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| e-document            | T-3278-25-ID 18                                                               |                            |
| F<br>I<br>L<br>E<br>D | FEDERAL COURT<br>COUR FÉDÉRALE<br><br>September 19, 2025<br>19 septembre 2025 | D<br>É<br>P<br>O<br>S<br>É |
| Chanelle Gallant      |                                                                               |                            |
| HFX                   | 17                                                                            |                            |

Court File No.: T-3278-25  
HALIFAX REGISTRY

**FEDERAL COURT – TRIAL DIVISION**

Between:

**AMANDA JOY COOPER**

Applicant

and

**ATTORNEY GENERAL OF CANADA**

Respondent

---

**Applicant's Motion Record**  
*Motion to Strike*

---

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**Per: Laura Rhodes / Kaitlin Stephens**  
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COURT FILE NO. T-3278-25  
HALIFAX REGISTRY

**FEDERAL COURT**

BETWEEN:

**AMANDA JOY COOPER**

APPLICANT

**AND**

**ATTORNEY GENERAL OF CANADA**

RESPONDENT

---

**NOTICE OF MOTION TO STRIKE PORTIONS OF AFFIDAVITS**

---

**TAKE NOTICE THAT** Amanda Joy Cooper will make a motion to the Federal Court under rule 359 of the *Federal Courts Rules*.

**THE MOTION IS FOR** an order striking impugned portions of the respondent's affidavits, which have been filed in support of its position on the applicant's motion for interlocutory injunction.

The applicant states that the motion will require no more than one hour for hearing, and that the hearing may be decided as a preliminary matter at the start of the hearing of the motion for injunction that underlies this motion to strike.

**THE GROUNDS FOR THE MOTION ARE:**

1. The respondent's affidavits contain impermissible evidence as follows:

| <b>Affidavit of Elizabeth Burns, affirmed September 9, 2025</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                            |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| <b>Paragraph</b>                                                | <b>Impugned Statement</b>                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Grounds for Objection</b>                               |
| Para 12                                                         | The design and operational model of women’s institutions, centered on autonomy, empowerment and open environments could result in a significant ‘culture shock’ for the applicant... However, she has not developed the necessary skills to function safely and successfully in such an environment. Without the ability to manage the emotional impact of this transition, she remains vulnerable to experiencing major depressive symptoms. | Opinion, speculation                                       |
| Para 17                                                         | CSC has a duty to accommodate the needs of gender diverse offenders unless there are overriding health or safety concerns that cannot be resolved.                                                                                                                                                                                                                                                                                            | Assumes a point of law                                     |
| Para 19                                                         | Overall, CSC believes that the applicant’s gender identity, hormone treatments, and gender affirming surgery have in no way mitigated her risk to reoffend.                                                                                                                                                                                                                                                                                   | Opinion, speculation, belief not within personal knowledge |
| Para 20                                                         | She denies that the offence cycle that currently exists is accurate, believing that the offence cycle belongs to her dead self. This claim does not show accountability from the offender as she places the blame on her dead identity rather than her current self.                                                                                                                                                                          | Opinion, hearsay and does not cite source of belief        |
| Para 27                                                         | CSC’s Gender Considerations Secretariat has been consulted to ensure that the applicant’s gender-related needs, safety and overall well-being will be addressed at and by Millhaven Institution.                                                                                                                                                                                                                                              | Hearsay, does not cite source of belief                    |

| <b>Affidavit of Sarah Byron</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                              |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| <b>Paragraph</b>                | <b>Impugned Statement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Grounds for Objection</b> |
| Para 16                         | The language “overriding health or safety concerns that cannot be resolved” assists decision-makers in rendering fair and well-reasoned decisions in response to requests for accommodation from gender diverse offenders. It is defined in Annex A of CD-100 and intended to operationalize and simplify the notion of “duty to accommodate to the point of undue hardship”.                                                                                                                                                                                                                | Assumes a point of law       |
| Para 18                         | Accommodations under CD-100, including institutional placement, may only be denied when overriding health or safety concerns cannot be effectively mitigated, ensuring that denial is reserved for cases meeting the threshold of undue hardship.                                                                                                                                                                                                                                                                                                                                            | Assumes a point of law       |
| Para 22                         | As of July 26, 2025, CSC identified a total of 125 gender diverse individuals in custody, representing approximately 0.84% of the total incarcerated population (n = 14,837) [ <i>footnote citation omitted</i> ]. Of these, 88 are transgender women, with 82% (n = 72) housed in men’s institutions and 18 % (n = 16) housed in women’s institutions.                                                                                                                                                                                                                                      | Relevance                    |
| Para 23                         | ... For example, placing an offender in an institution predominantly composed of individuals who match their victim profile may pose significant risks to the broader population; particularly if the offender remains active in their offence cycle, has not addressed underlying risk factors, or demonstrates limited insight into their current level of risk or the strategies required to manage it. In this case, such a placement could jeopardize institutional safety, increase the likelihood of reoffending, and undermine rehabilitative efforts for the individual and others. | Opinion, speculation         |

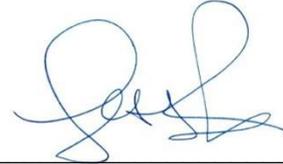
|         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                               |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Para 26 | A substantial portion of women offenders have exposure to adverse or traumatic life events, and they are more likely to be victims of gender-based violence than women in the general population.                                                                                                                                                                                                                                                                                                                                                         | Relevance, no source cited for belief/opinion |
| Para 27 | Women are more likely to develop a higher intensity of symptoms of post-traumatic stress disorder (“PTSD”) than men. Women offenders are more likely to experience substance use, self-injurious behaviour, and mental health concerns due to this PTSD. Given the unique social histories of women offenders, enhanced supervision to mitigate the risk of the transfer of offenders who have been convicted of gender-based violence or violence toward children may be inappropriate, as excessive security presence can create apprehension and fear. | Relevance, opinion, speculation               |
| Para 28 | Given that women’s institutions operate under a communal living model with limited direct oversight, mitigation strategies such as constant and direct supervision of certain incarcerated individuals would not be appropriate at these sites. Implementing stricter controls or surveillance of offenders to mitigate the risk associated with an accommodation measure would conflict with the principles outlined in “Creating Choices”, such as promoting the empowerment, autonomy and rehabilitation of federally sentenced women.                 | Relevance, opinion, speculation               |
| Para 32 | Transgender women have different patterns of criminality than cisgender women and require different interventions and supports.                                                                                                                                                                                                                                                                                                                                                                                                                           | Relevance, opinion, speculation               |

2. The moving party relies on the following legislation, Rules, or points of law:
  - a. Federal Court Rules 81, 359, and 385
3. Such further and other grounds as this Honourable Court might allow.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The affidavit of Megan MacDonald, affirmed on September 19, 2025.

Dated: September 19, 2025



---

**Emma Arnold / Jessica D. Rose**

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**AND TO:**   **Attorney General of Canada**  
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*Counsel for the Respondent*

**FEDERAL COURT**

Between:

**AMANDA JOY COOPER**

Applicant

and

**THE ATTORNEY GENERAL OF CANADA**

Respondent

---

**AFFIDAVIT OF MEGAN MACDONALD, AFFIRMED SEPTEMBER 19, 2025**

---

I, Megan MacDonald, of Halifax, in the Province of Nova Scotia, affirm and give evidence as follows:

1. I am an articulated clerk at PATH Legal, the law firm retained by the applicant in this application.
2. I have personal knowledge of the evidence affirmed in this affidavit, except where otherwise stated to be based on information and belief.
3. I state in this affidavit the source of any information that is not based on my own knowledge, and I state my belief in that source.
4. In my capacity as an articulated clerk at PATH Legal, I have access to the entirety of the Applicant's file through our firm's file management system.

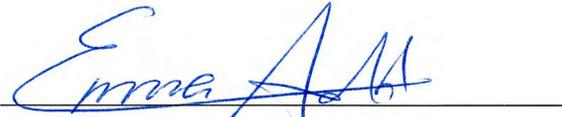


**Exhibit "A"**

2025

File No. T-3278-25

This is Exhibit "A" referred to in the  
affidavit of Megan MacDonald, affirmed  
before me on September 19, 2025.



---

**EMMA ARNOLD**

A Barrister/Commissioner of the  
Supreme Court of Nova Scotia

**FEDERAL COURT**

BETWEEN:

**AMANDA JOY COOPER**

APPLICANT

and

**ATTORNEY GENERAL OF CANADA**

RESPONDENT

---

**AFFIDAVIT OF ELIZABETH BURNS**

---

I, ELIZABETH BURNS of Miramichi, NEW BRUNSWICK, MAKE OATH AND SAY THAT:

1. I work as a Parole Officer ("PO") with the Correctional Service of Canada (hereinafter, "CSC") at Atlantic Institution ("AI"), and I am the applicant's PO. As such, I have personal knowledge of the facts and matters deposed to unless otherwise stated to be based on information and belief.
2. **The applicant has been serving an indeterminate sentence since 2001. She is serving her third federal sentence for four counts of sexual assault, three counts of assault, as well as charges of unlawful confinement and uttering threats.** Victims of her sexual assaults were primarily adult women, except one who was a 14-year-old girl. She was declared a dangerous offender in 1998. Her security classification is maximum. As recently as 2018, she **sexually assaulted a woman staff member at Stony Mountain Institution.** Attached hereto is a true copy of the Assessment for Decision ("A4D") dated July 23, 2025 as **Exhibit "A"**.

3. A review of historical information shows that she has a documented history of showing unhealthy, **obsessive attachments to women staff members during incarceration** that predate her identifying as a woman.
4. Since arriving at AI in November 2024, the applicant has refused to integrate with the population, and has been housed primarily in the Structured Intervention Unit (“SIU”). CSC provided opportunities for time out of cell and social interaction, but the applicant has often and consistently declined these offers.
5. The applicant’s security risk has recently been assessed as high, with institutional adjustment concerns noted. She has a long history of uncooperative behavior and verbal and/or emotional violence toward staff. She has been assessed as having a high need for improvement in Personal / Emotional Orientation an Attitude. Her mental health concerns include self-injury and hunger strikes. CSC monitors her in the SIU hourly.
6. Her Psychological Risk Assessments on file show high risk to reoffend overall and a well-above-average risk to reoffend sexually. Her outstanding areas of treatment were impulsivity, problem solving, hostility towards women, lack of concern for others and deviant sexual preferences.
7. The applicant began her gender transition in 2020 with hormone therapy, and gender-affirming surgeries were completed in September 2024.
8. As her gender-affirming surgeries were approaching completion, the applicant requested transfer to a women’s institution in Joliette, Quebec.
9. Since arriving at AI, there have been on going discussion with her regarding her goals of residing at a women’s institution, and what steps she can take to show progress in her correctional plan that could aid in her reaching this goal.

10. However, she is considered not engaged with her correctional plan.
11. On September 6, 2024, CSC denied her requested transfer to this women's institution, stating that she represents a very high risk for the inmate population there. Attached hereto is a true copy of the Referral Decision Sheet dated September 6, 2024 as **Exhibit "B"**.
12. The design and operational model of women's institutions, centered on autonomy, empowerment and open environments could result in a significant 'culture shock' for the applicant. Previous recommendations supported a gradual transition through a medium security men's site, to help her adjust to less structured settings and better prepare for life in a women's institution. However, she has not developed the necessary skills to function safely and successfully in such an environment. Without the ability to manage the emotional impact of this transition, she remains vulnerable to experiencing major depressive symptoms. Historically, she has responded to emotional distress by reoffending, which further underscores the risk.
13. After an initial penitentiary placement, inmates can also be involuntarily transferred to an institution of the same security level.
14. The process for an involuntary transfer typically involves the following steps:
  - a. A parole officer will complete an A4D that will outline why a transfer is recommended;
  - b. The offender will be provided with the A4D, notice of the transfer recommendation, and any information to be used in making the decision;
  - c. The offender will be allowed to make a rebuttal; and
  - d. A final decision will then be made by the warden about whether to transfer the inmate or not.

15. This process typically occurs before the inmate is transferred.
16. For gender diverse offenders, there are additional steps in this process as laid out by and governed by CD-100, CD 710-2, and CD 710-2-3. Attached hereto are true copies of Commissioner's Directives CD-100, CD 710-2, and CD 710-2-3 as **Exhibit "C"**.
17. CSC has a duty to accommodate the needs of gender diverse offenders unless there are overriding health or safety concerns that cannot be resolved.
18. Over the last several months, the applicant has become increasingly verbally abusive towards staff, particularly woman staff members, such that CSC has assessed that staff member's psychological safety is jeopardized. I have reviewed the security intelligence file on the applicant. There is existing information that she has stated violent and criminally actioned comments against members of her case management team who have been involved in decision she disagrees with, the most recent and prominent one being denying her access to a staff member she has shown fixation towards since February of 2025. In addition, the applicant has several staff members she cannot have contact with due to her inappropriate behaviour and comments, all of them are women. Her current risk appears to remain unchanged from previous assessments from members of her case management team.
19. Overall, CSC believes that the applicant's gender identity, hormone treatments, and gender affirming surgery have in no way mitigated her risk to reoffend.
20. She denies that the offence cycle that currently exists is accurate, believing that the offence cycle belongs to her dead self. This claim does not show accountability from the offender as she places the blame on her dead identity rather than her current self.

21. On or about July 23, 2025, the applicant received an Assessment for Decision (“A4D”) recommending an involuntary transfer to Millhaven Institution.
22. Millhaven Institution had indicated their ability to meet the applicant’s linguistic, intervention and security needs.
23. On or about July 23, 2025, the applicant had notice of this assessment, and was provided with an opportunity to make submissions in rebuttal. CSC took her submissions into consideration with respect to integration, safety and programming. Attached hereto is a true copy of the Notice of Involuntary Transfer dated July 23, 2025 as **Exhibit “D”**.
24. Although the applicant’s continued preference is to be transferred to a women’s institution, CSC has identified overriding safety concerns in this case that would jeopardize the health and/or safety of other offenders and/or staff in any women’s institution.
25. CSC has a Gender Considerations Secretariat (GCS), which serves as a centre of expertise on matters related to gender diverse offenders. The GCS supports CSC operations across the country, offering awareness and guidance to staff and offenders to ensure that the health, safety and dignity of everyone is respected.
26. At AI, CSC has made the following gender-related accommodations to support the applicant:
  - a. If strip searches or frisk searches of the applicant are required, these are to be carried out by woman staff members.
  - b. Similarly, if urinalysis is required from the applicant, the collection of samples is to be carried out by woman staff members.
  - c. Observation of the applicant is to be carried out by woman staff members.

- d. As requested by the applicant, at least one woman staff member is to accompany her on medical escorts.
- e. CSC has provided her access to some materials from institutional canteen that are typically reserved for women’s institutions. This includes make up, nail polish, and other feminine health accessories.
- f. She is provided with woman’s clothing.

27. CSC’s Gender Considerations Secretariat has been consulted to ensure that the applicant’s gender-related needs, safety and overall well-being will be addressed at and by Millhaven Institution.

28. On or about August 12, 2025, a final decision was issued approving her transfer to Millhaven Institution. Attached hereto is a true copy of the Referral Decision Sheet dated August 12, 2025 as **Exhibit “E”**.

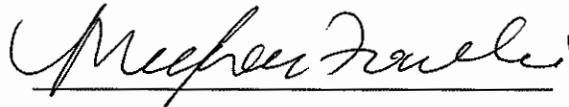
AFFIRMED before me at Atlantic Institution in the Province of New Brunswick, this 9<sup>th</sup> day of September, 2025  
  
 A Barrister/Commissioner for New Brunswick

  
 ELIZABETH BURNS



T-3278-25

This is Exhibit "A" referred to in the  
Affidavit of Elizabeth Burns, sworn/ to affirmed  
before me on the 9<sup>th</sup> day of September,  
2025.



A Barrister/Commissioner of New Brunswick



Correctional Service  
Canada

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[ ]A [X]B [ ]C  
PERSONAL INFORMATION BANK

Completing Operational Unit

ASSESSMENT FOR DECISION

ATLANTIC INSTITUTION

Decision Required:

INST. TRANSFER (INVOLUNTARY)  
ALLEVIATE SIU STATUS

Authority CORRECTIONAL SERVICE  
Consultation

| IDENTIFICATION       |            | SENTENCE MANAGEMENT    |       |            |        |      |
|----------------------|------------|------------------------|-------|------------|--------|------|
| FPS:                 | 053849C    | Sentence:              | Years | IND        | Months | Days |
| Family Name:         | COOPER     | Sentence Number:       |       | 3          |        |      |
| Given Name(s):       | AMANDA JOY | Sentence Commencement: |       | 2001/06/20 |        |      |
| Sex:                 | FEMALE     | UTA:                   |       | 2018/08/09 |        |      |
| DOB:                 | 1967/06/08 | DPE:                   |       | 2018/08/09 |        |      |
| Citizenship:         | CANADIAN   | FPE:                   |       | 2021/08/09 |        |      |
| Deportable:          | NO         | SRD:                   |       |            |        |      |
| Marital Status:      | SINGLE     | WED:                   |       |            |        |      |
| Preferred Language:  | ENGLISH    | LTED:                  |       |            |        |      |
| Home Language:       | GERMAN     | APR:                   |       | NO         |        |      |
| Need for Translator: | NO         | PED set at 1/2:        |       | NO         |        |      |
| Alias(es):           | YES        | Judicial Review:       |       | NO         |        |      |
|                      |            | Long Term Supervision: |       | NO         |        |      |
|                      |            | Dangerous Offender:    |       | YES        |        |      |

CASE STATUS

|                                       |     |                            |    |
|---------------------------------------|-----|----------------------------|----|
| Schedule:                             | I   | Release Type:              |    |
| Serious Harm Met:                     | YES | Release Date:              |    |
| Outstanding Charges:                  | NO  | Cond. Release Expiry Date: |    |
| Appeals: Crown:                       | NO  | Offender:                  | NO |
| Identification of Assistant:          | NO  | Warrant Type:              |    |
| Identification of Elder:              | NO  | Warrant Issued Date:       |    |
| Indigenous Social History Considered: |     | Warrant Status:            |    |
|                                       |     | Warrant Status Date:       |    |

AFFILIATION / 1184-02:

No Offender Affiliations

Related Correctional Plan Progress Report(s):

Related Actuarial Tool:

APPRAISAL

ASSESSMENT FOR DECISION FOR TRANSFER

=====

CASE STATUS

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This report is being generated to recommend an involuntary inter-regional transfer for Amanda COOPER to MILLHAVEN Institution to alleviate her SIU status. COOPER transferred to the SIU at Atlantic Institution on 2024-11-12 from the Federal Training Centre in Quebec. She currently resides in the Structured Intervention Unit at Atlantic Institution. At this juncture, she remains accurately classified as a maximum-security offender.

COOPER is a 58-year-old, third time federal offender who is serving an indeterminate

ASSESSMENT FOR DECISION

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CSC 2028 (R-17-03) OMS VERS (9)

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[ ]A [X]B [ ]C

PERSONAL INFORMATION BANK

|                |                           |
|----------------|---------------------------|
| FPS 053849C    | NAME COOPER, AMANDA JOY   |
| DOB 1967/06/08 | LOC. ATLANTIC INSTITUTION |

sentence as a Dangerous Offender (DO) for Sexual Assault (x4), Assault-Use of Force (x3), Forcible Confinement and Uttering Threats. Her third sentence commenced on 2001-06-20. Note that there was an error in the previous documents/reports regarding the number of charges for the offence of Assault-Use of force. She was convicted in 2021 for a similar charge, now raising the number of charges to X3 rather than X2. The offences for which she was sentenced were between 1997 and 2018 (convicted for two offences while incarcerated).

COOPER is a Canadian Citizen, born in Montreal, Quebec, and speaks fluently in both English and French. There is no STG consideration in this file. She has no outstanding appeals or outstanding charges. She is not identified as a High-Profile Offender.

RISK ASSESSMENT

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RISK FACTORS

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COOPER has undergone full gender affirmation surgery in September 2024. She was residing at the regional hospital in the Regional Reception Centre (RRC) post-surgery. She was involuntarily transferred to Atlantic Institution on 2024-11-04. Upon arrival at Atlantic Institution site, she was met by a Correctional Manager, Security Intelligence Officer and Program Manager to discuss her needs and integration options. During the conversation, she was informed that she was identified as being able to integrate the unit 5 mainstream inmate population (integrated population). COOPER advised that she did not feel safe or comfortable integrating in a male institution having had the gender-affirmation surgery. Mitigating strategies to ensure her safety were discussed including a placement on a quieter pod at the back of a range along with safety measures in place during the unit's routine, but to no avail. As it was believed that forcing COOPER to integrate a population against her will would not achieve the desired outcome, a decision was made to transfer her to the SIU under section 34(1)(b) of the Corrections and Conditional Release Act (CCRA).

COOPER has spent substantial portions of time in the SIU since its inception. Historical information shows her SIU placements were alleviated via transfers to other maximum-security institutions.

She is not affiliated with Security Threat groups; she does have incompatibles on file but none that preclude a transfer to the proposed location. COOPER has a documented history of institutional adjustment concerns. Most recently, she has demonstrated a return to her offence cycle: reverting to behaviours such as using verbal violence, harassment and property destruction to show her disagreement with her case management team and overall management of her case.

Her security intelligence file was reviewed, there is no specific information that would preclude a transfer to the proposed location.

COOPER has participated in several intervention opportunities since her arrival in the SIU. This includes but is not limited to, CMT sessions, SIU-MM, Social programs, and the Sex offender High intensity Program, which she is receiving one-on-one in the SIU. She gained employment but never opted to join a recreation group. Her SIU-CPU has remained fairly static since her SIU arrival at AI. Her CMT have encouraged her to work with them to help her reach her overall goal (transferring to a women's site). Through her stay, multiple concerns would come up that would setback any progress made on her part. At the time of this report, COOPER's case management team

ASSESSMENT FOR DECISION

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PERSONAL INFORMATION BANK

|                |                           |
|----------------|---------------------------|
| FPS 053849C    | NAME COOPER, AMANDA JOY   |
| DOB 1967/06/08 | LOC. ATLANTIC INSTITUTION |

is no longer able to work efficiently with her.

