

**THE ADMISSION OF FEDERALLY SENTENCED WOMEN TO SEGREGATION IN
CANADA:
AN INTERSECTIONALITY-BASED POLICY ANALYSIS**

Haleigh Prevost

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Department of Criminology
Faculty of Social Sciences
University of Ottawa

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LIST OF ABBREVIATIONS

CSC- Correctional Service of Canada
OCI- Office of the Correctional Investigator
FSW- Federally Sentenced Women
IBPA- Intersectionality-Based Policy Analysis
BCCLA- British Columbia Civil Liberties Association
JHSC- John Howard Society of Canada
CAEFS- Canadian Association of Elizabeth Fry Societies
SAT- Segregation Assessment Tool
SIB- Self-Injurious Behaviour
CD(s)- Commissioner's Directives of the Correctional Service of Canada
CD-578- Intensive Intervention Strategy in Women Offender Institutions/Units (Commissioner's Directive number 578, in effect: 2017-01-23)
CD-702- Aboriginal Offenders (Commissioner's Directive number 702, in effect: 2013-11-12)
CD-709- Administrative Segregation (Commissioner's Directive number 709, in effect: 2017-08-01)
GL-709-1- Administrative Segregation Guidelines (Guidelines number 709-1, in effect: 2017-08-01)
CD-843- Interventions to Preserve Life and Prevent Serious Bodily Harm (Commissioner's Directive number 843, in effect: 2017-08-01)

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ABSTRACT

The number of women incarcerated in Canadian federal penitentiaries and segregation units has steadily increased over the last decade. Out of the total admissions to segregation, Indigenous women are over-represented, accounting for 31% of the cases (Office of the Correctional Investigator, 2015). To address issues of inequity and social injustice exemplified through the over-representation of women, especially Indigenous women, in segregation, this thesis provides an Intersectionality-Based Policy Analysis (IBPA) which examines the experience of federally sentenced women as documented in reports published by the Office of the Correctional Investigator and statements published by the British Columbia Civil Liberties Association. I explore the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation. Through examining mental health, gender and culturally responsive policy within the context of risk/need management, I conclude that the CSC does not protect marginalized women via policy, but rather converts the needs of marginalized groups into risks to be managed. Through omitting any mention of the intersecting social locations that shape women's experiences, the CSC perpetuates a 'one-size-fits-all' understanding that fails to disrupt the stigmatization and over surveillance of 'unfeminine' and racialized women. I identify and examine alternative policy responses and solutions by developing a strategic plan specifically aimed at producing the social and structural changes necessary to reduce inequities and promote social justice. The steps in the strategic plan reflect current priorities of the government, CSC, academics, and legal/medical professionals.

CHAPTER 1: INTRODUCTION

Women have become the fastest growing incarcerated population both internationally and in Canada (Office of the Correctional Investigator, 2015; Public Safety Canada, 2013; The Sentencing Project, 2012). Over the last decade, the number of criminalized women, both incarcerated and in the community, increased by 30 percent in Canada (Office of the Correctional Investigator, 2015). Further, since 2004-2005, the number of women in custody has increased by 66.8 percent (Office of the Correctional Investigator, 2015). This trend is particularly pronounced for racialized and minority women who are often over-represented within the penal system, and specifically in segregation (The Sentencing Project, 2012). Segregation is deemed the most rigid and depriving form of incarceration that the state can legally administer in Canada (Office of the Correctional Investigator, 2015). As reported by the Office of the Correctional Investigator (OCI), during the 2014-2015 fiscal year, 26% of male prisoners and 25% of women prisoners were admitted to segregation on at least one occasion (Office of the Correctional Investigator, 2015). The over-reliance on segregation is not uniform; certain incarcerated groups are more affected than others, including federally sentenced women with mental health issues, and Indigenous and Black prisoners (Office of the Correctional Investigator, 2015). As of March 31, 2017, there were 414 prisoners in segregation, 151 (36.5%) of which were Indigenous (Office of the Correctional Investigator, 2017). Women with mental health issues are also over-represented in segregation. More than two-thirds of prisoners who have been in a psychiatric treatment centre have also been in segregation; notably, this is the case for 78.9% of all federally sentenced women and 72.9% of all Indigenous women (Office of the Correctional Investigator, 2015). These figures evidence that women diagnosed with mental health issues, and specifically Indigenous women, are over-represented in federal segregation units.

Despite the over-representation of women in segregation, the existing literature mainly examines the experience of male prisoners. The issues above sharpen the focus of this thesis, which is to analyze the material experiences of federally sentenced women admitted to segregation as they are reported by the OCI and to provide an intersectional analysis of the implementation of CSC policies. Examining correctional policy is essential to the field of criminology because it is an avenue for questioning and evaluating the policymaking and implementation processes that shape classification, treatment and offender management. Policy decisions combine technical knowledge with complex social and political realities; policy analysis can identify and challenge how the Canadian criminal justice system manages racialized and gendered bodies. The aim of policy analysis is to “facilitate improved policies by creating, critically assessing, and communicating policy-relevant knowledge” (Simon, 2009, p. 27).

I utilize an Intersectionality-Based Policy Analysis (IBPA) as it provides a new and effective method for “understanding the varied equity-relevant implications of policy and for promoting equity-based improvements and social justice within an increasingly diverse and complex population base” (Hankivsky, Grace, Hunting, Ferlatte, Clark, Fridkin, Giesbrecht, Rudrum, & Laviolette, 2012, p. 33). IBPA provides the necessary framework to examine how gender and race are considered in the development and implementation of CSC policies. By analyzing the numerous CSC Commissioner’s Directives, Acts and Regulations used to structure the use of segregation among federally sentenced women, I will outline CSC’s existing decision-making framework that staff must consider when admitting a woman to segregation. I will then compare the segregation policy framework to women’s material experiences of segregation as they are documented in the existing literature and reported by the Office of the Correctional Investigator. In conducting the comparison, I seek to answer: *How does the CSC interpret the*

behaviours, attitudes and even personalities of women they place in segregation? Guided by an intersectional lens, the aim of this assessment is to examine the racialized and gendered ways in which federally sentenced women are admitted to segregation. Intersectionality theory provides a framework to examine how institutions and political structures give meaning to identities and structure the relationships between social identity groups. I critically analyze how CSC policies interpret and give meaning to imprisoned and more precisely segregated women; I review CSC's construction of their identity, character, actions and behaviours, with specific consideration to the ways in which segregated women are considered to defy hegemonic femininity and/or suffer from mental health issues and whether there are racial differences among women isolated in federal prison. In doing so, I will be able to assess if and if so, how CSC policies address the diverse needs of federally sentenced women. It is my hope that this research will contribute to the social justice literature that demands progressive criminal justice policy and law reform.

This thesis begins with a literature review of the work of scholars that have examined how gender, race and class intersect and contribute to women's imprisonment and the ways in which prison policy reinforces structures of oppression. I highlight how structures of patriarchy, colonialism, capitalism and racism affect women through criminalization, prison, and segregation. By examining women's 'pathway' to segregation, I highlight how 'problematized' women who are deemed 'risks' to the institution are in 'need' of segregation. In doing so, I will outline the scope of the problem and identify gaps in the literature. Chapter 3 outlines foundational elements of feminist criminology and intersectionality theory, drawing from the work of Indigenous feminist, Black feminist and critical race scholars, which is used as the theoretical perspective to examine the intersections of race and gender in the application of CSC segregation policy. Chapter 4 examines the methodology adopted to examine CSC segregation policy, an Intersectionality-

Based Policy Analysis. In doing so, I revisit my research objective and provide a detailed overview of the research design. The analysis offered in chapter 5 consists of four central components: (5.2) Considering Segregation Policy; (5.3) the Development of the Segregation Framework; (5.4) the Assessment of the Segregation Framework; and (5.5) Transforming the Segregation Framework. This chapter presents the findings and discusses their substantive and theoretical implications. Finally, Chapter 6 reflects upon the significance of my conclusions, proposes suggestions for further research within the field, and considers the limitations of this study.

CHAPTER 2: LITERATURE REVIEW

2.1. INTRODUCTION

Segregation is the most rigid and depriving form of incarceration that the state can legally administer in Canada (Office of the Correctional Investigator, 2015). In 2014, with a prison population of just over “14,500, the Correctional Service of Canada (CSC) made 8,300 placements in administrative segregation in the last fiscal year” (Office of the Correctional Investigator, 2015). Over reliance on segregation is not uniform as certain incarcerated groups are more affected than others, including federally sentenced women with mental illness, and Black and Indigenous prisoners. Though women are overrepresented among the segregated population, they are understudied. This research engages a critical paradigm to examine how structures of patriarchy, capitalism and racism influence decisions regarding policies and standard operating procedures in women’s segregation units in Canadian federal prisons. This literature review examines the work of scholars who have discussed the effects of these socio-economic structures on correctional policy and standard operating procedures as they are applied in regards to incarcerated women experiencing segregation and the ways that correctional policy and practice produces systemic inequities.

This literature review has four main sections that are arranged to lead the reader through a key ‘pathway’ to segregation. In each section, I highlight which women are deemed ‘risks’ to themselves or the security of the institution and who are therefore, assessed by CSC staff members as ‘needing’ to be segregated. By engaging with the critical literature, I highlight how women in segregation are often the most marginalized – many are thought to suffer from mental illness and are racialized and impoverished. In section 2.2, I highlight that the majority of offences committed by women are ‘poverty’ crimes which reflects the systemic inequality, discrimination and marginalization women experience in relation to their race, class, mental health and gender.

Section 2.3 explores how patriarchy and the social construction of ideal gender norms shape the way that correctional discourses interpret the needs and risks of women prisoners. In Section 2.4, I contend that the prison system is incapable of attending to women's mental healthcare. Finally, section 2.5 highlights how segregation is a 'prison within a prison' and the detrimental impacts of isolation on marginalized women.

2.2. THE CRIMINALIZATION OF GENDER, MENTAL ILLNESS, POVERTY AND RACE

In reviewing the literature on the criminalization of gender, poverty, race and mental illness, I draw from scholars who discuss how racism, patriarchy and capitalism simultaneously produce economic, social and political positions that result in the criminalization of marginalized women. In *Neoliberalism: The Criminalization of Poverty*, I review literature that examines how neoliberal policies result in the criminalization of poverty and mental illness. In *Slavery & Colonization: The Racialization of Crime*, I review literature of scholars who analyze the history of racialized incarceration in Canada, profoundly shaped by the aims of slavery and settler colonialism. In *Intersecting Identities*, I examine the work of scholars who analyze how the intersection of gender, mental illness, poverty, and race contribute to women's criminalization.

Neoliberalism: The Criminalization of Poverty

There is a great deal of literature within the fields of criminology and women's studies that examines the ways in which neoliberalism shapes how women are governed and how criminalization approaches flow from neoliberal governance strategies (Chunn & Gavigan, 2004; Comack, 2014; Galabuzi, 2010; Gustafson, 2009; Maki, 2011; Mirchandani & Chan, 2002; Spencer-Wood & Matthews; 2011, Pollack; 2009). To best highlight the key arguments in the literature, I begin by identifying some of the key characteristics of neoliberalism. In Canada and elsewhere, attacks on the policies and practices of the Keynesian welfare state, characterized as

the ‘war on the poor’, led to the massive restructuring and dismantling of social security programs, disproportionately impacting poor women (Chunn & Gavigan, 2004). Neoliberal restructuring demarcated a shift from a collective framework for addressing risk and responsibility, to ideas and practices that centre more exclusively on individual risk and responsibility, which subsequently changed the way that poverty is defined and managed (Galabuzi, 2010). By emphasizing the rational individual actor, policymakers and political leaders downplay the structural conditions that manifest poverty and intimate blame for one’s circumstances, which results in poor women being treated as if they need social control rather than social security.

