental policy requirements and roles and responsibilities are generally well-defined, understood and followed. However, there are some areas where improvements need to be made, namely:

- More direction is required for the establishment and CSC's management of Section 81 Healing Lodges;
- Direction is also needed with respect to the extent to which CSC personnel should monitor the progress of offenders at Section 81 Healing Lodges.
- Better documentation and follow-up on the current monitoring mechanisms included in the agreements is required by the regions for enhanced accountability;
- The need to provide more training for CSC personnel involved with offenders being transferred to Section 81 Healing Lodges should be examined; and
- Enhancements to the financial management controls are also required.

For the most part, CSC's process of identifying, preparing and placing offenders in Section 81 Healing Lodges is working effectively. However, there are instances of non-compliance with policies:

- Healing Plans and Social Histories need to be incorporated in an Aboriginal offender's Correctional Plan. This includes input from an Elder and/or Aboriginal Liaison Officer; and
- More direction is needed to ensure that the offenders who are returned to CSC custody from Section 81 Healing Lodges are provided with all information related to the decision and provided with an opportunity to make representations as outline in *CD 700 – Correctional Intervention* and required under the *Duty to Act Fairly*.

Recommendations have been made in the report to address these areas for improvement. Management has reviewed and agrees with the findings contained in this report and a Management Action Plan has been developed to address the recommendations (see Annex C).

1.0 INTRODUCTION

Section 81 Provision for Correctional Services to Aboriginal Offenders

Section 81 of the Corrections and Conditional Release Act (CCRA) sets out the following provisions for Aboriginal offenders:

1. Agreement - The Minister, or a person authorized by the Minister, may enter into an agreement with an Aboriginal community for the provision of correctional services to Aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.
2. Scope of Agreement - Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of correctional services to a non-Aboriginal offender.
3. Placement of Offender - In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an Aboriginal community, with the consent of the offender and of the Aboriginal community.

Consequently, Aboriginal communities or organizations can enter into an agreement with the Minister of Public Safety and, Correctional Service Canada (CSC), as third party to the agreement, provides funding and assists these communities or organizations to set-up what is referred to as a "Section 81 Healing Lodge". The Commissioner of CSC or his/her delegate may then transfer offenders to the care and custody of these facilities to serve out part of their sentence before being released to the community. Essentially, CSC transfers minimum security offenders interested in pursuing an Aboriginal healing path to these facilities as per the National Aboriginal Strategy³ and in accordance with the guidelines set forth in Commissioner's Directive (CD) 710-2 – *Transfer of Offenders*⁴.

There are currently eight Aboriginal Healing Lodges across Canada with actual capacity of 295⁵ offenders. Four of these Healing Lodges are CSC-operated facilities and were not included in this audit. The other four Healing Lodges are operated independently by Aboriginal groups under Section 81 of the CCRA and are outlined in the following table:

3 <http://www.csc-scc.gc.ca/text/prgrm/abinit/agenda/5-eng.shtml>

4 CD 710-2 states that in rare cases the offender can be classified as Medium security.

5 CSC National Capital Accommodation and Operation Plan, capacity sheet, 2007/03/31

Table 1

Section 81 Healing Lodges

Healing Lodge	Location	Date of Original Agreement	Period of Current Agreement	Number of Beds	Cost to CSC (2007/2008 Fiscal Year)
Ochi-Chak-Ko-Sipi Healing Lodge	Prairie Region	2000	2008-2011	18	\$ 1,092,329.69
Prince Albert Grand Council Spiritual Healing Lodge	Prairie Region	1997	2006-2009	5	\$ 190,664.66
Stan Daniels Healing Center	Prairie Region	1999	2007-2010	73	\$ 2,505,975.94
Waseskun Healing Lodge	Québec Region	2001	2006-2011	15	\$ 920,661.12
Total				111	

Section 81 Healing Lodge Management Structure

The Section 81 agreements dictate the organizational and management structure of the Healing Lodge. The agreements stipulate that the management of the agreement within CSC is the responsibility of the Regional Deputy Commissioner (RDC) of the Region or his/her delegate and the management of ongoing operational issues within CSC is the responsibility of the Director of the District Parole Office that contains the Healing Lodge. As specified in the agreements, the Director of the Healing Lodge is considered to be an Institutional Head with final decision-making authority relating to his/her residents. The Director is appointed by and reports to the Aboriginal community or organization that signed the Section 81 agreement. The Director is accountable for the overall management of the Healing Lodge in a manner that complies with the agreement.

At the National level, the Senior Deputy Commissioner (SDC) has direct responsibility for the advancement of Aboriginal Corrections within CSC, and for external collaboration and coordination with other levels of government. The Director General, Aboriginal Initiatives, supports the SDC in his/her role.

2.0 AUDIT OBJECTIVES AND SCOPEAudit Objectives

The establishment and effective operation of Section 81 Healing Lodges is a key component of CSC's plans to respond to two of its priorities; enhanced capacity to provide effective interventions for First Nations, Métis and Inuit offenders and safe transition of eligible offenders into the community.

This audit was undertaken to provide assurance that the controls in place to support the management of Section 81 agreements are adequate and effective. More specifically, the objectives were:

- To assess the adequacy of the CSC management framework related to offenders placed in Section 81 Healing Lodges; and

- To determine whether the identification, preparation and placement of offenders in Section 81 Healing Lodges complies with CSC policies and with CSC obligations under the agreements.

The criteria used for the audit can be found in Annex A.