COOPER identified as male at the time of her offending, given such, the actuarial tools for men will be used to assess risk. COOPER identified as a woman, at the time of this report.

A review of CD 705-7 Annex D, COOPER's index offending is considered major offence severity, serious harm was met in this case. She is a designated Dangerous Offender. The SIR is -13 showing a HIGH level of general recidivism. The CRI is 18 showing a MODERATE/HIGH static risk and a program recommendation of HIGH Intensity Sex Offender programming. COOPER was participating in the High Intensity Program from the SIU, she is still in the early stages of the program. That said, during her program participation, she has continued to show unhealthy behaviours. The undersigned opines that she remains an untreated sex offender. COOPER has not had a physically violent incidents against other staff, however she has been emotionally and psychologically violent towards staff. She has an alert on file for staff safety concerns. While in the SIU, she requires a TRA for meeting with female staff in a secured room, this TRA was never modified as she did not show manageable behaviour. At this time, COOPER is believed to be in her offence cycle making her risk for violent behaviour (be it physical, emotional, psychological) at a high risk. The most recent PRA on file shows that her risk for sexual recidivism remains well above average risk level.

Inmate Security Level Review

COOPER's OSL was last reviewed on 2024-07-22. On 2024-09-26, she was approved as a maximum-security offender (see CSC Decision). The following ratings remain valid, as per the aforementioned CSC Decision sheet:

Institutional adjustment - HIGH; COOPER demonstrates an uncooperative attitude toward institutional programs and staff and presents a potentially serious management problem within an institution.

Escape risk - MODERATE; COOPER is unlikely to make active efforts to escape but may do so if the opportunity presents itself.

Public safety - HIGH; COOPER's criminal history involves violence, and the inmate has not demonstrated sufficient progress in addressing those dynamic factors which contributed to the violent behaviour or a willingness to attempt to address such factors.

OVERALL ASSESSMENT

As COOPER is unwilling to integrate Atlantic Institution, and she is no longer able to have productive interactions with her case management team, an involuntary transfer is being recommended. This transfer will provide COOPER with a safe environment that meet her program, language, cultural and security needs.

Millhaven Institution provided the following comments:

"MI has reviewed the proposed involuntary transfer of COOPER FPS 053849C from AI SIU to Millhaven Institution to alleviate her SIU status. Consultation with the Security Intelligence Department indicates that there are no known security concerns that would preclude this proposed transfer. Her programming needs of the High Intensity SO ICPM can be met at Millhaven. Of note, there are a few overdue BF's that should be addressed/completed/withdrawn as required prior to transfer. Beyond that, all outstanding casework must be completed by the sending site, in addition to anything

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| FPS 053849C    | NAME COOPER, AMANDA JOY   |
| DOB 1967/06/08 | LOC. ATLANTIC INSTITUTION |

that becomes due within 30 days of his transfer to MI. The most recent Correctional Plan Update was completed on 2024-11-18. We ask that an updated CPU be completed, should one be required as per CD 710-1 (i.e., changes in key ratings, etc.). Based on the above, MI is supportive of this proposed transfer."

Consultation with the Security Intelligence department occurred and the following comments were provided:

"COOPER is an integrated offender with no STG concerns noted on file and no listed incompatibles at Millhaven Institution.

Consultation occurred with Health Services and the following comments were provided: "After reviewing the medical file of COOPER, AMANDA JOY 053849C, there are no medical contraindications at this time that would hinder a transfer to another institution. If you have any other questions/concerns, please do not hesitate to contact healthcare."

Consultation occurred with Mental Health Services and the following comments were provided:

"As her parole officer, you have indicated that Ms. COOPER is being considered for transfer to another Institution. As per section 87 of the CCRA, Mental Health Services has been asked to provide a transfer opinion. According to file review, Ms. COOPER is receiving on-going mental health services and is seen as per treatment plan. Based on the last Mental Health Needs Scale completed, which is dated 2025-06-03, she presents with MEDIUM/SOME needs in mental health. There is a noted history of suicide and or self-injury. Ms. Cooper is currently maintained on mental health monitoring with hourly checks. There is no evidence to suggest that she is currently suffering from an acute mental health disorder that would contraindicate a transfer at this time. Please note, because no mental status assessment interview was completed, the information provided cannot be taken to represent a comprehensive assessment regarding Ms. COOPER's current state of mental health. Prior to the transfer should staff become aware of acute mental health symptoms that could affect a transfer, they should refer the offender to Mental Health Services."

**GENDER CONSIDERATIONS**

=====

COOPER has reported that she offended the way she did as a way to feel equal to cis-gender women. While there is recognition that her actions made her a threat to society as whole, there must also be recognition for the society expectations on gender. COOPER reports at the age of 7, she knew she was a woman. In the Sixties, there was little to no education on gender identities, expression or variations from the traditional cis-man and cis-woman. COOPER would have been surrounded with the traditional societal expectations that have deep rooted misogynist ideas. In COOPER's case, it would appear that this created an idea that a woman was one particular description with no variance on the definition. In absence of being able to meet this idea, COOPER reports she resorted to violence to feel in control of a body that she did not identify with. While this is not an excuse for COOPER's offences, there is a level of deep-rooted societal norms that caused harm to COOPER and her ability to function in a society that was unlikely to accept her gender identity. COOPER is highly encouraged to challenge the misogynist views that she would have learned throughout her life as to what gender identity means and how it varies.

Overall, it is recognized that Millhaven Institution can meet COOPER's security, language, cultural and program needs. It is therefore recommended that her transfer to Millhaven Institution be approved.

**ASSESSMENT FOR DECISION**

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| DOB 1967/06/08 | LOC. ATLANTIC INSTITUTION |

VICTIM CONSIDERATIONS

=====

Victim related concerns were reviewed, and the current recommendation does not present proximity issues. Additionally, given the continued security level recommendation of maximum security, her next location will provide enclosure.

DISSENTING OPINION

=====

There are no known dissenting opinions in this case.

RECOMMENDATION

=====

Involuntary Inter-regional Transfer to MILLHAVEN INSTITUTION: Approved

RECOMMENDATION

Dec. # Decision

Recommendation

320 INST. TRANSFER (INVOLUNTARY)  
ALLEVIATE SIU STATUS

APPROVED  
MILLHAVEN INSTITUTION

DAY PAROLE OTHER LOCATION INFORMATION:

Other Location 1:

Community:

Comments:

Other Location 2:

Community:

Comments:

SPECIAL CONDITIONS

Dec. # Decision/Comment

Special Conditions

-

Completing Officer - Signature

Date

Y M D

BURNS, ELIZABETH  
A/PAROLE OFFICER

2025/07/23

CSC Supervisor - Signature

Date

Y M D

WALLACE, JEFFREY  
A/MGR ASSESSMENT INTERVENTION

2025/07/23

ASSESSMENT FOR DECISION

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| DOB <b>1967/06/08</b> | LOC. <b>ATLANTIC INSTITUTION</b> |

I acknowledge receipt of a copy of this document

Date

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Offender - Signature

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T-3278-25

This is Exhibit "B" referred to in the  
Affidavit of Elizabeth Burns, sworn/ to affirmed  
before me on the 9<sup>th</sup> day of September,  
2025.



A Barrister/Commissioner of New Brunswick



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Canada

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REFERRAL DECISION SHEET FOR:  
INST. TRANSFER (VOLUNTARY)

FPS Number

053849C

Family Name

COOPER

Given Name(s)

AMANDA JOY

Decision Number

281

Current Institution or Address

REGIONAL RECEPTION CTRE-QUEBEC

Date of Birth

1967/06/08

Purpose:

PROVIDE ACCESS TO PROGRAMS

Consultation Required

Current Cell Situation RECEPTION

Destination/Institution Requested

JOLIETTE INSTITUTION

Region

QUEBEC

Country

ADDITIONAL RECOMMENDATIONS

MGR ASSESSMENT INTERVENTION

Comment:

In agreement with the CMT's recommendation to refuse this transfer application.

Recommendation: NOT APPROVED

Date

Y M D

2024/08/26

CHOW, NANCY  
MGR ASSESSMENT INTERVENTION  
FEDERAL TRAINING CENTRE

WARDEN

Comment:

Ms. Cooper is requesting a voluntary transfer to Joliette Institution in order to meet her gender-related needs. She has been approved to undergo gender affirmation surgery. She made a previous application for voluntary transfer to Grand Valley Institution for Women in 2021, which was ultimately denied by the Deputy Commissioner for Women.

Ms. Cooper is a third time Federal offender who is serving an indeterminate sentence as a Dangerous Offender (DO) for Sexual Assault (x4), Assault-Use of Force (x3), Forcible Confinement and Uttering Threats. File information does indicate that Ms. Cooper began engaging in sexually deviant behaviour at the age of 14. All offenses involved adult women except for one that involves a 14-years-old girl.

The subject's criminal dynamic is almost exclusively sexual in nature. Ms. Copper's sex offending involves predominant factors of predation and domination, as well as opportunism with women/girls almost all unknown to her. There is also a significant violence dynamic and/or intrusive, impulsive and/or reactionary behaviour. Verbal abuse and threats are also part of her dynamic, mainly but not exclusively toward women/female staff members. Hostility toward women has been recorded on numerous occasions in the documentation and is one of the objectives that must be worked on. Within the institution, she also committed more than one sexual assault on adult

REFERRAL DECISION SHEET FOR: INST. TRANSFER (VOLUNTARY)

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| FPS 053849C    | NAME COOPER, AMANDA JOY             |
| DOB 1967/06/08 | LOC. REGIONAL RECEPTION CTRE-QUEBEC |

women; but has also used aggressive behaviours towards men Officers.

She was transferred to the Special Handling Unit (SHU) on 2002-01-25 due to threatening to kill and sexually assault women staff as well as inciting other offenders to do so. After this transfer, her disturbing behaviour continued for a lengthy period, and she stayed in the SHU for 16 years before being able to transfer to a maximum security institution in 2018. However, two months after getting out for the first time of the SHU, Ms. Cooper reoffended on a woman officer (CO-II) while she was in the Segregation Unit of Stony Mountain institution on 2018-04-22 and was charged for yet another offence.

In the last years, she has been incarcerated in maximum security institutions. Ms. Cooper arrived at the Federal Training Centre -6099 on 2024-04-09 from Millhaven Institution in Ontario. At that time, she had been in the Structured Intervention Units (SIU) since 2024-01-02. Before her transfer to the SIU in January 2024, she was residing in the Therapeutic Range (TR) in Millhaven for approximately a year and a half. An interregional transfer to FTC-6099 was approved to meet met the subject's security classification (lowered on 2023-05-10) and also alleviate her SIU placement. However, her security classification is currently being revised to maximum after she made serious threatening comments and had harassing behavior towards a female staff member (two separate events).

The CMT is unsupportive of Ms. Cooper's transfer request. Ms. Cooper is assessed as posing a very high risk to the safety of the inmate population at Joliette Institution, since the inmates fit the victim profile listed in Ms. Cooper's criminal record. Female staff can also be potential victims, given the offences committed against them over the last three decades. After consultation with the targeted institution and based on their assessment, the reinforced structure of their institution's maximum unit is not sufficient to prevent access to potential victims. All the recent and previous psychological assessments lead to the same conclusion as the current CMT and Joliette Institution. Additionally, research suggests that reoffending among transgender individuals who have transitioned from male to female retain reoffending patterns of male offenders.

Although she seems to have an increasing motivation to change and has demonstrated some improvement of her institutional behaviour since a few years, Ms. Cooper continues to present challenging issues in her relationship dynamics with others, more specifically with women. She presents difficulties in coping with feeling of rejection. More importantly, she presents a risk of sexual recidivism assessed at "Well above average" and she has not yet undertaken the clinical work demonstrating measurable and stable results over a significant period of time, in order to address her many shortcomings and mitigate the risk she represents.

All the consultations and the file review lead to the conclusion that Ms. Cooper represents a very high risk for the inmate population of Joliette's Institution and I concur with the recommendation of CMT to deny her transfer application.

Recommendation: NOT APPROVED

Date

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Y M D

2024/08/26

BARTUCCI, SANDRO  
A/WARDEN  
FEDERAL TRAINING CENTRE

FINAL DECISION

Rationale:

Ms. Cooper, this is in response to your application for a Voluntary Transfer from the Federal Training Centre to Joliette Institution in order to reside in an institution that aligns with your gender identity, as well as to be in your home community in the Quebec region.

As per the Commissioner's Directive 100 - Gender Diverse Offenders, you may request a transfer to an institution according to your gender identity or expression. As the decision-maker, I acknowledge that you identify as a woman and have requested a transfer to a women's institution. I must also consider whether there are health and safety concerns that cannot be resolved if you were to transfer at a women's institution.

In making my decision with regard to your Voluntary Transfer, I have reviewed all relevant information, including file information regarding your index offence, your criminal history, the recommendations from both sending and receiving institutions, and I have given consideration to the correctional environment. It has been noted that you are currently serving an indeterminate sentence for Sexual Assault x4, Assault - Intentional Use of Force x3, Forcible Confinement and Utter Threat to Cause Harm/Death. This represents your third federal sentence and I note that you have been designated a Dangerous Offender in 2001.

Ms. Cooper, I have reviewed the entirety of your file and have considered the information brought forth by the Federal Training Centre and Joliette Institution. You began your sentence at Port-Cartier Institution in 2001, as a Maximum-Security Offender. You maintained this security level, until your reclassification to Medium Security in 2023, which was later followed by a transfer from Millhaven Institution to the Federal Training Centre, located in your home region of Quebec. During the 22 years you were assessed as Maximum Security, I note that you spent over 16 years in the Special Handling Unit, as well as 7 years in segregation, which impacted your ability to participate in recommended programs and interventions.

More specifically, given the nature of your index offences, your Case Management Team (CMT) referred you for participation in the Sex Offender Non-Intake Primer, which you successfully completed in 2022, as well as the Sex Offender High Intensity Program, to which you were assigned recently. Through programs and interventions, you can gain insight towards your need areas, particularly those that contributed directly to your offence cycle, including your personal and emotional orientation, your marital and family relationships, as well as your attitude.

Regarding your institutional behaviour, I note that you have been involved in 44 institutional incidents, including many of a violent and highly disruptive nature. Some of your serious incidents, including sexual assaults against women staff, have resulted in concurrent convictions. Your latest incident happened on 2024-07-12, after a period of compliance which lasted 3 months, where you uttered threats of harm and death on a voicemail to the Office of the Correctional Investigator. This incident led to a placement on Restricted Movement, followed by an Involuntary Transfer to the

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| DOB 1967/06/08 | LOC. REGIONAL RECEPTION CTRE-QUEBEC |

Regional Reception Centre, as well as a recommendation for Security Reclassification to Maximum Security. I also note that staff at the Federal Training Centre noted concerning behaviours in the last few weeks, including targeting women employees, and crossing boundaries with your CMT. During the case conference held on 2024-07-31, you expressed remorse regarding your recent threats towards staff, indicated that you recognized that your behaviour was not appropriate and mentioned that you would benefit from anger management interventions. Nevertheless, those recent events demonstrate that there are current significant concerns with your institutional adjustment within a medium-security facility, as you are increasingly displaying problematic behaviours, such as predation, fixation and overall aggression when facing negative situations. You have yet to internalize the skills and tools acquired from interventions and programs, as you continue to struggle with decision making, emotional regulation and interpersonal skills. Ms. Cooper, your commitment towards yourself is of the utmost importance and by engaging meaningfully with your CMT and making responsible decisions, you can put yourself in a favorable position to achieve your institutional goals.

I have also taken into consideration your latest Psychological Risk Assessment, completed on 2022-05-10 by Dr. S. Cunningham. According to this assessment, your risk for sexual recidivism is considered as Well-Above Average, and that your treatment needs were in the areas of impulsivity, problem solving, hostility towards women, lack of concern for others and deviant sexual preferences. Dr. Cunningham also advised against a transfer to a women's institution, unless you can demonstrate a significant period of incident-free behaviour, notably within a medium-security environment. Given the recent disruptive incidents in which you have been involved as the instigator, you are being recommended for a security reclassification to Maximum.

I have also considered the recommendation from Joliette Institution for Women that, despite potential mitigation strategies, your risk in their institution is deemed to be unmanageable. Women institutions' security infrastructure differs significantly from those in men's institutions as they are designed to empower federally incarcerated women, while encouraging autonomy and self-sufficiency in a community-type setting. For example, Joliette Institution for Women's medium and minimum-security offenders are housed together, in a communal setting, with several offenders per house. The houses do not provide constant direct supervision. In addition, the federally sentenced women's institutions have a Mother-Child Program, in which offenders in the medium-minimum population are able to have their children reside with them in custody. According to Joliette Institution for Women's assessment, their existing supervision model is insufficient to manage your risk, and the mitigating strategies required to manage your risk would not only be detrimental to the existing population, which includes vulnerable women, but could also have an impact on your ability to progress through your Correctional Plan to address your outstanding risk and need areas and to adhere to institutional rules. A placement in the Secure Unit as a Maximum-Security offender, with constant supervision and controlled movement on the range has also been explored as a possible mitigating strategy, in order to control the risk you would present in a congregate living environment. Given the safety concerns towards staff and the women population, associated with your presence in their institution, Joliette Institution for Women has assessed additional staffing or supervision would be required to an extent which is not in line with the operational model or deployment standards for the Secure Unit, is inconsistent with the principles of Creating Choices, and would also compromise the supportive role and dynamic security functions of the Primary Workers. Given the unique social histories of women offenders, especially Indigenous women offenders, excessive security presence could create apprehension and fear. A classification to

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Maximum Security in a women's institution, as well as your presence in the Secure Unit would significantly impact your ability to make progress in your correctional journey, as this environment would not be conducive for addressing your areas of need and increased risk.

Having assessed the information from the Federal Training Centre that there are overriding safety issues that could not be resolved, and the agreement from Joliette Institution that the mitigation strategies to manage the risk you pose to others cannot be implemented, I deny your transfer. Ms. Cooper, I strongly encourage you to work with your CMT in order to address your areas of risk and need. I also encourage you to remain compliant with institutional rules and to focus on your progress in your correctional journey. I note that you had recently begun the Sex Offender High Intensity Program, prior to your transfer to the Regional Reception Centre, and I urge you to re-engage in this program as soon as possible, as it can give you skills and tools to address your offence cycle. I would also like to mention that your CMT will continue to ensure that your Individualized Protocol is respected, including accommodation measures that will allow you to express your gender identity and to live as your true self.

If you are not satisfied with the decision, you may submit a grievance pursuant to sections 90-91 of the CCRA, sections 74-82 of the CCRR and CD 081 - Offender Complaints and Grievances by providing the Grievance Coordinator at your institution with a written submission that outlines your concerns. A national toll-free phone number (1-800-263-1019) is also available to you to inquire about the offender complaint and grievance process.

| Special Condition(s) |                   | Received by | Effective Date | End Date |
|----------------------|-------------------|-------------|----------------|----------|
| Action               | Condition/Comment |             |                |          |

|           |                     |                   |                   |
|-----------|---------------------|-------------------|-------------------|
| Decision: | <b>NOT APPROVED</b> | Decision Date     | Effective Date    |
|           |                     | <b>2024/09/06</b> | <b>2024/09/06</b> |

|                          |                 |
|--------------------------|-----------------|
| Institutional Adjustment | <b>MODERATE</b> |
| Escape Risk              | <b>MODERATE</b> |
| Risk to Public Safety    | <b>HIGH</b>     |

Signature

---

JARRETTE, AMY  
DC WOMEN  
NATIONAL HEADQUARTERS - CSC

Date  
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Copy provided to offender by:

Date

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Signature \_\_\_\_\_

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This is Exhibit "C" referred to in the  
Affidavit of Elizabeth Burns, sworn/ to affirmed  
before me on the 9<sup>th</sup> day of September,  
2025.



A Barrister/Commissioner of New Brunswick





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› [Acts, Regulations and Policy](#) › [Commissioner's Directives](#)

# Commissioner's Directive 100: Gender diverse offenders

## Authorities

- [Corrections and Conditional Release Act \(CCRA\)](#), sections [4](#), [23](#) and [70](#)
- [Canadian Human Rights Act](#), subsection [3\(1\)](#).

## Purpose

To provide direction on procedural changes that reflect the Correctional Service of Canada's (CSC's) commitment to meeting the needs of its gender diverse offender population in ways that respect their human rights and ensure their safety and dignity as well as the safety of others in the institutions and community

## Applications

Applies to all staff working with gender diverse offenders

# Contents

- Responsibilities
- Procedures
  - Flag, Need and the Gender Considerations Screen in OMS
  - Intake
  - Intake Assessment Process
  - Voluntary and Involuntary Transfers
  - Other Gender-Informed Measures
  - Collection, Display and Sharing of Gender and Sex Information
- Enquiries
- Annex A
- Case Conferences
- Immediate Needs – Gender Considerations (Individualized Protocol) – Report Outline

## Commissioner's Directive



**Number:** 100

**In Effect:** 2022-05-09

### Related links

- Policy Bulletin 685

# Responsibilities

1. The Assistant Commissioner, Policy, in collaboration with internal and external partners, as required, will:
  - a. provide a strategic leadership function with respect to the development of policies and practices that support CSC's commitment to addressing the needs of gender diverse offenders
  - b. lead and support research projects related to correctional programs and assessment tools for gender diverse offenders
  - c. assist sectors in addressing new and emerging policy issues and trends with respect to gender diverse offenders, and in responding accordingly
  - d. monitor trends and performance for the purpose of continuous improvement, decision-making, and implementation of best practices.
2. The Assistant Commissioner, Correctional Operations and Programs, will:
  - a. be the final decision-maker for penitentiary placements in a men's institution and transfers from a women's to a men's institution, including men's section 81 facilities and CSC's Indigenous Healing Lodges for men
  - b. ensure continued access to correctional interventions for gender diverse offenders.
3. The Deputy Commissioner for Women will be the final decision-maker for penitentiary placements in women's institutions and transfers to women's institutions, including women's section 81 facilities and CSC's Indigenous Healing Lodges for women.