In Canada, both provincial and federal governments have downsized ‘the social safety net’, a collection of services including welfare, unemployment benefits, healthcare and daycare, for women living in poverty or low-income housing (Gustafson, 2009; Maki, 2011; Mirchandani & Chan, 2002; Pollack, 2008). These disparities translate into higher rates of poverty for women compared to men. Women are still more likely to embrace family responsibilities, however, lack of access to affordable childcare and discrimination in the labour market makes it more difficult for them to obtain economic security (Jackson, 1999). Women make up the majority of those considered to be poor in Canada, with 13.3 percent living on a low income (Silver, 2010). Poverty and economic inequality are important contexts for understanding women’s criminal involvement, as women who come into conflict with the criminal justice system tend to be young, poor, under-educated, and unskilled. In keeping with the rapid increase in female-headed households and stresses associated with poverty, increasing numbers of women are being charged with cheque forgery, shoplifting and welfare fraud (Mahony, 2011). Less than 24% of women in provincial custody reported being employed full-time or part-time at the time of their admission; in comparison, 58% of the general population were employed in 2006 (Mahony, 2011). Neoliberal

policies support market capitalism and ensure those who remain outside of the labour market (as squatters, beggars and welfare recipients) are excessively punished, increasing poor women's vulnerability to criminalization and incarceration (Pollack, 2008). It is argued that the downsizing of the social-welfare sector of the state and the upsizing of its penal arm are linked in the "restructuring in the nether regions of social and urban space in the age of ascending neoliberalism" (Wacquant, 2009, p. 43). The 'tough on crime' agenda led to the implementation of punitive policies that are used to target individuals in the most easily supervised poor urban areas. Subsequently, women on social assistance and women who are homeless or who are living in poor neighbourhoods are more likely to be targeted by police, and therefore, criminalized (Figueira-McDonough & Sarri, 2002). Over 80% of all incarcerated women in Canada are in prison for income and poverty related offences (Canadian Association of Elizabeth Fry Societies, 2008; Jackson, 1999; Pollack, 2008). An important intersection, neoliberalism not only results in the criminalization of poverty but also the criminalization of mental illness by limiting access to healthcare services.

Women and girls who have cognitive and/or mental disabilities are more likely to be criminalized and jailed (Johnson & Rodgers, 1993). Many scholars argue that various factors have been cited as responsible for the large number of women suffering from mental health distress within the correctional population including: deinstitutionalization and the lack of community resources for people with serious mental illness (Comack, 2014; Figueira & Sarri, 2002; John Howard Society of Ontario, 2015; Lord, 2008). Many women are criminalized because of their disability-induced behaviour in the community (Comack, 2014; Lord, 2008). Women who are on the streets are more likely to be labelled as 'dangerous' and 'mentally unstable'. The criminalization of women that are impoverished and suffering from mental illness is intensified when examining the process of racialization.

Slavery & Colonization: The Racialization of Crime

The criminalization of racialized women must be informed by the reality that Canada is a settler colony founded on colonization and genocide (Carter, 1997; Hartman, 1997; King, 2013, 2014; Maynard, 2017; Robinson, 1983; Wynter, 2003; Sium, 2013). The history of racialized surveillance, policing and incarceration in Canada was profoundly shaped by, and geared toward, the aim of settler colonialism (Carter, 1997; Kuokkanen, 2008, 2012; Lawrence, 2003; Razack, 2000). The imposition of residential schools as well as forcing Indigenous people onto reserves, were the initial modes of confinement levelled at Indigenous people (Carter, 1997; Hunt, 2013; Comack, 2012). The criminal justice system has become a “primary means of settler violence over Indigenous bodies [in which] ‘crime control’ remains an integral part of conquest” (Nichols, 2014, p. 448). Black Canadians as well, have always been in a relationship of social subordination in dealing with the state. Anti-Blackness in Canada can be traced back to the transatlantic slave trade, during which Black men, women and children were thought not to be full human beings but interchangeable commodities (Hartman, 1997; Robinson, 1983; Wynter, 2003). Enslaved Black people were seen as lacking sentience, possessing a limited ability to feel pain and were represented as animalistic, hypersexual and dangerous (Hartman, 1997; James, 1996). Canada continues to practice significant racial discrimination, despite proclaiming a formal commitment to equality (Maynard, 2017). The “wedding of equality and exclusion in the liberal state” distinguishes modern state racism from the previous forms of racism found under slavery (Hartman, 1999, p. 10). Scholars argue that slave ships, which embodied captivity at its most extreme, served to foreshadow Black incarceration today (Browne, 2015; Rodriguez, 2007).

The racial logic underpinning slavery positioned Black peoples’ lives and bodies as “inferior, usable, disposable chattel [which] institutionalized belief that Black movement itself needed to be carefully controlled and contained” (Maynard, 2017, p. 18 also see, Beckles, 2003;

James, 1996; Wynter, 1995). Blackness and crime can be traced back to runaway slave advertisements during the seventeenth century, in which self-liberated Blacks were portrayed as thieves and criminals (Kitossa, 2005; Nelson, 2016). All free and enslaved Black people were subject to the surveillance of a larger white community and law force officials, who together scrutinized the presence of Black bodies in public space as possible criminal “runaways” (Kitossa, 2005; Nelson, 2016). After slavery’s abolition, the associations of “Blackness and crime served important political, social, economic and cultural functions in maintaining the racial order, and the ongoing policing and surveillance rates”, corresponding with the disproportionate arrest and incarceration rates (Maynard, 2017, p. 85). The associations between Blackness, crime and danger continues to hold enormous power across Canadian institutions. From ordinances attempting to ban Black people from Canadian cities in 1911 (Shepard, 1997), to the targeted deportation of nearly a thousand Jamaicans in the 1990s (Barnes, 2002), Black Canadians, specifically, Black women, have been treated as menaces to be kept out, locked up or removed.

Stereotypes regarding behaviours and attitudes of Black women are fundamental in examining the connection between historical and contemporary structural oppression. Women marginalized by racism have been treated and depicted “as though they exist outside of femininity’s boundaries” (Cole & Zucker, 2007, p.2). Racist depictions of Black women as unattractive, aggressive, sexually promiscuous and bad mothers for example, stand in contrast to the hegemonic representations of femininity¹ (Cole & Zucker, 2007, p. 2). Social constructions of Indigenous women are also created relative to white womanhood as they have been depicted as “overly sexual, standing in contrast to the ideal of the passive prudish Victorian woman” (Lester,

¹ Hegemonic Femininity (as defined in section 2.1) is the dominant, ideal, or norm of femininity that remains subordinate to masculinity (Connell & Messerschmidt, 2005). Characteristics include: being white, heterosexual, nurturing, and passive.

2002, p. 54). The comparison is repeated in colonial history, contemporary media, and “racial stereotypes that the descriptions appear naturalized, real, and thus invisible to those in hegemonic social locations and systems” (Pietsch, 2009, p. 137). These comparatives create a hierarchy amongst women, where women of colour are constructed as ‘less-than’ women, ‘Othered’ women, or ‘prepackaged bad women’ (Cossins, 2003, p. 95). The criminalization of Indigenous women shares similarities to that of other women, including Black women, who are also arrested “primarily for crimes of public order and morality, who often come from impoverished and insecure backgrounds, and whose sexual morality was a key concern for the courts” (Sangster, 1999, p. 34). The convictions of Black and Indigenous women are, thus, part of a broader web of “gendered moral regulation articulated through the law- the disciplining of women whose behaviour is considered unfeminine, unacceptable, abnormal, or threatening to society” (Sangster, 1999, p. 34). These attitudes constitute and, furthermore, reproduce relations of power based on gender, race and economic marginality.

Black bodies have been marked in a way that categories of otherness are systematically created and maintained (Collins, 2004; Rose, 1999). Those in power, white privileged men, have “successfully constructed and reinforced a myth of racial hierarchy (white-good/Black-bad), Black sexual deviance, and Black bodily difference to regulate, exploit and justify the enslavement of one group by another” (Ford, 2008, p. 1097; see also Collins, 2004; Gossett, 1997). Racist and sexist ideologies “permeate the social structure to such a degree that they become hegemonic, namely seen as natural, normal, and inevitable” (Ford, 2008, p. 1104). Certain assumed qualities that are attached to Black women are used to justify oppression. Black women have been depicted in contrary ways, as domineering and nurturing, sexually voracious and asexual, passive and aggressive. In the literature, there are three prevalent stereotypes of Black women originating in

American slavery, the “mammy,” “sapphire,” and “jezebel” (Collins 2004; West, 2008; Woodard & Mastin, 2005). The “mammy” archetype is the image of a dark-skinned, large framed, nurturing Black woman who is strong and content in her caregiving role for many children, in the service of white slave owners or white employers (Collins, 2004; Rosenthal & Lobel, 2016). The sapphire, also referred to as the ‘angry Black woman’, is the image of an aggressive, dominating, emasculating Black woman, behaving in loud and offensive ways (Collins, 1990; Rosenthal & Lobel, 2016; West, 1995). The jezebel, sometimes referred to as a “sexual siren”, is the image of a sexually promiscuous, and sexually available Black woman who cannot be controlled (Collins, 2004; West, 2008). The jezebel image has been utilized to justify the rape and sexual exploitation of Black women by white men, where Black women could not be raped as they were seen as always looking for, wanting, and ready for sex (West, 1995; Wyatt, 1992). Stereotypes of women as hypersexual and having ‘animalistic’ sexuality has a long history and is connected to the sexualization and exploitation of Black women during slavery (Collins, 2000; hooks, 1990; Thomas et al., 2004). A more recent archetype of Black women is the ‘welfare queen’, an uneducated, poor, single Black woman who does not want to work and has many children in order to take advantage of public assistance (Collins, 2000; Woodard & Mastin, 2005).

Modern images of Black women have emerged, highlighting the classed nature of revised raced, gendered and sexualized constructions. The ‘Black bitch’, is a “tough, too aggressive, rude, pushy, loud working class woman; the ‘educated Black Bitch’ in contrast, is a tough, too aggressive, hard-working, independent, smart, asexual, but respectable middle class woman” (Collins, 2004, p. 124). In both cases, their mental and emotional strength, independence and assertiveness, are deemed unfeminine and therefore, undesirable attributes. As stated by Jewell, (1993):

The power elites have constructed and maintained negative and non-representative images of African-American women... they use the mass media to proliferate these images which contain myths, stereotypes and assumptions that are intended to denigrate and exclude African-American women from mainstream institutions and social resources. (p. X)

Demeaning, minstrel-type caricatures and stereotypes of Black femininity persist and influence how institutions, such as the criminal justice system, view and manage Black women (Collins 2000, 2004; Gossett, 1997; hooks 1992, 2001; Jewell, 1993; Mercer, 1994; Nagel, 2003; Rose, 1999).

Scholars have also examined how stereotypical constructions of Indigenous women impact their oppression (Carter, 1993; García-Del Moral, 2011; Razack, 2000; RCAP, 1996). While all Indigenous peoples experience the adverse effects of colonization, Indigenous women face more extreme effects as racism and sexism combine to further oppress and marginalize them. The dominance of negative stereotypes toward Indigenous women is evident, as they are often referred to as “squaw”, “princess”, or “sexually promiscuous”. As LaRocque states in the Royal Commission on Aboriginal Peoples (1996):

The portrayal of the squaw is one of the most degrading most despised and most dehumanizing anywhere in the world. The squaw is the female counterpart of the Indian male savage and, as such, she has no human face. She is lustful, immoral, unfeeling and dirty. (Vol. 3 chap. 2)

There is a direct connection between the grotesque dehumanization of referring to Indigenous women as squaws and their constant vulnerability to serious physical, psychological, and sexual abuse (RCAP, 1996, Vol. 3 chap. 2). In the Canadian context, the production of racialized and gendered difference was a central element of the ‘technologies of domination’ of white settlers, who saw it as their mission to ‘civilize’ Indigenous peoples (Razack, 2000). The “civilized/uncivilized divide between white settlers and Indigenous peoples was connected to the

conceptualization of Indigenous women as ‘dirty squaw drudges,’ who threatened the ‘morality and health’ of the colonial order” (Carter, 1997, p. 186). Newspapers consistently depicted Indigenous women as “squalid and immoral” even when they reported incidents of violence at the hands of British men (Carter, 1997). It is argued that there is a near “universal conflation of Indigenous women and prostitute and an accompanied belief that when they encountered violence, Indigenous women simply got what they deserved” (Razack, 2000, p. 99). In stating such, this does not only legitimize sexual and physical violence against them, but it also effectively prevents them from becoming subjects entitled to the protection of the law (Razack, 2000). Indigenous femininity is marked as ‘degenerate’ “through its discursive as well as material expulsion from spaces of respectability in ways that allowed settlers to know themselves as white and as entitled to land” (García-Del Moral, 2011, p. 39).

The discursive abjection of Indigenous women to this day has allowed white men who have perpetrated violence against them to disavow the violence. The murderers of Helen Osborne in 1971, “yelled racial slurs at her while she refused to ‘go party’ with them since they had been looking for an ‘Indian girl with whom to drink and have sex’” (Hamilton & Sinclair, 1991, p. 84). Similarly, the two white student athletes responsible for the death of Pamela George, told friends that they “had beat[en] the shit out of an Indian hooker” (Razack, 2000, p. 111). These examples illustrate that Indigenous women’s “racialized femininity has become a marker of disposability that is inseparable from the continuing discursive and material effects of settler-colonialism and its concomitant spatial practices” (García-Del Moral, 2011, p. 39). Scholars working on the representation of the murders and disappearances of Indigenous women support this argument. Research has shown how the “Canadian media has institutionalized discourses on morality and immorality that construct Indigenous femininity as worthless and disposable” (García-Del Moral,

2011, p. 39). Most of the time, cases of missing and murdered Indigenous women are not considered newsworthy, rendering them invisible.

