Policy Statement on Solitary Confinement and Health Delivery in Canadian Correctional Facilities

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Introduction:

The College of Family Physicians of Canada (CFPC) represents more than 35, 000 members across the country and holds the responsibility of establishing standards for the training and certification of family physicians. In 2016, the CFPC Prison Health Program Committee released position statements with recommendations related to Solitary Confinement and Health Care Delivery in Correctional Facilities.

Note that the CFPC defines solitary confinement as "any confinement of prisoners for 22 hours or more a day without meaningful human contact, and with limited or no access to rehabilitative programs. "[1]

Statements:

The recommendations of the Position Statement on Solitary Confinement support "... abolishing solitary confinement for disciplinary reasons; and having medical staff assess the health of persons in solitary confinement on a daily basis…in a setting that maintains confidentiality and dignity."[1] The recommendations also make clear that solitary confinement for mental illness or medical reasons is inappropriate.

The CFPC Position Statement on Health Care Delivery in Correctional Facilities recommends that all responsibilities for health care in correctional facilities that currently lie with provincial/territorial Ministries of Justice be transferred to provincial/territorial Ministries of Health. The administration and orchestration of health services from outside the prison system within a recognized health authority will allow for "...less conflict between health personnel and correction authorities."[2]

Effect on Medical Trainees:

Issues related to prison health have the potential to directly affect clerks, who may attend to current or former inmates in emergency wards, in-patient units, and off-site prison visits. Solitary confinement is used in every province in Canada, and thus, the impacts of its use on the mental and physical health of patients may be felt by all students regardless of location or medical school. More broadly, students form opinions and beliefs about marginalized populations during all years of medical training, and begin to contemplate their future practices as early as their first year of medical school.

Solitary confinement and inadequate prison health services affect medical students during their education and in their future practice. For as long as the responsibility for mental, physical and public health within correctional facilities remain outside of provincial/territorial healthcare systems, there is little incentive to educate students about incarcerated populations. Furthermore, without any exposure or sense of responsibility, it is difficult for students to consider this population as a part of their future practice.

Inadequate healthcare in the correctional system impacts individual health, community re-integration post-release, social determinants of health, and the public health system at large. All of these components have the capacity to impact a medical student's future practice and are relevant to all medical disciplines.

Endorsement:

The Canadian Federation of Medical Students (CFMS) represents the voice of over 8000 Canadian medical students, and as future physicians, we have a duty to advocate on issues that affect the health of the communities we serve. This includes the issue of solitary confinement, which can have severely detrimental impacts on the physical and mental health of prisoners.[1]

It is the stance of the CFMS that prisoners deserve the right to humane and ethical treatment, including the ability to access quality medical care. Solitary confinement is in violation of these principles, and is a harmful practice that should be abolished by correctional facilities and government policymakers. Evidence indicates that solitary confinement is not only detrimental to the health of prisoners, but that it is also an ineffective method of

disciplining inmates.[2] In addition, prolonged solitary confinement (exceeding 15 days) is in violation of the minimal standards for prisoners that the United Nations (UN) has endorsed. The UN calls for solitary confinement to only be used as a last resort, and to be prohibited when exacerbation of physical and mental disability is possible.[3]

The CFMS also believes that all prisoners need to be treated with dignity, and this includes ensuring inmates are able to access the appropriate care that addresses their health needs. To facilitate this, the responsibility for health care delivery within correctional facilities must be immediately transferred from provincial/territorial Ministries of Justice to Ministries of Health. Health care for inmates should be delivered by regional health authorities that have the existing standards, resources and expertise needed to provide comprehensive physical and mental health services.

As the collective voice of medical students across Canada, the CFMS strongly endorses the recommendations in the CFPC position statement on the topics of solitary confinement and health care delivery in correctional facilities. Considering the negative impacts solitary confinement and inadequate correctional health services will have on the communities medical students will serve in the future, advocacy on this issue falls within the CFMS' scope.

Conclusion:

The CFMS endorses the position taken by the CFPC to abolish solitary confinement and transfer responsibility for correctional health services to provincial/territorial Ministries of Health. The CFMS particularly opposes the solitary confinement of youth and individuals with mental and physical disabilities. In formally releasing a formal endorsement of the CFPC paper, the CFMS has taken a clear and firm stance on the issue of solitary confinement, and this will guide our position on the topic in the future.

Current Environment:

The current status of solitary confinement within Canada is the following. On January 17, 2018, the B.C. Supreme Court declared "indefinite solitary confinement" (also known as administrative segregation) in Canadian prisons as unconstitutional, a decision which the federal government has decided to appeal.[6,7] Even upon extensive efforts conducted by BC Civil Liberties Association and John Howard Society of Canada to divert this, the federal government did not respond.[7]

A decision from ON Superior Court Justice Frank Marrocco released in December 2017 found administrative segregation longer than five days unconstitutional, but the actual practice not a violation of constitutional rights.[7] This, as well as the B.C. Court ruling, was filed a notice by the Canadian Civil Liberties Association (CCLA) so that the federal government could gain clarity on this issue.[7]

In regards to general health delivery within provincial correctional facilities, there are still significant gaps. These problems owe in part to existing governance and service delivery structures, where oversight of health care in these settings is the responsibility of an organization other than the provincial/territorial Ministries of Health. To prioritize improvements in health service provision, British Columbia, Alberta, Nova Scotia and Ontario have transferred governance of health services from their Ministries of Justice to their respective provincial Ministries of Health.