4. The Assistant Commissioner, Human Resource Management, in collaboration with others as required, will:
  - a. ensure that training on gender identity and expression is current and mandatory for all staff
  - b. engage with relevant external stakeholders, including gender diversity advocacy groups, when developing and updating staff training material.
5. The Assistant Commissioner, Corporate Services, will ensure:
  - a. gender diverse offenders are provided with institutional clothing that better aligns with their gender identity or expression
  - b. procurement mechanisms are in place to provide access to gender-specific personal property.
6. The Assistant Commissioner, Health Services, in collaboration with others as required, will ensure:
  - a. the provision of essential physical and mental health care to gender diverse offenders (including in the case of a gender-affirming surgery) is according to the National Essential Health Services Framework, developed in accordance with the most recent edition of the World Professional Association for Transgender Health Standards of Care
  - b. health services staff are aware of and follow the World Professional Association for Transgender Health Standards of Care
  - c. continuity of care for gender diverse offenders, further to penitentiary placement and/or transfers, including in section 81 facilities and CSC's Indigenous Healing Lodges.
7. The Regional Deputy Commissioner will:

- a. determine the type of intake site (men's or women's) gender diverse offenders are assigned to if CSC has sufficient information to assess the offender's risks and needs and a case conference per Annex B occurred
- b. participate in case conferences related to penitentiary placements and transfers of gender diverse offenders, as required
- c. in collaboration with Institutional Heads and District Directors, and others as required, create opportunities to promote awareness among staff and offenders on the human rights and needs of gender diverse offenders.

8. The Institutional Head/District Director will:

- a. ensure a process is in place for the development, consistent use and adherence to the terms of individualized protocols
- b. ensure that a case conference per Annex B occurs between the sending and receiving institutions, for penitentiary placements and transfer requests of gender diverse offenders
- c. participate in case conferences related to penitentiary placements and transfers of gender diverse offenders, as required
- d. ensure offenders have access to external resources and networks that are respectful and reflective of gender diversity
- e. foster behaviours and practices among staff and offenders that promote a safe and inclusive environment in institutions, including Community Correctional Centres
- f. foster an environment where 2SLGBTQI+ inclusive activities, services and interventions can take place and allow offenders to form 2SLGBTQI+ associations or committees that will meet their needs and interests.

9. The Parole Officer will:

- a. complete the Preliminary Assessment in accordance with CD 705 1 - Preliminary Assessments and Post-Sentence Community Assessments
- b. update the Correctional Plan per the requirements set out in CD 710 1 - Progress Against the Correctional Plan, when the Gender Considerations Need is activated in the Offender Management System (OMS)
- c. assist offenders in their request to complete legal name changes
- d. activate the Gender Considerations Need in OMS if the offender, while on conditional release, requests one or more gender-related accommodations, and complete the applicable sections in the individualized protocol, in collaboration with the offender
- e. provide confirmation to the Sentence Management Officer following an offender's gender-affirming surgery involving a change to their genitalia
- f. liaise with the community Parole Officer to ensure the offender is provided with continuity of service, including gender-related services
- g. ensure necessary referrals are completed to address needs, including gender-related needs, and to facilitate the offender's transition to the community
- h. ensure that an offender's gender-related needs are considered and addressed as part of the pre-release decision-making process and when reviewing the Community Strategy (e.g., referral to a Community Correctional Centre/Community-Based Residential Facility).

10. Staff completing the Immediate Needs Identification Interview will activate the Gender Considerations Need in OMS if the offender requests at least one gender-related accommodation, as well as complete the individual protocol sections in collaboration with the offender, and immediately advise the Correctional Manager for finalization.
11. The Correctional Manager will activate the Gender Considerations Need in OMS if the offender requests at least one gender-related accommodation, at any time during their sentence, and will complete and finalize an individualized protocol in collaboration with the offender.
12. The Parole Officer Supervisor is the final decision-maker for individualized protocols when the community Parole Officer does not support the accommodation requested by the offender in one or more sections of the individualized protocol.
13. The Assistant Warden, Operations, is the final decision-maker for individualized protocols when the Correctional Manager does not support at least one gender-related accommodation requested by the offender.
14. Following confirmation of gender-affirming surgery involving a change to genitalia, the Sentence Management Officer will update the offender's sex in OMS, in accordance with CD 703 – Sentence Management.
15. Any staff member, volunteer or contractor to whom an offender discloses their gender-related accommodation needs must advise the offender to notify the Correctional Manager or the community Parole Officer.

16. All staff will report any behaviour that is disrespectful or discriminatory as outlined in CD 001 – Mission, Values and Ethics Framework of the Correctional Service of Canada and CD 060 – Code of Discipline.
17. All staff members whose duties require them to be aware of the existence of an offender's individualized protocol are required to abide by its provisions.

## Procedures

18. Policy provisions and procedures that apply to men's institutions continue to apply to all offenders residing in those institutions, unless otherwise indicated in this policy.
19. Policy provisions and procedures that apply to women's institutions continue to apply to all offenders residing in those institutions, unless otherwise indicated in this policy.

## Flag, Need and the Gender Considerations Screen in OMS

20. When the community Parole Officer completes the Preliminary Assessment in OMS, and the offender has indicated they are gender diverse, the community Parole Officer will check the "Any offender identified gender considerations?" field and the Gender Identity and Expression flag in OMS will automatically be activated.
21. During the Immediate Needs Admission Interview, if the offender requests one or more gender related accommodations, the staff completing the interview will activate the Gender Considerations Need in OMS and complete the individualized protocol sections, as identified

in Annex C, in collaboration with the offender. The Correctional Manager will then be advised of such for finalizing purposes.

22. After activating the Gender Considerations Need in OMS, during the Immediate Needs Interview or at any point during an offender's sentence, the individualized protocol will be completed by staff activating the need and finalized by the Correctional Manager within 24 hours or by the community Parole Officer within one working day.
23. If a Gender Considerations Need is already active in OMS upon a readmission, transfer or conditional release, the Correctional Manager or community Parole Officer will review the existing individualized protocol with the offender and update it, if required.
24. Upon conditional release, during the initial interview with the community Parole Officer, if the offender requests one or more gender-related accommodations, the community Parole Officer will activate the Gender Considerations Need in OMS and complete the individualized protocol sections in collaboration with the offender.
25. At any time during an offender's sentence, if the offender requests one or more gender related accommodations, the Correctional Manager or the community Parole Officer (when the offender is on conditional release) will complete the individualized protocol in the Immediate Needs – Gender Considerations screen in OMS. The individualized protocol will be updated throughout the offender's sentence, as needed.
26. The Correctional Manager or community Parole Officer will:
  - a. ensure the individualized protocol is developed in collaboration with the offender and reflects their gender-related needs
  - b. update the individualized protocol as required

- c. end the individualized protocol when the offender indicates that there is no longer a need for gender-related accommodation
  - d. ensure that the initial and updated versions of the individualized protocol are signed by the offender and placed on their Case Management file. A copy will be provided to the offender.
27. In cases where the Correctional Manager or the community Parole Officer does not approve a requested accommodation in the individualized protocol, the Assistant Warden, Operations, or the Parole Officer Supervisor will make the final decision and finalize the individualized protocol within three business days, following a discussion with the offender. The Assistant Warden, Operations, or the Parole Officer Supervisor will also ensure that the rationale to approve or deny the accommodation is documented under the applicable section of the individualized protocol.
28. When the conditions resulting in the denial of accommodation in the individualized protocol change, the request will be reviewed and the individualized protocol will be updated, as needed, within the timeframe specified above.
29. Staff of the chosen gender, as specified in the offender's individualized protocol, will conduct the security procedures, as identified in Annex C. Exceptions may only be tolerated in emergency situations, where an accommodation would create an overriding health or safety concern that cannot be resolved. This will be recorded in accordance with CD 568 2 – Recording and Sharing of Security Information and Intelligence.
30. When an offender requests new gender-related accommodations during a security procedure:
- a. staff will verify if the offender has an individualized protocol in OMS, abide by its provisions or make required updates to the

applicable sections prior to proceeding

- b. if the offender does not have an existing individualized protocol, staff will activate the Gender Considerations Need in OMS and complete the individualized protocol sections prior to proceeding. The individualized protocol will be finalized by the responsible staff in OMS without delay
- c. the individualized protocol will be signed by the offender without delay, and placed on their Case Management file. A copy will be provided to the offender
- d. when it is not possible to complete every section of the individualized protocol prior to the procedure, only the relevant section must be completed and others will indicate “no preferences”. A full individualized protocol will be completed and finalized by the responsible staff per applicable timeframe.

## Intake

- 31. Prior to admission, staff will ensure that newly sentenced gender diverse offenders are provided with an opportunity to indicate if they have a preferred institution type (men’s or women’s). Should CSC have sufficient information to assess the offender’s risks and needs, a case conference per Annex B will occur, without delay, to determine the type of intake site. In cases where CSC cannot assess the offender’s risks and needs, the intake site for initial assessment will be based on their current sex.
- 32. A summary of this case conference will later be recorded in the Assessment for Decision for the offender’s security level and penitentiary placement.

33. Gender diverse offenders returning to federal custody from the community will be sent to the institution type (men's or women's) that better aligns with their gender identity or expression, if that is their preference, unless there are overriding health or safety concerns that cannot be resolved. In such situations, a case conference per Annex B will be held without delay to determine the most appropriate institution type.
34. A summary of this case conference will be recorded in the Assessment for Decision for the offender's security level and penitentiary placement, where applicable.

## **Intake Assessment Process**

35. The intake assessment process is completed per policy, and the type of assessment tools and supplementary assessment tools that are administered should accord with the type of intake institution where the offender is residing (i.e., men's or women's).
36. After completing the intake assessment process, offenders will be placed according to their gender identity or expression in a men's or a women's institution, if that is their preference, regardless of their sex (i.e., anatomy) or the gender/sex marker on their identification documents. In the event there are overriding health or safety concerns that cannot be resolved, the offender will be placed in a site that better aligns with their current sex (i.e., anatomy).
37. When a gender diverse offender requests a penitentiary placement in an institution that does not align with their current sex:
  - a. the offender will be provided with an opportunity to speak with a staff member from the potential receiving site to ask questions

- b. the offender will be consulted and involved in the decision-making process. This will be documented in the Assessment for Decision
- c. a case conference per Annex B will occur without delay and the results of the case conference will be documented in the Assessment for Decision.

38. Upon completion of the Assessment for Decision for the offender's security level and penitentiary placement, the offender will be given a copy of the report, and an opportunity to provide written or oral representation on the recommendation within two working days. The decision-maker will consider the offender's input, if any, prior to rendering their decision.
39. The Institutional Head of the intake institution, in consultation with the Regional Deputy Commissioner, as applicable, will forward the penitentiary placement and offender's security level recommendations for final decision-making to the Assistant Commissioner, Correctional Operations and Programs, (for requests to a men's institution) or the Deputy Commissioner for Women (for requests to a women's institution).

## **Voluntary and Involuntary Transfers**

40. Throughout their sentence, offenders may apply for a voluntary transfer to a men's or a women's institution according to their gender identity or expression.
41. The voluntary and involuntary transfer processes will be completed per CD 710 2 – Transfer of Inmates and GL 710 2 3 – Inmate Transfer Processes.
42. All transfer requests to a different institution type (i.e., men's to women's or vice versa) are assessed on a case-by-case basis and

require an Assessment for Decision that includes a security classification review and a transfer recommendation. The Assessment for Decision will also document the results of the Security Reclassification Scale (SRS)/Security Reclassification Scale for Women (SRSW) and identify any health or safety concerns (including mitigation strategies and accommodation measures considered at both sites, and why these measures were accepted or rejected and deemed sufficient or insufficient).

43. The Assessment for Decision is written by the Parole Officer/Primary Worker at the sending institution.
44. For offenders applying to transfer to a women's institution, the Primary Worker at the receiving institution will complete the SRSW. For offenders applying to transfer to a men's institution, the Parole Officer at the receiving institution will complete the SRS.
45. The sending institution will hold a case conference per Annex B, without delay, and incorporate the receiving institution's comments (including any dissenting opinions) in the Assessment for Decision.
46. When an offender submits a gender-related request for a transfer, they will be provided with an opportunity to speak with a staff member from the potential receiving site to ask questions, without delay.
47. The offender will be consulted and involved in the decision-making process. This will be documented in the Assessment for Decision.
48. The offender will be given a copy of the Assessment for Decision. If a recommendation is made to change the security level or if the recommendation does not support the transfer, the offender will be provided with an opportunity to submit written representations before a final decision is made.

49. In the event the request is denied or the offender withdraws their application, their security classification will remain unchanged and will not be impacted by the results of the SRS/SRSW, which might have changed their security classification.
50. Should the offender disagree with the transfer or the security-level decision associated with the transfer request, they may submit a high priority grievance to the national level.
51. The Institutional Head of the sending institution, in consultation with the Regional Deputy Commissioner, as applicable, will forward the transfer recommendation for final decision-making to the Assistant Commissioner, Correctional Operations and Programs, (for requests to a men's institution) or the Deputy Commissioner for Women (for requests to a women's institution).

## Other Gender-Informed Measures

52. When gender diverse offenders request access to private showers or toilets, measures to ensure safety and privacy will be provided and documented in the appropriate section of the individualized protocol.
53. The needs of gender diverse offenders will be considered as a vulnerability risk component in the completion of the Double-Bunking Cell Placement Assessment per CD 550 – Inmate Accommodation.
54. All gender diverse offenders will be provided with institutional clothing per CD 352 – Inmate Clothing Entitlements, in accordance with the type of institution (men's or women's) and the applicable institutional dress code where they reside, while respecting their gender expression (cut and size), if that is their preference.
55. All offenders, including gender diverse offenders, may purchase effects (men's or women's) from the National Supply Catalogue, regardless of

the type of institution (men's or women's) where they reside. The Institutional Head may approve with restrictions, or deny an item, per CD 566 12 – Personal Property of Offenders. In both instances, the Institutional Head must document a rationale for their decision and share it with the offender.

56. Following a first transfer to a different type of institution (men's or women's), an offender is entitled once, within 30 days of admission, to replace personal property items received from outside sources, in accordance with the processes for admissions and readmissions in CD 566 12 – Personal Property of Offenders.
57. Offenders may purchase canteen items in accordance with their gender identity or expression.

## **Collection, Display and Sharing of Gender and Sex Information**

58. Steps must be taken to maximize the privacy and confidentiality of any information related to an offender's gender identity or expression. This information will only be shared within CSC with those directly involved with the offender's care and only when relevant, unless otherwise agreed to by the offender.
59. With respect to the sharing of information with external parties that are not directly involved in the care or supervision of the offender, refer to CD 701 – Information Sharing.
60. Any discussions with the offender or among staff that touch on an offender's gender identity or expression must occur privately, out of hearing range of anyone else that does not have a need to know.
61. An offender's sex code in OMS will not change unless the offender undergoes gender-affirming surgery involving a change to their

genitalia.

62. In all written documentation (including name tags and other CSC-issued identification) and oral communications, whenever an offender's name is mentioned, staff will use the offender's chosen first or middle name(s) and chosen pronoun(s), in accordance with the individualized protocol. The full legal name, as recognized by Sentence Management, will only be used exclusively when legally required (e.g., suspension warrant) or as produced in CSC's header information.

## Enquiries

58. Strategic Policy Division

National Headquarters

Email: [Gen-NHQPolicy-Politiques@CSC-SCC.gc.ca](mailto:Gen-NHQPolicy-Politiques@CSC-SCC.gc.ca)

Commissioner,

Original signed by:

Anne Kelly

# Annex A: Cross-References and Definitions

## Cross-References

- [CD 001 – Mission, Values and Ethics Framework of the Correctional Service of Canada](#)
- [CD 060 – Code of Discipline](#)
- [CD 081 – Offender Complaints and Grievances](#)
- [CD 228 – Information Management](#)

- GL 254-3 – Workplace Accommodation
- CD 352 – Inmate Clothing Entitlements
- CD 550 – Inmate Accommodation
- CD 566-7 – Searching of Offenders
- CD 566-12 – Personal Property of Offenders
- CD 577 – Staff Protocol in Women Offender Institutions
- CD 701 – Information Sharing
- CD 703 – Sentence Management
- CD 705-1 – Preliminary Assessments and Post-Sentence Community Assessments
- CD 705-2 – Information Collection
- CD 705-3 – Immediate Needs Identification and Admission Interviews
- CD 705-6 – Correctional Planning and Criminal Profile
- CD 705-7 – Security Classification and Penitentiary Placement
- CD 710-1 – Progress Against the Correctional Plan
- CD 710-2 – Transfer of Inmates
- GL 710-2-1 – CCRA Section 81: Transfers
- GL 710-2-3 – Inmate Transfer Processes
- CD 710-6 – Review of Inmate Security Classification
- CD 712-1 – Pre-Release Decision-Making
- CD 726 – Correctional Programs
- CD 800 – Health Services
- CD 890 – Inmate Owned Canteens
- Creating Choices, Changing Lives: The Transformation of Women's Corrections in Canada
- Decision-Making Guide – Gender Diverse Offenders (CSC publication)
- National Essential Health Services Framework
- Policy Direction to Modernize the Government of Canada's Sex and Gender Information Practices

- World Professional Association for Transgender Health Standards of Care

## Definitions

**Case conference:** a formal meeting, consultation, or discussion about an inmate between two or more individuals. For additional information, please refer to Annex B.

**Gender:** a system that operates in a social context to classify people, often based on their assigned sex. In many contexts, this takes the form of a binary classification of either “man” or “woman”; in other contexts, this includes a broader spectrum.

\*According to Statistics Canada, gender refers to the gender that a person internally feels (“gender identity” along the gender spectrum) and/or the gender a person publicly expresses (“gender expression”) in their daily life, including at work, while shopping or accessing other services, in their housing environment or in the broader community. A person's current gender may differ from the sex the person was assigned at birth (male or female) and may differ from what is indicated on their current legal documents. A person's gender may change over time.

**Gender diverse:** an umbrella term for gender identities or gender expressions that differ from dominant cultural or societal expectations based on sex assigned at birth, which encompasses all gender identities (e.g., non-binary, transgender, two-spirited, etc.).

\*Other common terms associated with the term gender diverse are gender variant and gender non-conforming. Someone who is gender diverse may or may not also identify as transgender.

**Gender expression:** the way gender is presented and communicated to the world through clothing, speech, body language, hairstyle, voice and/or the emphasis or de-emphasis of body characteristics and behaviours.

**Gender identity:** a person's internal and individual experience of gender.

\*Gender identity is not necessarily visible to others and it may or may not align with what society expects based on assigned sex. A person's relationship to their own gender is not always fixed and can change over time.

**Individualized protocol:** refers to the Immediate Needs Indicators – Gender Considerations screen in OMS. The individualized protocol records an offender's gender-related accommodation information, such as an offender's chosen first and middle name(s), chosen pronoun(s), institution type preference (men's or women's), and the gender of staff (man or woman) who will complete security operational procedures.

**Overriding health or safety concern:** matters, substantiated through evidence or information, which would jeopardize the health or safety of the gender diverse offender, other offenders, staff, or members of the public.

**Sex:** the biological classification of a person as female, male or intersex. It is usually assigned at birth based on a visual assessment of external anatomy. Sex is primarily associated with physical and physiological features, including chromosomes, gene expression, hormone levels and function, and reproductive/sexual anatomy. For the purpose of this CD, the "sex" of an offender is determined solely by their current genitalia.

# Annex B: Case Conferences

Case conferences are an integral part of case management. When working with gender diverse offenders, case conferences allow staff to discuss and obtain an understanding of the offender's criminal pathway, risk and needs. These conferences assist staff in making informed decisions concerning offenders' gender-related needs, and will ensure progress towards rehabilitation and reintegration into the community.

Case conferences will occur without delay to comply with policy timeframes and will involve regional and national management.

The Institutional Head/District Director or their delegates will provide participants with:

- a detailed summary of the case being discussed
- the offender's individualized protocol
- the Assessment for Decision, including the receiving site's comments (unlocked)
- any other documents pertinent to the decision-making process.

## Case Conference Composition

- decision-maker
- institution/district representation
- Regional Headquarters representation
- National Headquarters representation, including the Women Offender Sector and the Gender Considerations Secretariat

# Elements to Discuss During the Case Conference

In situations where a case conference is required to determine the intake site for an offender, including offenders returning to federal custody requesting to go to an institution type that better aligns with their gender, the following elements will be discussed, as applicable, during the case conference and be included in the appropriate section of the Assessment for Decision:

- potential impacts on the offender population and others at the receiving site
- potential impacts on the gender diverse offender if they remain at their current site
- potential impacts on the gender diverse offender if they transfer to the receiving site
- challenges related to the physical infrastructure/security.

For an exhaustive list of elements to be considered during the case conference when determining potential health and safety risks, the reader is referred to the Decision-Making Guide – Gender Diverse Offenders. Any other health or safety concerns will be addressed during the case conference and documented as required in the Assessment for Decision.

## Case Conference for Offenders Returning to Federal Custody

A case conference will be held for offenders returning to federal custody who request to go to an institution type that better aligns with their gender, where:

- a. they were not last released from that institution type, or
- b. they were released from that institution type, but CSC has subsequently obtained information to suggest that there may be overriding health or safety concerns that cannot be resolved.