Audit Scope

The audit was national in scope as it relates to the review of the Aboriginal intake process. The primary focus as it relates to the management of the agreement was on the Prairie and Quebec Regions as they are the only regions with Section 81 Healing Lodges in operation. For file review purposes, the period of coverage for this audit was from April 1, 2006 to March 31, 2008. The audit focused on male offenders because there are currently no female Section 81 Healing Lodge facilities.

3.0 AUDIT APPROACH AND METHODOLOGY

Audit work included a review of the CSC management framework used to establish, support and monitor Section 81 Healing Lodges, including the adequate identification and preparation of Aboriginal offenders for transfer to a Section 81 Healing Lodge. We reviewed key documentation and policies, examined the intake and transfer processes, and the procedure for returning Section 81 residents to CSC.

The audit team interviewed CSC staff involved in all aspects of managing offenders linked to the Section 81 Healing Lodges at the local, regional and national levels. The team made site visits to the facilities that transferred the most offenders to the Section 81 healing lodges and a list of these facilities can be found in Annex B. A total of 106 interviews were conducted with local and regional CSC staff, Section 81 Healing Lodge staff and federally incarcerated offenders. We also interviewed several staff at NHQ during the preliminary phase of the audit.

In addition, as illustrated in Table 2, six randomly selected Offender Management System (OMS) samples of Aboriginal offenders files were reviewed to determine if:

- Aboriginal offenders are being advised of the Section 81 option at the appropriate time in their sentence;
- Offenders are being properly prepared for release to a Section 81 Healing Lodge through relevant programs, Elder consultations and other Aboriginal services;
- The proper process is being followed to determine which offenders are eligible for transfer;
- Proper case preparation and documentation is contained in OMS; and
- There is a clearly defined procedure for the return of Section 81 residents to CSC custody.

Table 2
OMS File Samples - April 1st 2006 to March 31st 2008

Sample #	Target Population	Population Size	Sample Size
1	Offenders that were Approved for Transfer to a Section 81 Healing Lodge	181	49
2	Offenders Admitted to an Intake Unit During the Review Period	1070	50
3	Offenders Returned to a Federal Penitentiary from a Section 81 Healing Lodge	13	13
4	Offenders Admitted Directly to a Section 81 Healing Lodge from Intake	9	9
5	Residents Currently Residing at a Section 81 Healing Lodge	62	52
6	Offenders that were not Approved for Transfer to a Section 81 Healing Lodge	27	27

The RDCs of the Quebec and Prairie Regions; the Assistant Commissioner, Correctional Operations and Programs; the Assistant Commissioner, Corporate Services; the NHQ Comptroller; and the Director General, Aboriginal Initiatives and/or their delegates were debriefed on the overall findings of the audit. Draft reports were provided for comments and preparation of the management action plan.

4.0 AUDIT FINDINGS AND RECOMMENDATIONS

4.1 MANAGEMENT FRAMEWORK

We assessed the extent to which CSC has a management framework for the placement of offenders in Section 81 Healing Lodges. This included a review of the policy framework, the Section 81 agreements, roles and responsibilities, training, financial management controls and monitoring mechanisms.

4.1.1 Policy Framework

We expected that CSC policies, procedures and guidelines would be in place to support the establishment of Section 81 Healing Lodges.

There is no CSC policy in place to support the establishment of Section 81 Healing Lodges.

The requirements of the CCRA with respect to the provision of correctional services by Section 81 Healing Lodges are very broad in nature. The CCRA specifies that agreements may be entered into, that non-Aboriginal offenders cannot be excluded from these facilities and that both the offender and the Aboriginal community must accept the transfer.

No direction is provided in CSC policies or procedures related to the establishment of Section 81 Healing Lodges and the criteria used to assess the suitability of a request to enter into a Section 81 agreement have not been clearly defined. We also noted that CSC does not have specific policies establishing a management framework for Section 81 Healing Lodges that are in operation. The only documents describing CSC's role as it relates to offenders residing in a Section 81 Healing Lodge are the four agreements and their related annexes and protocol documents. The only CSC policy that relates specifically to management of Section 81 offender is *CD 710-2- Transfer of Offenders* that provides some direction on how offenders are to be identified, prepared and returned from a Section 81 Healing Lodge.

As it relates to preparing Section 81 agreements, the Prairie Region has developed the expertise in that they designed the first Section 81 agreement and they currently have 3 of the 4 Section 81 Healing Lodges in its region. We interviewed staff at RHQ in the Prairie Region to determine what process was used to prepare the agreements. We were informed that there is no standard creation/review process or standardized template. However, when creating new Section 81 agreements (in both the Prairie and Quebec Regions), an existing agreement that had been legally sanctioned was used as the basis and fine-tuned, paragraph by paragraph, to satisfy local requirements. Through this process, agreements have become increasingly standardized over the years and requirements, wording and descriptions are increasingly consistent across agreements.

Nonetheless, for other types of partnerships such as the Exchange of Service Agreements with provincial and territorial authorities, CSC has established direction. *CD 541 – Interjurisdictional Agreements* and *Guideline 541 - Interjurisdictional Exchange of Services Agreements* provide direction on roles and responsibilities, the negotiation process, the content and structure of agreements, the approval process, and the implementation and management of agreements and transfers. CSC should therefore consider establishing policy direction as it relates to the development and management of Section 81 agreements.

4.1.2 The Agreements between the Minister of Public Safety and Aboriginal Communities

We expected that the Section 81 agreements would be compliant with existing legislation and CSC departmental policy requirements.