The criminalization of Indigenous and Black women cannot be reduced to racial oppression. Unique and distinct forms of economic, social and political devaluation, and most notably, acute vulnerability to both intimate and state violence means that Black and Indigenous women's lives are defined by intersecting conditions of invisibility, subjection and disposability (Maynard, 2017).

Intersecting Identities

Several scholars argue that the processes of racialization, gendering and the criminalization of poverty and mental illness are mutually reinforcing. If a woman is poor, racialized, and officially diagnosed as 'mentally ill' she is more likely to be sent to prison today than to a psychiatric or mental health facility (Kilroy & Pate, 2011). As argued, the 'war on drugs', the evisceration of health, education and other social services have contributed significantly to this phenomenon (Aguirre & Baker, 2000; Mental Health Commission Canada, 2010; Mirchandani & Chan, 2002). Certain processes of criminalization, such as targeted policing and racial profiling, illustrate how poverty is differentiated by social hierarchies pertaining to gender and race (Mirchandani & Chan, 2002; Comack, 2014). The groups that are 'Othered' due to their race and/or gender often experience economic marginality and intensified regulation (Galabuzi, 2010). The root cause of poverty is not simply that individuals are unwilling or unable to work but, rather, it is the circumstances and outcomes of social and economic structures that unequally distribute resources across different groups (Pollack, 2008). The racialization of poverty refers to the disproportionate rates of poverty among racialized groups; in Canada, racialized groups are two to three times more likely to be in poverty (Snider, 2004). Just as poverty disproportionately relegates racialized groups

to low income neighbourhoods, it is common to see increased police surveillance of these areas. Targeted policing and racial profiling adversely impacts the racialized poor, producing and reinforcing experiences of social exclusion. Racial segregation through ‘ghettoization’ or ‘spatial concentration of poverty’ allows for increased surveillance in impoverished and racialized neighbourhoods (Galabuzi, 2010). It is important to pay attention to the varying levels of vulnerability to criminalization of impoverished women produced through racial stigmatization (Comack, 2014; Galabuzi, 2010).

The intersection of race, class, gender and mental illness is clear in the lives of many Indigenous women in Canada, who are among the most severely disadvantaged of all groups in Canadian society (Balfour, 2013; Comack, 2014; Cunneen, 2001; Faith, 1993; Sangster, 1999; O’Donnell & Wallace, 2011). Indigenous women are confined, controlled, dehumanized and devalued based on their Indigeneity and womanhood (McGill, 2008). There is an inescapable connection between the criminalization and over incarceration of Indigenous women and the historical factors that have shaped contemporary Indigenous communities. Processes of colonization, including the intergenerational effects of the Indian Act, residential schools, and the removal of Aboriginal children from their homes through child welfare practices, have led to the economic, social and political marginalization of Indigenous women (Blagg, 2008; Comack, 2014; Royal Commission on Aboriginal Peoples, 1996). Many Indigenous women are victims of systemic and direct discrimination and are negatively affected by poor social and economic conditions (Sangster, 1999). Indigenous women in Canadian society are disproportionately unemployed, impoverished, mentally ill, and subject to violence at the hands of others (Cunneen, 2001). The prevalence of violence and alcohol misuse in Indigenous communities is accurately located as a contemporary manifestation of colonialism. Poverty is a key factor in the perpetuation

of violence, as the impact of poverty leads to daily stress, financial hardship, chronic despair, mental illness and criminalization (Canadian Panel on Violence against Women, 1993).

Black women are similarly over-represented in the criminal justice system and their criminality also predominantly emanates from efforts to assert financial independence and to resist marginalization and state dependency via crimes such as fraud, shoplifting and drug importation (Pollack, 2000). It is argued that the ‘war on drugs’ can be referred to as the ‘war on Black women’ as the number of Black women incarcerated for drug related offences in America increased by 828% between 1986 and 1991, an increase twice that of Black men and three times as many of the number of white women (Bush-Baskette, 1998). In 2015, 53% of Black women were incarcerated for drug related offences (Office of the Correctional Investigator, 2015). While the news media continues to devote considerable attention to sensational crimes, the vast majority of offences committed by women are ‘poverty crimes’ which reflects the systemic inequality, discrimination and marginalization they experience as a result of the intersection of their race, class, gender and mental illness (Snider, 2004). My research contributes to this body of literature by expanding our understanding of how the criminalization of gender, class, race, and mental illness manifests within the prison system.

2.3. WOMEN IN PRISON

The number of women incarcerated in Canadian federal penitentiaries has steadily increased over the last decade. Since 2006, the number of women in federal custody has increased by 35% (Office of the Correctional Investigator, 2015). Over the course of the same period, the number of Indigenous women has increased by 57% and they are significantly over-represented in maximum security (42%) and segregation placements (50%), yet are under-represented in minimum security (26%) (Office of the Correctional Investigator, 2015). Present trends of

incarcerated women highlight gendered, racialized and classed experiences within prison. This section examines literature that considers gendered penal practices and problematizes the risk/need narrative of the criminal justice system. I explore how patriarchy and the social construction of ideal gender norms shape the way that correctional discourses interpret the needs and risks of women prisoners. In *Gendered Penal Practices*, I examine literature that argues for the need to implement gender-responsive policies and standard operating procedures in prison. The section, *Risk/Need Narrative* explores the inability to implement gender-responsive penal practices in the context of the criminal justice system's risk/need narrative.

Gendered Penal Practices

In an attempt to reform the punitive conditions that flow from idealized gender norms, several scholars support the implementation of gender-responsive penal practices (Bloom & Covington, 2000; Bloom, Owen, & Covington, 2003, 2004; Wattanaporn & Holtfreter, 2014). It is argued that if policies and standard operating procedures were gender-responsive, prison would be more rehabilitative for women. Research demonstrates not only that law and crime are gendered but that gender shapes criminal justice responses to women and results in differential policy effects for women and men (Bloom et al., 2003; Carlen, 2002; Daly and Maher, 1998). In Canada, federal corrections have undergone significant changes to incorporate gender and cultural sensitivity that was largely inspired by the report of the Task Force on Federally Sentenced Women, titled "Creating Choices", an internationally recognized model of woman-centred penalty (Hannah-Moffat, 2001). As women's pathways into criminality differ from men's, it is argued that differential responses to custody, supervision, and prison policy can lead to better outcomes for both (Bloom, Owen & Covington, 2004, Kivel, 1992). The notion of male and female pathways into criminality challenges the gender neutrality of mainstream explanations for offending and

victimization (Belknap, 2001; Owen, 1998; Steffensmeier & Allan, 1998). Policy, programs and procedures reflecting gender-based differences can make the management of women offenders more effective, enable correctional facilities to be more suitably staffed, decrease staff turnover and sexual misconduct, improve program and service delivery, decrease the likelihood of litigation against the criminal justice system, and increase the gender appropriateness of service and programs (Bloom et al., 2004). Addressing women's lived realities through gender responsive policy and programs is fundamental to improving outcomes at all criminal justice phases, including sentencing, services and prison programming and rehabilitation initiatives (Bloom et al., 2004, Wattanaporn & Holtfreter, 2014). Gendered penal practices, in theory, have the potential to transform the experiences and opportunities of women prisoners. However, the overarching risk/need narrative of the criminal justice system challenges the implementation of gender-responsive penal policies and standard operating procedures.

Risk/Need Narrative

The proposed gender-responsive penal practices are disavowed as the risk/need narrative of the criminal justice system is prioritized. Scholars argue that patriarchal control and standards determine who is constructed as 'risky', 'defiant', or 'misbehaved' in women's prisons (Dell, Fillmore & Kilty, 2009, Hannah-Moffat, 2000). In doing so, the criminal justice system continues to prioritize a traditional view of womanhood that is reinforced through penal practices (Crittenden & Koons-Witt, 2017; Daly & Chesney-Lind, 1988; Dell, Fillmore & Kilty, 2009; Morash & Schram, 2002; Zaitzow & Thomas, 2003). Traditional womanhood embodies hegemonic femininity, referring to the dominant ideal or norm of femininity that remains subordinate to masculinity (Connell & Messerschmidt, 2005). It is proposed that two overarching constructions of womanhood prevail within CSC discourse. First, traditional passive or compliant

conceptualizations of womanhood and second, the unfeminine defiant or misbehaved woman (Dell, et al., 2009). In practice, gender-responsive approaches have been found to responsabilize women for their criminality and often reflect constructions of ideal femininity, such as prioritizing women's domestic and maternal relationships (Russell, 2012). In relation to risk-need assessment, criminological, legal, medical and sociological literature shows that 'risk' is gendered as well as racialized, and that risk assessment operates as a gendering strategy (Belknap & Holsinger, 2006; Bhui, 1999; Hannah-Moffat, 1999, 2004; Hannah-Moffat & O'Malley, 2007; Shaw & Hannah-Moffat, 2000; Stanko, 1997, Walklate, 1997). The correctional program narratives speak of intervention that punitively 'target criminogenic needs' at the individual level rather than responding to their needs with increased social supports (Hannah-Moffat, 2006). Criminalized women who do not adhere to the normative standards of femininity are more likely to be labelled deviant and to be subject to interventions in prison that aim to reform them into a recognizably feminine performative (Heidensohn, 1985).

Defiant or misbehaved women are thought to require greater control, which is evident through the development of "new managerial techniques and rationales for the resistant prisoner" (Hannah-Moffat, 2000, p. 526). CSC's redefinition of some prisoners as 'difficult to manage' labels them as dangerous members of a distinct social and racial group (Hannah-Moffat, 2000). The construction of a group of women as 'defiant', 'misbehaved' and 'risky' is "used to justify use of force, involuntary transfers, searches, [and] prolonged segregation in solitary confinement" (Hannah-Moffat, 2000, p. 527). The current emphasis on criminogenic risk may, in fact, disadvantage women as their needs, such as those in relation to self-injury and past abuse and trauma are reconfigured as static risk factors (Hannah-Moffat, 2006). Specifically, women with substantial mental health needs, including those who self-injure and who act out, are often

classified as ‘high risk-need’ and are, therefore, separated from the general population and housed in secure or segregated units (Hannah-Moffat, 2010). It is argued that practitioners selectively use “gendered risk knowledges cobbled together from social scientific and legal information on risk and gender responsive training to interpret, target and isolate facts about women’s past experiences and make claims about potential violence” (Hannah-Moffat, 2010, p. 195). Increasingly within correctional practice women’s histories, needs and experiences, including those of self-injury, victimization and mental health and distress “are being reframed as problematic through the imposition of these risk-based decision-making templates” (Shaw & Hannah-Moffat, 2000, p. 167). Normative gendered risk frames target women’s victim identities in a way that simultaneously infers choice, responsibility, and the capacity to change to avoid victimization. The rational self-governing subject’s capacity for choice and individual responsibility is, therefore, privileged. This is further highlighted when examining how CSC manages the mental healthcare of women in prison.

2.4. THE MENTAL HEALTHCARE OF WOMEN IN PRISON

In Canada, the number of women diagnosed with a mental disorder in federal prisons rose by 65 percent from 1967 to 2004 (Office of the Correctional Investigator, 2009; Sinha, 2009). In response to the past 30 years of unprecedented increase in the number of incarcerated women, particularly impoverished and racialized women, it is of the utmost importance to examine women’s specific mental healthcare needs. It is estimated that prisoners have mental health problems at five times the rate of the general population, women specifically having higher rates of certain mental health problems, such as depression and anxiety, more co-occurring disorders, and more substance abuse problems than male prisoners (Anderson, Rosay & Saum, 2002; Kerr, 1998; Kupers, 1999). For many women, mental health problems are both caused and exaggerated

by substance abuse and prior exposure to violence, poverty, racism, and sexism (Young & Reviere, 2005). Existing problems continue and may become complicated by confinement, separation from family and support systems, overcrowding, fear of victimization, boredom, and lack of access to mental health services (American Psychiatric Association, 2004). There are important mental health differences between incarcerated women and women in general. For example, in America, 12% of women in the general population have symptoms of a mental disorder, compared to 73% of women in state prisons, 61% in federal prisons, and 75% in local jails (Gido & Dalley, 2009). In Canada, federal prisons house some of the largest concentrations of people with mental health conditions in the country. It is estimated that mental health issues are two to three times more common in prison than the general community (Office of the Correctional Investigator, 2015). This section examines literature on how the correctional institution ‘manages’ mental illness and specifically self-injurious behaviour (SIB), as many prisoners that self-injure are filtered into mental health units within a prison due to their ‘unmanageable violent behaviour’ (Bach-Y-Rita, 1974; Kilty, 2006, 2006b, 2012; Office of the Correctional Investigator, 2013). This section expands our understanding of how mental illness and self-injurious behaviour, in relation to gender, class and race, are managed through punitive penal control strategies within the prison system.