## Annex C: Immediate Needs – Gender Considerations (Individualized Protocol) – Report Outline

The individualized protocol will be carried out with respect for human dignity and in accordance with CSC values and the Standards of Professional Conduct.

| Menu                                    | Drop down menus or data entry                                                                                                                                                                                                                                                                              |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Version                              | The number of versions is indicated                                                                                                                                                                                                                                                                        |
| 2. Date of Gender Considerations Need   | Activation date of the Gender Considerations Need is indicated                                                                                                                                                                                                                                             |
| 3. Gender Consideration History         | Consult previous versions and amendments to the offender’s individualized protocol                                                                                                                                                                                                                         |
| 4. Reason for Assessment                | <ul style="list-style-type: none"> <li>• Admission to reception institution</li> <li>• Arrival to institution – transfer</li> <li>• End gender considerations</li> <li>• Offender initiated</li> <li>• Other</li> <li>• Post admission</li> <li>• Return from court</li> <li>• Staff amendments</li> </ul> |
| Comment: Provide additional information |                                                                                                                                                                                                                                                                                                            |

|                                                                                                                                                     |                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. Gender                                                                                                                                           | 54<br><ul style="list-style-type: none"> <li>• Man</li> <li>• Women</li> <li>• Non-binary</li> </ul>                                                           |
| Comment: Specify the offender's gender identity                                                                                                     |                                                                                                                                                                |
| 6. Use Chosen Name(s)                                                                                                                               | <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>                                                                                          |
| Comment: Specify the offender's current chosen name                                                                                                 |                                                                                                                                                                |
| 7. Chosen Pronouns                                                                                                                                  | <ul style="list-style-type: none"> <li>• He/Him/His/Himself</li> <li>• She/Her/Hers/Herself</li> <li>• They/Them/Their(s)/Themself</li> <li>• Other</li> </ul> |
| Comment: Specify the offender's chosen pronouns                                                                                                     |                                                                                                                                                                |
| 8. Strip Search Protocol                                                                                                                            | <ul style="list-style-type: none"> <li>• No-preference</li> <li>• One-tier</li> <li>• Two-tier</li> </ul>                                                      |
| Top/Bottom Strip Search<br><i>(When the one-tier strip search is selected, indicate the gender of staff who will search the top and the bottom)</i> | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul>                                                              |
| Response                                                                                                                                            | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>                                                                           |
| Comment: Provide relevant information and/or the rational for "Not approved"                                                                        |                                                                                                                                                                |
| 9. Top Strip Search<br><i>(When the two-tier strip search is selected, indicate the gender of staff who will search the top)</i>                    | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul>                                                              |

|                                                                                                                                                     |                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| Response                                                                                                                                            | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>                      |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                                        |                                                                                                           |
| 10. Bottom Strip Search<br><i>(When the two-tier strip search is selected, indicate the gender of staff who will search the bottom)</i>             | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul>         |
| Response                                                                                                                                            | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>                      |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                                        |                                                                                                           |
| 11. Frisk Search Protocol                                                                                                                           | <ul style="list-style-type: none"> <li>• No-preference</li> <li>• One-tier</li> <li>• Two-tier</li> </ul> |
| Top/Bottom Frisk Search<br><i>(When the one-tier frisk search is selected, indicate the gender of staff who will search the top and the bottom)</i> | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul>         |
| Response                                                                                                                                            | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>                      |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                                        |                                                                                                           |
| 12. Top Frisk Search<br><i>(When the two-tier frisk search is selected, indicate the gender of staff who will search the top)</i>                   | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul>         |
| Response                                                                                                                                            | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>                      |

|                                                                                                                                         |                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| Comment: Provide relevant information and/or the rational for “Not approved”                                                            |                                                                                                   |
| 13. Bottom Frisk Search<br><i>(When the two-tier frisk search is selected, indicate the gender of staff who will search the bottom)</i> | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |
| Response                                                                                                                                | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                            |                                                                                                   |
| 14. Urinalysis Protocol                                                                                                                 | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |
| Response                                                                                                                                | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                            |                                                                                                   |
| 15. Access to private and safe showers and/or toilets as applicable                                                                     | Enter comments pertaining to access to private and safe showers and/or toilets                    |
| 16. Observation Protocol (including camera surveillance)                                                                                | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |
| Response                                                                                                                                | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved”                                                            |                                                                                                   |
| 17. Decontamination Showers Protocol                                                                                                    | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |

|                                                                              |                                                                                                   |
|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
|                                                                              | 57                                                                                                |
| Response                                                                     | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved” |                                                                                                   |
| 18. Voluntary Nudity Protocol                                                | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |
| Response                                                                     | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved” |                                                                                                   |
| 19. Medical Escort Protocol                                                  | <ul style="list-style-type: none"> <li>• Man</li> <li>• Woman</li> <li>• No preference</li> </ul> |
| Response                                                                     | <ul style="list-style-type: none"> <li>• Approved</li> <li>• Not approved</li> </ul>              |
| Comment: Provide relevant information and/or the rational for “Not approved” |                                                                                                   |
| 20. Type of Facility Requested<br>Indicate requested type of institution     | <ul style="list-style-type: none"> <li>• Men’s</li> <li>• Women’s</li> </ul>                      |
| Comment: Provide relevant information and/or the rational for “Not approved” |                                                                                                   |
| 21. Finalized                                                                | <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>                             |
| Finalized by                                                                 | Select personnel code from the lookup table                                                       |
| Finalized date                                                               | Select the date the individualized protocol is finalized                                          |

**Date modified:**



[Canada.ca](#) › [Correctional Service Canada](#) › [Corporate information](#)

› [Acts, Regulations and Policy](#) › [Commissioner's Directives](#)

# Commissioner's Directive 710- 2: Transfer of Inmates

## Authorities

- [Corrections and Conditional Release Act \(CCRA\)](#), sections [3](#), [3.1](#), [4](#), [12](#), [15.1](#), [16](#), [26](#), [27](#), [28](#), [29](#), [81](#), [87](#) and [96\(d\)](#).
- [Corrections and Conditional Release Regulations \(CCRR\)](#), sections [11](#), [12](#), [13](#), [14](#), [15](#), [16](#), [18](#) and [97](#)

## Purpose

To effectively manage institutional populations by transferring inmates to an environment consistent with their security requirements. This would include the movement of inmates within clustered and multi-level institutions

To facilitate inmate's participation in correctional programs and/or other interventions as identified in their Correctional Plan

# Application

Applies to staff involved in the transfer as well as the movement of inmates within clustered and multi-level institutions

## Contents

- Responsibilities
- Procedures
- Annex A: Cross-References and Definitions

## Responsibilities

1. The Assistant Commissioner, Correctional Operations and Programs, may develop guidelines pertaining to specific aspects of inmate transfers as well as movements, which must be followed.
2. The Institutional Head, or after working hours the Correctional Manager in charge, will sign all transfer warrants.
3. The Senior Deputy Commissioner is the decision maker for a transfer to and from the Special Handling Unit.
4. The Regional Deputy Commissioner of the receiving region is the decision maker for the transfer of an inmate to a section 81 facility for men.

### Commissioner's Directive



**Number:** 710-2

**In Effect:** 2018-11-07

## Related links

- [CD 705-3 - Immediate Needs Identification and Admission Interviews \(2018-01-22\)](#)
- [CD 705-6 - Correctional Planning and Criminal Profile \(2019-04-15\)](#)
- [CD 705-7 - Security Classification and Penitentiary Placement \(2018-01-15\)](#)
- [CD 710-6 - Review of Inmate Security Classification \(2018-01-15\)](#)
- [Guidelines 710-2-1 - CCRA Section 81: Admission and Transfer of Offenders](#)
- [Guidelines 710-2-2 Inter-Regional Transfers by Air](#)
- [Guidelines 710-2-3 Inmate Transfer Processes](#)
- [Policy Bulletin 565](#)
- [Policy Bulletin 577](#)
- [Policy Bulletin 619](#)

5. The Regional Deputy Commissioner or the Assistant Deputy Commissioner, Correctional Operations, of the receiving region is the decision maker for the inter-regional transfer of an inmate to a men's institution, including the Treatment Centre or a CSC Indigenous Healing Lodge for men.

- a. In a case of a transfer to a Healing Lodge for men, the Regional Deputy Commissioner or the Assistant Deputy Commissioner, Correctional Operations, is responsible for ensuring that:
  - i. the Executive Director/Institutional Head of the Healing Lodge for men is consulted, and
  - ii. a representative from the relevant Indigenous community is engaged in the recommendation.
6. The Deputy Commissioner for Women is the decision maker for all transfers to women's institutions, including women's section 81 facilities and CSC's Indigenous Healing Lodges for women.
  - a. In a case of a transfer to a Healing Lodge for women, the Deputy Commissioner for Women is responsible for ensuring that :
    - i. the Executive Director/Institutional Head of the Healing Lodge for women is consulted, and
    - ii. a representative from the relevant Indigenous community is engaged in the recommendation.
  - b. In the case of a medium-security woman offender, the Deputy Commissioner for Women will ensure that a transfer decision to a multi-level healing lodge, which has a defined but not directly controlled perimeter, is made considering the following factors:
    - i. the length of an inmate's sentence
    - ii. the time remaining before an inmate is eligible for an unescorted temporary absence (UTA)
    - iii. the requirement for a long-term offender to be in the 'preparation for release' or 'reintegration into the community' phase of their Correctional Plan as per Annex G of CD 705-6.

7. The Institutional Head of the sending institution is the decision maker for the intra-regional transfer of an inmate to a men's facility.
8. The Institutional Head will forward their recommendation to:
  - a. the Regional Deputy Commissioner or Assistant Deputy Commissioner, Correctional Operations, for an inter-regional transfer to a men's institution, including the Treatment Centre
  - b. the Regional Deputy Commissioner or Assistant Deputy Commissioner, Correctional Operations, in consultation with the Executive Director of the Healing Lodge, for an inter-regional transfer to/from a CSC Indigenous Healing Lodge for men
  - c. the Regional Deputy Commissioner for a transfer to a section 81 facility for men
  - d. the Deputy Commissioner for Women, in consultation with the Executive Director of the Healing Lodge, for all transfers to a women's institution/healing lodge.
9. In addition, the Institutional Head will:
  - a. ensure the admission of an inmate to a CSC Treatment Centre for Psychiatric Hospital Care or Intermediate Mental Health Care, or to Intermediate Mental Health Care within another institution, has been approved by the appropriate decision maker prior to the inmate's transfer/movement in accordance with the Admission and Discharge Guidelines listed in the Integrated Mental Health Guidelines
  - b. ensure that an inmate is provided with procedural fairness by complying with the processes in sections 12 and 13 of the CCRR
  - c. pursuant to sections 12 to 14 of the CCRR, establish a process to monitor compliance with legislative timeframes for the

appropriate inmate notification, sharing of information and decision making (refer to Annex B of GL 710-2-3 - Inmate Transfer Processes)

- d. ensure that the inmate's state of health and/or health care needs, as identified by a health care professional, are considered in all decisions relating to transfers, and that this information is documented in every inmate's final transfer decision pursuant to section 87 of the CCRA
- e. indicate in the inmate's final transfer decision whether there are incompatibles at the receiving site (or if there are no concerns), and make reference to whether the inmate provided a rebuttal and the consideration given to the rebuttal
- f. ensure there is a process to receive incoming transfer notifications and to notify the receiving site of all approved transfer decisions
- g. when there is new information regarding risk and needs that would impact the viability of the transfer, ensure there is a process to communicate with the receiving institution within 24 hours prior to effecting a transfer
- h. ensure that all reports due within 30 days after transfer from the sending institution are completed as required
- i. ensure processes outlined in CD 784 - Victim Engagement are respected
- j. ensure processes outlined in GL 710-2-4 - Movement Within Clustered/Multi-Level Institutions are respected.
- k. in the case of a medium-security offender, ensure that a transfer decision to a multi-level healing lodge, which has a defined but not directly controlled perimeter, is made considering the following factors:

- i. the length of an inmate's sentence
    - ii. the time remaining before an inmate is eligible for an UTA
    - iii. the requirement for a long-term offender to be in the 'preparation for release' or 'reintegration into the community' phase of their Correctional Plan as per Annex G of CD 705-6.
  - l. ensure that a representative from the relevant Indigenous community is engaged in the recommendation of a transfer to an Indigenous Healing Lodge.
10. The Assistant Wardens, Interventions, of the sending and receiving institutions will ensure a process is in place for case conferences prior to an inmate transfer.
11. The Assistant Warden, Management Services, of the sending institution will ensure that all files are transferred with the inmate, with the exception emergency transfers.
12. The Manager, Assessment and Interventions/Correctional Manager as appropriate, will:
- a. ensure institutional Parole Officers and Primary Workers are familiar with the transfer process to section 81 facility as outlined in GL 710-2-1 - CCRA Section 81: Transfers
  - b. be responsible for the quality control of submissions for transfer or movements within clustered/multi-level institutions
  - c. provide a recommendation to the Institutional Head on the appropriateness of the transfer/ movement within clustered/multi-level institutions on cases they have identified as a concern and/or if deemed required, provide a recommendation on cases supported for a transfer/ movement within clustered/multi-level institutions.

13. The Parole Officer/Primary Worker will:

- a. process inmate transfer applications within the timeframes prescribed in Annex B of GL 710-2-3 - Inmate Transfer Processes
- b. process movement submissions within clustered/multi-level institutions within the timeframes prescribed in Annex C of GL 710-2-4 - Movement Within Clustered/Multi-Level Institutions
- c. inform inmates of their right under section 81 of the CCRA and in accordance with GL 710-2-1 - CCRA Section 81: Transfers
- d. where applicable, update the Correctional Plan, including its healing components, in consultation with the inmate and complete the Assessment for Decision as outlined in Annex C of GL 710-2-3 - Inmate Transfer Processes, within 30 days of receiving the application
- e. where applicable, update the Correctional Plan, including its healing components, in consultation with the inmate and complete the Assessment for Decision as outlined in Annex B of GL 710-2-4 - Movement Within Clustered/Multi-Level Institutions
- f. ensure information is provided to the Victim Services Unit and consider relevant victim information pursuant to CD 784 - Victim Engagement.

14. The Indigenous Liaison Officer will:

- a. support and promote inmate access to section 81 facilities
- b. provide input to the Parole Officer/Primary Worker regarding transfers between institutions or movements within clustered/multi-level institutions recommendations, as applicable, including the Elder's comments.

15. The Director, Population Management and Transfers, will ensure a process is in place for the planning, coordination and management (including financial resources) of inter-regional transfers by air.
16. The Population Management and Transfers Division will:
  - a. provide advice and coordinate all inter-regional transfers by air
  - b. establish a tentative schedule of the inter-regional flights one year in advance
  - c. establish the national inter-regional transfer list.
17. The Regional Transfer Coordinator will:
  - a. coordinate the inter-regional transfer processes
  - b. establish the inter-regional transfer list for their respective region
  - c. gather inmate information to support the inter-regional transfer operations (e.g. medical, psychological, security), when required.
18. During all transits, the Correctional Manager/Officer in Charge of the transfer is responsible at all times for the security of the inmates, as well as the inmate's personal effects and files.
19. The decision maker will ensure that the rationale provided in all decision reports is clearly detailed, addresses any rebuttal submissions and is justified pursuant to section 27 of the CCRA, and CD 701 - Information Sharing.

## Procedures

20. Processes for the various types of transfers can be found in:
  - a. GL 710-2-1 - CCRA Section 81: Transfers
  - b. GL 710-2-2 - Inter-Regional Transfers by Air

- c. GL 710-2-3 - Inmate Transfer Processes
- d. GL 710-2-4 - Movement Within Clustered/Multi-Level Institutions
- e. CD 704 - International Transfers
- f. CD 708 - Special Handling Unit.
- g. CD 711 – Structured Intervention Units, GL 711-1 – Structured Intervention Unit (SIU) Transfer Procedures – SIU Sites, and GL 711-2 – Structured Intervention Unit (SIU) Transfer Procedures – Non-SIU Sites.

21. If a transfer involves an inmate with a high profile offender flag, the procedures regarding high profile offenders will be followed pursuant to CD 701 - Information Sharing.

Commissioner,

Original signed by:

Anne Kelly

## **Annex A: Cross-References and Definitions**

### **Cross-References**

- CD 001 - Mission, Values and Ethics Framework of the Correctional Service of Canada
- CD 081 - Offender Complaints and Grievances
- CD 084 - Inmates' Access to Legal Assistance and the Police
- CD 352 - Inmate Clothing Entitlements

- CD 541 - Interjurisdictional and CCRA Section 81 Agreements
- CD 550 - Inmate Accommodation
- CD 567-1 - Use of force
- CD 568-1 - Recording and Reporting of Security incidents
- CD 578 - Intensive Intervention Strategy in Women Offender Institutions/Units
- CD 700 - Correctional Interventions
- CD 701 - Information Sharing
- CD 703 - Sentence Management
- CD 704 - International Transfers
- CD 705-6 - Correctional Planning and Criminal Profile
- CD 705-7 - Security Classification and Penitentiary Placement
- CD 706 - Classification of Institutions
- CD 708 - Special Handling Unit
- GL 710-2-1 - CCRA Section 81: Transfers
- GL 710-2-2 - Inter-Regional Transfers by Air
- GL 710-2-3 - Inmate Transfer Processes
- GL 710-2-4 - Movement Within Clustered/Multi-Level Institutions
- CD 710-5 - Judicial Review of Parole Ineligibility
- CD 710-6 - Review of Inmate Security Classification
- CD 711 - - Structured Intervention Units Intervention Unit
- GL 711-1 - Structured Intervention Unit (SIU) Transfer Procedures - SIU Sites
- GL 711-2 - Structured Intervention Unit (SIU) Transfer Procedures - Non-SIU Sites
- CD 715-2 - Post-Release Decision Process
- CD 784 - Victim Engagement
- CD 800 - Health Services
- CD 843 - Interventions to Preserve Life and Prevent Serious Bodily Harm

- Canadian Aviation Security Regulations, 2012
- Treasury Board Policy on Government Security
- Discharge Planning Guidelines: A Client-Centred Approach
- Offender Records System User's Guide
- Integrated Mental Health Guidelines

## Definitions

**Case conference:** a formal meeting, consultation, or discussion about an inmate between two or more individuals.

**Emergency transfer:** the involuntary transfer of an inmate who cannot be managed effectively in the sending institution and who therefore poses an immediate safety risk to the public, staff and/or inmate(s) of the sending institution.

**Movement:** movement of an inmate to a same or different security level location within a clustered/multi-level institution.

**Transfer (voluntary/involuntary):** the transfer of an inmate when it is an acceptable risk to the public, staff or other inmates and this risk can be managed at another Institution or security level.

**Date modified:**

2023-01-25



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› [Acts, Regulations and Policy](#) › [Commissioner's Directives](#)

# Guidelines 710-2-3: Inmate transfer processes

## Authorities

- [Corrections and Conditional Release Act \(CCRA\)](#), sections [3](#), [3.1](#), [4](#), [12](#), [15.1](#), [16](#), [26](#), [27](#), [28](#), [29](#), [81](#), [84](#), [87](#) and [96\(d\)](#).
- [Corrections and Conditional Release Regulations \(CCRR\)](#), sections [11](#), [12](#), [13](#), [14](#), [15](#), [16](#), [18](#) and [97](#)
- [Commissioner's Directive 710-2 - Transfer of Inmates](#)

## Purpose

To provide clarification and guidance to staff on the different inmate transfer processes and related transfer procedures

## Application

Applies to all staff involved in the inmate transfer process

### Guidelines

**Number:** 710-2-3

**In Effect:** 2018-11-07

### Related links

[Policy Bulletin 565](#)

[Policy Bulletin 586](#)

[Policy Bulletin 619](#)

# Contents

## Procedures

- General Transfer Process
- Intra-Regional Transfer
- Transfer to and from the Special Handling Unit
- Transfer to and Return from a Section 81 Facility
- Transfer to and from a CSC Indigenous Healing Lodge
- Transfer to and from a CSC Treatment Centre for Program Participation or Admission Purposes, Including Intermediate Mental Health Care Within a Treatment Centre or Mainstream Institution
- Transfer for Judicial Review of Parole Ineligibility
- Transfer for Attendance at Court Proceedings
- Voluntary Inter-Regional Transfer
- Interjurisdictional Transfer

## Annex A - Cross-References and Definitions

## Annex B - Delegation of Authority, Timeframes for Decision and Timeframes for Inmate's Notification

## Annex C - Assessment for Decision for Transfers - Report Outline

# Procedures

## General transfer process

1. All transfers between institutions require a transfer warrant, with the exception of:
  - a. the return of an offender from a section 81 Healing Lodge to a federal facility that may be processed with a letter of withdrawal of support from the Director of the Healing Lodge. A transfer warrant must follow as soon as possible

- b. following the capture of an offender who had escaped or who was unlawfully at large
  - c. the transfer of an inmate being escorted to court by the Sheriff/Bailiff/Police and who will not be incarcerated in another federal facility prior to their return
  - d. the transfer of an inmate via a warrant of committal, pursuant to CD 705-7 - Security Classification and Penitentiary Placement.
2. Transfers under Exchange of Service Agreements with provinces and territories, and transfers to and from facilities under section 81 agreements will be managed according to the provisions of the respective agreements, and the decision-making authority outlined in Annex B.
3. When the transfer involves a transfer to/from a women's institution, the recommendation will be sent to the Deputy Commissioner for Women for final decision.
4. The inmate has the right to contact by telephone, without delay pursuant to section 97 of the CCRR, their lawyer or an individual identified on their authorized call list, to advise the lawyer/individual of their transfer to another institution. If the inmate is incapable of making the call, staff will facilitate the request.
5. Inmates will normally not be transferred within two months prior to a scheduled hearing by the Parole Board of Canada (PBC) or a court date. If a transfer is unavoidable, the sending institution will immediately notify the PBC of the transfer and maintain responsibility for the casework in relation to the PBC hearing.
6. Inmates on High or Modified Watch will not normally be transferred to an institution other than a treatment facility unless the attending mental health professional deems the transfer would reduce the risk of

suicide (refer to CD 843 - Interventions to Preserve Life and Prevent Serious Bodily Harm). The transfer will be effected after a case conference/teleconference is held between the mental health teams of the sending and receiving facilities and is documented and the transfer is clinically supported.

7. An exception applies for an inmate requiring High or Modified Watch or mental health monitoring when the observation status cannot be facilitated at their current institution. Under these circumstances, the inmate will be immediately transferred to another institution where the observation status can be facilitated. This will be considered a temporary transfer with a return to the primary institution as soon as possible. A case conference/teleconference between the mental health teams of the sending and receiving facilities will be effected as soon as practicable. Sight and sound observation of the inmate will be maintained during the transport as per CD 566-6 - Security Escorts.
8. Except in the case of an emergency transfer, inmates on High or Modified Watch shall not normally be transferred on Fridays or holidays, including weekends.
9. Where there is a Victim Notification flag, the Victim Services Unit will be advised of a transfer pursuant to CD 784 - Victim Engagement.
10. When the transfer is to provide the inmate access to their home community, family and/or family support, the institutional Parole Officer/Primary Worker will confirm support pursuant to CD 715-3 - Community Assessments. The result of the report will be recorded in an Assessment for Decision for Transfer.
11. A transfer will be considered in cases where such a transfer will actualize/operationalize a conditional release. In such cases, an Assessment for Decision must provide a detailed account of the

alternative options that were considered (community support, release plan, security concerns).