The Section 81 agreements are compliant with existing legislation and CSC departmental policy requirements.

Section 81 (1) of the CCRA states: “The Minister, or a person authorized by the Minister, may enter into an agreement with an Aboriginal community for the provision of correctional services to Aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.” Accordingly, each of the agreements lists the Minister of Public Safety as the authority entering into the agreement with the Aboriginal community for the provision of correctional services to Aboriginal offenders and states that the Minister will provide payment for such services.

Section 81 (2) of the CCRA states: “Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of correctional services to a non-Aboriginal offender.” Each of the agreements specifies that the provision of the correctional services being offered does not exclude non-Aboriginal offenders. Therefore, the agreements and the CCRA are consistent with respect to this clause.

Section 81 (3) of the CCRA states: “In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an Aboriginal community, with the consent of the offender and of the Aboriginal community.” Each of the agreements includes specification that both the offender and the Aboriginal community must provide consent to the transfer in order for the transfer to take place.

A comparison of the Section 81 agreements indicated that there were no significant anomalies or inconsistencies between them although there is some variation in the specific wording used and areas covered. Each of the agreements covers basically the same areas, with an exception relating to the insurance requirements. This point is discussed further in Section 4.1.5.

As noted in the previous section, *CD 710-2- Transfer of Offenders* is the only CSC policy that has specific requirements for Section 81 offenders. Our comparison of the Section 81 agreements and the above noted CSC policy did not reveal any inconsistencies.

4.1.3 Roles and Responsibilities of CSC Personnel

We expected that the roles and responsibilities of CSC staff working to identify and prepare Aboriginal offenders for a potential placement to a Section 81 Healing Lodge, as well as staff involved with residents, would be clearly defined, understood and followed.

With the exception of monitoring Healing Lodge residents, the roles and responsibilities of CSC personnel involved with offenders prior to their placement in Section 81 Healing Lodges are well defined, understood and followed.

There are general requirements within the CSC policy framework that all operational units shall provide interested Aboriginal offenders with traditional social, cultural and spiritual programs and services, including access to the services of an Elder. These requirements apply to all Aboriginal offenders, including those who apply for transfer to Section 81 Healing Lodges. The roles and responsibilities of CSC staff are defined mostly in CDs.

We interviewed personnel at all levels who are responsible for supporting and evaluating Aboriginal offenders to determine if their roles and responsibilities are well defined and being followed. The institutional parole officers and other CSC personnel involved in offender case management informed us that, for the most part, they are familiar with the requirements for Aboriginal offenders. They are also able to follow the requirements and found them fairly clear and well-defined. Our findings in Section 4.2.1, 4.2.2 and 4.2.3 generally support these statements.

However, we noted varying levels of involvement of CSC staff in the monitoring of Healing Lodge residents. There is no CSC policy defining CSC staff involvement with the Section 81 Healing Lodge process, with the exception of *CD 710-2 - Transfer of Offenders*. Many CSC staff mentioned that they were not clear about their roles and responsibilities related to residents of Healing Lodges and as a result, the monitoring practices differ. For example, some Parole Officers have frequent discussions with Healing Lodge staff and regularly review information in OMS while other Parole Officers are much less involved in regular monitoring of Section 81 residents. Further, there are diverging opinions between NHQ Aboriginal Initiatives and local staff on that issue. Clear roles and responsibilities are especially important for Liaison Parole Officers who are assigned to monitor residents of Healing Lodges and other CSC staff involved with residents being returned to CSC custody from Section 81 Healing Lodges.

4.1.4 Training for CSC Personnel

We expected that training would be provided and taken, as required, by all CSC personnel involved with offender placement in Section 81 Healing Lodges.

Training related to Section 81 Healing Lodges for CSC personnel is limited.

There is no National Training Standard with respect to Section 81 Healing Lodges. We interviewed CSC personnel involved with providing services to and preparing offenders for transfer to Section 81 Healing Lodges to determine if their training needs in this area are being met. Most have received some form of general Aboriginal sensitivity or awareness training, usually when they first joined CSC. However, we noted that only a few of the CSC staff we interviewed have had any training or received information related specifically to the Section 81 process. Some of the staff we interviewed had learned about Section 81 Healing Lodges through on the job training or discussions with their peers while others had obtained more information on their own. Most agreed that more formal training, site visits or provision of information would be helpful.

The risk associated with CSC staff receiving limited training on Section 81 Healing Lodges includes inadequate communication of the services available to Aboriginal offenders and under-utilization of the Section 81 and other services available to Aboriginal offenders.

4.1.5 CSC Financial Management Controls

We expected that CSC would have established adequate financial management controls related to Section 81 Healing Lodge agreements.

Financial management controls related to Section 81 Healing Lodge agreements are generally adequate. There is, however, room for improvement in the following areas:

- *Guidance given to financial officers in the regions in terms of their responsibilities for budget and financial statements review as it relates to Section 81 agreements; and*
- *Consistency and monitoring of insurance requirements.*

Guidance Given to Financial Officers in the Regions

As noted in Section 4.1.1, since there is no policy defining the agreement development process, there is also no standard process for reviewing the financial aspects of Section 81 agreements when they are drafted or renewed. However, using experience gained from previous agreements, the Prairie Region's Aboriginal Initiatives Group has developed a template that is now being used. Also, the agreements are reviewed by the NHQ Comptroller. However, regional staff responsible for managing the financial processes in the agreements informed us that there is little direction issued by NHQ to support them in reviewing budgets, or analyzing financial statements and/or insurance requirements. A similar finding for more guidance on financial management issues was raised in the evaluation of the Stan Daniels Healing Centre (SDHC) completed in October 2005.

