



June 5, 2019

John Phelps
Deputy Minister and
Deputy Attorney General
Department of Justice

Dear Mr. Phelps:

Re: Letter of Report: Implementation Working Group for the WCC Inspection Report

As set out in the letter of August 28, 2018, establishing the *Implementation Working Group to Support the Fulfillment of the Whitehorse Corrections Centre Inspection Report* (hereafter the Implementation Working Group or the working group), we are providing the following as the third report (March 2019 through May 2019) response of our work to date. This Letter of Report will layout the engagements the working group has had during this period, the work to date in the three areas of approach identified in the Report, and anticipated work ahead for the Implementation Working Group.

Continued Engagement

As indicated in previous Letters of Report (December 2018, March 2019) the Implementation Working Group continues to engage with stakeholders and partners to better understand concerns surrounding the correctional environment, learn from best practices and innovative approaches to improve corrections in Yukon. This is always done with a realization that the approaches deployed in Yukon need to meet the unique and specific needs of our jurisdiction.

During this reporting period, the working group met with the Whitehorse Correctional Centre (WCC) Elders Advisory Group. This longstanding group preexisted redevelopment of the Corrections Act in 2009 and the building of the new Whitehorse Correctional Centre. This group is not established by a statutory or regulatory authority, but is formalized by a terms of reference. This group is currently made up of eight elders representing six of the Yukon's fourteen First Nations. The Elders group meets once monthly with WCC staff and leadership and regularly participate in unit and individual visits with inmates. The elders are also a key element of the monthly living unit meetings, use of the outdoor healing circle and special events such as the solstice dinners. Additionally, the elders are available, upon the inmate's request, to attend

adjudication hearings. The elders also provide invaluable information to WCC staff on Yukon First Nations customs, spirituality, and clan and family associations.

In the *Inspection Report*, Mr. Loukidelis references the essential and long standing commitment the elders have made to the in-custody clients and the staff of the Whitehorse Correctional Centre (p. 77) and makes recommendation (#32) that more work is done to enrich the number of elders participating in the services they provide. The working group acknowledges that having more elders means there could be more things elders do with inmates and staff at WCC. The working group was advised by the WCC leadership that recruitment of elders has been a longstanding objective of the Centre, but has not lead to a substantial increase in the numbers of elders participating or an increase in First Nations representation within the group. To this end, the working group will seek to work through its connections with First Nations to attempt to improve this situation.

The working group also had the opportunity to meet with Andreea Lachsz who has undertaken an international research project for the Northern Territory of Australia in Corrections and approaching the United Nations Optional Protocol to the Convention Against Torture (OPCAT) (<https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz>). A significant piece of this work and the intentions of OPCAT is to establish external oversight authorities of places of detention. This is where the nexus of Ms. Lachsz's work and research intersect with that of the working group. While it is assumed that the working group would always want to ensure that the means it might use to implement the recommendations of the *Inspection Report* would not create conditions of torture, the considerations of such aspects as human rights, procedural fairness and external oversight are germane to putting in place fair, culturally conscious and rehabilitative corrections systems. In addition to the development of these discussions, Ms. Lachsz was able to shed light on the practice of community and indigenous involvement in the corrections field in the Northern Territory of Australia. In this part of Australia, the representation of indigenous populations far exceeds that of Yukon and the representation of indigenous people in the in-custody population is nearly 100%. While there was nothing concrete taken from this engagement it was felt by many that the time spent with Ms. Lachsz shed light on how broad the complexities of corrections are and just how far reaching the interest is in finding the best solutions for those who find themselves in the custodial care of the state.

While not specific to engagement, it is important to acknowledge Andrea Monteiro who has joined the Department of Justice as the Director of Corrections during this reporting period. Ms. Monteiro fills the nearly year-long vacancy in this critical position. With her assumption of the role, Ms. Monteiro will bring consistent and knowledgeable guidance to the change efforts going forward. The competition for the position that saw Ms. Monteiro accept the Director's role was a staffing partnership between the Department of Justice and Yukon First Nations representation through CYFN. It would be remiss not to acknowledge Jayme Curtis (Superintendent of WCC) and the hard work he has undertaken as the acting Director since the spring of 2018.

Work to Date

In this section of the *Letter of Report* the working group will provide a summary of the activities in the three respective areas of focus in the *Inspection Report*, those being; enhancing mental wellness services at WCC, assessment of separate confinement at WCC and Improving outcomes for First Nations individuals.

Mental Wellness:

Work in this area continues to be primarily focused on the design and continued implementation of Forensic Care Team. This partnership with Health and Social Services has begun to take form and in some respects is already being used in a limited capacity to address the needs of inmates at WCC.

The funding transfer from the Justice budget to the Health and Social Services budget to help support the team was completed with the passing of the *Appropriations Act* at the end of the spring sitting of the Yukon Legislature. This moved all funds previously aligned within the Justice budget for forensic services and program support work at WCC to Health and Social Services where this funding will augment the resources they use to provide these services at WCC.