12. If a voluntary transfer application is denied, a review of any subsequent transfer application(s) is not required more than once every six months, unless supported by the Case Management Team.
13. Where an inmate is transferred on an involuntary basis, a review of any voluntary transfer application is not required within the first six months following the involuntary transfer, unless supported by the Case Management Team.
14. If a transfer involves an inmate with a high profile offender flag, the procedures regarding high profile offenders will be followed pursuant to CD 701 - Information Sharing.
15. The sending institution will ensure that, prior to a transfer, the following documentation is translated, if necessary, into the predominant language of the receiving institution:
  - a. the Case Documentation Checklist
  - b. the Assessment for Decision and the Offender Intake Assessment reports
  - c. the police report(s) for all current offences
  - d. the Post-Sentence Community Assessment Report
  - e. the Criminal Profile Report
  - f. the Correctional Plan
  - g. the sentence calculation
  - h. relevant security intelligence information
  - i. the most recent psychological report and/or mental health assessment

- j. the Health Services Transfer Summary (CSC (Correctional Service Canada)/SCC (Service correctionnel du Canada) 0377-01)
  - k. the Finger Print System (FPS) Summary
  - l. all trial related reports and documentation
  - m. the most recent Correctional Plan Update.
16. Where time does not permit to translate the documents before the transfer, as in the case of an emergency transfer, translation will be completed immediately following the transfer by the sending institution.
  17. The transfer of inmate's files will be completed in accordance with the Offender Records System User's Guide.
  18. Upon transfer, the receiving institution will complete all relevant screenings and assessments relating to suicide and self-injury, pursuant to CD 843 - Interventions to Preserve Life and Prevent Serious Bodily Harm and CD 705-3 - Immediate Needs Identification and Admission Interviews.
  19. Refusal or failure to integrate at the receiving institution may result in the inmate's transfer to another institution and/or region.
  20. Refer to Annex B for delegation of authority, timeframes for decision and timeframes for inmate's notification that apply to transfers.
  21. The Regional Victim Services Manager will ensure that for all inter-regional transfers, related victim information is transferred to the appropriate Victim Services Unit in the receiving region.

## **Intra-regional transfer**

### **Voluntary Transfer**

22. The Parole Officer/Primary Worker will:

- a. review and discuss the transfer application with the inmate and, if necessary, with other members of the Case Management Team focusing on how the proposed transfer meets the objectives of the Correctional Plan
- b. within five working days of being notified of the request, consult with the receiving institution to discuss the appropriateness of the transfer in situations when the transfer is supported by the Case Management Team or in situations where it is deemed appropriate and/or necessary
- c. where applicable, update the Correctional Plan in consultation with the inmate and complete the Assessment for Decision found in Annex C within 30 days of receipt of the application
- d. notify the inmate of the final transfer decision and associated reasons within 60 days after the submission of the request.

23. An Assessment for Decision for Transfer, pursuant to Annex C, is not required for:

- a. a transfer to a CSC (Correctional Service Canada) Treatment Centre for an admission to psychiatric hospital care
- b. a return to a primary institution
- c. a transfer to another institution when there is no change in an inmate's security classification level except for a transfer of an inmate with a medium security classification to an environment without a secure and directly controlled perimeter pursuant to CD 706 - Classification of Institution

24. When an Assessment for Decision for Transfer is not required, a CSC (Correctional Service Canada) Board Review/Referral Decision Sheet

will be completed by the Parole Officer/<sup>77</sup>Primary Worker/Manager, Assessment and Interventions/ Correctional Manager and include the following in the additional recommendation section of the form:

- a. information from the Security Intelligence Officer
- b. comments from the receiving institution
- c. information regarding physical and mental health needs
- d. information regarding Indigenous social history where appropriate
- e. recommendation from the Case Management Team consistent with the objectives identified in the Correctional Plan
- f. a detailed rationale of the reasons for the decision (including consideration of the relevant elements identified under section 28 of the CCRA).

25. A copy of the final decision and associated reasons will be provided to the inmate within five working days after the final decision.

## **Involuntary Transfer**

26. The Parole Officer will complete the Assessment for Decision pursuant to Annex C.

27. Pursuant to section 12 of the CCRR, Annex B of these Guidelines and CD 701 - Information Sharing, the Institutional Head or designate will:

- a. meet with the inmate to explain the reasons for the proposed transfer
- b. provide the inmate with a copy of:
  - i. the Assessment for Decision
  - ii. all other information that will be used in the decision-making process

- c. give the inmate written notice of the involuntary transfer recommendation
  - d. provide the inmate two working days to respond in person or in writing to the transfer.
28. The Institutional Head can grant, within one working day of receiving the request, an extension of up to 10 working days. When the inmate responds in person, the response must be documented in a "Casework Record - Rebuttal".
29. The inmate's rebuttal, a copy of the most recent Correctional Plan Update (if required) and the Assessment for Decision will be forwarded to the appropriate decision maker as indicated in Annex B.
30. The inmate will be provided with the written notice of the final decision and the associated reasons via the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet:
- a. at least two days before the transfer, unless the inmate waives the two-day period on the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet, or
  - b. within five working days of the final decision being rendered, if the decision is not to transfer the inmate.
31. In exceptional circumstances of a missed timeframe for a decision, an addendum to the existing Assessment for Decision will be completed to explain the reason for the delay and expected date for a decision.

## **Emergency Transfer**

32. For a transfer, pursuant to section 13 of the CCRR, when it is determined that it is necessary to immediately transfer an inmate, a case conference between institutional staff will take place prior to the inmate's transfer or as soon as possible thereafter.

33. Prior to the transfer, the Institutional Head or designate of the sending institution will meet with the inmate to explain the reasons for the transfer.
34. Not more than two working days after the transfer, the Institutional Head of the receiving institution or designate will ensure the procedural fairness process is completed with the inmate by:
  - a. meeting with the inmate to explain the reasons for the transfer, and pursuant to CD 701 - Information Sharing, providing them all documentation that will be used in the decision-making process
  - b. advising the inmate of their right to legal counsel
  - c. providing the inmate two working days to respond to the transfer, in person or in writing. The Institutional Head can grant, within one working day of receiving the request, an extension of up to 10 working days. When the inmate responds in person, the response must be documented in a "Casework Record - Rebuttal".
35. The inmate's rebuttal, a copy of the most recent Correctional Plan Update (if required) and the Assessment for Decision will be forwarded to the appropriate decision maker as indicated in Annex B.
36. The inmate will be provided with the written final decision and the associated reasons via the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet within five working days after the final decision.
37. In cases where an inmate is transferred for a short period to another facility, pursuant to section 13 of the CCRR, for observation purposes that cannot be met at the primary institution, no Assessment for Decision is required. However, the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet must include the reasons for the

transfer and confirm procedural <sup>80</sup> safeguards including the right to rebut were provided.

## **Transfer to and from the Special Handling Unit**

38. For transfers to and from the Special Handling Unit, please refer to CD 708 - Special Handling Unit.

## **Transfer to and return from a Section 81 facility**

39. For transfers to and returns from a section 81 facility, please refer to GL 710-2-1 - CCRA Section 81: Transfers.

## **Transfer to and from a CSC (Correctional Service Canada) Indigenous Healing Lodge**

40. For a transfer to and from a CSC (Correctional Service Canada) Indigenous Healing Lodge, the relevant transfer process applies.

41. Refer to Annex B for delegation of authority, timeframes for decision and timeframes for inmate's notification that apply to transfers to and from a CSC (Correctional Service Canada) Indigenous Healing Lodge.

## **Transfer to and from a CSC (Correctional Service Canada) treatment centre for program participation or admission purposes, including intermediate mental health care within a treatment centre or mainstream institution**

42. A transfer to a CSC (Correctional Service Canada) Treatment Centre for an admission to psychiatric hospital care requires the consent of the

inmate, unless the inmate has been certified under the relevant provincial mental health legislation.

43. Prior to a transfer for admission to psychiatric hospital care in a CSC (Correctional Service Canada) Treatment Centre, or admission to Intermediate Mental Health Care within a Treatment Centre or other institution, the inmate must meet the clinical admission criteria in accordance with the Admission and Discharge Guidelines listed in the Integrated Mental Health Guidelines.
44. When an inmate is admitted to a Treatment Centre for psychiatric hospital care, the sending institution will remain the primary institution.
45. When an inmate is admitted to Intermediate Mental Health Care within a Treatment Centre, the sending institution will remain the primary institution, should the stay not exceed one year. For stays exceeding one year, the co-located institution will become the inmate's primary institution. In situations where the inmate's security classification differs from that of the co-located institution, the sending institution will remain the inmate's primary institution.
46. For transfers to an Intermediate Mental Health Care Unit located at another institution, the corresponding transfer process will apply.
47. Prior to the transfer to a CSC (Correctional Service Canada) Treatment Centre, the inmate will be informed that:
  - a. upon completion of the program or treatment plan, or the provision of the required health services, they will be returned to the primary institution should the stay not exceed one year
  - b. failure to fully participate in programming may result in a discharge from the Treatment Centre and, under normal

circumstances, the inmate will<sup>82</sup> be returned to the primary institution.

## **Transfer for judicial review of parole ineligibility**

48. For a transfer to another institution of the same security level for judicial review, the applicable transfer process will be followed. An Assessment for Decision is not required but the information will be recorded in a CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
49. An inmate eligible for judicial review of parole ineligibility will be transferred for the purposes of the review hearing to an institution which is in close proximity to the jurisdiction where their hearing will be held.
50. The transfer will be initiated in accordance with the timeframes outlined in Annex B and just far enough in advance of the judicial review of parole ineligibility hearing to ensure proper preparation for their case with legal counsel. This will take into account the possibility that the inmate may already have engaged legal counsel prior to the anticipated transfer.

## **Transfer for attendance at court proceedings**

51. For a transfer to another institution of the same security level to attend court proceedings, the applicable transfer process will be followed. An Assessment for Decision is not required but the information will be recorded in a CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
52. For a transfer to another institution, where the court order stipulates a specific institution which differs from the assigned security level of the

offender required to appear, a request may be submitted to the applicable court to amend the order.

53. In the absence of a court order, and with the exception of cases from the Special Handling Unit, the Institutional Head may authorize the transfer of an inmate to another penitentiary or to a provincial correctional facility to facilitate the inmate's attendance at a court proceeding.
54. Pursuant to a court order, the Institutional Head can authorize the transfer of an inmate to another institution to allow them to participate in a judicial proceeding if the court order does not specify the provincial institution or if the provincial institution specified in the court order cannot accommodate the inmate. An Assessment for Decision is not required but the information will be recorded in a CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
55. The sending institution must confirm that video conferencing has been eliminated as an option prior to an inter-regional transfer when court attendance is the sole purpose for the inmate's transfer.
56. Depending on the length of time an inmate has been in an institution other than their primary institution due to court matters, the respective Institutional Heads will determine who is responsible for case preparation and the necessity for transfer.

## **Voluntary Inter-regional transfer**

57. The Parole Officer/Primary Worker will:
  - a. review and discuss the transfer application with the inmate and, if necessary, with other members of the Case Management Team focusing on how the proposed transfer meets the objectives of the Correctional Plan

- b. advise the inmate applying for an inter-regional transfer that they should indicate a preferred institution on the application and whether or not they are willing to transfer to any institution in the receiving region
  - c. where applicable, update the Correctional Plan, including the healing components of the Correctional Plan in the case of an offender transferring to a section 81 facility, in consultation with the inmate
  - d. complete the Assessment for Decision identified in Annex C within 30 days of receipt of the application.
58. The sending institution will lock the Assessment for Decision, enter the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet on OMS and send the application to the Regional Transfer Coordinator of the receiving region for their review, in cases where the Institutional Head supports the application.
59. The Regional Transfer Coordinator of the receiving region will:
- a. request comments from the proposed receiving site or from a site that would better meet the inmate's needs, which are to be provided within 10 working days
  - b. provide the recommendation to the decision maker pursuant to Annex B.
60. When a decision is made, the Regional Transfer Coordinator of the receiving region will notify the sending institutional staff as well as the Regional Transfer Coordinator of the sending region of the decision.
61. Institutional staff will then notify the inmate of the decision pursuant to Annex B.

## Voluntary Inter-regional transfer

62. The Parole Officer at the sending institution will:
- a. complete the Assessment for Decision pursuant to Annex C and leave it unlocked
  - b. notify the Regional Transfer Coordinator of the sending region by email of the Assessment for Decision draft submitted for their review, who in turn will, within one working day, forward it to the Regional Transfer Coordinator of the receiving region.
63. The Regional Transfer Coordinator of the receiving region will:
- a. review the request and consult with the proposed institution(s)
  - b. submit the comments provided by the institution(s) to the Regional Transfer Coordinator of the sending region.
64. The Regional Transfer Coordinator of the sending region will notify institutional staff, who will enter the comments in the Assessment for Decision and lock the document.
65. Pursuant to section 12 of the CCRR, Annex B of these Guidelines and CD 701 - Information Sharing, the Institutional Head or designate will ensure the procedural fairness process is completed with the inmate at least two working days before the transfer by:
- a. providing the inmate with a copy of:
    - i. the Assessment for Decision
    - ii. the written notice of the involuntary transfer recommendation
    - iii. any other information that will be used in the decision-making process
  - b. providing the inmate two working days to respond in person or in writing to the proposed transfer.

66. The Institutional Head can grant, within one working day of receiving the request, an extension of up to 10 working days. When the inmate responds in person, the response must be documented in a "Casework Record - Rebuttal".
67. The Institutional Head of the sending institution will provide comments and address the inmate's rebuttal (if one is submitted) via the recommendation section of the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
68. The Notice of Involuntary Transfer Recommendation and the inmate's rebuttal (if one is submitted) are forwarded to the Regional Transfer Coordinator of the sending region who will provide comments via the recommendation section of the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
69. The Regional Transfer Coordinator of the sending region will forward the information to the Regional Transfer Coordinator of the receiving region to obtain the final decision. (Refer to Annex B for the timeframes for decision.)
70. The inmate will be provided with a copy of the final decision and the reasons via the CSC (Correctional Service Canada) Board Review/Referral Decision Sheet.
71. Refer to GL 710-2-2 - Inter-Regional Transfers by Air for the processes applicable to those transfers.

## **Interjurisdictional transfer**

72. Procedures for transferring an inmate to a provincial/territorial facility are included in the Exchange of Service Agreement for the province/territory involved in the transfer. Please refer to CD 541 - Interjurisdictional and CCRA Section 81 Agreements for the framework

for the negotiation, management and delivery of Exchange of Service Agreements with the provinces/territories.<sup>87</sup>

73. Procedures for an international transfer to and from Canada are outlined in CD 704 - International Transfers.

Assistant Commissioner,

Correctional Operations and Programs

Original signed by:

Alain Tousignant

# Annex A: Cross-references and definitions

## Cross-References

CD 001 - Mission, Values and Ethics Framework of the Correctional Service of Canada

CD 541 - Interjurisdictional and CCRA Section 81 Agreements

CD 550 - Inmate Accommodation

CD 566-6 - Security Escorts

CD 568-7 - Management of Incompatible Offenders

CD 701 - Information Sharing

CD 702 - Indigenous Offenders

CD 704 - International Transfers

CD 705-3 - Immediate Needs Identification and Admission Interviews

CD 705-6 - Correctional Planning and Criminal Profile

CD 705-7 - Security Classification and Penitentiary Placement

CD 708 - Special Handling Unit

CD 710-1 - Progress Against the Correctional Plan

GL 710-2-1 - CCRA Section 81: Transfers

GL 710-2-2 - Inter-Regional Transfers by Air

CD 710-3 - Temporary Absences

CD 710-4 - Perimeter Security Clearance

CD 710-6 - Review of Inmate Security Classification

CD 710-7 - Work Releases

CD 710-8 - Private Family Visits

CD 711 - Structured Intervention Units

CD 715-3 - Community Assessments

CD 784 - Victim Engagement

CD 843 - Interventions to Preserve Life and Prevent Serious Bodily Harm

Offender Records System User's Guide

Indigenous Social History Tool

## Definitions

**Case conference:** a formal meeting, consultation, or discussion about an inmate between two or more individuals.

**Emergency transfer:** the involuntary transfer of an inmate who cannot be managed effectively in the sending institution and who therefore poses an immediate safety risk to the public, staff and/or inmate(s) of the sending institution.

**High Watch:** an enhanced observation status for inmates who are at imminent risk for suicidal or self-injurious behaviour or who have been identified by a health care professional as having a serious mental illness with significant impairment where there is a risk of serious bodily harm that cannot be safely managed within the normal institutional routine, during which the inmate is under continuous direct observation.

**Modified Watch:** an enhanced observation status for inmates who are at elevated risk for suicidal or self-injurious behaviour, or who have been identified by a health care professional as having a serious mental illness with significant impairment where there is a risk of serious bodily harm that cannot be safely managed within the normal institutional routine, during which the inmate is under continuous observation.

**Without delay:** immediately unless there are compelling circumstances preventing immediate action and in those circumstances, the delay cannot be more than 24 hours.

## Annex B: Delegation of Authority, timeframes for decision and timeframes for inmate's notification

### Intra-Regional

|               |               |               |               |
|---------------|---------------|---------------|---------------|
| Transfer Type | Transfer Type | Transfer Type | Transfer Type |
|---------------|---------------|---------------|---------------|

| Transfer Type                                                                                                                                                                                                                                                                                      | Transfer Type                                                                                                                                                                                                  | Transfer Type                                                                                                                                                                                                                               | Transfer Type                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>All Penitentiary placement, including:</b></p> <ul style="list-style-type: none"> <li>• <b>Suspended or revoked inmates</b></li> <li>• <b>Persons with a suspended long-term supervision order</b></li> <li>• <b>Inmates readmitted after escape or being unlawfully at large</b></li> </ul> | <p>The Institutional Head of the sending institution which operates the Intake Unit or the Post-Suspension Unit</p> <p>Where required, the District Director has the authority for penitentiary placements</p> | <p>Inmate must be given reasons for the proposed placement in writing at least two working days prior to the final decision and transfer to the assigned penitentiary. This is to allow the inmate to respond to the proposed placement</p> | <p>Where inmates are being admitted to a federal facility from a provincial facility, they will be notified as soon as practicable</p> |

| Transfer Type                                                                                                                                                                                                                                             | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Men's Institution</b></p> <p><b>Voluntary transfers, including at same security level to attend a PBC hearing, judicial review, court proceedings, program participation</b></p> <p><b>Involuntary transfers, including emergency transfers</b></p> | <p>The Institutional Head of the sending institution</p> <p><b>Note:</b> In the case of emergency transfers, where possible, Regional Headquarters must be notified of the transfer before it is effected. In cases where it is not possible to reach the regional authorities, Regional Headquarters must be notified at the first opportunity. In addition, the sending institution will notify the receiving institution of the transfer before it is effected</p> | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate's request being submitted</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• In cases where the inmate does not rebut, as soon as possible within 30 days of provision of the Notice of Involuntary Transfer Recommendation</li> <li>• In cases where the inmate rebuts, within 30 days of the provision of the Notice of Involuntary Transfer Recommendation or within 10 working days of the date of the rebuttal, whichever period is longer</li> </ul> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision, including the reasons if the decision is to deny the request</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• At least two days before the transfer if the final decision is to transfer the inmate, unless they consent to a shorter period</li> <li>• Within five working days after the decision if the final decision is not to transfer the inmate</li> </ul> <p><b>Emergency</b></p> <p>Within five working days after the final decision, including the reasons for the decision</p> |

| Transfer Type                                                                                                                                                                                                                                               | Transfer Type                                                                                                           | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Women’s Institution</b></p> <p><b>Voluntary transfers, including at same security level to attend a PBC hearing, judicial review, court proceedings, program participation</b></p> <p><b>Involuntary transfers, including emergency transfers</b></p> | <p>The Deputy Commissioner for Women is the final decision-maker. The Institutional Head provides a recommendation.</p> | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate’s request being submitted</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• In cases where the inmate does not rebut, as soon as possible within 30 days of provision of the Notice of Involuntary Transfer Recommendation</li> </ul> <p>In cases where the inmate rebuts, within 30 days of the provision of the Notice of Involuntary Transfer Recommendation or within 10 working days of the date of the rebuttal, whichever period is longer</p> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision, including the reasons if the decision is to deny the request</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• At least two days before the transfer if the final decision is to transfer the inmate, unless they consent to a shorter period</li> <li>• Within five working days after the decision if the final decision is not to transfer the inmate</li> </ul> <p><b>Emergency</b> Within five working days after the final decision, including the reasons for the decision</p> |