Review Performed under Section 34 of the FAA by the Budget Managers

Section 34 of the Financial Administration Act (FAA) and Treasury Board Policy on accounts verification requires that the Budget Managers ascertain that the quality and quantity of services delivered meet the requirements in the agreement prior to approving invoices. Managers we interviewed have received the necessary Section 34 training and are approving invoices. Records of occupancy of inmates at Section 81 Healing Lodges, verified by CSC sentence management personnel or other operational staff are being used to verify quantities invoiced.

With respect to the review of quality of services, the Budget Managers rely on the monitoring mechanisms included in the Agreements and those described in Section 4.1.6.

Insurance Requirements and Financial Statements

As required by the agreements, we expected that CSC would monitor to ensure that Section 81 Healing Lodges are exercising due diligence in delivering required contractual documents, including copies of the insurance policies and copies of their audited financial statements. We also expected that CSC would review these documents to ensure they meet the requirements outlined in the agreements. Although not all agreements call for CSC receiving copies of Healing Lodges audited financial statements (2/4), CSC has requested and received such financial statements from all four Lodges. However, as noted previously, there is no clear direction to financial officers on the review that should be done.

With respect to insurance, we expected the requirements to be consistent among agreements unless a specific situation warrants something different and that CSC staff would ensure coverage meets the requirements of the agreements. We noted through our interviews that neither the Quebec nor the Prairie regional representatives knew whose responsibility it was to request the insurance policies mentioned in the agreements or to ensure that the policies were issued as per the agreements' requirement. Further, no one at RHQ in the Prairie or Quebec Regions knew who had received copies of the insurance policies or where copies of those policies were kept. In reviewing the agreements, we found some inconsistencies in the requirements with respect to who is covered, amounts of coverage and requirements for regular review of insurance coverage. For example, only two of the four agreements require coverage for volunteers.

Based on the documentation and information that were provided, the degree of attention that has been given to the insurance requirement is limited. For all three agreements in the Prairie Region, copies of the insurance certificates, as required under the agreements, were not available at the time of the audit. We have no evidence that these policies have been examined and are satisfactory. Without evidence that adequate insurance coverage is in place, there is a risk that losses could occur and result in liabilities for CSC, and/or that costs being charged to CSC under the agreement may not have been incurred by the Section 81 Healing Lodge.

4.1.6 Monitoring Mechanisms Other than Financial

We expected that CSC would have established appropriate mechanisms to monitor and report on Section 81 Healing Lodges and to take corrective action as needed.

Corporate monitoring and reporting for Section 81 Healing Lodges is not clearly defined.

As noted in Sec. 4.1.1, there is no CSC policy describing or defining the intent, implementation and management of Section 81 Healing Lodges. During our interviews, we came across diverging opinions as it relates to the responsibility and accountability to monitor Section 81 Healing Lodges at the corporate level. It is clear that the RDCs are responsible for the on-going management of the agreements within their respective region. However, the role of the NHQ Aboriginal Initiatives Directorate has not been defined and there is no requirement for the regions to report to NHQ on these agreements. We also noted that CSC has not defined the type of performance information that should be available for effective monitoring and reporting of

Section 81 Healing Lodges. Nonetheless, we have been informed that the NHQ Aboriginal Initiatives Directorate has implemented annual meetings for all four Healing Lodge Directors to discuss common issues.

The provision of policy direction on Section 81 Healing Lodges, as noted in section 4.1.1, should provide an opportunity to enhance CSC's ability to monitor and report on these agreements.

At the regional level, mechanisms to monitor and report on Section 81 Healing Lodges are included in all agreements; however they are not always followed and documented.

The constitution of a Joint Committee and the requirement that it hold at least one annual meeting is an important monitoring mechanism integrated into the agreements. The membership of the Joint Committee varies from one agreement to the other, but generally consists of representatives from CSC (such as the Deputy Commissioner, District Director or his/her delegate), the Healing Lodge and the Aboriginal community. The purpose of the meetings, as defined by the agreements, is to exercise the overall management of the agreement and to establish joint objectives. During our interviews in the Prairie Region, we were informed that these meetings are conducted in an informal manner and that there are no agendas, minutes or records of decisions available to document actions or decisions taken. In the Quebec Region, we were informed that meetings had been discontinued when the responsibility of monitoring the Waseskun Healing Lodge (WHL) was transferred from the Laval Parole Office to the Lanaudière Parole Office. However, we were informed during our interviews that they are planning to implement monthly meetings with the Healing Lodge to replace them.

Another monitoring mechanism incorporated in Section 81 agreements is the provision for a Joint Operational Review of the agreement. The reviews are conducted by a Joint Operational Review Committee to ensure that the Healing Lodges are operating to the optimal benefit of the residents and that the aims and objectives set for the Healing Lodges are being met. As required by the agreements, we expected that these committees would be operational, would meet on a regular schedule, would document issues raised as part of the reviews and, as needed, would prepare action plans.

We found that the areas to be reviewed are well defined in the Ochi-Chak-Ko-Sipi (OHL) and WHL agreements, but are much less descriptive in the Prince Albert Grand Council (PAGC) and SDHC agreements. In assessing the WHL reviews, we noted that many of the same issues are recurring each year. Upon enquiry, we were told that there are no action plans with timeframes being developed to address the issues identified. In the Prairie Region, we were told that an action plan is developed at the same time as the report, but it is not documented. Further, upon enquiry, we were not provided with copies of the reviews.