In terms of the team and their work, the working group is happy to acknowledge that the Manager of the team has been hired. The individual has a Masters level clinical psychology background and many years of forensic experience in both the departments of Justice and Health and Social Services. This has made the transition almost seamless and brings immediate, on the ground implementation of the program services to the WCC clients. The rest of the forensic team continues to be fleshed out with staffing actions currently underway.

Early success has already been demonstrated on a number of cases at WCC. The Forensic Team has been engaged in a number of complex cases at WCC, and are meeting regularly with medical staff, case managers and the management table. This has brought a new level of integrated services to the clients at WCC and has begun to forge the working relationship between corrections officials and the health care experts.

In addition to the improvement in services expected at WCC, the partnership with Health and Social Services is expected to increase services and supports available in the work of Yukon Community Corrections (Probation) and the Community Wellness Court.

Separate Confinement:

The matter of separate confinement remains a significant area of focus for the working group. While the efforts on this body of work (the largest number of recommendations in the *Inspection Report* were focused on changes to the use of separate confinement) remain largely in policy review, research and development, there are external factors which make this area of change particularly complicated.

There are still two significant matters at appeal before the federal courts in Ontario and British Columbia. While these legal matters involve Correction Services of Canada (CSC), the federal agency responsible for federal corrections, the outcomes of these cases will, or most likely will, establish terms that will affect the use of separate confinement across the federal corrections system and in the provincial and territory corrections systems alike. Yukon also finds itself with similar challenges. During this reporting period, Yukon's practices and legislation surrounding the use of separate confinement have been challenged in the Yukon Supreme Court. Similar to the current federal cases, the decision of the Yukon Supreme Court may very well provide the courts direction in respect of changes to the use of separate confinement. It is hoped, although not expected, that the decisions of the federal court or the Yukon Supreme Court will be made before policy reviews and legislative draft commitments are finalized for decision makers. The Department of Justice has committed to have this completed before the fall session of the Yukon Legislature.

First Nations individuals:

The working group remains focused on providing the over-represented First Nation population in custody with more and improved services. The notable advances against the recommendations of the Report in this area during this reporting period include the hiring of the WCC First Nations Liaison position (recommendation #29). This position was filled through a joint hiring process involving elders from the Elders Advisory Group and Justice staff. The successful candidate is Yukon First Nations and has already begun her orientation at WCC to define her role there. It is the expectation of the working group that given the number of First Nations in the WCC population, additional resources of the same nature will be sought to benefit the awareness amongst staff, programming for inmates and aid in the reintegration of inmates back to their communities.

Toward the end of this reporting period, CYFN was able to advise that they have been successful in leading an application process to receive pilot funding to build and operate, through a facilitator, a sweat lodge at WCC (recommendation #31). While the development of this project is still in the early stages, it is a demonstration of the strengthening relationship between Corrections and Yukon First Nations. This project will see the opportunity of the spiritual benefits of a sweat lodge provided to First Nations and non-First Nations clients alike at WCC.

Having persons of First Nations heritage throughout the corrections system is very important. Recently the complement of Independent Hearing Adjudicators was augmented with a Yukon First Nations individual. While there have been First Nations previously represented within the ranks of the Adjudicators, there was no current practicing First Nations adjudicator. The effort to continue to develop a more Yukon representative group of adjudicators will continue.

Finally, while not specifically focused on First Nations offenders, Mr. Loukidelis did draw attention to the benefits of using the Community Wellness Court (recommendation #38). During this

reporting period the referrals to the court have significantly increased by nearly 300% (about 8 files to about 24 files). This increase can be attributed to a cross-system review of how referrals were being made, consistent leadership of the Community Wellness Court functions and the support of Yukon government in funding the Court on a permanent basis. This increased use of the court has been noted by the judiciary and senior department officials.

Future Work:

The working group will continue to focus on both the specific implementation of the recommendations while maintaining a broader focus on continuous improvements to the correctional environment.

It is expected that within the forthcoming period there will be a requirement of significant effort focused on the separate confinement issues. Additionally, it is hoped that the sweat lodge project at WCC can begin to take form and continued advancements in the development of the Forensic Health Team will increase services to those that require their resources at WCC. It is also expected that during this next reporting period the new Director of Corrections will become much more engaged in the exploration of the implementation of recommendations at WCC, and more broadly across the corrections system.

Conclusion

The working group remains committed to working at innovative means to implement the recommendations of the Report and improve systems in corrections. The group is conscious that it is approaching the one-year date from its creation and wants to make sure that efforts are not lost in time. This will continue to require a keen focus on working at doing the 'right' thing and leveraging the relationships and partnerships to achieve this outcome.

Sincerely,



Allan Lucier
Chair, Implementation Working Group

cc: Implementation Working Group