Obstacles in appropriate and effective healthcare delivery can also be in part due to the largely reactive nature of current health care provision, which largely focuses on acute and urgent medical needs as opposed to holistic and preventive care. On February 19, 2018, Public Safety Ministry Spokesman Scott Bardsley said that the Canadian government planned to invest $57.8 million "... to provide more effective mental healthcare to prisoners".[8]

Recommendations:

The recommendations of this endorsement were created in collaboration with the Prison Health Program Committee at the CFPC. They have been separated into two categories: medical student education, and role in advocacy.

1. As physicians may provide care to both current and former prison inmates, it is crucial for medical students to develop an understanding of issues related to prison health. Medical schools should integrate topics regarding the health of incarcerated populations into curriculum as part of their mandate towards social accountability. Content that should be covered within pre-clerkship and clerkship learning includes:

- Populations that are overrepresented within correctional facilities (eg. Indigenous people, black people) and the root causes for this overrepresentation (eg. colonization, historical trauma, racism, criminalization).
- Barriers to health care delivery in prisons (eg. delivery of care by Ministries of Justice rather than Ministries of Health) that contribute to poor health outcomes of incarcerated populations.
    - Specific topics that could be addressed include the underutilization of health technologies such as electronic health records (EHRs), as well as the lack of health human resources within correctional facilities.
- Health issues relevant in prisons (eg. Hepatitis C, mental health conditions, chronic disease) and how the prison environment can exacerbate health issues (eg. impact of solitary confinement on mental illness)
- Health issues relevant to transitions of care upon release of inmates (ie. discharge planning, community linkages, continuity of care).
    - The need for better resources to support the transition of inmates from correctional facilities to community support systems in terms of medical care and social support.
- Social determinants of health which may impact treatment adherence, and risk of re-incarceration.
- Interventions to address issues relevant to prison health, such as: abolishing solitary confinement, providing new needles, connecting inmates with a family physician, and transferring the responsibility for correctional health care to Ministries of Health.
- Increased opportunity for students to gain exposure and hands-on experience with incarcerated populations in educational settings (ie. clinical rotations, shadowing, etc).
- Increased opportunity for students to explore inmate health outcomes, attitudes towards healthcare, and determinants of health while in prison and following their transition to the community, through academic scholarship.
- Increased opportunity for students to participate in advocacy initiatives surrounding the rights and needs of inmates (see below).

2. Medical students need to take an active role in advocating for improvements to the health care of incarcerated populations at provincial, territorial and federal levels. This involves:

- Understanding the policies regarding prison health care delivery in the province / territory that they are studying in.
- Communicating with elected representatives to urge governments to abolish solitary confinement and transfer responsibility of health care delivery within prisons to Ministries of Health.
- Identifying physicians that deliver health care in local correctional institutions to learn more about their practice and experiences.
- Collaborating with prisoner advocacy groups to learn about and support their work to improve the health of incarcerated people.

Resources:

1. The College of Family Physicians of Canada. Position Statement on Health Care Delivery. Accessed here: http://www.cfpc.ca/uploadedFiles/Directories/Committees_List/Health%20Care%20Delivery_EN_Prison%20Health.pdf
2. The College of Family Physicians of Canada. Position Statement on Solitary Confinement. Accessed here: http://www.cfpc.ca/uploadedFiles/Directories/Committees_List/Solitary%20Confinement_EN_Prison%20Health.pdf
3. United Nations Office on Drugs and Crime. The United Nations Standard Minimum Rules for the Treatment of Prisoners. Accessed here: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf
4. "We Won! BC Supreme Court ends indefinite solitary confinement in federal prisons across Canada" (January 2018). British Columbia Civil Liberties Association. Accessed here: https://bccla.org/2018/01/bc-supreme-court-ends-indefinite-solitary-confinement-federal-prisons-across-canada/
5. Federal Government to fight solitary confinement ruling from B. C. Court (February 2018). The Canadian Press. Accessed here: http://www.cbc.ca/news/politics/solitary-confinement-federal-gov-1.4541967
6. Paperny, A., (Feb 19th, 2018). Canada's government appeals court ruling on solitary confinement. Accessed here: https://ca.reuters.com/article/topNews/idCAKCN1G321R-OCATP
7. Submission to the Ministry of Health and Long-Term Care (February 2016). John Howard Society of Ontario. Accessed here: http://johnhoward.on.ca/wp-content/uploads/2016/03/MOHLTC-Response-Prison-Health-Care-1.pdf
8. Fractured Care: Public Health opportunities in Ontario's Correctional Institutions. John Howard Society of Ontario. Accessed here: http://johnhoward.on.ca/wp-content/uploads/2016/04/Fractured-Care-Final.pdf