A similar issue was raised in an evaluation conducted by CSC's Evaluation Branch on the SDHC agreement in 2005. In its March 2006 response to the Evaluation recommendation, the Prairie Region had indicated that measures would be taken to formalize and enhance the Joint Review process. Based on the findings in this audit, we noted that further improvements are still needed in this area.

We also noted two important informal monitoring mechanisms that were not described in the agreements or operational protocols. The Aboriginal Initiatives Project Managers at RHQ in the Prairie Region are assigned to assist and support Section 81 Healing Lodges. They make at least quarterly visits to all sites to observe the operation of the Healing Lodges and to assist in

developing responses to any gaps identified (e.g. training, information, and networking). The Project Managers indicate that they also make unannounced visits to each facility to observe the daily functioning of the Healing Lodge (e.g. what is being done in security, case management, etc). The Regional Administrator Aboriginal Initiatives also makes at least one annual visit to the sites for the Joint Committee Meeting. We were informed that these visits are an important informal monitoring mechanism to support the Healing Lodge staff.

Another important monitoring tool available to CSC is the information being captured into OMS related to residents. We examined a sample of files of residents currently residing at the Healing Lodges and residents returned to CSC custody and reviewed the information available on OMS for the period they were residing at a Section 81 Healing Lodge. Overall, we found that the quantity and quality of information inputted in OMS while an offender resides at a Section 81 Healing Lodge is adequate and comparable to that for an offender being supervised at a CSC institution.

RECOMMENDATIONS:

Key elements of the management framework are in place for the provision of correctional services by Section 81 Healing Lodges for Aboriginal offenders, but there are some areas where improvements need to be made:

Recommendation #1: The Director General, Aboriginal Initiatives Directorate, in collaboration with the Assistant Commissioner, Correctional Operations and Programs, should provide policy direction for the establishment and management of Section 81 Healing Lodges. The direction should include clear roles and responsibilities for corporate monitoring of the agreements and for the monitoring of offenders residing in Section 81 Healing Lodges.

Recommendation #2: The Regional Deputy Commissioners for the Prairie and Quebec Regions should ensure that the monitoring mechanisms included in the agreements are followed and documented.

Recommendation #3: The Assistant Commissioner, Human Resource Management Sector, in collaboration with the Director General, Aboriginal Initiatives Directorate, should examine the need to provide more training for CSC personnel involved with offenders being transferred to Section 81 Healing Lodges.

Recommendation #4: The Assistant Commissioner, Corporate Services, in collaboration with the Director General, Aboriginal Initiatives Directorate and Regional Deputy Commissioners, should provide more guidance on the financial requirements for Section 81 agreements and on the monitoring and review of matters such as budgets, financial statements and insurance requirements.

4.2 IDENTIFICATION, PREPARATION AND PLACEMENT OF OFFENDERS

We assessed the extent to which CSC has a management framework in place to identify, prepare and transfer Aboriginal offenders to Section 81 Healing Lodges. In doing so, we reviewed the Aboriginal offender intake process, programs and services offered to facilitate their successful transition to Section 81 Healing Lodges as well as case preparation, decision making and policies and procedures on the return of residents to CSC custody.

The process for transferring an offender to a Section 81 Healing Lodge begins during the intake assessment of all offenders entering a CSC institution. During the intake interview, Aboriginal offenders are supposed to be informed of the Aboriginal programs and services available to them (e.g. Elder counselling, Pathways, CSC Healing Lodges, Section 81 transfer, etc.) and asked if they are interested in participating. Since the Aboriginal offender's social history must be considered in every decision made about him, this information should be obtained from the offender as soon as possible through an interview. If the Aboriginal offender is interested in following a healing path, he will be interviewed by an Elder for an Elder Assessment and the development of a Healing Plan, which is integrated into his Correctional Plan. If desired, and the offender has completed the institutional portion of his Correctional and/or Healing Plan, he will notify the Section 81 Healing Lodge indicating that he is interested in a transfer to that facility. This will then initiate the process by which the Healing Lodge personnel will review, interview and assess the offender's suitability for transfer and provide a response to the applicant.

4.2.1 Identification and Preparation of Aboriginal Offenders

We expected that Aboriginal offenders who are eligible for placement in Section 81 Healing Lodges are identified and provided with appropriate information, counseling, Aboriginal services and programs to facilitate their successful transition to Section 81 Healing Lodges.

Offenders who are eligible for placement in Section 81 Healing Lodges are identified and are generally provided with appropriate information, Aboriginal services and programs to facilitate their successful transition to Section 81 Healing Lodges. However, we did note some issues of non-compliance with policies in this regard.

Several CDs cover the intake process and they include specific requirements for offenders that may be interested in applying for transfer to a Section 81 Healing Lodge at some point in their sentence.

Compliance with CD Requirements

Personnel we interviewed at CSC institutions told us that there are a number of opportunities for offenders to be informed about the option of being released to a Section 81 Healing Lodge. It can occur at the Remand Centre (provincial jail) before they reach a CSC institution, during the admission interview process, in the general orientation session given to all offenders, by the Aboriginal Liaison Officer (ALO) or during the admission case conference with the Parole Officer. Staff were of the opinion that the majority of Aboriginal offenders are provided with the information required by the CDs at some point in the intake process.