‘Managing’ Mental Illness

There are several deficiencies in mental health services for women prisoners including: diagnostic instruments that ignore relevant information; failure to use mental health evaluations at all and particularly for illness that is serious but not disruptive (such as depression); and a tendency to re-traumatize women within the prison setting (Office of the Correctional Investigator, 2016). There is a struggle with the physical infrastructure and design limitations that compromise the

delivery of programs and services needed to address mental health concerns in prison (Office of the Correctional Investigator, 2008; Office of the Correctional Investigator, 2015; Zinger, 2012). In continuing this argument, prisons are not hospitals and conditions that prevail are punitive rather than rehabilitative or therapeutic (Zinger, 2012). In Canada, there are not enough resources or professionals to meet the increasing mental health demands of incarcerated populations (Zinger, 2012). Correctional staff members are not trained to assess prisoners for mental illness but are trained to provide crisis management and to monitor medication dosages with the purpose of controlling and maintaining safety (Brandt, 2012). The conflict between managing and treating prisoners characterizes the correctional system (Office of the Correctional Investigator, 2008). In supporting this argument, mentally ill prisoners have higher rates of disciplinary actions than the general population, which increases their likeliness of being placed in higher security units such as administrative segregation cells (Office of the Correctional investigator, 2016).

Medicalization is a predominant form of correctional psychological intervention, as a great deal of scholars highlight the lack of access to non-medical/pharmaceutical forms of treatment (Arrigo, 2002; Balfour, 2000; Kendall, 1994, 2000; Laishes, 2002; Pollack, 2006, Rhodes, 2004; Sim, 1990, 2005). This is due in part to the carceral system's increasing emphasis on security and the "overreliance on prescription medication to curb resistance" (Kilty, 2012, p.174, also see Arrigo, 2002; Balfour, 2000; Pollack, 2006; Pollack, 2006; Rhodes, 2004). In Canada, six in ten incarcerated women are currently prescribed some form of psychotropic medication to manage their mental health (Office of the Correctional Investigator, 2016). The largest female-male treatment gap is in the use of psychotropic drugs as it is estimated that 22% of women prisoners, compared to 9% of male prisoners, are prescribed medication (Young & Reviere, 2005). This discrepancy is furthered when examining women convicted of a violent crime, as they are twice

as likely to receive psychotropic medication as men (Auerhahn & Leonard, 2000; Baskin et al., 1989). Amnesty International (1999) expressed concerns about the overuse of psychotropic medications for women in prison. The report concluded that women were given these drugs because other mental health treatments were unavailable or because women needed help coping with the stress of imprisonment (Amnesty International, 1999).

Women's higher medication rates can be explained by the tendency to 'psychiatrize' women's role-incongruent behaviours (Auerhahn & Leonard, 2000). Women are not expected to be violent, so when they are, they contradict the norms of society and are consequently 'controlled' with psychiatric medication. Feminist criminologists are "critical of prison administrators who endorse medicalization and cognitive behavioural programming to feminize women by (re) making them into 'respectable ladies'" (Kilty, 2012, p. 165, also see Carlen & Worrall, 2004; Kendall, 2002; Pollack, 2006). Federal correctional psychiatric treatment is criticized for reconstructing women's needs (defined in terms of housing, work skills, education, childcare, mental health services) as "risk factors for potential recidivism upon release and as resistant or threatening behaviour (to themselves or others) while in prison" (Kilty, 2012, p.165). When women prisoners violate gender-role expectations they are often labelled 'hysterical' and are subsequently controlled through a mental health intervention such as confinement or forced medication with psychotropic drugs (Russell, Dobash, & Gutteridge, 1986). It is argued that prison officials and staff think that women in prison are particularly difficult to manage because they react to incarceration in more extreme and neurotic ways than do men (Russell et al., 1986). Women are often labelled as 'mad' for showing symptoms reflecting mental illness and are therefore medicalized (Caplan, 1995; Maidment, 2006; Ussher, 1991, 2001). When women's criminality is attributed solely to their own mental state, they are ultimately blamed for their

problems and are seen as inexplicably aberrant (Morash & Schram, 2002). Psychological treatment is used as a mechanism of social control to maintain a punitive and disciplinary enterprise (Kendall, 2000; Pollack, 2006; Rose, 1998, 1999; Sim, 1990, 2005; Ussher, 1991). Treatment for mental illness and specifically self-injurious behaviour has managed to adapt and fit within the broader and ongoing correctional project of controlling ‘troubled’ women through medication, physical restraints and isolation (Kendall, 2000; Kilty, 2006; Pollack, 2006). It is important to examine how correctional institutions manage SIB as it is prevalent in prison settings, including segregation, and is commonly considered as a symptom of mental illness (Office of the Correctional Investigator, 2011).

‘Managing’ Self-Injurious Behaviour

I use the terms self-injury and self-harm interchangeably, but I avoid the term self-mutilation, which emanates from psychiatric labelling. In 2013, a relatively small number of federally sentenced women offenders (37 of 264 total) disproportionately accounted for just over 35% of all reported self-injury incidents (Office of the Correctional Investigator, 2014). It is proposed that the high rate of self-injury in women’s prisons is due to the high proportion of vulnerable women (Macaulay, 2005). In prison, 70% of women have mental health problems, 20% have been in care as a child, and 50% report being victims of childhood sexual abuse or domestic violence (Macaulay, 2005). A common narrative in the literature links experiences of child abuse and sexual victimization with self-injury as a form of trauma re-enactment (Wakai, Sampl, Hilton & Ligon, 2014). Other scholars are critical of this approach, highlighting the importance of examining how the prison system may lead some women to self-injure (Carlen, 1983; Chamberlen, 2015; Kilty, 2006, 2006b, 2012; Liebling, 1994; Maruna & Matravers, 2007; Sykes, 1958). Many women are separated from their children, having to live under the controlled/controlling regimes

of the prison service and may find being in prison a very frightening and disorientating experience. Scholars highlight the importance of linking self-injury to socio-cultural context and consider it to be a coping mechanism for dealing with harmful and stressful environments (Kilty, 2006, 2006b, 2012; Liebling, 1994). Some women come to perceive and understand their incarceration and other life experiences through their bodies, which provide a platform to express structural and material experiences of oppression (Crewe, 2011; Frigon, 2001). Feminist theories of embodiment acknowledge the body as a foundational site for the gendered construction and performance of women's oppression and resistance (Bosworth & Kaufman, 2013; Frigon, 2001; Kilty, 2012). Through self-injury, women can express a unique sense of agency and resistance in a highly-controlled environment (Bosworth & Carrabine, 2001; Frigon, 2001; Kilty, 2006; Leder, 1990).

It is suggested that interventions should be positive and non-intrusive, cautioning against the use of restraints and seclusion as inappropriate or punitive responses to self-injurious behaviour (SIB) can have "long-term negative repercussions, risking hopelessness, shame, anxiety, and depression, as well as susceptibility to further self-injury" (Walsh, 2006, p. 227). Several case studies suggest that the correctional system is simply unable or unwilling to deal with self-injurious behaviour and, in turn, appear to be counter-productive to effective therapy and desistance (Smith, 2016). Correctional staff are primarily trained on matters of security rather than therapy. Before the integration of risk/need logics in women's correctional management, self-injurious behaviour was not typically considered a risk/need factor and was instead viewed as a reaction to past trauma or a means of coping with pain and controlling one's environment (Haney, 2003). Self-injurious behaviour has become more overtly identified as behaviour that is 'difficult to manage,' "symptomatic of an underlying mental health problem and undifferentiated from assaultive behaviour directed at others that requires some form of behavioural management and basic skills

building” (Office of the Deputy Commissioner for Women, 2003, p. 20). Women’s self-injurious behaviour is framed by correctional officials as evidence of risk escalation, not ‘need’, which in turn, results in punitive interventions such as segregation and increased security levels (Kilty, 2006). Self-injury is considered a risk both to the individual and to the security of the institution; as a result, women who self-harm are often strip-searched and segregated (Kilty, 2006). When encountering a self-injurious prisoner, the correctional staff frequently battle for control, “which often leads to a disastrous cycle in which punitive strategies such as isolation only encourage more acts of self-injurious behaviour” (Smith, 2016, p. 231). Prison administration and staff often “shun patients and label them psychopaths, schizophrenic personalities, or just plain manipulators. They arouse considerable anxiety, fear and hostility in the staff and usually get little treatment” (Bach-Y-Rita, 1974, p. 1018). In stating such, it is evident that women in prison do not have access to rehabilitative treatment but, instead, are managed through punitive responses to their distress.

Women who self-injure in Canadian federal prisons may be dealt with in a variety of ways including counselling, administrative segregation and forced psychotropic medication use (Bosworth, 2006; Haney, 1990; Kilty 2006, 2012). Such practices show how risk management strategies have effectively transformed ‘needs’ into security issues. Instead of considering self-injury as a coping mechanism, resistant strategy, or a cry for help, prison personnel are trained to treat it as a potential security risk (Bosworth, 2006; Kilty 2006, 2012). Self-injurious behaviour often leads to administrative reactions opposite to what the women may have hoped for, namely segregation for observation and restraint (Martel, 2001; Kilty 2006, 2012). The potential for the prison environment to shape women’s behaviour is conveniently overlooked in this logic. The inappropriate use of administrative segregation creates several problems in the treatment of mental illness and self-injury. Martel (2001) found that women intentionally harm themselves in the hopes

of being transferred from segregation to the institutional health services unit or a community hospital. While administrative segregation is a form of confinement that prisoners may enter voluntarily or involuntarily and CSC claims that it is not meant to be a form of punishment, removal from the general prison population often has adverse effects on the individual (Bottos, 2007).

2.5. WOMEN IN SEGREGATION

In Canada, women comprise 5% of admissions to segregation (Office of the Correctional Investigator, 2015). Out of the total admissions to segregation, Indigenous women are overrepresented, accounting for 31% of the cases (Office of the Correctional Investigator, 2015). Beyond the typical separation of incarcerated prisoners into minimum, medium and maximum, segregation is a population management option available to personnel working in penitentiaries (Bottos, 2007). Indigenous women are disproportionately housed in higher security classifications, including segregation units, which illustrates the sexist and racist nature of security and risk assessments (McGill, 2008). A typical segregation cell measures 70 to 80 square feet in which prisoners are kept alone for 22 ½ to 24 hours a day (Shalev, 2009). Segregated prisoners do not have work opportunities, few, if any, in-cell educational programs and are subjected to high-tech measures of control, surveillance and inspection (Shalev, 2009). In Canada, there are two forms of segregation: disciplinary and administrative (which may be voluntary or involuntary). Disciplinary segregation is a sanction with a maximum duration of thirty days (Canada, 1992, Section 44 (1-F)). This type of segregation is imposed on prisoners that have been charged and found guilty of a disciplinary offence (Wichmann & Taylor, 2004). Administrative segregation is more commonly used. A prisoner may be placed in administrative segregation if they are seen to pose a danger to staff, other prisoners or the security of the institution, if they have the potential to interfere with an

investigation or for their own safety (Canada, 1992, Section 31 (3)). Administrative segregation is also often imposed on prisoners for prolonged periods of time for prison management rather than in response to misconduct (Shalev, 2009). The segregation of women prisoners remains understudied. Most studies focus on the experiences of male segregated prisoners, concentrating on psychosocial characteristics or on some of the institutional, legal, or psychological implications of segregation (Martel, 2001).

The literature argues that segregation is the greatest form of punitive control as it is often referred to as a ‘prison within a prison’ (Office of the Correctional Investigator, 2015). It is important to examine how the totality of control disproportionately affects women who are racialized, classed, and suffer from mental illness. In the next section, *Totality of Control*, I explore current literature published on women in solitary confinement and segregation. The *Detrimental Effects of Segregation* section examines the impact of segregation on women prisoners.