## Inter-Regional

| Transfer Type                            | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Transfer Type                                                                                                                                                                                                                       | Transfer Type                                                                                                                          |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>All penitentiary placement</b></p> | <p>In cases where the sending institution or the sending region is not in favour of the out of region penitentiary placement, a decision is rendered at that time and the case is not forwarded to the proposed receiving region</p> <p>The Regional Deputy Commissioner, or Assistant Deputy Commissioner, Correctional Operations, of the receiving region</p> <p>The Institutional Head/District Director of the sending region <b>recommends</b> the penitentiary placement</p> | <p>Inmate must be given reasons for the proposed placement in writing at least two days prior to the final decision and transfer to the assigned penitentiary. This is to allow the inmate to respond to the proposed placement</p> | <p>Where inmates are being admitted to a federal facility from a provincial facility, they will be notified as soon as practicable</p> |

| Transfer Type                                                                                       | Transfer Type                                                                                                        | Transfer Type                                                                                                                                            | Transfer Type                                   |
|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| <b>Out of region movement via a warrant of committal from provincial custody to federal custody</b> | The Regional Deputy Commissioner, or Assistant Deputy Commissioner, Correctional Operations, of the receiving region | The inmate will be transferred from provincial custody upon the expiration of the 15day delay, unless they agree to be transferred before the expiration | Inmates will be notified as soon as practicable |

| Transfer Type                                                                                                                  | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Men's Institution</b></p> <p><b>Voluntary transfers</b></p> <p><b>Involuntary transfers, and emergency transfers</b></p> | <p>In cases where the Institutional Head of the sending institution or, at the regional level, the Regional Deputy Commissioner or the Assistant Deputy Commissioner, Correctional Operations, are not in favour of the inter-regional transfer, a decision is rendered accordingly</p> <p>The Regional Deputy Commissioner, or Assistant Deputy Commissioner, Correctional Operations, of the receiving region is the final decision maker, when the case is supported</p> | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate's request being submitted</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• In cases where the inmate does not rebut, as soon as possible within 45 days of the provision of the Notice of Involuntary Transfer Recommendation</li> <li>• In cases where the inmate rebuts, within 45 days of the provision of the Notice of Involuntary Transfer Recommendation or within 15 working days of the date of the rebuttal, whichever period is longer</li> </ul> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision of the transfer application, including the reasons if the decision is to deny the request</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• At least two days before the transfer if the final decision is to transfer the inmate, unless they consent to a shorter period</li> <li>• Within five working days after the decision if the final decision is not to transfer the inmate</li> </ul> <p><b>Emergency</b></p> <p>Within five working days after the final decision, including the reasons for the decision</p> |

| Transfer Type | Transfer Type | Transfer Type | Transfer Type |
|---------------|---------------|---------------|---------------|
|---------------|---------------|---------------|---------------|

| Transfer Type                                                                                                                    | Transfer Type                                                                                                           | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Women’s Institution</b></p> <p><b>Voluntary transfers</b></p> <p><b>Involuntary transfers, and emergency transfers</b></p> | <p>The Deputy Commissioner for Women is the final decision maker. The Institutional Head provides a recommendation.</p> | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate’s request being submitted</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• In cases where the inmate does not rebut, as soon as possible within 45 days of the provision of the Notice of Involuntary Transfer Recommendation</li> </ul> <p>In cases where the inmate rebuts, within 45 days of the provision of the Notice of Involuntary Transfer Recommendation or within 15 working days of the date of the rebuttal, whichever period is longer</p> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision of the transfer application, including the reasons if the decision is to deny the request</p> <p><b>Involuntary</b></p> <ul style="list-style-type: none"> <li>• At least two days before the transfer if the final decision is to transfer the inmate, unless they consent to a shorter period</li> <li>• Within five working days after the decision if the final decision is not to transfer the inmate</li> </ul> <p><b>Emergency</b></p> <p>Within five working days after the final decision, including the reasons for the decision</p> |

| Transfer Type | Transfer Type | Transfer Type | Transfer Type |
|---------------|---------------|---------------|---------------|
|---------------|---------------|---------------|---------------|

### Intra/Inter-Regional

| Transfer Type                                                          | Transfer Type                                                                                                                                                                                                                                                            | Transfer Type                                                                                                                                                               | Transfer Type                                                                                                                               |
|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Transfer to and the return from a Section 81 facility for men</b>   | <p>As outlined in the specific <u>section 81</u> agreements</p> <p>In cases of transfers to a <u>section 81</u> facility for men, the Regional Deputy Commissioner of the receiving region is the final decision maker of a transfer to a <u>section 81</u> facility</p> | <p>The timeframes for voluntary transfers to a <u>section 81</u> facility apply, excluding time attributable to the Indigenous community's consideration of the request</p> | <p>The timeframes for voluntary transfers apply, excluding time attributable to the Indigenous community's consideration of the request</p> |
| <b>Transfer to and the return from a Section 81 facility for women</b> | <p>As outlined in the specific <u>section 81</u> agreements</p> <p>In cases of transfers to a section 81 facility for women, the Deputy Commissioner for Women is the final decision-maker.</p>                                                                          | <p>The timeframes for voluntary transfers to a <u>section 81</u> facility apply, excluding time attributable to the Indigenous community's consideration of the request</p> | <p>The timeframes for voluntary transfers apply, excluding time attributable to the Indigenous community's consideration of the request</p> |

| Transfer Type                                                                                      | Transfer Type                                                                                                                                                                                                                                                                                   | Transfer Type                                                                                         | Transfer Type                                                                                                                                  |
|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Transfer to and from a CSC (Correctional Service Canada) Indigenous Healing Lodge for men</b>   | <p>In the case of an intra-regional transfer, the Institutional Head of the sending institution</p> <p>In the case of an inter-regional transfer, the Regional Deputy Commissioner or the Assistant Deputy Commissioner, Correctional Operations (where applicable) of the receiving region</p> | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate's request being submitted</p> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision, including the reasons if the decision is to deny the request</p> |
| <b>Transfer to and from a CSC (Correctional Service Canada) Indigenous Healing Lodge for women</b> | <p>The Deputy Commissioner for Women is the final decision-maker.</p>                                                                                                                                                                                                                           | <p><b>Voluntary</b></p> <p>As soon as possible within 60 days of inmate's request being submitted</p> | <p><b>Voluntary</b></p> <p>Within five working days after the final decision, including the reasons if the decision is to deny the request</p> |

| Transfer Type                                                                                                                                                                                                                      | Transfer Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Transfer Type                                                    | Transfer Type                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------|
| <p><b>Transfer to and from a CSC (Correctional Service Canada) Treatment Centre for psychiatric hospital care or Intermediate Mental Health Care or to an Intermediate Mental Health Care Unit in a mainstream institution</b></p> | <p>For all cases, prior to approving the transfer to psychiatric hospital care or Intermediate Mental Health Care, the Institutional Head of the sending institution must ensure that the referral decision has been made by the Executive Director/Senior Clinical Manager or Chief, Mental Health Services.</p> <p>The final decision rests with:</p> <ul style="list-style-type: none"> <li>• In the case of a transfer from a women’s institution, the Deputy Commissioner for Women</li> <li>• In the case of an intra-regional transfer, the Institutional Head of the sending institution</li> </ul> | <p>The timeframes for voluntary, involuntary transfers apply</p> | <p>The timeframes for voluntary, involuntary transfers apply</p> |

| Transfer Type                                                                                                                                                                                       | Transfer Type                                                                                                                                                                                                         | Transfer Type                                                                                                                                                       | Transfer Type                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
|                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>In the case of an inter-regional transfer, the Regional Deputy Commissioner, or the Assistant Deputy Commissioner, Correctional Operations, of the receiving region</li> </ul> |                                                                                                                                                                     |                                                                    |
| <b>Transfer to and from a provincial correctional facility or a hospital, in accordance with an agreement entered into under <u>subsection 16(1)</u> of the CCRA and any applicable regulations</b> | <p>The Institutional Head of the receiving institution</p> <p>The Institutional Head of the sending institution/ relevant provincial authority recommends the transfer</p>                                            | <p>The timeframes for voluntary or involuntary transfers apply</p> <p>Transfers to hospitals will comply with the relevant provincial mental health legislation</p> | <p>The timeframes for voluntary or involuntary transfers apply</p> |

| <b>Transfer Type</b>                               | <b>Transfer Type</b>                                 | <b>Transfer Type</b>                                                                                                                                                                  | <b>Transfer Type</b>                                                                                                     |
|----------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>International transfer (to and from Canada)</b> | Minister of Public Safety and Emergency Preparedness | All applications for transfer are processed individually, with every effort being made to process requests as expeditiously as possible, upon receipt of the supporting documentation | As soon as practicable after the sentencing country, the country of citizenship and the offender consent to the transfer |

## **Annex C: Assessment for decision for transfers - report outline**

### **Introductory Statement/Case Status**

- i. Provide a brief statement of the purpose of the report (e.g. type of transfer: voluntary/involuntary/emergency; inter-regional/intra-regional):
  - to respond to reassessed security requirements
  - to provide access to the home community, a compatible cultural or linguistic environment or required programming
  - to provide access to relevant programs and services, including health care, taking into account the inmate's willingness to participate in those programs and services
  - to provide access to Intermediate Mental Health Care
  - to provide better access to programs and services in the inmate's preferred official language

- to provide a safe environment to the inmate
  - for assessment purposes
  - for court proceedings
  - to transfer the inmate to an Indigenous correctional facility established under section 81 of the CCRA
  - to separate inmates identified as co-convicted and under current sentence for an offence resulting in death or serious harm and whose association or influence on each other may be detrimental to the rehabilitation and safe reintegration of one or more inmates, or to the safety and security of the institution.
- ii. Indicate the length of sentence, current offence(s), outstanding charges or appeals, immigration/deportation/extradition status.
  - iii. Confirm the presence and level of support when the purpose of a transfer is to gain access to family and community support.
  - iv. Present new information related to the decision received since completion of the Correctional Plan Update.

## Risk Assessment

### a. Risk Factors

Briefly analyze the inmate's risk factors, specific to the offence cycle as outlined in the Correctional Plan. Incorporate actuarial assessments (e.g. SIR-R1) and reintegration potential.

### b. Inmate Security Level Review (Refer to CD 710-6 - Review of Inmate Security Classification)

Confirm or complete (as required) an analysis of the security level assessment pursuant to section 18 of the CCRR. A statement will be made under each of the following:

- i. institutional adjustment
- ii. escape risk

iii. risk to the safety of the public.<sup>104</sup>

## Overall Assessment

Provide an overall assessment incorporating the following elements and, for Indigenous offenders, the overall assessment should be made within the context of their Indigenous social history:

- i. results of the case conference with the receiving institution
- ii. nature and gravity of the offence and the degree of responsibility of the inmate
- iii. victim concerns (if applicable)
- iv. consultation with Security Intelligence Officer, where applicable (e.g., incompatibles and affiliations) (if there are no concerns, a statement should be made to that effect)
- v. existence of co-convicted inmates
- vi. recent professional opinions regarding transfer such as from the Case Management Team, Indigenous community representative, health care, mental health, psychological information, police comments and/or previous CSC (Correctional Service Canada) decisions (if applicable)
- vii. previous PBC decision (nature and purpose, all relevant comments, specific reference to relevant issues noted in the decision, including demonstrating how concerns/issues previously raised have/have not been addressed)
- viii. physical or mental health concerns (pursuant to section 87 of the CCRA) as identified by Health/Mental Health Services that would preclude the inmate's transfer
- ix. current risk
- x. inmate engagement
- xi. outstanding factors requiring intervention

- xii. an analysis of any high risk behaviours or patterns observed during the sentence. For Indigenous offenders, describe these behaviours within the context of their Indigenous social history
- xiii. inmate's understanding of risk factors and offence cycle, and how risk will be managed
- xiv. consider elements of Indigenous social history for Indigenous offenders
- xv. for an inmate involved in a healing path, incorporate their understanding of the healing components of the Correctional Plan
- xvi. how the recommendation meets the needs of the inmate while ensuring the safety of the public. For Indigenous offenders, make links between need areas, the offender's Indigenous social history and how the recommendations will address these needs as per CD 705-6 - Correctional Planning and Criminal Profile, Annex H.

The following will be incorporated into the Overall Assessment for Decision on **involuntary transfers**.

Analyze all factors that have prompted the proposed transfer, including the details of the precipitating incident(s) (e.g. time, place, damage to property or physical injury, and weapons used) as well as behavioural patterns that may have contributed to the decision to recommend involuntary transfer. This analysis will ensure that the current incident(s) is (are) viewed by the decision maker in the broader context of the inmate's overall performance throughout incarceration (i.e. context of the present incident(s) as it (they) relate(s) to previous institutional incidents, offence convictions or involuntary transfers). For Indigenous offenders, describe and analyze behaviour patterns within the context of the offender's Indigenous social history.

Make reference to the existence of security information that relates to the present or previous incident(s) or to the existence of incompatibles at the present and proposed institutions. Provide a rationale where such information cannot be shared with the inmate, or if only the "gist" of the information can be shared.

Consider any pertinent results/recommendations from the psychological and/or psychiatric assessments and/or health care in the final transfer decision.

Consider the offender's Indigenous social history and indicate what culturally appropriate/restorative options have been considered. They must be linked to the decision with a rationale that explains why they did or did not impact the decision.

Indicate clearly what alternatives have been explored. For Indigenous offenders, consider cultural interventions and/or restorative options, including consideration of access to cultural programming, Elders, CCRA section 81 and section 84, identifying why the involuntary transfer is the only reasonable alternative available.

The following will also be incorporated into the Overall Assessment for Decision for the transfer of a medium security inmate to an environment without a secure and directly controlled perimeter:

- i. the length of the sentence
- ii. time remaining before eligibility for Unescorted Temporary Absence (UTA)
- iii. a requirement that the inmate must be in the "preparation to release" or "reintegration into the community" phase of their long term offender correctional plan as per Annex G of CD 705-6

## **Dissenting Opinion**

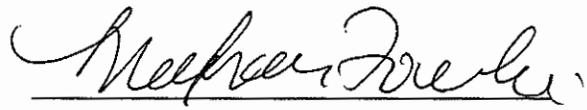
# Recommendation

**Date modified:**

2025-05-09

T-3278-25

This is Exhibit "D" referred to in the  
Affidavit of Elizabeth Burns, sworn/ to affirmed  
before me on the 9<sup>th</sup> day of September,  
2025.



A Barrister/Commissioner of New Brunswick



Correctional Service  
Canada

PROTECTED ONCE COMPLETED  
[ ] A [X] B [ ] C  
PERSONAL INFORMATION BANK

PUT AWAY ON FILE > See distribution

**NOTICE OF INVOLUNTARY TRANSFER/MOVEMENT  
RECOMMENDATION**

**PURPOSE: ALLEVIATE SIU STATUS**

|                                                               |
|---------------------------------------------------------------|
| Completing Operational Unit<br><b>ATLANTIC INSTITUTION</b>    |
| Current institution or Address<br><b>ATLANTIC INSTITUTION</b> |

|                                    |
|------------------------------------|
| FPS Number<br><b>053849C</b>       |
| Family Name<br><b>COOPER</b>       |
| Given Name(s)<br><b>AMANDA JOY</b> |
| Date of Birth<br><b>1967/06/08</b> |

Pursuant to Section 29 of the Corrections and Conditional Release Act, you have been recommended for transfer/movement to:

**MILLHAVEN INSTITUTION MILLHAVEN INSTITUTION**

The following reasons have resulted in my recommendation:

You are being transferred to alleviate your SIU status at Atlantic Institution. You are encouraged to work collaboratively with your CMT at your next location to make gains in your Correctional Plan

Designated Staff Member Signature

BURNS, ELIZABETH  
A/PAROLE OFFICER

Y M D  
25 | 07 | 23

11:10  
Time

**TRANSMITTED TO THE OFFENDER BY HAND BY**

Parole Officer

Signature of CSC Staff Member

Title

Y M D  
25 | 07 | 23

11:10  
Time

**OFFENDER'S ACKNOWLEDGMENT OF RECEIPT**

TO: Institutional Head

- I acknowledge that I have received a copy of this notice.
- I have been advised of my right to retain and instruct counsel.
- I have been provided with a reasonable opportunity to retain and instruct counsel.
- I DO NOT wish to make representations with respect to the proposed transfer/movement, in the next two (2) working days.

NOTICE OF INVOLUNTARY TRANSFER/MOVEMENT RECOMMENDATION  
Ce formulaire existe aussi en français.  
CSC 1359 (R-15-03) vers (3)

**DISTRIBUTION**  
Original = Offender CM File  
Copy = Offender

PROTECTED ONCE COMPLETED

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PERSONAL INFORMATION BANK

|                               |                                                      |
|-------------------------------|------------------------------------------------------|
| FPS 053849C<br>DOB 1967/06/08 | NAME COOPER, AMANDA JOY<br>LOC. ATLANTIC INSTITUTION |
|-------------------------------|------------------------------------------------------|

I DO wish to make representations with respect to the proposed transfer/movement, IN PERSON in the next two (2) working days.

I DO wish to make representation with respect to the proposed transfer/movement, IN WRITING, in the next two (2) working days.

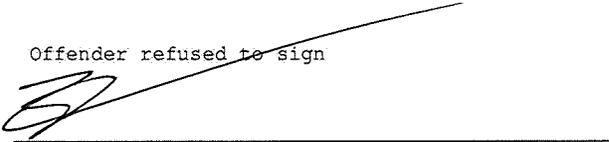
I request an extension of time to submit a rebuttal to the proposed transfer/movement.

Offender's Signature

|    |    |    |
|----|----|----|
| Y  | M  | D  |
| 25 | 07 | 23 |

11:10  
Time

Offender refused to sign



Witnessing CSC Staff Member signature

NOTICE OF INVOLUNTARY TRANSFER/MOUMENT RECOMMENDATION

Ce formulaire existe aussi en français.  
CSC 1359 (R-15-03) vers (3)

DISTRIBUTION

Original = Offender CM File  
Copy = Offender

T-3278-25

This is Exhibit "E" referred to in the  
Affidavit of Elizabeth Burns, sworn/ to affirmed  
before me on the 9<sup>th</sup> day of September,  
2025.



A Barrister/Commissioner of New Brunswick



Correctional Service  
Canada

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REFERRAL DECISION SHEET FOR:  
INST. TRANSFER (INVOLUNTARY)

FPS Number

053849C

Family Name

COOPER

Given Name(s)

AMANDA JOY

Decision Number

320

Date of Birth

1967/06/08

Current Institution or Address

ATLANTIC INSTITUTION

Purpose:

ALLEVIATE SIU STATUS

Consultation Required

Current Cell Situation STRUCTURED INTERVENTION

Destination/Institution Requested

MILLHAVEN INSTITUTION

Region

ONTARIO

Country

ADDITIONAL RECOMMENDATIONS

REGIONAL TRANSFER BOARD

Comment:

Ms. Amanda Joy COOPER is being recommended for an involuntary inter-regional transfer to the Ontario region in order to provide her a safe environment and alleviate her Structured Intervention Unit (SIU) status.

There are gender considerations in this case as Ms. COOPER is a female offender residing at Atlantic Institution. She arrived at Atlantic Institution in November 2024 from the regional hospital in the Quebec Regional Reception Centre (RRC) following her gender affirming surgery which occurred in September 2024. An individualized protocol was completed upon her arrival at Atlantic Institution.

Millhaven Institution indicates being able to meet Ms. COOPER's linguistic, intervention, and security needs, and has therefore, accepted her transfer.

The Notice of Involuntary Transfer (NOIT) was shared with Ms. COOPER on 2025-07-23 and she chose to provide a verbal rebuttal which has been considered in this recommendation.

There are no known victim concerns, or known mental/physical health concerns that would impede on the proposed transfer.

Ms. COOPER is not of Indigenous descent; therefore, Indigenous Social History (ISH) does not apply in the recommendation of this transfer.

Based on the above, the Regional Transfer Board is recommending that the involuntary inter-regional transfer to Millhaven Institution be approved.

Recommendation: APPROVED

Date

Y M D

2025/07/25

SAVOIE, JESSICA  
PROJECT OFFICER

REFERRAL DECISION SHEET FOR: INST. TRANSFER (INVOLUNTARY)

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| FPS 053849C    | NAME COOPER, AMANDA JOY   |
| DOB 1967/06/08 | LOC. ATLANTIC INSTITUTION |

REGIONAL HEADQUARTERS-ATLANTIC

**WARDEN**

Comment :

Ms. COOPER, you are a 58-year-old, third time federal offender who is serving an indeterminate sentence as a Dangerous Offender (DO) for Sexual Assault (x4), Assault-Use of Force (x3), Forcible Confinement and Uttering Threats. Your third sentence commenced on 2001-06-20. These offences for which are you sentenced were between 1997 and 2018 (convicted for two offences while incarcerated).

A review of the Sentence Management revealed no outstanding charges or active appeals.

Ms. COOPER, you are currently residing in the Structured Intervention Unit (SIU) here at Atlantic Institution. You do have integration options at our site and have been processed for an involuntary interregional transfer to allow you to return to a mainstream inmate population. Millhaven Institution provided positive comments. The Notice of Involuntary Transfer (NOIT) was shared with you on 2025-07-23 and you opted to rebut the transfer in person on 2025-07-25.

In your rebuttal you mentioned that you do not want to go to MI or any other male institution for that matter regardless of security level. As you will not integrate due to the fact that you are now a woman and feel your safety would be in jeopardy. You also want to be able to complete module 2 of your current sex offender program and deal with your voluntary transfer to Fraser Valley which you just submitted.

I have reviewed the information available in relations to the transfer and your rebuttal. It is believed you can be managed at Millhaven Institution. As remaining in our SIU is not a long-term solution and there are other extenuating circumstances, which have affected AI's SIU. In terms of programming and your voluntary transfer application, all of these can still be accomplished while housed at MI. A case conference has also been asked to take place prior to your transfer so that you can bring up any concerns or issues you may have.

In taking section 28 of the Corrections and Conditional Release Act (CCRA), this transfer will allow you to transfer to a penitentiary that meets your linguistic, cultural, programming and security needs. This transfer will also serve to put an end to your SIU transfer as per section 33 of the CCRA. I would strongly encourage you to integrate upon arrival. There are no mental or physical health concerns related to this transfer. There are no victim considerations to take into consideration. Subsequently, I support this recommendation.

**Recommendation: involuntary interregional transfer - Millhaven Institution - Approved**

Recommendation: **APPROVED**

Date

Y M D

2025/07/25

MITCHELL, JEFF  
A/WARDEN  
ATLANTIC INSTITUTION

**MGR ASSESSMENT INTERVENTION**

Comment :

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Ms. COOPER has been residing in the SIU since 2024-11-24. She is a maximum-security offender and has integration options at our site. She was processed for an involuntary interregional transfer to allow her to return to a mainstream inmate population. Positive comments were received from Millhaven Institution and the SIO department confirmed there is no information available precluding this transfer. There are no mental/physical health issues or victim concerns precluding such. Millhaven Institution is able to meet her security requirements, linguistic, cultural and programming needs. As a result, I support the team's recommendation for the involuntary transfer to Millhaven institution to allow Ms. COOPER to return to a mainstream inmate population and alleviate her SIU placement.