We randomly selected 50 files of male Aboriginal offenders from a national sample of 1070 Aboriginal offenders admitted to an intake unit during the 2006-2007 and 2007-2008 fiscal years. This sample was taken to determine if the offenders were provided with information about Aboriginal initiatives and services as per policy, including information about Section 81 Healing Lodges. This sample had representation from each of CSC's five regions. The following table illustrates the results of our review:

Table 4
Aboriginal Offenders Admitted to an Intake Unit (06/07 and 07/08)

Criteria	Result
Offender Informed of Section 81 During Preliminary Assessment	15/50 (30%)
Offender Informed of Section 81 at Intake	43/50 (86%)
Offender Informed of the Roles of ALOs, Elders and Aboriginal Community Development Officers at Intake	35/50 (70%)
Offender Informed of the Pathways Program at Intake	19/50 (38%)
An ALO was Present During the Admission Interview or Involved in the Intake Process	32/50 (64%)
An Elder was Present During the Admission Interview or Involved in the Intake Process	12/50 (24%)
A Healing Plan was Included as a Part of the Offender's Correctional Plan ⁶	2/42 (5%)
A Social History was Produced During the Intake Process	18/50 (36%)

Overall, our file review revealed that the majority of Aboriginal offenders are informed at some point in the process of the Aboriginal services available to them, including the Section 81 option. However, we did note room for improvement as it relates to considering the Aboriginal offender's social history and requesting input from Elders and/or ALOs for decision-making. Finally, we noted significant non-compliance with policy as it relates to including Healing Plans in Correctional Plans.

Provision of Aboriginal Programs and Services

The availability of core Aboriginal programs varies in the CSC institutions. CSC has developed Aboriginal Substance Abuse, Aboriginal Family Violence, and Aboriginal Sex Offender programs but they are still fairly recent additions to the core programming repertoire and have not been fully implemented nationally. In addition, Aboriginal programs are limited in regions with fewer Aboriginal offenders.

In fiscal years 2006-2007 and 2007-2008, 181/208 applications for transfer to Section 81 Healing Lodges were approved. We reviewed 49 files of the approved transfer applications and all of those that were not approved (27 files). The main purpose was to evaluate how well Aboriginal offenders are prepared for a transfer and to determine if lack of programming was a reason for refusal.

⁶ Of the sample we reviewed, we found evidence that eight offenders made a statement that they were not interested in following an Aboriginal healing path.

For those applications that were approved, 24/49 (48%) of the offenders had completed all of the required programs outlined in their Correctional Plans and, for those not completed, explanations were generally provided as to why they were not completed. The most frequent explanation provided was that the program would be completed at the Healing Lodge or in the community. The most commonly cited reasons for refusal were inappropriate security level, high needs, poor behavioural history and poor motivation. Almost 60% of the offenders who were denied Section 81 release participated in Aboriginal services or programs, including Elder teaching and ceremonies. In addition, 11/27 (41%) of applicants participated in the Pathways program. Only one of the 27 refusals was due to unavailability of programs.

Overall, CSC is providing the appropriate Aboriginal programs and services to facilitate the transition of eligible offenders to Section 81 Healing Lodges.

4.2.2 Case Preparation

We expected that case preparation for the placement of offenders in Section 81 Healing Lodges would be sufficient and properly documented.

Case preparation for the placement of offenders in Section 81 Healing Lodges is sufficient and properly documented.

In order to assess case preparation, we reviewed the content of a sample of Assessments for Decision (A4D) for transfer to Section 81 Healing Lodges to determine if the requirements set out in *CD 710-2 - Transfer of Offenders* were being followed. For purposes of the audit, we identified eight critical factors from the Content Guidelines contained in Appendix C of *CD 710-2 - Transfer of Offenders* and used them to evaluate the quality of the transfer report.

We reviewed 89 files of offenders who submitted an application for transfer to a Section 81 Healing Lodge between April 1st 2006 and March 31st, 2008 in order to evaluate if the case preparation was completed in accordance with the transfer policy and whether specific gaps could be identified. The sample consisted of all the transfer applications that were not approved (27), all of the applications of Healing Lodge residents who were returned to CSC custody (13), and 49/181 applications that were approved for transfer to a Section 81 Healing Lodge. The results of our file review were as follows:

Table 5
Compliance with Assessment for Decision Requirements

A4D Requirements	#	%
Reason for Transfer is well Justified	87/89	98%
Correctional Plan Progress Report Linked to Decision or Correctional Plan Update in A4D	84/89	94%
Consultation with the Section 81 Healing Lodge	84/89	94%
Consultation with the Security Intelligence Officer	80/89	90%
Security Reclassification in A4D or Reference to A4D.	84/89	94%
Security Reclassification well Justified	80/89	90%
Social History Consideration in Report*	41/72	57%
Transfer Linked to Programming Needs in Correctional Plan **	73/78	94%

*17 of the offenders were non-Aboriginal and the requirement did not apply.

**11 of the A4Ds note that the offender had completed all the required programs prior to transfer.

Our review of the A4D for transfer to a Section 81 Healing Lodge revealed high compliance rates with *CD 710-2 - Transfer of Offenders*, with the exception of the requirement to consider an Aboriginal offender's social history in making the decision.

4.2.3 The Decision-Making Process

We expected that the decision-making process in assigning offenders to Section 81 Healing Lodges is well defined, is being followed and is properly documented.

The decision-making process to assign offenders to Section 81 Healing Lodges is well defined, and, is for the most part, being followed and properly documented. We did note a lower level of compliance as it relates to seeking consultation with an Elder or ALO and the offender sending a letter to the Director of the Healing Lodge.