Totality of Control

Managerial discourses and their emphasis on prison security play a primary role in the administration of prisons and prisoners. The focus is no longer on changing the individual prisoner, but on managing ever increasing prison populations in an orderly and secure manner. Segregation units are “intentionally designed to create stark, severe and highly controlled environments, justified as absolutely necessary for managing dangerous and high-risk prisoners to ensure prison security” (Shalev, 2009, p. 24). Violence is not simply a by-product, but rather an inherent part of what Guenther (2013) calls the control prison. The control prison is reinforced through the rules and regulations that govern architectural design, the daily routines and interactions in them, creating an ‘ecology of cruelty’ where prison staff are encouraged to respond through punishment, opposition, force and repression (Haney, 2008). Segregation is identified as the last solution for

managing prisoners labelled disruptive or difficult to control. A recurring theme in official justifications for highly controlled spaces of confinement is a “focus on the dangerous nature or disposition of labelled prisoners” (Shalev, 2009, p. 51). Individual prisoners are constructed as irredeemably dangerous threats to safety, security and efficiency who, therefore, need to be placed in highly secured units. Segregation units act as a factory of exclusion for people socially marginalized based on race, class and gender (Bauman, 2000). In Canada, not only are 31% of segregated prisoners Indigenous, but Indigenous prisoners spend nearly 16% longer in segregation than non-Indigenous prisoners (Ball, 2009). As highlighted above, Indigenous women who come in conflict with the law often have histories of mental illness, poverty, personal trauma and substance abuse. They are more heavily concentrated in higher-security classifications where segregation rates are higher. Indigenous women are more likely to be placed in administrative segregation involuntarily, are more likely to be placed in disciplinary segregation, and engage in considerably more institutional misconducts (Ball, 2009). CSC suggests that prisoners in segregation have greater difficulty adjusting to the institutional environment, while critical scholars contend that the system is racialized. Critical scholars argue it is not that Indigenous women have a greater difficulty in adjusting to institutional life, but instead experience greater difficulty due to structures of oppression (McGill, 2008; Martel, 2001; Shaylor, 1998).

The motives for segregating women range from minor misbehaviours, such as being disrespectful and swearing, to an array of institutional reasons that ‘threaten’ the operation of the prison (Martel, 2001). Often referred to as ‘the prison within the prison’, segregation is the ultimate expression of regulating the female body (Carlen, 1983; Jackson, 2001; Messerschmidt, 1997; Rhodes, 2004; Shalev, 2009; Shaylor, 1998). Segregation is a tool of social control that is dehumanizing and has been characterized as torture, especially when used for prisoners suffering

from mental illness (Kilty 2012; Shalev, 2009). Research shows that women who challenge normative assumptions of femininity are more likely to be housed in segregation (Martel, 2001; Shaylor, 1998). Segregation enacts particular types of violence upon women, including the prominent use of the baby-doll gown, which is similar to a medical smock made of strong, heavy, colourless, non-flammable fabric. Women frequently report sexualized practices when wearing the baby-doll gown, highlighting that it is humiliating, degrading and arbitrary (Martel, 2001). The literature has extensively noted the “prevalence of past abuse among women prisoners and thus sexualized practices toward women prisoners greatly contribute to their sense of powerlessness and their marginalization in society” (Martel, 2001, p. 206). Women are kept idle in segregation, given the near total absence of programming, recreational activities and social interaction (Guenther, 2013; Shalev, 2009; Shaylor, 1998). Segregation is a space within prison where women can be watched, treated and controlled unbounded by the time constraints present in the rest of the prison (Martel, 2001, 2005). Effects of long-term segregation can be detrimental for the individual and for reintegration efforts.

Detrimental Effects of Segregation

The damaging psychological consequences of long-term segregation have been well documented (Andersen, Lillebaek & Sestoft, 1997; Andersen et al., 2004; Haney, 1993, 2003, 2006; Kilty 2006, 2014; Grassian 1983; Grassian & Friedman, 1986; Jackson, 2001; Martel, 1999; Rhodes, 2004; Shalev, 2009; Toch, 1992). The adverse effects of segregation have been related to the conditions and duration of internment (Rhodes, 2004; Shalev, 2009). Though it has not been concluded that short periods of time in segregation produce negative outcomes for the emotional well-being of prisoners, it is widely accepted that long-term segregation does have harmful psychological effects. The rigid conditions of segregation offer women no opportunity to engage

in social reality testing (Haney, 2005). In the absence of social context, people become “highly malleable, unnaturally sensitive, and vulnerable to the influence of those that control the environment around them” (Haney, 1993 p.5). Prisoners housed under conditions of segregation in turn, grow to rely on the prison structure to control and limit their behaviour. Women experience intolerable feelings of rage, frustration and anger. Angry outbursts and acts of self-harm by women are often used to justify more restrictive conditions of confinement, however, “rage is a reaction against, not a justification for their oppressive confinement” (Haney, 1993, p. 5). This importantly highlights the cycle of segregation, where once housed in a secure unit, you are more likely to be placed there again. ‘Acting out’ is a disciplinary offence, therefore, prisoners are being punished for being angry about their harsh forms of confinement. A psychopathological condition, known as SHU syndrome (named after the space – ‘special handling unit’) is characterized by perceptual changes; affective disturbance; difficulty with thinking, concentration, and memory; disturbance of thought content; and problems with impulse control (Grassian 1983, Kupers, 1999; Shalev, 2009). Women in segregation are hypersensitive to external stimuli and frequently experience distortions of perceptions and hallucinations (Grassian, 1983; Guenther, 2013).

It is important to examine how isolation through the penal practice of segregation impacts women’s psychological functioning. Isolation, often under the name of seclusion, solitary confinement or segregation has been used in mental hospitals and prisons as a form of ‘treatment’. The duration of the isolation is significant in predicting adverse psychological effects (Grassian & Friedman, 1986). The term ‘isolation panic’ describes a range of symptoms including panic, loss of control and complete emotional breakdown (Toch, 1992). Isolation removes the coping resources ordinarily found in prison such as programming and social interaction and can, therefore, increase the pains of imprisonment. The individual’s expectation and perception of the purpose of

their isolation is also important. When segregation is perceived as punitive there is a greater potential for adverse psychological effects (Grassian & Friedman, 1986, Jackson, 2001) and women placed in long-term segregation are at an increased risk for developing mental illness. Social isolation is correlated with long-term impulse-control disorder and clinical depression (Andersen, et al., 1996). Women with pre-existing mental illness are at risk for developing psychiatric symptoms in segregation (Haney, 2005). In stating such, I follow others who argue that segregation for all prisoners is an inhumane form of punishment that should be abolished (Andersen et al., 1996; Andersen et al., 1999; Haney, 1993, 2003, 2005; Kupers, 1999, 2017; Grassian, 1983; Grassian & Friedman, 1986; Jackson, 2001; Martel, 1999; Rhodes, 2004; Toch, 1992). My research contributes to this body of literature by expanding on the reasons why it is important to abolish segregation in the prison system.

2.6. CONCLUSION

The purpose of this chapter was to review the work of scholars who have examined how gender, race and class intersect and contribute to women's imprisonment and the ways in which prison policies reinforce structures of oppression. I highlight how structures of patriarchy, colonialism, capitalism, and racism affect women through criminalization, prison and segregation. By examining women's 'pathways' to segregation, I highlight how 'problematized' women who are deemed 'risks' to the institution are assessed as 'needing' to be segregated. This literature review highlights the negative repercussions of segregation and contextualizes how Indigenous women, women who self-injure, and those who fail to perform gender in normative ways are disproportionately likely to be placed in segregation. In reviewing the literature, I found that few studies examine women in segregation. Furthermore, there is a gap in the literature as scholars have yet to utilize intersectionality to analyze segregation policy. I question what are the gendered

and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of women they place in segregation? I will now review the literature on intersectionality, the theoretical framework that guides this thesis.

CHAPTER 3: THEORETICAL FRAMEWORK

3.1. INTRODUCTION

This chapter reviews the literature on intersectionality, the theoretical framework that informs this research on the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation. To begin this chapter, I review the foundational elements of feminist criminology and intersectionality theory, drawing from the work of Indigenous feminist, Black feminist and critical race scholars. I then examine the complexities of intersectionality as a theory and outline how I utilize it to examine the intersections of race and gender in the application of segregation policy.

3.2. FEMINIST CRIMINOLOGY

Feminist criminology grew out of the Women's Movement in the 1970s and in response to the dominance of mainstream criminology, where women were not only excluded from carrying out criminological research but were also barely considered subjects of that research (Renzetti, 2013). In the mid-twentieth century, positivist methodologies dominated criminology as researchers assumed that aspects of the social world could be measured and clearly linked as causes and effects of criminal behaviour (Renzetti, 2013). This perspective emphasized the researcher as objective and detached from the data collection and analysis processes, as little consideration was afforded to the effect of field researchers on study participants, or the idea that social phenomena are given meaning by individuals (Chesney-Lind & Morash, 2013). Even criminologists who used more qualitative data, like Cohen (1955) and Thrasher (1927), "failed to understand how their own gender coloured their view of the world, which meant that they completely ignored and/or sexualized girls and talked almost exclusively to boys and young men about gangs and delinquency" (Chesney-Lind & Morash, 2013, p. 288). This perspective evoked 'cavalier

androcentricism' instead of acknowledging intersectional concerns demarcated by the criminal justice system's continued mistreatment of marginalized groups.

As stated by Chesney-Lind and Morash, 2013:

Feminist criminology directed attention towards gender as a key force that shapes crime and social control towards research methods that recognize power differentials between the researcher and the researched, and give relatively powerless people voice to express their standpoints, and towards action orientated research to reveal and promote justice. (p. 288)

There is a diversity of feminist perspectives. In this chapter, I examine liberal feminist criminology, referring to scholars who address notions of liberty, equality and sorority in their work, scholars who examine the subordination of women by way of Marxist, radical, and socialist feminist criminologies, and the work of Black/multiracial feminists to best situate intersectionality theory within the discipline. A core principle of liberal feminist criminology is the inclusion of women and girls in criminological research (Renzetti, 2013). This principle was salient in the early development of feminist criminology because prior to the 1970s, women were largely ignored by criminologists as it was assumed that most women simply do not commit crimes. There were a few books written about the 'woman offender' before the 1970s (Lombroso and Ferrero, 1893; Freud, 1933; Pollack, 1950, Thomas, 1923), but the emphasis was on how atypical women's offending was. Women who broke the law were portrayed as physically or psychologically defective at best and monsters at worst. Women's criminality was interpreted as "eviden[ce] of their failure as 'true' women, passive, nurturing, and physically/intellectually weak by nature" (Renezetti, 2013, p. 16). Criminologists were correct to highlight that women's arrest and incarceration rates were substantially lower than men's, until the mid-1970s, when criminologists Adler (1975) and Simon (1975) stated that the gender gap in criminal offending was changing as women's rate of offending was rising quicker than men's. Adler and Simon both argued that the Women's Liberation movement provided opportunities for women to commit crime (Adler, 1975;

Simon, 1975). Their explanation has been referred to as *emancipation theory*, in which they emphasize changing opportunity structures for women and girls that led to an increase in women's criminality. Most liberal feminist criminologists have focused on how gender socialization may encourage or inhibit criminal offending among women and men (Renezetti, 2013). Power-control theory, for example, attempts to explain gender differences in offending in parents' gender socialization practices (Boritch & Hagan, 1990). Many feminist criminologists have critiqued liberal feminism for significant limitations, including the lack of attention to how gender inequality intersects with racial, ethnic, social class and other inequalities to influence outcomes for different groups of men and women (Chesney-Lind & Sheldon, 1998; Edin & Kissane, 2010; Edin & Lein, 1997; Ehrenreich, 2001).

According to Renzetti (2013), feminist criminologists who address the subordination of women in their work:

Recognize the importance of legislation and law suits to promote changes in educational and occupational opportunities for women, they emphasize that such strategies are typically insufficient to bring about and ensure not only gender equity, but also equity for racial minorities, the poor, lesbians and gay men, and other groups that experience widespread institutionalized discrimination. (p. 32-33)

Marxist feminist criminologists (See Chesney-Lind, 1986; Daly, 1989; Maidment, 2006; Schwendinger, 1983; Steffensmeier et al., 1980), argue that social class relations born of capitalism are the primary cause of women's oppression. The economic marginalization of women and, consequently, their subordination to men are reflected in the types of crimes women commit as well as their victimization experiences. Crimes that women traditionally committed, such as writing bad cheques, welfare fraud and credit card fraud, are crimes congruent with their traditional roles of caregivers, homemakers, and consumers (Steffensmeier et al., 1980). Some feminists are critical of the Marxist position and claimed that the emphasis on class oppression was overstated.

For example, radical feminists contend that “gender inequality or sexism, not social inequality, is the most fundamental form of oppression” (Renzetti, 2013, p. 39). Radical feminists argue that male power and women’s subordination is preserved through compulsory heterosexuality and the threat of using actual violence (MacKinnon, 1989; Walby, 1990). Pornography, rape, sexual harassment, battering and other types of physical, psychological and sexual abuse serve to keep men in power and women powerless (MacKinnon, 1989). Radical feminists suggest that all social institutions, including the criminal justice system, are male dominated and serve to preserve male interests. In criminology, radical feminists focus less on women as offenders than woman as victims and they have long spearheaded research to study the cause and consequence of violence against women and the failure of the criminal justice system to protect women from said violence (Renzetti, 2010). A criticism of radical feminist criminology is the characterization that *all* men are oppressive and *all* women are subordinated and victimized (DeKeseredy, 2000).