Recommendation: APPROVED

Date  
Y M D  
2025/07/25

WALLACE, JEFFREY  
A/MGR ASSESSMENT INTERVENTION  
ATLANTIC INSTITUTION

FINAL DECISION

Rationale:

Ms. Amanda Cooper, you have been proposed for an involuntary, inter-regional transfer to Millhaven Institution (MI) in the Ontario Region for the purpose of alleviating your Structured Intervention Unit status and providing you access to a mainstream population. You have resided on the Structured Intervention Unit (SIU) at Atlantic Institution (AI) in the Atlantic Region since 2024-11-04, having been placed there after it was determined that remaining in a mainstream population would jeopardize your safety.

There are gender considerations in this case. Identifying as male up to September 2017, Ms. Cooper then had her first conversation with Health Care surrounding her gender identity and the process of transitioning to female. She was recommended for feminizing hormones in May 2020, underwent full gender affirmation surgery in September 2024, and her sex has since been updated to female in the Offender Management System.

The Gender Considerations Secretariat has been included on consultations in this case and recommend that a Support Plan is created. This document will outline how Ms. Cooper's gender-related needs, safety and overall well-being will be addressed at and by Millhaven Institution. MI's Assistant Warden, Interventions confirmed on 2025-08-12 that this is in progress and planning has and will continue to include the mental health, health care, operations, and interventions departments at both the sending and receiving sites. Ms. Cooper is also scheduled to participate in a call with interventions and mental health staff at MI during the week of 2025-08-18.

Responsivity issues are evident and subsequently considered in this decision. Ms. Cooper was born in Montreal QC and raised by her strict, deeply religious and authoritarian parents alongside two older siblings. She denied being subject to abuse or neglect during her upbringing, although has shared that her father was often absent due to his employment, and there was a lot of conflict in the home. Ms. Cooper struggled with attention and focus in school, later demonstrating oppositional and defiant behaviour there, at home, and in the community. She described feelings of rejection in her youth due to her appearance and enuresis.

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Around age 12, Ms. Cooper was suspended for attempting to sexually touch a female student or teacher. The following year, Ms. Cooper began sexually touching adult women in her neighbourhood who were walking in the street. She was sent to Douglas Hospital under a youth court residency condition at 16 and remained there until age 18, despite running away many times. Very soon afterwards, Ms. Cooper committed the Sexual Assault and Break Enter and Commit offences that resulted in her first federal sentence, of four years, in 1986 at age 19. Twice during that sentence, she was reported to sexually touch female staff members. Ms. Cooper's second federal sentence commenced in 1991 for Sexual Assault. Two days after cascading to medium security, she committed a Sexual Assault against a female Parole Officer, receiving a conviction for same in 1993. Upon release from that sentence, while in provincial custody just over a month later, Ms. Cooper committed the Sexual Assault and Forcible Confinement of a female Correctional Officer. She then perpetrated the remainder of her current third federal index offences over three days in 1998 by sexually victimizing six females, one of which was underage. In public areas in the community, Ms. Cooper grabbed the first victim by the neck and threatened to rape her but then fled when a vehicle appeared, attempted to force two separate female victims into their vehicles, pushed another women into her car as she was getting out and then sexually assaulted her, sexually assaulted a woman while she was walking around a store, and another while she was in a bus shelter.

Ms. Cooper, age 58, commenced this third federal, indeterminate, sentence with a Dangerous Offender designation in June 2001 for Sexual Assault x4, Forcible Confinement, and Assault - Intentional Use of Force x2. She has since incurred convictions for Utter Threats to Cause Death/Harm (2007) and Assault - Intentional Use of Force (2021).

Institutionally on this sentence, in 2002 Ms. Cooper was emergency transferred to the Special Handling Unit (SHU) after threatening to sexually assault and kill female staff as well as inciting other offenders to do so. She remained at the SHU for a little over 16 years until transferring to Stony Mountain Institution in 2018; just two months later she sexually assaulted another female staff member. This is Ms. Cooper's sixth SIU placement since February 2020, where she has been admitted for, at times her own safety, but also for the safety of others and/or the institution.

Ms. Cooper, a transfer to the Ontario Region will give you access to a mainstream population. Given this information, you have been recommended for an inter-regional involuntary transfer to Millhaven Institution for the purpose of alleviating your placement in a Structured Intervention Unit. Your security classification has been approved as Maximum with individual ratings of High Institutional Adjustment, Moderate Escape Risk and High Public Safety assigned.

Millhaven Institution was consulted and are accepting of your transfer. As per Commissioner's Directive 100 - Gender Diverse Offenders - a case conference has occurred between the delegates of the Institutional Heads of the sending and receiving institutions. You meet the security requirements and there are no listed incompatibles at the proposed site. Millhaven Institution is able to meet your individual programming needs; you are currently participating in the High Intensity Sex Offender Program and Adult Basic Education Level Three.

In consideration of the Corrections and Conditional Release Act (CCRA) Sec. 4(g), the proposed transfer supports the supervision and rehabilitation of Ms. Cooper by ensuring all correctional policies, programs and practices respect gender, ethnic,

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cultural, religious and linguistic differences, sexual orientation and gender identity and are responsive to her specific needs and preferences.

Sec. 28 of the CCRA was considered in this decision for inter-regional transfer by taking into account the degree and kind of custody and control necessary for the safety of the public, the offender, other persons in the penitentiary and the security of same. The proposed transfer to the Ontario Region will ensure accessibility to the offender's supports, as well as a compatible cultural and linguistic environment, and has determined the availability of appropriate programs and services at the receiving site, which has been assessed to be the least restrictive and most appropriate at present. Ms. Cooper's motivation to participate in programs and her overall Correctional Plan has been assessed as Medium.

Ms. Cooper, you were provided with the Notice of Involuntary Transfer Recommendation (NOITR) and other supporting documentation on 2025-07-23 and indicated you wished to rebut your transfer in-person. On 2025-07-25 you advised that you do not want to transfer to Millhaven Institution or any other male institution, regardless of security level, as you feel that your safety is in jeopardy due to the fact that your sex is now female. You would also like to complete Module Two of the Sex Offender Program at AI and address your recently submitted voluntary application to Fraser Valley Institution for Women (FVIW). AI's Institutional Head reviewed and considered your concerns and noted that you are able to complete program requirements and work through the voluntary application to FVIW while housed at MI. You have been housed in the AI-SIU since 2024-11-04 and as per CCRA Sec. 33 "an inmate's confinement in a structured intervention unit is to end as soon as possible". As you have refused to integrate into Atlantic Institution, in order to alleviate your SIU placement, Millhaven Institution was canvassed and are supportive of your transfer. A case conference will take place prior to your transfer so that you can bring up any concerns or issues you may have. The NOITR was received by this office on 2025-07-25.

Your mental health needs were considered by ensuring access to programs and services available at the receiving site should you request these. There are no relevant, imminent mental or physical health concerns that would impede this transfer. Your preferred official language is English.

There are victim concerns to take into consideration in this decision. Index offending was committed in the province of Quebec. At this time, there is no information to indicate that your transfer to a maximum security facility in the Ontario Region is likely to generate a negative reaction; however, the potential for the transfer to be viewed unfavourably is evident. I have weighed this against the benefit of providing you with a safe environment where you can access programs and services within a mainstream population. I would further note that this involuntary transfer to Millhaven Institution does not provide you with any increased access to the community. You will be housed behind a secure, controlled perimeter where your movement and association will be regulated and monitored. Prior to any access to the community being granted, your case will be subject to robust risk assessment procedures which will take into account victim considerations.

Prior to her transfer to Atlantic Institution, Ms. Cooper applied for transfer to Joliette Institution for Women in September 2024; the Deputy Commissioner for Women (DCW) rendered this decision not approved. Although Ms. Cooper's continued preference is to be transferred to a women's institution, the DCW has identified overriding safety concerns in this case that would jeopardize the health and/or safety of other offenders and/or staff.

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# SCC DEC/CSC DEC

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Your involuntary, inter-regional transfer to Millhaven Institution is APPROVED.

Although approved, this transfer should not be actioned without further consultation with Millhaven Institution if Ms. Cooper is unwilling to integrate on arrival. You are advised that refusal or failure to integrate at the receiving institution may result in your transfer to another institution and/or region.

This transfer is not to occur until all outstanding in-person court matters, should there be any, have been concluded in the sending region. Sentence Management, via the Offender Management System, confirms that Ms. Cooper has no current outstanding charges or active appeals at the time of this decision.

Ms. Cooper, this will acknowledge that your NOITR was received at Regional Headquarters (Ontario Region) for processing on 2025-07-25. A final decision on this matter was not rendered within the prescribed timeframes identified in the Commissioner's Directive 710-2-3 Annex B as a result of the unique case factors requiring additional intra-regional, inter-regional and national consultation in respect of your rights and needs as well as operational planning.

PLEASE NOTE THAT COMMISSIONER'S DIRECTIVE 081 PROVIDES INMATES WITH THE RIGHT TO APPEAL A PLACEMENT DECISION, USING THE GRIEVANCE PROCESS. SUCH A GRIEVANCE SHOULD BE REFERRED TO THE COMMISSIONER (THIRD LEVEL).

| Special Condition(s)     |                   | Received by | Effective Date | End Date   |
|--------------------------|-------------------|-------------|----------------|------------|
| Action                   | Condition/Comment |             |                |            |
| Decision:                | <b>APPROVED</b>   |             | 2025/08/12     | 2025/08/12 |
| Institutional Adjustment | <b>HIGH</b>       |             |                |            |
| Escape Risk              | <b>MODERATE</b>   |             |                |            |
| Risk to Public Safety    | <b>HIGH</b>       |             |                |            |

Signature

JACKSON, CURTIS  
ASSIST. DEP. COMM, CORRECT. OPER.  
RHQ-ONTARIO

| Date |   |   |
|------|---|---|
| Y    | M | D |

### PERSONALLY TRANSMITTED TO THE OFFENDER BY

| Signature of CSC official | Title | Date |   |   | Time |
|---------------------------|-------|------|---|---|------|
|                           |       | Y    | M | D |      |

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**Exhibit “B”**

2025

File No. T-3278-25

This is Exhibit “B” referred to in the affidavit of Megan MacDonald, affirmed before me on September 19, 2025.



---

**EMMA ARNOLD**

A Barrister/Commissioner of the  
Supreme Court of Nova Scotia

**FEDERAL COURT**

BETWEEN:

**AMANDA JOY COOPER**

APPLICANT

and

**ATTORNEY GENERAL OF CANADA**

RESPONDENT

---

**AFFIDAVIT OF SARAH BYRON**

---

I, SARAH BYRON of GATINEAU, QUEBEC, MAKE OATH AND SAY THAT:

1. I work as the Acting Director of the Women Offender Sector with the Correctional Service of Canada (hereinafter, "CSC"). As such, I have personal knowledge of the facts and matters deposed to unless otherwise stated to be based on information and belief.
2. CSC is mandated with the administration of sentences for adult offenders sentenced to two years or more and supervises offenders on various forms of conditional release in the community.
3. As *Bill C-16* codified gender identity and gender expression as prohibited grounds of discrimination, CSC has a legal obligation to accommodate offenders' gender identity and expression needs.

**Gender Affirming Care**

4. CSC's Commissioner's Directive 100 ("CD-100"): Gender Diverse Offenders outlines that essential physical and mental health care, including gender-affirming care, is provided in accordance with CSC's National Essential Health Care Framework (the "Framework").
5. Health Services staff are guided by the Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People in accordance with the World Professional Association Transgender Health guidelines. These Standards of Care are internationally accepted guidelines that promote high-quality care for transsexual, transgender and gender-nonconforming individuals.
6. CSC's Health Services oversees the delivery of health care to individuals in custody, ensuring accountability, consistency, and best practices tailored to the needs of CSC's population, including gender diverse offenders. The Framework defines consistent access to health care and outlines specialized services available to individuals in CSC, based on individual patient needs as determined by health professionals. Guided by this Framework, essential health services within CSC are aligned with professionally accepted standards and the care coverage provided by provincial and territorial publicly funded health care systems.
7. The Framework is reviewed and approved annually, ensuring CSC's continued alignment with the level of health care available through provincially public-funded health and social service programs.
8. The vision of CSC Health Services is to provide professional, clinically independent, culturally responsive, integrated and coordinated person-centred care.

**Duty to Accommodate Gender Diverse Offenders**

9. CSC is committed to upholding the rights and dignity of all people under its care, custody and supervision, regardless of gender identity or expression, consistent with the *Canadian Human Rights Act*.
10. CD-100 outlines CSC's approach to managing gender diverse individuals. When an offender requests gender-related accommodations, an Individualized Protocol ("IP") is developed in collaboration with the individual, to outline the specific measures to be implemented.
11. The IP may include chosen first and/or middle names, chosen pronouns, access to private showers and toilets, the gender of staff conducting security-related procedures.
12. CSC also makes other gender-related accommodations to meet the individual's needs related to their gender identity or expression (e.g., institutional clothing, personal property, participation in correctional programs and ceremonies etc.).
13. The IP is offender-driven, ensuring individuals are actively involved in the development and ongoing review of their accommodation needs throughout their sentence.
14. CSC ensures that all offenders, including gender diverse individuals, are placed in an environment that meets their security requirements, provides access to correctional programming, and supports their spiritual and cultural needs. This contributes to their safe rehabilitation and reintegration into the community.
15. CD-100 supports placement in facilities that align with an offender's gender identity or expression, if that is their preference, regardless of their anatomical sex or the sex/gender marked on their identity documents. Exceptions apply only in cases where overriding health or safety concerns cannot be otherwise mitigated.

16. The language “overriding health or safety concerns that cannot be resolved” assists decision-makers in rendering fair and well-reasoned decisions in response to requests for accommodation from gender diverse offenders. It is defined in Annex A of CD-100 and intended to operationalize and simplify the notion of “duty to accommodate to the point of undue hardship”.
17. CSC considers and reviews accommodation requests of gender diverse offenders on a case-by-case basis, with accommodation being the default position, unless, through an assessment of the existing risk and needs, it is determined that there are health or safety concerns that merit further consideration.
18. Accommodations under CD-100, including institutional placement, may only be denied when overriding health or safety concerns cannot be effectively mitigated, ensuring that denial is reserved for cases meeting the threshold of undue hardship.
19. CD-100 requires that decisions in response to accommodation requests be made in a fair and reasonable manner, free from bias, discrimination, or stereotypes associated with gender diversity.
20. To ensure impartial and thorough decision-making, CSC applies the following principles:
  - a) A clear understanding of the accommodation(s) requested;
  - b) Assessment of the offender’s risk and needs, including any factors that may result in overriding health or safety concerns;
  - c) Consideration of the health and safety of all offenders, including the gender diverse individual;
  - d) Identification and evaluation of risk mitigation strategies, and determination of whether they are sufficient to support the requested accommodation;

- e) A clear rationale for the decision, including references to mitigation strategies that were explored and their outcomes;
- f) Documentation of a rationale for the decision to deny an accommodation request, demonstrating that approval would result in overriding health or safety concerns that cannot be resolved; and
- g) Reassessment of accommodation decisions if circumstances change and the individual submits a new request, recognizing that accommodations are offender-driven and reflect current risk and needs that can evolve over time.

### **Accommodating Transgender Women in Men's Institutions**

21. CD-100 facilitates impartial, case-by-case decision-making, and directs that offenders receive appropriate care and supervision, consistent with their gender-related needs, regardless of the type of institution (men's or women's) they are incarcerated in.
22. As of July 26, 2025, CSC identified a total of 125 gender diverse individuals in custody, representing approximately 0.84% of the total incarcerated population (n = 14,837).<sup>1</sup> Of these, 88 are transgender women, with 82% (n = 72) housed in men's institutions and 18% (n = 16) housed in women's institutions.
23. Placement requests to a women's institution may be denied when overriding health or safety concerns are identified and cannot be effectively mitigated. For example, placing an offender in an institution predominantly composed of individuals who match their victim profile may pose significant risks to the broader population; particularly if the offender remains active in their offence cycle, has not addressed underlying risk factors, or

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<sup>1</sup> CSC records the number of offenders who have requested accommodation based on their gender identity or expression. These individuals are identified in the Offender Management System ("OMS") through the activation of a Gender Consideration need and a finalized Individualized Protocol. The estimates above rely on the accuracy and timeliness of the data entered into the OMS.

demonstrates limited insight into their current level of risk or the strategies required to manage it. In this case, such a placement could jeopardize institutional safety, increase the likelihood of reoffending, and undermine rehabilitative efforts for the individual and others.

24. If a voluntary transfer application is denied, the offender may reapply in six months, or earlier if supported by their Case Management Team.
25. Men's and women's correctional institutions differ significantly and have different supervision models, static and dynamic security measures, available interventions and resources, deployment standards, and infrastructure. Women's facilities are multi-level environments where medium- and minimum-security areas resemble communal living settings. They feature shared housing arrangements with multiple women per unit and minimal direct supervision. Maximum-security units also maintain distinct approaches and differ from the same level in a men's institution.
26. A substantial proportion of women offenders have exposure to adverse or traumatic life events, and they are more likely to be victims of gender-based violence than women in the general population.
27. Women are more likely to develop a higher intensity of symptoms of post-traumatic stress disorder ("PTSD") than men. Women offenders are more likely to experience substance use, self-injurious behaviour, and mental health concerns due to this PTSD. Given the unique social histories of women offenders, enhanced supervision to mitigate the risk of the transfer of offenders who have been convicted of gender-based violence or violence toward children may be inappropriate, as excessive security presence can create apprehension and fear.

28. Given that women's institutions operate under a communal living model with limited direct oversight, mitigation strategies such as constant and direct supervision of certain incarcerated individuals would not be appropriate at these sites. Implementing stricter controls or surveillance of offenders to mitigate the risk associated with an accommodation measure would conflict with the principles outlined in "Creating Choices", such as promoting the empowerment, autonomy and rehabilitation of federally sentenced women.
29. In circumstances where it is determined that there are overriding health or safety concerns that cannot be effectively mitigated related to one's placement in an institution that aligns with their gender identity or expression, CSC implements alternative measures to support the offender's gender-related needs within their current institution.
30. In these cases, CSC implements a comprehensive management plan to ensure the individual's dignity, safety, and rights are upheld.
31. These plans include the implementation of an IP, appropriate and safe housing arrangements within the institution, access to mental and physical health services, and support through access to 2SLGBTQI+ resources and peer support networks. The overarching goal is to meet the offender's gender-related needs within a secure environment that supports their rehabilitation and reintegration into the community.
32. Transgender women have different patterns of criminality than cisgender women and require different interventions and supports. There is limited research available on this population and how best to meet their needs while incarcerated. Correctional programs designed for women and men have not been validated for gender diverse offenders at this time. CSC is actively working to analyze the impacts of correctional program assignments for this subpopulation.

33. I make this affidavit in response to the applicant’s application for judicial review, and motion for injunction, and for no other or improper purpose.

SWORN VIRTUALLY in accordance )  
with O. Reg 431/20 with the witness in )  
the city of Gatineau, in the Province of )  
Quebec, before me in the city of Ottawa, )  
in the Province of Ontario, this 12<sup>th</sup> day )  
of September, 2025 )  
Eeuwes, Digitally signed by Eeuwes, Brooklynn  
by Sarah, Brooklynn  
Date: 2025.09.12 15:54:09 -04'00' )  
Brooklynn )  
A Commissioner of Oaths for Ontario )

Byron, Digitally signed  
by Byron, Sarah  
Date:  
Sarah 2025.09.12  
15:54:09 -04'00'

\_\_\_\_\_  
SARAH BYRON



85 Queen Street, Dartmouth, NS B2Y 1G7

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Fax: (902) 600-9793

Web: [www.pathlegal.ca](http://www.pathlegal.ca)

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September 19, 2025

The Honourable Presiding Justice  
Federal Court of Canada – Halifax  
1801 Hollis Street  
17<sup>th</sup> Floor, Suite 1720  
Halifax, NS B3J 3N4

*Via electronic submission.*

Dear Honourable Justice:

***Re: Amanda Joy Cooper v Attorney General of Canada (Court File No. T-3278-25)  
Motion to Strike Portions of the Respondent's Affidavits***

---

1. I, along with my colleague Emma Arnold, represent the applicant in the above-noted matter and Laura Rhodes and Kaitlin Stephens represent the respondent. Please accept the following submissions as the applicant's brief in support of her motion to strike portions of the respondent's affidavit evidence.

#### **A. PROCEDURAL HISTORY**

2. This dispute deals with the proposed involuntary transfer of the applicant, a transgender woman, from Atlantic Institution, a maximum-security men's prison in Smith's Crossing, New Brunswick to Millhaven Institution, a maximum-security men's prison in Bath, Ontario.
3. On September 3, 2025, the applicant filed a Notice of Application for Judicial Review. On the same date, to give the respondent as much advance notice as possible, the applicant sent the respondent copies of the Notice of Application for Judicial Review and the intended motion record seeking an interlocutory injunction (with supporting materials). On September 4, 2025, the applicant officially served the respondent with her motion for interlocutory relief and intended to electronically file a motion for interlocutory injunction. Owing to an administrative error, the motion was not filed.
4. The respondent filed its response to the injunction motion on September 15, 2025, at which point the Registry informed the applicant that the motion had not been filed. The applicant's motion was subsequently electronically filed on that same day.



5. The respondent's response to the applicant's injunction motion relies on two affidavits: the affidavit of Elizabeth Burns, affirmed September 9, 2025 and the affidavit of Sarah Byron, sworn September 12, 2025. The applicant objects to various averments in the affidavits.