The process for application to and acceptance by Section 81 Healing Lodges is described in the Section 81 agreement operational protocols and *CD 710-2 – Transfer of Offenders*. We reviewed 85 offender files and the Assessments for Decisions for transfer to a Section 81 Healing Lodge inputted on OMS between April 1st 2006 and March 31st, 2008 in order to evaluate if the decision-making process is being followed as outlined in the CD and the agreement. The sample consisted of all the transfer applications that were not approved (27), all of the applications for offenders that were admitted directly to a Section 81 Healing Lodge upon intake (9) and 49 of the 181 applications that were approved for transfer to a Section 81 Healing Lodge. The results of our review were as follows:

Table 6
Compliance with the Transfer Decision-Making Process

Noted in File	% Met
It was documented in OMS that a letter requesting transfer to the Section 81 Healing Lodge was sent from the offender to the Healing Lodge.	48%
Consultation regarding the transfer was done with the Director of the Healing Lodge or his/her designate and noted in the A4D for transfer.	92%
Consultation with or input from the Elder(s) or the ALO for the transfer. (21 non-Aboriginal offenders were screened out)	53%
Consultation with the Security Intelligence Officer for the transfer.	89%
The transfer decision was reviewed by the Offender Management Review Board or its equivalent.	95%
The Warden reviewed the application and made a recommendation.	100%
A final decision was made by the RDC or his/her delegate.	98%

Overall, the decision-making process is well understood and is being followed. We did note that the offender often does not send a letter of interest to the Director of the Healing Lodge requesting transfer. However, there is usually considerable consultation after the offender submits an application for transfer and the offender is usually interviewed by Healing Lodge staff or sent on an Escorted Temporary Absence to the Healing Lodge. Although our finding was not of concern to us as it relates to fairness of process, it nonetheless creates a situation of non-compliance with *CD 710-2 – Transfer of Offenders* and should be addressed. As in Section 4.2.1 of this report, we also note poor compliance with the requirement to seek input from the Elders and/or ALOs when making a decision about an Aboriginal offender.

4.2.4 Return of Residents to CSC Custody

We expected that CSC had established appropriate criteria and procedures for the return of residents to CSC custody.

The criteria and procedures for the return of residents to CSC care and custody are not well defined and do not ensure that the requirements related to the Duty to Act Fairly (CD 700 – Correctional Intervention) are being documented.

As per the Section 81 agreements, the final decision to return a resident to CSC custody is made by the Director of the Healing Lodge. If the Director considers that a resident's level of risk is no longer manageable at the Healing Lodge, he or she will issue a letter of withdrawal of support for the resident. As soon as the Director produces a letter of withdrawal of support, CSC assumes care and custody of the offender and responsibility for management of the case. Depending on the circumstances and level of risk, residents may be transported by Healing Lodge staff, CSC staff or by the local police service back to CSC custody. Healing Lodge staff would be responsible for entering sufficient information in OMS explaining why the resident is being returned.

11/19 (58%) of CSC staff members interviewed indicated that the procedure for returning residents was not well defined and that this was very problematic in some cases. It should be noted that similar findings appeared in the 2007 CSC Evaluation report of the OHL Section 81 Agreement. The report states: "One of the areas highlighted by CSC staff as requiring greater clarification was the transfer policy (e.g., steps involved in the transfer, responsibility for physical transportation of inmates)". Returning a resident against his will is always a very

difficult process. There is no means of containing an offender in a Healing Lodge and the Healing Lodges do not have a Memorandum of Understanding with CSC facilities to segregate problem residents. 13/19 (68%) of the staff we interviewed thought the withdrawals of support by the Healing Lodge were not always warranted and could have been resolved at the Healing Lodge. 8/19 (42%) told us that they had difficulty in finding information to justify a return from a Healing Lodge and that this information was not always provided in a timely manner. Similarly, the 2007 Evaluation report of OHL notes that “some issues were also raised with respect to adherence to the transfer process, particularly regarding transfers from OHL back to CSC institutions, with several respondents suggesting that information such as notification of when and why transfers were occurring was limited or inconsistent. 8/19 (42%) told us it was hard to determine how to label the return to CSC (voluntary, involuntary, emergency).

Our file review revealed that 13 residents were returned to CSC custody from Section 81 Healing Lodges during the 2006-07 and 2007-08 fiscal year. Generally, the reasons for the return were well documented in OMS (11/13, 85%) by Healing Lodge staff, and were available in OMS, on average, 6 days after the offender’s return. Of the 11 that were documented, the reasons for withdrawal included the possession or consumption of alcohol or illegal substances (7/11, 64%) and deteriorating behaviour and motivation (4/11, 36%). However, there was only one instance in which an A4D addressing the return to a CSC institution was produced by the Healing Lodge. CSC staff documentation for the offenders returned consisted of ten CSC board reviews and three casework records. There were only two cases in which it was documented that the decision had been shared with the offender. 7/13 offenders were returned to a medium security institution, of which five were eventually reclassified as Medium, on average, four weeks after the return to a medium security institution.

Overall, the process of returning residents from Section 81 Healing Lodges is not clearly defined. We note several inconsistencies in how it is applied and some issues of non-compliance. Finally, the fact that most residents are returned to CSC because of behavioural problems and 7 returned to a medium security environment raises concerns because there is no process in place to document that CSC fulfills the *Duty to Act Fairly* as it relates to the sharing of all information used to make a decision in a timely manner and providing an opportunity to the offender to make representations about the decision.