Lastly, socialist feminist criminologists are “concerned with the ways in which capitalism and patriarchy converge to produce gender differences in offending and victimization, as well as the differential ways the criminal justice system treats women and men” (Renzetti, 2013, p. 42). In other words, they examine how social inequality and gender inequality operate together to affect the crimes women and men commit and the crimes committed against them along with the criminal justice system’s responses to gendered offending and victimization (Renzetti, 2013). From this perspective, “the State is seldom a neutral mediator or protector of women, nor is it merely a disseminator of the ‘people’s will’” (Jurik, 1999, p. 43). The State, in its capacity to enact and enforce law, has tremendous power to reinforce or undermine capitalism and patriarchy (Carlen, 1988; Davis, 1993; Messerschmidt, 1986, 1993). Socialist feminist criminology has been criticized on several grounds, especially for its tendency to overlook the tremendous diversity of experiences

across groups of women and men who differ based on social class, race and ethnicity, nationality, sexual orientation, age and ability (Renzetti, 2013).

In the late 1980s and 1990s, feminist criminologists began calling for greater attention to intersecting inequalities, including race, gender and class, in criminological research (see Daly, 1993, 1997; Hill & Crawford, 1990; Simpson, 1991; Britton, 1997). Referred to as Black and multiracial criminology, several studies have examined how intersecting inequalities based on gender, race, class, age and sexuality “construct and constrain the life experiences of various groups of women and men, including their experiences as criminal offenders and as crime victims” (Renzetti, 2013, p. 70). The gendered experience of prison cannot be understood without considering the intersectional forces that bring women into conflict with the law. Intersectionality has been prescribed as the “most relevant [contribution] to feminist criminology in the 21st century” (Burgess-Proctor, 2006, p. 30). Intersectionality emerged from the theoretical work of Indigenous and Black feminists and critical race scholars. To best examine intersectionality, it is important to examine its foundational arguments.

3.3. FOUNDATIONS OF INTERSECTIONALITY

Intersectionality, though coined by Kimberlé Crenshaw, was influenced by the work of several key Indigenous and Black feminist and critical race scholars. Women of colour long expressed difficulty in identifying with ‘mainstream’ feminist theory because of its focus on gender as the sole (and later primary) aspect of oppression and because the lives of white middle-class women were placed at the forefront of liberation efforts (Beal, 1995; Chow, 1987; Collins, 2000; Crenshaw, 1989). Women of colour do not only deal with issues of gender inequality but also racial inequality as: “women’s loyalties are pulled in two directions: feeling the need to choose between being loyal to gender-equality ideas or being loyal to their racial or ethnic community”

(Potter, 2015, p. 44). Feminist and anti-racist discourses were formed to “respond to one or the other, the interests and experiences of women of colour are frequently marginalized within both” feminist and anti-racist discourses (Crenshaw, 1991, p. 1244).

Indigenous feminism, also identified as ‘Aboriginal feminism’, ‘Native feminisms’ (Smith, 2005, p. 121; Smith & Kauanui, 2008, p. 241), ‘Native womanism’ (Jaimes-Guerrero, 2003, p. 58), ‘tribal feminism’ (Deerchild, 2003, p. 97), and ‘Indian feminism’ (Shanley, 1984, p. 215), represents a critical paradigm that “analyzes how gender injustice against Indigenous women emerge from colonial policies and patriarchal practices that inscribe gendered power dynamics to the detriment of Indigenous women” (Suzack, 2015, p. 261). It focuses on the intersections between patriarchy and colonialism to examine how race and gender overlap to create conditions in which Indigenous women are subjected to forms of social disempowerment that arise from historical and contemporary practices of colonialism, racism, sexism, and patriarchy (Kirkness, 1988). Its objective is to achieve ‘gender justice’ for Indigenous women by analyzing how they are marginalized not just as women, but also as subjects marked by racism and colonialism (Dhamoon, 2011; Kirkness, 1988; Smith, 2005). It is a political project taking up a twofold intersectional analysis that critiques these overlapping frameworks. Indigenous feminism (Suzack, 2015):

On the one hand, [shows] how systemic forms of oppression, such as law, adversely affect Indigenous women, and, on the other, by illustrating how gender identity represents the source of wide-spread incidences of violence against Indigenous women through cultural practices that amplify women’s social, political, and cultural disempowerment. (p. 261)

Indigenous feminism offers new ways of thinking about how settler colonialism continues to impact Indigenous and settler communities. It does so by demonstrating how law sanctions sexual violence toward Indigenous women (Kuokkanen, 2008, 2012; Lawrence, 2003; Razack, 2000),

how patriarchal and colonial structures continue to deny women the legal agency to realize and exercise free will (Gunn, 2014; Eberts, 2010; Luther, 2010; McIvor, 2007; McIvor & Kuokkanen, 2007), and how prior forms of discrimination, including ‘cultural genocide’ directed toward Indigenous people intensify contemporary forms of violence directed toward Indigenous women (Anderson & Lawrence, 2003; Stanton, 2013). Indigenous feminists are broadly concerned with achieving gender justice in three ways: by enacting coalition politics leading to decolonization (Ladner, 2009; Monture, 2004), by building legal frameworks and political platforms that incorporate Indigenous traditions (Napoleon, 2007; Snyder, 2014), and by restoring Indigenous women’s collective status that has been eroded by patriarchal and colonial systems (Green, 1985; Lawrence, 2003; Napoleon, 2001, 2005; Suzack, Huhndorf, Perreault, & Barman, 2010).

Centering settler colonialism within feminism exposes the still-existing structure of settler colonization and its powerful effects on Indigenous peoples (Arvin et al., 2013). Within the context of land and settler colonialism, the issues facing Indigenous women are inseparable from the issues facing Indigenous people more broadly (Arvin et al., 2013). Decolonizing frameworks can be applied to contest the rampant misrepresentations of Indigenous peoples and their experiences in relation to social institutions, including education, religion, and the criminal justice system. Indigenous feminism is subject to conceptual and spatial erasures because settler colonialism as a contemporary social order and structure has been invisibilized (Veracini, 2011). Settler colonialism is characterized by a “persistent drive to supersede the conditions of its operation”, that is to make itself seem natural, without origin, without end and inevitable (Veracini, 2011, p. 3). Unlike other frameworks, Indigenous feminism does not assume the permanence of settler colonial states and, instead, seeks to explore and determine societal structures that do not rely on the maintenance of the colonial or imperial nation-state. Simpson, 2008, states that:

The colonial context of Indigenous women provides them an opportunity to critically interrogate the contradictions between the United States [and Canada] articulating itself as a democratic country on the one hand and simultaneously founding itself on the past and current genocide of Native peoples on the other hand. (p. 311)

In Canada, Indigenous feminists have examined how the implication of the *Indian Act* (1876) disproportionately affected and continues to impact Indigenous women. A central element of the *Act* advanced the government's assimilation policy through the process of disenfranchisement. Under section 12 (1)(b), Indian (Indigenous) women could lose their status if they married a non-Indian (Indigenous) man (Kubik, Bourassa & Hampton, 2009). Women could not own property, and once a woman left the reserve to marry, she could not return even if she divorced (Kubik et al., 2009). This also applied to her children. If an Indian (Indigenous) man married a non-Indian (Indigenous) woman, he retained his status, the non-Indian women would gain status under the *Act* and so would their children. In 1920, the *Indian Act* was amended so it was illegal for Indian (Indigenous) children to stay home from school, enacting residential schools (Kubik et al., 2009).

The Canadian Research Institute for the Advancement of Women (2002) states that:

For over a hundred years, the Canadian government assimilated Indigenous peoples by taking away their children and furthermore, punishing them for speaking their language, practicing their own cultural and religious traditions, and often the victims of physical and sexual abuse, left generations of Indigenous peoples without parenting skills, without self-esteem, and feeling ashamed of who they were and hopeless of the future. (p. 4)

The Royal Commission on Indigenous Peoples (1996) contended that residential schools have had the single greatest impact on Indigenous peoples in Canada and continues to have inter-generational impacts. Indigenous feminists work to exemplify how racism, sexism, and colonialism synergistically produce social ostracization, political disempowerment, and lack of human rights for Indigenous women (Green, 2007). For example, Indigenous feminists have examined how colonialism, racism and sexism attribute to violence and victimization of

Indigenous women (Green, 2007; Kubik, Bourassa & Hampton, 2009; Lawrence, 2003; Smith, 2005; Smith & Kauanui, 2008; Razack, 2000). To understand contemporary penal culture, its severity and excess in relation to Indigenous women, scholars argue that we must draw upon an understanding of the dynamics of colonial patriarchy (Sangster, 1999).

While the criminal justice system is generally thought to operate within a set of race and gender-neutral laws and policies, critical race feminism can help explain “why, with such facially neutral policies, there continues to be a disparate impact on Black and Indigenous women” (Schiffer, 2014, p. 1211). Schiffer (2014) highlights the importance of looking beyond race and gender alone. Traditional feminist legal theory tends to essentialize gender and race, universalizing the experience of all women (Schiffer, 2014). Collins defines essentialism as the “belief that individuals or groups have inherent, unchanging characteristics rooted in biology of a self-contained culture that explain their status” (Collins, 2000, p. 299). Essentialism assumes the existence of “an essential ‘woman’ beneath the realities of differences between women” as though the “issues of race, class, and sexual orientation can therefore be safely ignored or relegated to footnotes” (Harris, 1990, p. 591-592). As a result of the theorizing and empirical work done by women scholars of colour, an academic and cultural awareness of the simultaneous oppressions that many women face on account of race, gender, socioeconomic status and a number of other identity markers is no longer a novel concept.

Intersectionality is “frequently deployed as a collective, broad term to label the idea of woven identities of women of colour” however, it is important to acknowledge that it “yields a variety of terms and phrases used to describe the experiences of women of colour, based in multiple interlocked and subjugated identities” (Potter, 2015, p. 66). Frances Beal (1970) wrote on the burden of the Black woman’s disadvantage based on gender and race, originally referred to as

double jeopardy. Beal also examined the burden of economic exploitation, coined as *triple jeopardy*: racism, imperialism and sexism. The intent of Beal's scholarly work was to stress multiple sources of oppression for women of colour. Critical race feminist, Adrien Wing (2003), argues that:

Women of colour are not merely white women plus colour or men of colour plus gender. Instead their identities must be multiplied together to create a holistic One when analyzing the nature of the discrimination against them. (p. 7)

Crenshaw employed the same interpretation of identity interconnectivity and oppression in coining the term intersectionality.

3.4. INTERSECTIONALITY

In Kimberlé Crenshaw's groundbreaking 1989 article, *Demarginalizing the Intersections of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist politics*, she illustrates how discrimination by gender and race can occur simultaneously. Based in Black feminist and critical race theory, Crenshaw argues that dominant conceptualizations of discrimination under the law rely on determining discrimination only using a single axis framework (Crenshaw, 1991). Single issue frameworks fail to adequately capture the experiences of a "myriad of groups in society that experience marginalization along multiple axes of power", rendering some of these axes invisible (Wilson, 2013, p. 16). Hill-Collins (2000) refers to these multiple axes of power as the 'matrices of oppression'. We must abolish the single axis framework to work toward building an intersectional feminism rooted in anti-racist theorizing to account for the multiple grounds of oppression that different women are subject to and experience (Crenshaw, 1991, p. 1245). Crenshaw (1989) illustrates this idea through the use of a traffic analogy:

Discrimination, like traffic through an intersection, may flow in one direction, and it may flow in another. If an accident happens in an intersection, it can be caused by cars traveling

from any number of directions and, sometimes, from all of them. Similarly, if a Black woman is harmed because she is in the intersection, her injury could result from sex discrimination or race discrimination. (p. 149)

In her analysis, Crenshaw (1989) encourages the examination of how different systems of oppression intersect and affect groups of women in different ways. Intersectionality as a framework can be utilized to describe how individuals and groups experience oppression and privilege relative to one another, depending on their assumed position within various social categories, such as gender, class, race and sexuality (Bilge & Collins, 2016). Intersectionality examines “social-power differentials based on the social ordering of attributes that are multiple, multiplicative and inseparable for each individual” (Potter, 2015, p. 70). Individuals “have multiple intertwined identities that are developed, organized, experienced, and responded to within the context of the social structure and its dis/advantaged ordering” (Potter, 2015, p. 76). In practice, intersectionality does the political work of unravelling oppressive systems of power as it increases attentiveness to the structures and institutions that give meaning to politicized identities (Wilson, 2013). The legal “apparatuses articulated through policies, conventions, resolutions, and institutions give individual subjects meaning by at times extending, and at other times rescinding rights” (Wilson, 2013, p. 14). Intersectionality stems from investments in societal transformation, inclusion and challenges to the status quo as it critically uncovers the operation of power and privilege that work to marginalize individuals and groups (Bilge & Collins, 2016; Wilson, 2013).