## **B. ISSUE**

6. Should some or all of the impugned averments be struck from the respondent's affidavits?

## **C. LAW AND ARGUMENT**

7. Where a party's affidavit evidence violates the rules of evidence, an "applicant is entitled to induce the Court to exact compliance" with those rules.<sup>1</sup>
8. In *Sierra Club of Canada v Canada*, this court opined on its authority to strike portions of a party's affidavit, concluding that while "in general the discretion to strike out affidavits, or portions of them, ought to be exercised sparingly", there are exceptions: "pure conjecture, speculation and legal opinion, which have no redeeming value, have no place in an affidavit and ought to be struck out at an early date so that the hearing of the application may proceed in a reasonable way".<sup>2</sup>
9. There are various categories of objection raised by the applicant in her motion. Many of these are compound objections – i.e., a single averment objected to on the basis of relevance, hearsay, impermissible opinion or speculation, and legal opinion. While all objections are noted in these submissions, some objections are set out in greater detail than others. Should the court have additional questions or concerns regarding these objections to admissibility, we invite and look forward to the court's request for additional comment.

### **a) Relevance**

10. The principles at play in questions of relevance can be summarized as follows<sup>3</sup>:

9 As to what is relevant, in *R. v. White*, 2011 SCC 13, the Supreme Court of Canada described the concept of relevance in the following terms:

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<sup>1</sup> *Bell Canada v Canada (Canadian Human Rights Commission)* [1991] [1 FC 356](#) at para 15 [*Bell Canada*].

<sup>2</sup> *Sierra Club of Canada v Canada (Minister of Finance)* [1998] [FCJ No 1673](#) at paras 21-22.

<sup>3</sup> *Annapolis (County) v EA Farren, Limited* [2021 NSSC 304](#) [*Annapolis (County)*].



[36] ...In order for evidence to satisfy the standard of relevance, it must have "some tendency as a matter of logic and human experience to make the proposition for which it is advanced more likely than the proposition would be in the absence of that evidence".

10 The Court had previously commented on this principle in *R. v. Arp* [1998], 3 S.C.R. 339:

[38] ... To be logically relevant, an item of evidence does not have to firmly establish, on any standard, the truth or falsity of a fact in issue. The evidence must simply tend to "increase or diminish the probability of the existence of a fact in issue". ...

11 The parties agree that it is the substantive law governing the cause of action or offence set out in the pleadings that determines relevance...

11. The starting position for what is relevant is based on what is contained in the pleadings or other fact in issue. It is a matter of logic. If a piece of evidence makes a fact or plea in issue more or less likely to be true, then it is relevant.

12. The applicant objects to the following statements on the basis that they are irrelevant:

| Affidavit of Sarah Byron | Impugned Statement                                                                                                                                                                                                                                                                                                                                      |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 22                  | As of July 26, 2025, CSC identified a total of 125 gender diverse individuals in custody, representing approximately 0.84% of the total incarcerated population (n = 14,837) [ <i>footnote citation omitted</i> ]. Of these, 88 are transgender women, with 82% (n = 72) housed in men's institutions and 18 % (n = 16) housed in women's institutions. |
| Para 26                  | A substantial portion of women offenders have exposure to adverse or traumatic life events, and they are more likely to be victims of gender-based violence than women in the general population.                                                                                                                                                       |



|         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 27 | Women are more likely to develop a higher intensity of symptoms of post-traumatic stress disorder (“PTSD”) than men. Women offenders are more likely to experience substance use, self-injurious behaviour, and mental health concerns due to this PTSD. Given the unique social histories of women offenders, enhanced supervision to mitigate the risk of the transfer of offenders who have been convicted of gender-based violence or violence toward children may be inappropriate, as excessive security presence can create apprehension and fear. |
| Para 28 | Given that women’s institutions operate under a communal living model with limited direct oversight, mitigation strategies such as constant and direct supervision of certain incarcerated individuals would not be appropriate at these sites. Implementing stricter controls or surveillance of offenders to mitigate the risk associated with an accommodation measure would conflict with the principles outlined in “Creating Choices”, such as promoting the empowerment, autonomy and rehabilitation of federally sentenced women.                 |
| Para 32 | Transgender women have different patterns of criminality than cisgender women and require different interventions and supports.                                                                                                                                                                                                                                                                                                                                                                                                                           |

13. Statistical information about the presence of transgender inmates in federal prisons is irrelevant to the issues raised in these proceedings. There is no background context the court must know about the number of incarcerated trans people, and where they have been placed, to decide the motion.

14. The applicant also objects to the remainder of Ms. Byron’s above-noted averments on the grounds that they are both irrelevant and impermissible opinion evidence (see further below).



15. The averments are irrelevant because they do not logically connect to the issue of where the applicant is entitled to be placed, nor any of the factors to be considered in assessing the motion for interlocutory relief. CSC has a duty to place each prisoner according to their gender, or, where there are overriding security concerns, according to their sex. A person's sex, further to CSC policy, is determined by their genitals. The applicant has the gender identity and genitals of a woman. The impugned averments speak to envisaged secondary effects from the applicant's placement in a women's institution – a placement to which she is legally entitled by virtue of having female genitalia. Those alleged secondary effects are not in issue in this matter, and the averments are therefore irrelevant.

b) Opinion or speculation

16. There are several paragraphs that the applicant objects to because they contain impermissible opinion evidence. There is no blanket bar to opinion evidence in court matters. Rather, the court must determine whether the opinion being proffered is one which would usurp the trier of fact's function by straying into expert opinion where the deponent does not have the expertise to provide that evidence. Lay opinion is generally allowed if it is relevant and supported by facts observed by that witness.

17. *Annapolis (County)* summarized the law on lay opinion in affidavits, as follows:

[8] With respect to the opinion objections, Leblanc J. commented as follows:

**Opinion Evidence**

[11] In addition to extrinsic evidence concerns, this case raises issues of opinion evidence. Charron, J. (as she then was) summarized the law on opinion evidence in **R. v. Collins** (2001), 160 C.C.C. (3d) 85, at para. 17:

In the law of evidence, an opinion means an "inference from observed fact": see *R. v. Abbey* (1982), 68 C.C.C. (2d) 394 at 409. As stated in *Abbey*, as a general rule, witnesses testify only as to observed facts and it is then up to the trier of fact to draw inferences from those facts. **A lay witness will be permitted to give an opinion only with respect to matters that do not require special knowledge and in circumstances where it is virtually impossible to separate the facts from the inferences based on those facts.** A witness testifying that "a person was drunk" is a common example of an opinion that can be provided by a lay witness. See *R. v. Graat* (1982), 2 C.C.C. (3d) 365 (S.C.C.) for a review of the law on non-expert opinion. Otherwise, opinion evidence will only be received with respect to matters calling for special knowledge beyond



that of the trier of fact. In those cases, an expert in the field may be permitted to provide the judge and jury with an opinion, that is "a ready-made inference which the judge and jury, due to the technical nature of the facts, are unable to formulate" (*Abbey* at 409). The law as to expert opinion evidence was authoritatively restated in *Mohan*, supra. Before expert opinion evidence can be admitted, the evidence: (a) must be relevant to an issue in the case; (b) it must be necessary to assist the trier of fact; (c) it must not be subject to any other exclusionary rule; and (d) it must be given by a properly qualified expert.

[12] Paciocco and Stuesser, in *The Law of Evidence in Canada*, 6th ed. (Irwin Law, 2011) the authors summarize the law governing lay opinion evidence at 183:

**Lay witnesses may present their relevant observations in the form of opinions where**

- **they are in a better position than the trier of fact to form the conclusion;**
- **the conclusion is one that persons of ordinary experience are able to make;**
- **the witness, although not expert, has the experiential capacity to make the conclusion; and**
- **the opinions being expressed are merely a compendious mode of stating facts that are too subtle or complicated to be narrated as effectively without resort to conclusions.**

[emphasis added]

18. Relatedly, speculation cannot become a substitute for evidence.<sup>4</sup> The rule against speculation draws important distinctions between common sense evidence and guesswork:

---

<sup>4</sup> *R. v. Donnelly* [2023 ONCA 243](#) at [para 39](#) [*Donnelly*].



[35] Cases are to be decided on facts, not guess-work. Speculation as to what the facts might be, what another person had in their mind, what could happen, etc., has little, if any, probative value.<sup>5</sup>

19. Courts must also avoid speculative reasoning that involves ‘common sense assumptions’ not grounded in evidence. The purpose of this rule is to ensure impermissible stereotypes are not admitted as evidence under the guise of ‘common sense’:

[40] While not all assumptions about ordinary human behaviour rest on impermissible stereotypes, caution must be exercised lest the “common sense approach” that purports to rely on common sense assumptions “mask[s] reliance on stereotypical assumptions”: [*citations omitted*].<sup>6</sup>

20. The applicant refers to the following impugned portions of paragraphs where the affiants aver to impermissible opinion or speculation:

| Affidavit of Elizabeth Burns | Impugned Statements                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 12                      | The design and operational model of women’s institutions, centered on autonomy, empowerment and open environments could result in a significant ‘culture shock’ for the applicant... However, she has not developed the necessary skills to function safely and successfully in such an environment. Without the ability to manage the emotional impact of this transition, she remains vulnerable to experiencing major depressive symptoms. |
| Para 19                      | Overall, CSC believes that the applicant’s gender identity, hormone treatments, and gender affirming surgery have in no way mitigated her risk to reoffend.                                                                                                                                                                                                                                                                                   |

<sup>5</sup> *Thornridge Holdings Limited v Ryan* [2023 NSSC 11](#) at [para 35](#) [*Thornridge*].

<sup>6</sup> *Donnelly* at [para 40](#).



|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 20                         | ... This claim does not show accountability from the offender as she places the blame on her dead identity rather than her current self.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Affidavit of Sarah Byron</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Para 23                         | ... For example, placing an offender in an institution predominantly composed of individuals who match their victim profile may pose significant risks to the broader population; particularly if the offender remains active in their offence cycle, has not addressed underlying risk factors, or demonstrates limited insight into their current level of risk or the strategies required to manage it. In this case, such a placement could jeopardize institutional safety, increase the likelihood of reoffending, and undermine rehabilitative efforts for the individual and others. |
| Para 26                         | A substantial portion of women offenders have exposure to adverse or traumatic life events, and they are more likely to be victims of gender-based violence than women in the general population.                                                                                                                                                                                                                                                                                                                                                                                            |
| Para 27                         | Women are more likely to develop a higher intensity of symptoms of post-traumatic stress disorder (“PTSD”) than men. Women offenders are more likely to experience substance use, self-injurious behaviour, and mental health concerns due to this PTSD. Given the unique social histories of women offenders, enhanced supervision to mitigate the risk of the transfer of offenders who have been convicted of gender-based violence or violence toward children may be inappropriate, as excessive security presence can create apprehension and fear.                                    |
| Para 28                         | Given that women’s institutions operate under a communal living model with limited direct oversight, mitigation                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |



|         |                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         | strategies such as constant and direct supervision of certain incarcerated individuals would not be appropriate at these sites. Implementing stricter controls or surveillance of offenders to mitigate the risk associated with an accommodation measure would conflict with the principles outlined in “Creating Choices”, such as promoting the empowerment, autonomy and rehabilitation of federally sentenced women. |
| Para 32 | Transgender women have different patterns of criminality than cisgender women and require different interventions and supports.                                                                                                                                                                                                                                                                                           |

21. The impugned content is purely speculative and/or an improper attempt to offer expert opinion. The affiants are not offered as expert witnesses (and they have not been qualified as experts) but are lay witnesses. The affiants cannot speculate as to what they believe may happen to the applicant or other female prisoners in the future if the applicant is transferred to a women’s institution; prospective events cannot logically fall within their personal and direct knowledge.

22. There are specific portions of the evidence that deserve mention:

- i. Burns affidavit, para 12: Ms. Burns is a parole officer, not a mental health professional. It is inappropriate and outside her knowledge for her to speculate on the likelihood that the applicant will experience depressive symptoms if she is transferred to another institution.
- ii. Burns affidavit, para 19: “CSC” is not making this affidavit. Ms. Burns cannot affirm to CSC’s belief, only her own, and only if the opinion is one which a person of ordinary experience could make.
- iii. Burns affidavit, para 20: Ms. Burns’ opinion about Ms. Cooper’s feelings of accountability are based on hearsay evidence with no clear source that Ms. Cooper attributes her offence cycle to her “dead identity”.

23. It is no answer to say that any of these statements are made based on common sense. They are based on stereotypical reasoning that has no basis in the evidence. The most blatant



example of this type of evidence is Ms. Byron’s statement that “[t]ransgender women have different patterns of criminality than cisgender women and require different interventions and supports”. The insubstantiality of this statement is all but admitted by the next sentence in the affidavit: “There is limited research available on this population and how best to meet their needs while incarcerated.”

24. To the extent that the respondent’s affidavits include impermissible opinion evidence and speculation, those portions ought to be struck.

**c) Conclusory Statements that Assume a Point of Law**

25. Affidavit evidence will be struck where it contains “a conclusory statement that embodies or assumes a point of law”.<sup>7</sup> The following portions of the affidavits transgress the rules of evidence on this basis:

| <b>Affidavit of Elizabeth Burns</b> | <b>Impugned Statements</b>                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 17                             | CSC has a duty to accommodate the needs of gender diverse offenders unless there are overriding health or safety concerns that cannot be resolved.                                                                                                                                                                                                                            |
| <b>Affidavit of Sarah Byron</b>     | <b>Impugned Statements</b>                                                                                                                                                                                                                                                                                                                                                    |
| Para 16                             | The language “overriding health or safety concerns that cannot be resolved” assists decision-makers in rendering fair and well-reasoned decisions in response to requests for accommodation from gender diverse offenders. It is defined in Annex A of CD-100 and intended to operationalize and simplify the notion of “duty to accommodate to the point of undue hardship”. |
| Para 18                             | Accommodations under CD-100, including institutional placement, may only be denied when overriding health or                                                                                                                                                                                                                                                                  |

<sup>7</sup> *Canadian Imperial Bank of Commerce v CNH Capital Ltd* [2013 NSCA 35](#) at [para 82](#).



|  |                                                                                                                                      |
|--|--------------------------------------------------------------------------------------------------------------------------------------|
|  | safety concerns cannot be effectively mitigated, ensuring that denial is reserved for cases meeting the threshold of undue hardship. |
|--|--------------------------------------------------------------------------------------------------------------------------------------|

26. The impugned statements all offer the affiants' own interpretations of the statutory and policy frameworks that govern the placement of transgender prisoners. The scope and nature of CSC's duty to place trans prisoners according to their sex and gender are live issues in this proceeding, which renders these improper statements particularly troubling.
27. As this court observed in *Bell Canada v Canada*, a party "may instruct their counsel to posit such interpretations of the statute in oral or written argument, but the respondent *qua* deponent and *qua* witness upon *viva voce* cross-examination on her affidavit cannot be permitted to give 'evidence' or 'testimony' of her interpretation of the statute law... these paragraphs ought therefore to be struck out".<sup>8</sup>

**d) Hearsay – lacking statement of source of information and belief**

28. The applicant raises a number of objections on the grounds of hearsay, in which the deponent describes an out-of-court statement made by someone other than the deponent. Hearsay is defined as an out-of-court statement which is adduced for the truth of its contents. Further to Rule 81, affidavits filed in support of a party's position on a motion may include "statements as to the deponent's belief, with the grounds for it".<sup>9</sup>
29. In *Annapolis (County)*,<sup>10</sup> the court helpfully summarized the legal principles at play in a motion to strike hearsay evidence that did not cite the grounds for the deponent's belief in their averred statements. Citing another decision of his, Norton J. summarized as follows:

[6] In *King v. Gary Shaw Alter Ego Trust*, 2020 NSSC 288, I reviewed the applicable law in a similar motion to strike, at paras 9 to 14:

[9] The leading decision in this province on the appropriate contents of affidavits is *Waverly (Village) v. Nova Scotia (Municipal Affairs)*, 1993 NSSC 71. Therein, Justice Davison made the following observation and set

<sup>8</sup> [Bell Canada](#) at para 10.

<sup>9</sup> [Federal Court Rules](#) SOR/98-106 at Rule 81(1) [FCR].

<sup>10</sup> *Annapolis (County)* [para 6](#); see also [para 7](#).



out in summary form the guidelines for admissible affidavit evidence (I note here that his reference to "application" was to a Chambers Application in the former Rules, now a Motion in Chambers in our present Rules):

14 Too often affidavits are submitted before the court which consist of rambling narratives. Some are opinions and inadmissible as evidence to determine the issues before the court. In my respectful view the type of affidavits which are being attacked in this proceeding are all too common in proceedings before our court and it would appear the concerns I express are shared by judges in other provinces...

20 It would [be] helpful to segregate principles which are apparent from consideration of the foregoing authorities and I would enumerate these principles as follows:

1. Affidavits should be confined to facts. There is no place in affidavits for speculation or inadmissible material. An affidavit should not take on the flavour of a plea or a summation.

2. The facts should be, for the most part, based on the personal knowledge of the affiant with the exception being an affidavit used in an application [a motion under the present Rules]. Affidavits should stipulate at the outset that the affiant has personal knowledge of the matters deposed to except where stated to be based on information and belief.

**3. Affidavits used in applications [motions] may refer to facts based on information and belief but the source of the information should be referred to in the affidavit. It is insufficient to say simply that "I am advised".**

**4. The information as to the source must be sufficient to permit the court to conclude that the information comes from a sound source and preferably the original source.**

**5. The affidavit must state that the affiant believes the information received from the source.**

[emphasis added]



30. The following portions of paragraphs contain impermissible hearsay and ought to be struck:

| Affidavit of Elizabeth Burns | Impugned Statements                                                                                                                                                                                                                                                  |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Para 20                      | She denies that the offence cycle that currently exists is accurate, believing that the offence cycle belongs to her dead self. This claim does not show accountability from the offender as she places the blame on her dead identity rather than her current self. |
| Para 27                      | CSC's Gender Considerations Secretariat has been consulted to ensure that the applicant's gender-related needs, safety and overall well-being will be addressed at and by Millhaven Institution.                                                                     |

31. Paragraph 20 does not provide any particularities or source for the statement that would permit the court to assess the truth of whether Ms. Cooper in fact made this statement, and whether she believes it to be true.
32. The passive voice employed by the affiant in paragraph 27 makes it unclear whether she has personally consulted the Gender Considerations Secretariat ("GCS"). If she did not personally consult the GCS, the paragraph is silent on whether the deponent believes the statement to be true.
33. In any event, the proper witness to attest to the purported consultation with the GCS, and the product of that consultation, is the Secretariat himself or herself. The Rules expressly provide that "an adverse inference may be drawn from the failure of a party to provide evidence of persons having personal knowledge of material facts".<sup>11</sup>
34. The hearsay statements in the respondent's affidavits fail to comply with court rules and the common law and ought to be struck.

<sup>11</sup> [FCR](#) at Rule 81(2).



**D. RELIEF SOUGHT**

35. The impugned portions of the respondent's evidence ought to be struck, with costs awarded to the applicant.

All of which is respectfully submitted.

Sincerely,  
**PATH LEGAL**

A handwritten signature in blue ink, appearing to read "J. Rose", is written over a light blue horizontal line.

**Jessica D. Rose**  
Managing Lawyer  
[j.rose@pathlegal.ca](mailto:j.rose@pathlegal.ca)  
(902) 240-8774

JDR/ea

- Cc. Laura Rhodes, Counsel for the Respondent (via email [Laura.Rhodes@justice.gc.ca](mailto:Laura.Rhodes@justice.gc.ca))  
Kaitlin Stephens, Counsel for the Respondent (via email [Kaitlin.Stephens@justice.gc.ca](mailto:Kaitlin.Stephens@justice.gc.ca))



## E. LIST OF AUTHORITIES

### Legislation

1. *Federal Court Rules* SOR/98 - 106.

### Jurisprudence

2. *Annapolis (County) v E.A Farren Limited* [2021 NSSC 304](#).
3. *Bell Canada v Canada (Human Rights Commission)* 1990 [1 FC 356](#).
4. *Canadian Imperial Bank of Commerce v CNH Capital Ltd* [2013 NSCA 35](#).
5. *King v Gary Shaw Alter Ego Trust* [2020 NSSC 288](#).
6. *R v Arp* [1998 3 SCR 339](#).
7. *R v Donnelly* [2023 ONCA 243](#).
8. *R v White* [2011 SCC 13](#).
9. *Sierra Club of Canada v Canada (Minister of Finance)* 1999 [2 FC 211](#).
10. *Thornridge Holdings Limited v Ryan* [2023 NSSC 11](#).

Court File No.: T-3278-25  
HALIFAX REGISTRY

**FEDERAL COURT**

**BETWEEN:**

**AMANDA JOY COOPER**

Applicant

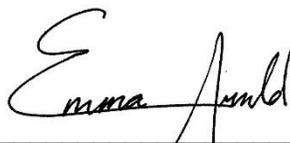
and

**ATTORNEY GENERAL OF CANADA**

Respondent

**SOLICITOR'S CERTIFICATE OF SERVICE – FORM 146B**

I, Emma Arnold, Solicitor, certify that I caused the Respondent, The Attorney General of Canada, to be duly served with the Motion Record of the Applicant for the Applicant's Motion to Strike and Letter to the Court, by email to Laura Rhodes and Kaitlin Stephens of the Federal Department of Justice, on September 19, 2025.



\_\_\_\_\_  
(Signature of Solicitor)



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**Cooper v Canada - T-3278-25 - Interlocutory Motion and Motion to Strike**

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**From** Emma Arnold <e.arnold@pathlegal.ca>

**Date** Fri 2025-09-19 2:04 PM

**To** Rhodes, Laura (she her elle la) <laura.rhodes@justice.gc.ca>; Stephens, Kaitlin (she her elle la) <kaitlin.stephens@justice.gc.ca>

**Cc** Jessica Rose <j.rose@pathlegal.ca>; Megan MacDonald <m.macdonald@pathlegal.ca>

3 attachments (5 MB)

T-3278-25 - Applicant Record - 09-19-25 .pdf; T-3278-25 - Applicant's Reply.pdf; 2025-09-19 - Rule 35 Letter to Court.pdf;

Good afternoon Counsel,

Please find attached the following in relation to the above-noted matter:

- Applicant's Reply for the Motion for Interlocutory Relief
- Applicant's Motion Record for Motion to Strike
- Letter to Court

The above will be filed with the Court this afternoon.

Thank you,  
Emma

**Emma Arnold (she/her)**

Staff Lawyer



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