

SUMMARY OF PROPOSED NEW CORRECTIONS ACT

What is the purpose of the proposed new Corrections Act?

The purpose of Bill 45, Corrections Act (referred to here as the new Corrections Act) is to repeal and replace the current NWT *Corrections Act*. The changes proposed are intended to update the NWT Corrections legislation and incorporate modern practices and approaches at the national and international levels.

The new Act takes into consideration the unique cultural background, historic legacy and experience of offenders in the NWT. It will also continue to focus on ensuring that territorial correctional facilities provide a safe environment for inmates, with the goal of supporting the rehabilitation of offenders and their reintegration into the community, reducing the risk of re-offending, and keeping our communities safe.

Why do we need a new Corrections Act?

The current NWT *Corrections Act* is over 40 years old. At that time, corrections legislation throughout Canada was focused on how to maintain order, control inmates, and provide the Corrections Service with the legal power and tools to ensure public safety. There have been significant changes in the corrections field since the 1980s. Now the focus is on the rehabilitation of offenders, accountability, and public safety.

The decision-making process also has to have procedural safeguards so decisions are made in a fair and open manner, and offenders have access to a complaints process they can use without fear of retribution. Inmates do not lose their rights under the *Charter of Rights and Freedoms* when they are incarcerated, and the department was mindful of this throughout the process in preparing the proposed new Corrections Act.

In short, the new Corrections Act is a modern approach to corrections legislation in the NWT.

What are the key components of the new Corrections Act?

The proposed new Corrections Act repeals and replaces the existing Act. There are a number of existing provisions from the current Act that have stayed the same while others have been added. The new Act also includes a number of major changes.

Many key provisions from the current Act that are focused on the functions and operations of corrections in the NWT will remain in the new Act. Examples include:

- Roles and responsibilities, including those of probation officers and ‘persons in charge’ (the new legislation avoids specific job titles, replacing these with terms such as ‘person in charge’ or ‘staff member’);
- Partnership agreements with the federal government (which will include other governments);
- Establishing, continuing and discontinuing correctional centres;
- Use of force (which will describe when use of force is appropriate); and
- Inmate wages and compensation for work programmes.

The substantive changes included in the new Act can be characterized as provisions to modernize NWT corrections legislation to respond to the change in correctional service approaches – now more focused on the rehabilitation and reintegration of offenders through a supportive environment.

The proposed changes, in part, follow recommendations made by the Auditor General of Canada in the 2015 report on *Corrections in the Northwest Territories*. The proposed changes also considered the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules). The Mandela rules were adopted in December 2015 by the United Nations General Assembly. They set out the minimum standards for good prison management, including ensuring that the rights of all prisoners, whether remanded or convicted are respected. There are 122 rules in total which cover all aspects and include the following basic principles:

- Prisoners must be treated with respect for their inherent dignity and value as human beings.
- Torture or other ill-treatment is prohibited.
- Prisoners should be treated according to their needs, without discrimination.

- The purpose of prison is to protect society and reduce reoffending.
- The safety of prisoners, staff, service providers and visitors at all times is paramount.

It should be noted that the NWT Corrections Service already applies management and policies consistent with the Mandela Rules, in the following areas:

- Admission and discharge;
- Inmate classification;
- Conditions of confinement;
- Discipline and sanctions;
- Contact and visits;
- Access to day-to-day activities and programming;
- Availability of health care services; and
- Standards, inspections and investigations.

The new Act proposes to incorporate these existing NWT good management practices and policies into legislation and to introduce new practices that are consistent with other Canadian jurisdictions.

What are the key differences from the current legislation?

The new Act will enhance the operations, transparency and accountability of corrections services in the NWT. This, in turn, will allow for more opportunities for the successful rehabilitation and reintegration of NWT offenders into their communities. The changes proposed recognize the cultural and historical legacy of the offenders in the NWT and set the framework for incorporating these elements into the rehabilitation process.

The significant changes included in the new Act are:

- Provide for the establishment of independent Community Advisory Boards;
- Provide for Indigenous governments that have not enacted their own corrections legislation in the context of self-government legislation to be involved in the delivery of corrections programs and services;
- Clarify the link between case planning and programming for remanded persons, sentenced offenders in facilities, and offenders in community-based corrections;

- Establish oversight by an Investigations and Standards Office and provide for independent decision-making in disciplinary matters and the use of separate confinement;
- Increase authorities related to the search and monitoring of those in a correctional centre or seeking to enter a correctional centre;
- Establish a Victim Notification program consistent with the *Canadian Victim Bill of Rights*;
- Clarify the appropriate use of separate confinement, including time limits, independent oversight and authorities for placement; and
- Provide for the development of a Corrections Employee Code of Conduct that employees and service providers are required to follow.

The proposed new Corrections Act includes a power to make regulations to further ensure the good management of the corrections system and safe custody of inmates. The Department of Justice is able to set out regulations that provide more detail than the Act on how the corrections system should operate.

The intention of the new Act is to make a number of improvements to the current legislative framework of the corrections system. This will contribute to improving accountability, supporting the rehabilitation of offenders and their reintegration into the community, reducing the risk of re-offending, and keeping our communities safe.