Intersectionality has sparked many debates, for example, regarding which categories (and how many) should be included in intersectional analysis (Bilge & Collins, 2016; Ludwig, 2006; Lutz, 2002). Political scholar Evelyn Simien (2007) argues that the traditional categories considered by intersectional theorists treat variables as dichotomous and often fail to capture the range of possibilities within each category. To elaborate, race is too often considered as a question

of whiteness or Blackness and gender is denoted by either male or female (Simien, 2007). How do we conduct an intersectional analysis when an individual has both white and Black heritage or is transgender? Simien provides a postmodern critique of intersectionality as she does not agree with rigid categories especially in relation to gender as it limits the opportunity to explore the fluidity of gender and sexual identities (Simien, 2007). This critique problematizes how intersectionality takes up categories that are identified, imposed and enforced by policymakers and the ruling class. To study power relations, it is important to keep in mind how one's analytic categories are constituted and imposed.

Some scholars argue that there are 'unresolved questions' regarding intersectionality, including the fact that "Black women serv[e] as 'protocol intersectional subjects'" (Potter, 2015, p. 69). Jennifer Nash suggests that scholars must determine whether intersectionality may be used specifically to consider the experiences of Black women or other racially marginalized subjects or if it is applicable to all identities and all placements within dominant power structures (Nash, 2008). In stating this, Nash questions intersectionality's "reliance on Black women as the basis for its claims to complex subjectivity" (Nash, 2008, p. 8). However, notable scholars, including Kimberlé Crenshaw, contend that intersectionality can reach beyond application solely to women of colour. Since we all "exist within 'the matrix of power', intersectionality is applicable to all individuals, as it represents a structural and dynamic arrangement; power marks these relationships among and between categories of experience that vary in their complexity" (Crenshaw, 2011, p. 230). It is important to examine intersectionality as a theory to address the "vexed dynamics of difference and the solidarities of sameness in the context of antidiscrimination and social movement politics. It exposed how single-axis thinking undermines legal thinking, disciplinary knowledge production, and struggles for social justice" (Cho et al., 2013, p. 787).

Scholars also criticize intersectionality for being an academic ‘buzzword’ as it has come to operate as “shorthand verbiage used to signify a host of meanings” (Davis, 2008, p. 68) and has thus taken on assumptions and connotations that move it away from its foundation. It has also become “too easy to gesture to intersectionality as a means of mentioning interrogations with difference and power hierarchies without substantively taking up the demands of intersectional analysis” (Wilson, 2013, p. 16). Such casual references to intersectionality allow scholars to “use the terminology and gesture to inclusion, while continuing to pursue research in ways that do not substantively challenge the status quo” (Wilson, 2013, p. 16). Nikol G. Alexander-Floyd (2012) argues for the need to refocus intersectionality solely on the experience of Black women and other women of colour as she believes applying intersectionality to other groups is an “affront to women of Colour” and a departure from the original intent of intersectionality (Alexander-Floyd, 2012, p. 9). She refers to this as a ‘bait-and-switch’ in which scholars employ intersectionality but do not consider the perceptions of women of colour (Alexander-Floyd, 2012). Intersectionality often appears as a traveller who shows up at a destination without her luggage (Wilson, 2013, p. 16). Intersectionality, as it has travelled, it is often stripped “of the very elements that made it a critical theory with a social justice imperative” (Wilson, 2013, p. 16). Despite these criticisms, Crenshaw contends that characterizing intersectionality as a buzzword “does not do justice to the academics and activists who use intersectionality to illuminate and address discriminatory situations that would otherwise escape articulation” (Crenshaw, 2011, p. 233).

Bilge also expresses concern about the use of intersectionality in an age saturated with a neoliberal culture of diversity, arguing that intersectionality has been “commodified and colonized for neoliberal regimes” (Bilge, 2013, p. 407). According to Bilge (2013), framing social life not as collective,

...but as the interaction of individual social entrepreneurs, neoliberalism denies preconditions leading to structural inequalities; in consequence, it congratulates itself for dismantling policies and discrediting movements concerned with structures of injustice. Thus, neoliberal assumptions create the conditions allowing the founding concepts of intersectionality – as an analytical lens and political tool for fostering a radical social justice agenda – to become diluted, disciplined and diverted. (p. 407)

To avoid a prescriptive, disciplinary use of intersectionality requires “paying attention to historical contingencies, to specific contexts, and considering structural locations and power differentials” (Bilge, 2013, p. 420). Scholars who use intersectionality as a universal device, may undermine the strategic planning of those who use intersectionality to contest oppression. In my project, acknowledging intersectionality as a theory developed by women of colour to analyze structural marginalization is of the utmost importance as I aim to contest oppression within the criminal justice system, which is both gendered and racialized. In the next section, I outline how I take up intersectionality in this thesis to examine the gendered and racialized ways in which the CSC interprets the behaviours, attitudes and even personalities of the women they place in segregation.

3.5. INTERSECTIONALITY AND SEGREGATION POLICY

Analyses of the intersection of multiple oppressions flowing from race, gender, class, and sexuality have become more popular in the social sciences, yet criminologists have been slow to adopt this theoretical perspective. In chapter 2, I exemplified how few scholars have mobilized intersectionality to examine the context and use of segregation (Shalev, 2009; Shaylor, 1998; Martel, 2001, 2005) and there has been no intersectional analysis of the content and application of segregation policy. Intersectionality is important to mobilize in this research as it allows me to conceptualize how social identities and categories of difference coalesce to structure the organization of the prison and the management of prisoners, with a special focus on the context of segregation (Potter, 2015). Following the United Nations adoption of intersectionality to examine

‘the nature and processes of racism’, I mobilize intersectionality theory to analyze segregation policy and practices and to form policy recommendations. As stated by Wilson (2013):

The United Nations and the European Union are turning increasingly to intersectional approaches to articulate and develop ideal responses to concern for equality and a more sophisticated awareness of diversities across and within identity groups... The United Nations Committee of the Elimination of Racial Discrimination (CERD) embraces Crenshaw’s definition of intersectionality to articulate the nature and processes of racism. (p. 30)

In highlighting the gendered and racialized ways the CSC interprets the behaviours, attitudes and personalities of women they place in segregation, my thesis problematizes CSC policy and standard operating procedures. Intersectionality provides a framework to examine how institutions and political structures give meaning to identities and structure the relationships between social identity groups. I critically analyze how CSC policies interpret and give meaning to imprisoned women, and more precisely segregated women; I review CSC’s construction of their identity, character, actions and behaviours, with specific consideration of the ways in which segregated women are considered to defy hegemonic femininity and/or suffer from mental health issues and whether there are racial differences that see more visible minority women isolated in federal prison. It is my hope that this research will contribute to the social justice literature that demands progressive criminal justice policy and law reform.

3.6. CONCLUSION

This chapter reviews literature on intersectionality, the theoretical framework that informs this research on the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation. I reviewed the foundational elements of feminist criminology and intersectionality theory, drawing from the work of Indigenous feminist, Black feminist and critical race scholars. I then examined the complexities of intersectionality as a theory and outlined how I utilize it to examine the intersections of race and

gender in the application of segregation policy. In chapter 4, Methodology, I will outline my research objective and provide a detailed overview of the research design, namely an Intersectionality-Based Policy Analysis.

CHAPTER 4: METHODOLOGY

4.1. INTRODUCTION

The objective of this study is to examine the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation using an intersectional lens. To this end, I utilize a qualitative methodological approach to allow for an in-depth examination of CSC policies in comparison to the ways in which federally sentenced women describe their material experiences² of time spent in segregation. The purpose of this chapter is to revisit my research objective and to provide a detailed overview of the research design.

4.2. RESEARCH OBJECTIVE

As reported by the Office of the Correctional Investigator, during the 2014-2015 fiscal year 26% of male prisoners and 25% of women prisoners were admitted to segregation on at least one occasion (Office of the Correctional Investigator, 2015). The over-reliance on segregation is not uniform; certain incarcerated groups are more affected than others, including federally sentenced women with mental health issues and Indigenous and Black inmates (Office of the Correctional Investigator, 2015). As of March 31, 2017, there were 414 prisoners in segregation, 151 (36.5%) were Indigenous (Office of the Correctional Investigator, 2017). Women with mental health issues are also over-represented in segregation. More than two-thirds of prisoners who have been in a psychiatric treatment centre have been in segregation; notably, this is the case for 78.9% of all federally sentenced women and 72.9% of all Indigenous women (Office of the Correctional Investigator, 2015). These figures evidence that women diagnosed with mental health issues, and specifically Indigenous women, are over-represented in federal segregation units. This research

² Due to the time constraints of this degree, I rely on OCI reports to access women's experiences in administrative segregation.

examines the issue of over-representation by providing an intersectional analysis of correctional policies implemented when prisoners are admitted to segregation. By analyzing the numerous CSC Commissioner's Directives, Acts and Regulations used to structure the use of segregation, I will outline CSC's existing decision-making framework that staff must consider when admitting a woman to segregation. I will then compare the segregation policy framework to women's lived experiences of segregation as they are documented in the existing literature, reported by the Office of the Correctional Investigator and outlined in legal documents developed by the BCCLA (British Columbia Civil Liberties Association) and JHSC (John Howard Society of Canada) that challenge solitary confinement in Canada. In conducting the comparison, I seek to answer: *How does the CSC interpret the behaviours, attitudes and even personalities of women they place in segregation?* Guided by an intersectional lens, the aim of this assessment is to examine the racialized and gendered ways in which federally sentenced women are admitted to segregation. In doing so, I will be able to assess if, and if so, how, the CSC policies address the diverse needs of federally sentenced women.

4.3. QUALITATIVE RESEARCH DESIGN

The methodology adopted for this thesis consists of an Intersectionality-Based Policy Analysis (IBPA). A policy analysis is a qualitative research technique that is “designed to supply information about complex social and economic problems and to assess the processes by which a policy is formulated and furthermore, implemented” (Fischer, 1995, p.2). I examined four *Correctional Service of Canada Commissioner's Directives*, *Administrative Segregation Guidelines* and associated sections of both the *Corrections and Conditional Release Act (CCRA)* and *Corrections and Conditional Release Regulations (CCRR)*. To analyze how intersecting policies are implemented, I began by examining documents published by the Office of the

Correctional Investigator. The CCRA has entrenched the role of the Office of the Correctional Investigator in legislation, giving the Office broad authority to serve as an ombudsman for federally sentenced offenders and to investigate prisoner complaints related to decisions, recommendations, acts or omissions made by the CSC (Office of the Correctional Investigator, 2017). When reviewing complaints, the Office determines whether the CSC has acted fairly, reasonably and in compliance with law and policy (Office of the Correctional Investigator, 2017). The Office has extensively documented the overuse of segregation, arguing that it has become the most “commonly used population management tool to address tensions and conflicts in federal correctional facilities” (Office of the Correctional Investigator, 2015, p. 26).

Following the examination of OCI reports, I analyzed case documents that challenge solitary confinement in Canadian prisons. The first is the case of plaintiff Bobbylee Worm, represented by the British Columbia Civil Liberties Association (BCCLA), v. the Attorney General of Canada (2011). I also examined the lawsuit and court decision in BCCLA and JHSC (John Howard Society of Canada) v. the Attorney General of Canada (2017). The BCCLA has long-been involved in legal advocacy and education regarding a wide range of issues related to post-sentencing, prisoners’ rights, and administrative segregation (BCCLA, 2018). BCCLA has an extensive history of making submissions to courts and government bodies with respect to penal policy and the constitutional limits on the State’s right to punish its citizens (BCCLA, 2018). BCCLA has consistently opposed prolonged, indefinite administrative segregation and administrative segregation imposed without the use of any objective criteria and without mandatory external oversight, arguing that the “principles of liberty, autonomy and equality as well as the humanitarian commitment to preventing unnecessary suffering and to preserving the dignity of the individual, justify a change in the law” (*BCCLA v. Canada*, 2017, p. 3). JHSC is

dedicated to offering services and programs to people in conflict with the law, consulting with provincial and federal governments on existing and proposed legislative and administrative initiatives in the criminal justice system, and providing public education on criminal justice issues (*BCCLA & JHSC v. Canada*, 2017, p. 3). JHSC often makes submissions on criminal justice legislation to Parliamentary and Senate Committees and attends formal consultations held by the Correctional Service of Canada, the Parole Board of Canada, and the Department of Justice, together with other non-governmental organizations, on issues that affect incarcerated persons.

In addition to these case materials, I gathered a wide range of correctional directives, acts, guidelines, regulations, and reports to assess if, and if so, how CSC segregation policies address race and gender differences with an eye to examining differences in segregation decision-making.