RECOMMENDATIONS:

For the most part, the process of identifying, preparing and placing offenders in Section 81 Healing Lodges is working effectively. However, we noted some instances of non-compliance with policies.

Recommendation #5: The Assistant Commissioner, Correctional Operations and Programs, in collaboration with the Regional Deputy Commissioners, should ensure compliance with policy as it relates to including a Healing Plan in an Aboriginal offender's Correctional Plan and considering Aboriginal offenders' social histories and the input from an Elder and/or ALO in making any decision.

Recommendation #6: The Assistant Commissioner, Correctional Operations and Programs, in collaboration with the Director General, Aboriginal Initiatives Directorate, should provide more direction on the process of returning a resident to CSC custody and ensure the principles of the *Duty to Act Fairly* are respected.

Audit Objectives and Criteria

<i>Objective</i>	<i>Criteria</i>
1. To assess the adequacy of the CSC management framework related to offenders placed in Section 81 Healing Lodges.	1.1 CSC policies, procedures and guidelines are sufficient to support the establishment of Section 81 Healing Lodges.
	1.2 The Section 81 agreements are compliant with legislative and departmental policy requirements.
	1.3 Roles and responsibilities for CSC personnel involved with offenders placed in Section 81 Healing Lodges have been clearly defined, they are understood and are being followed at national, regional and site levels.
	1.4 Training is being provided, and taken as required, for all CSC personnel involved with the Section 81 process.
	1.5 CSC has established adequate financial management controls related to Section 81 Healing Lodge agreements.
	1.6 CSC has established appropriate mechanisms to monitor and report on residents placed in Section 81 Healing Lodges and to take corrective action, as needed.
2. To determine whether the identification, preparation and placement of offenders in Section 81 Healing Lodges complies with CSC policies and with CSC obligations under the agreements.	2.1 Offenders who are eligible for placement in Section 81 Healing Lodges are identified and provided with appropriate programs and services to facilitate their successful transition to Section 81 Healing Lodges.
	2.2 Case preparation for the placement of offenders in Section 81 Healing Lodges is sufficient and properly documented.
	2.3 The decision making process to assign offenders to Section 81 Healing Lodges is well defined, is being followed and is properly documented.
	2.4 CSC has established appropriate criteria and procedures for the return of residents from Section 81 Healing Lodges to CSC custody.

Location of Site Visits

Québec Region

- Regional Headquarters
- Regional Reception Centre - Multi-Level Security
- Federal Training Centre – Minimum Level Security
- La Macaza – Medium Level Security
- Waseskun – Section 81 Healing Lodge
- Lanaudière Parole Office
- East/West District Office

Prairie Region

- Regional Headquarters
- Saskatchewan Penitentiary – Medium Level Security
- Riverbend Institution – Minimum Level Security
- Drumheller Institution and Annex – Medium and Minimum Level Security
- Stan Daniels Healing Centre
- Prince Albert Grand Council Spiritual Healing Lodge
- O-Chi-Chak-Ko-Sipi Healing Lodge
- Stony Mountain Institution – Medium Level Security
- Rockwood Institution – Minimum Level Institution
- Edmonton Area Parole Office
- Prince Albert Area Parole Office

Management Action Plan

Annex C

Recommendation	Action Summary	OPI	Planned Completion Date
<p>1. The Director General, Aboriginal Initiatives in collaboration with Assistant Commissioner, Correctional Operations and Programs should provide policy direction for the establishment and management of Section 81 Healing Lodges. The direction should include clear roles and responsibilities for corporate monitoring of the agreements and for the monitoring of offenders residing in Section 81 Healing Lodges.</p>	<p>Create comprehensive Guidelines addressing the intent, implementation/establishment and management of Section 81 Healing Lodges, in consultation with ACCOP, the RDCs, the National Advisory Committee and others as required.</p>	<p>DGAI</p>	<p>Sep-09</p>
<p>2. The Regional Deputy Commissioners for the Prairie and Quebec Regions should ensure that the monitoring mechanisms included in the agreements are followed and documented.</p>	<p>Prairie and Quebec Regions: in a coordinated effort:</p> <p>1) Submit a memorandum to the responsible officer managing Section 81 Healing Lodges addressing assurances that CSC is in compliance with MOUs.</p> <p>2) Create a Performance Framework and Assessment process that ensure national monitoring mechanisms and process within Section 81 agreements are followed and documented. This process will be reviewed and approved by NHQ Aboriginal Initiatives Directorate.</p> <p>3) Create a regional structure ensuring that any management committee meetings between CSC and any Section 81 Healing Lodge include formal documented minutes and systems to follow up on Action Plans and commitments.</p>	<p>RDC Prairie and Quebec with DGAI</p>	<p>Dec-08</p> <p>Sept-09</p> <p>Mar-09</p>

<p>6. Assistant Commissioner, Correctional Operations and Programs in collaboration with the Director General, Aboriginal Initiatives should provide more direction on the process of returning a resident to CSC custody and ensure the principles of the Duty to Act Fairly are respected.</p>	<p>1) Review existing transfer processes for the return of a Healing Lodge resident to a CSC facility and define/streamline a process within a guideline for CSC and Healing Lodges. The guideline will address CSCs compliance with the Duty to Act Fairly.</p> <p>2) Review cultural alternatives or appropriate options, amenable to Healing Lodges, to fulfill on the principles of the Duty to Act Fairly and ensure inclusion within all Section 81 Agreements.</p>	<p>ACCOP/D GAID</p>	<p>Sep-09</p> <p>Sep-09</p>
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