The following offers a list of the documents included in the analysis:

- 1) CSC Commissioner's Directive: 709, *Administrative Segregation* (In effect: 2017-08-01).
- 2) CSC Commissioner's Directive: 843, *Interventions to Preserve Life and Prevent Serious Bodily Harm* (In effect: 2017-08-01).
- 3) CSC Commissioner's Directive: 578, *Intensive Intervention Strategy in Women's Institutions* (In effect: 2017-01-23).
- 4) CSC Commissioner's Directive: 702, *Aboriginal Offenders* (In effect: 2013-11-12).
- 5) *CSC Corrections and Conditional Release Act (CCRA)*: Paragraph 4(h) and sections 3-6, 15.1, 27 (3), 27 (4), 30-37, 47-49, 53, 76, 77, 79, 80, 81, 85-88, 90 (Canada, 1992).
- 6) *CSC Corrections and Conditional Release Regulations (CCRR)*: Sections 4, 5, 6(c) and (e), 7(1)-7(4), 17-23, 97(2), 102, 114 (CSC, 2017).
- 7) *Risky Business: An Investigation of the Treatment and Management of Chronic Self-Injury Among Federally Sentenced Women* (Office of the Correctional Investigator, 2013).
- 8) *Administrative Segregation in Federal Corrections: 10 Year Trends* (Office of the Correctional Investigator, 2015).
- 9) *Annual Report of the Office of the Correctional Investigator 2014-2015* (Office of the Correctional Investigator, 2015).
- 10) *Annual Report of the Office of the Correctional Investigator 2015-2016* (Office of the Correctional Investigator, 2016).
- 11) *Annual Report of the Office of the Correctional Investigator 2016-2017* (Office of the Correctional Investigator, 2017).
- 12) *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons* (Filed January 19, 2015, statement of claim amended on June 21, 2017).
- 13) *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons* (Judgement January 17, 2018).

14) *Worm v. Canada: Working to End Solitary Confinement* (Filed March 4, 2011).

The listed Commissioner's Directives were selected because they apply to all federally sentenced prisoners involved in the segregation process. Commissioner's Directives 709, *Administrative Segregation* and 843, *Interventions to Preserve Life and Prevent Serious Bodily Harm* are both gender-neutral policies invoked when segregating federal prisoners (Correctional Service of Canada, 2017b). Operating from an intersectional framework, I consider the gendered and racialized implications of these policies and thus the very premise of gender neutrality. I also examine CSC Commissioner's Directive 578, *Intensive Intervention Strategy in Women's Institutions* and 702, *Aboriginal Offenders* in order to consider those policies that are invoked specifically for Indigenous women as they are over-represented in segregation.

I have chosen to conduct a secondary data analysis of case documents and OCI reports. The two Supreme Court of British Columbia cases, *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons*, and *Worm v. Canada: Working to End Solitary Confinement* are examined to shed light on Indigenous women's experiences of the segregation process. Considering the absence of research and specific data collected and reported on Canadian Black women in segregation³, my research primarily analyzes the experiences of Indigenous women. These case documents critically examine segregation policy and legislation, identifying and problematizing the ways in which they are racialized and gendered. I have chosen to examine *Worm v. Canada* (2011), as the lawsuit explicitly documents her experience in segregation as an Indigenous woman. The BCCLA sued CSC on behalf of Bobbylee Worm, a young Indigenous woman from Saskatchewan who was held in solitary confinement for over three

³ Critical scholars contend that the failure to collect race-based data is indicative of inherent racialized bias rather than racial neutrality or colour-blindness (Maynard, 2017).

and a half years (BCCLA, 2014). Worm was a first-time offender who served the majority of her six-year sentence in segregation (*Worm v. Canada*, 2011). The BCCLA challenged Worm's long-term solitary confinement as cruel and unusual treatment under *the Canadian Charter of Rights and Freedoms* (BCCLA, 2014). During Worm's years of isolation, she spent up to 23 hours a day alone in her cell, often her only human contact taking place through the food slot in the door of her cell (BCCLA, 2014). The BCCLA lawsuit also challenged the use of the Management Protocol, which allowed women prisoners deemed "high-risk" to be kept in isolation for indefinite periods of time (BCCLA, 2014). The vast majority of women held under this protocol have been Indigenous. Two days after the BCCLA filed its lawsuit, Worm was removed from the Management Protocol, and shortly thereafter CSC announced it would end use of the program across Canada (BCCLA, 2014).

I also chose to examine the lawsuit and court decision from *BCCLA and JHSC v. AG of Canada* (2015) because the case alleged that solitary confinement amounts to "cruel and unusual punishment that leads to prisoners suffering and deaths, deprives prisoners of fundamental procedural protections, and is discriminatory against both mentally ill and Indigenous prisoners" (*BCCLA and JHSC v. AG of Canada*, 2017). Court documents were utilized to critically evaluate, and guide alternative policy responses and solutions for the segregation framework. The lawsuit and court decision include testimonies from medical and legal experts, social science researchers, personal experiential accounts of time spent in solitary confinement as well as the judgement of the Honourable Mr. Justice Leask. In January of 2018, Honourable Mr. Justice Leask declared that the sections of the *Corrections and Conditional Release Act* that allow for indefinite solitary confinement are of no force or effect (BCCLA, 2018). The Court held that the laws violate s. 7 of the *Charter of Rights and Freedoms* in that they "permit prolonged, indefinite solitary

confinement, fail to provide an independent review of segregation placements and deprive prisoners of the right to counsel at segregation review hearings” (BCCLA, 2018). The Court further held that the laws violate s. 15 of the *Charter* to the extent that they authorize the administrative segregation of the mentally ill or disabled and because of the degree to which the regime discriminates against Indigenous prisoners (BCCLA, 2018).

Relying on evidence from witnesses, including correctional staff and prisoners who have experienced solitary confinement, as well as evidence from a dozen experts, the Court found that solitary confinement places “prisoners at significant risk of serious psychological harm, including mental pain and suffering, and increased risk of self-harm and suicide” (BCCLA, 2018, para 3). The Court determined that the laws allowing for solitary confinement were overbroad because prolonged segregation not only harms prisoners, it ultimately undermines institutional security. The Court further concluded that the laws authorize solitary confinement in circumstances where some lesser form of restriction would have achieved the legislative objective of maintaining the security of the institution (BCCLA, 2018). With respect to reviews of segregation placements, the Court disagreed with a recent decision by the Ontario Superior Court, which held that additional reviews could be conducted by the prison service itself. The B.C. Court held that segregation placements must be reviewed independently (BCCLA, 2018). In considering the equality protections of s. 15 of the *Charter*, the B.C. Court held that the laws permitting solitary confinement fail to respond to the needs of Indigenous prisoners and those prisoners with mental illness or disability (BCCLA, 2018). The Court concluded that the laws instead have the effect of reinforcing, perpetuating or exacerbating the disadvantage of those specific prisoner groups.

In February 2018, the federal government announced that it will appeal the B.C. Court decision as a separate ruling from the Ontario Supreme Court decision (The Canadian Press, 2018).

The decision from the Ontario Supreme Court's Justice Frank Marrocco, released in December 2017, found that administrative segregation for a period longer than five days is unconstitutional, but the practice itself does not violate constitutional rights, even when applied to younger inmates or the mentally ill (The Canadian Press, 2018). Though the federal government has begun to seek judicial clarity on the issue, Public Safety acknowledges that they need to limit the use of segregation and implement a system of independent oversight in the CSC (The Canadian Press, 2018).

I also selected five published reports by the Office of the Correctional Investigator to examine, namely: *Risky Business*, *Administrative Segregation in Federal Corrections*, and the *Annual Reports* for 2014-2015, 2015-2016, and 2016-2017, because they are credible, impartial, and independent government sources that provide an overview of women's first-hand accounts of their experiences of segregation (Office of the Correctional Investigator, 2017). Corrections is one area of public administration that is far from 'open by default' (Office of the Correctional Investigator, 2016), meaning that prisons, and those who administer them, tend to operate largely closed to public view or scrutiny. As a graduate student in a two-year program, it was unlikely that I would be granted access to conduct primary research in federal correctional institutions. The Correctional Investigator has the unique opportunity to access the prison population, collect population demographics, assess conditions of confinement, and to document the experiences of women prisoners in segregation. The OCI conducts numerous studies on a large, national scale that as an individual researcher, would be difficult if not impossible to carry out. In conducting secondary data analysis, I have access to representative data of the population of women prison in Canada without the associated timely and costly constraints of conducting primary research.

Several of the OCI reports that I chose to examine are annual reports, meaning that the same data was collected from the same population over several years. In selecting annual report studies, I can identify and follow trends and changes (or a lack of change) over time in terms of CSC segregation use across federal institutions for women. Reviewing the OCI's annual reports allows me to document the sequence of events that led to the recent CSC directive amendments to administrative segregation and mental health policy (Correctional Service of Canada, 2017b). CSC made important changes to the ways inmates with significant mental health needs are managed, and to the policy framework for administrative segregation. Effective as of August 1, 2017, specific groups of inmates will not be admitted to administrative segregation and certain additional groups will not be admissible unless there are exceptional circumstances (Correctional Service of Canada, 2017b). The following groups are no longer admissible to administrative segregation and instead will be managed under CSC's policy to preserve life and prevent serious bodily harm: inmates with a serious mental illness with significant impairment; inmates actively engaging in self-injury which is deemed likely to result in serious bodily harm; and inmates displaying an elevated or posing an imminent risk for suicide (Correctional Service of Canada, 2017b). Two policies have been updated; CD 709 Administrative Segregation and Commissioner's Directive 843 Interventions to Preserve life and Prevent Serious Bodily Harm. Examining changes to administrative segregation and mental health policy is important because it will help me identify how or if CSC incorporates recommendations from the OCI or other influential bodies including academics, physicians, and the courts into their decision-making policy framework. I will also examine previous reports on segregation published by the OCI to identify benefits and possible concerns pertaining to the recent policy amendments.

The Office of the Correctional Investigator's report, *Risky Business: An Investigation of the Treatment and Management of Chronic Self-Injury Among Federally Sentenced Women*, was chosen as it provides a thorough examination of the reliance on segregation as a punitive tool to control women that self-injure in federal institutions (Office of the Correctional Investigator, 2013). This investigation reviews CSC's capacity to "balance the operational and treatment requirements of high-need, mentally ill federally sentenced women who engage in chronic self-injurious behaviour" (Office of the Correctional Investigator, 2013, p. 4). It serves to document how CSC responds to the "mental health needs of these women and assesses the use and impact of disciplinary measures and security controls in the management and prevention of prison self-injury" (Office of the Correctional Investigator, 2013, p. 4). The Office of the Correctional Investigator's report, *Administrative Segregation in Federal Corrections*, was selected because of its in-depth examination of segregation, exploring both gendered and racialized demographics and implications of this practice (Office of the Correctional Investigator, 2015). The third, fourth and fifth OCI reports I examine are the *Annual Reports of the Office of the Correctional Investigator for the years 2014-2015, 2015-2016, and 2016-2017*. These reports were selected because they provide a special focus on administrative segregation, highlighting Canada's international obligations, key facts and trends. These reports also provide the most recent demographics and analysis of relevant subject areas including conditions of confinement, health care in federal corrections, and prevention of deaths in custody, as well as population specific information about Aboriginal prisoners and federally sentenced women (Office of the Correctional Investigator, 2017).

4.4. RESEARCH QUESTIONS

The specific research objectives are written from an intersectional feminist perspective to evaluate the ways in which the CSC interprets the behaviours, attitudes and personalities of women they place in segregation. It is extremely important to understand the impact that segregation can have on the physical and mental health of incarcerated women. As a researcher, I intend to develop an understanding of the following questions:

1. According to CSC, which policies must be considered when admitting federally sentenced women in segregation?
2. In the segregation framework, which policies address gender and race? How do they address gender and race?
3. In the segregation framework, which policies address mental illness and acts of self-injury? How do they address mental illness and self-injury?
4. What are possible alternative policy responses and solutions specifically aimed at social and structural change to reduce inequities and promote social justice?

Question 1 was designed to identify all policies CSC staff must consider when admitting federally sentenced women to segregation. Identifying all policies relative to segregation will allow me to uncover the decision-making framework that CSC staff are expected to follow and how it shapes women's experiences of segregation as they are documented in the OCI reports. Question 2 was designed to facilitate an interpretive analysis of CSC's policy approach toward and/or consideration of race and gender in relation to the use of segregation. First, I examine Commissioner's Directives that specifically apply to women and Indigenous prisoners, CD 578, *Intensive Intervention Strategy in Women's Institutions* and CD 702, *Aboriginal Offenders*. Then, I interpret if, and if so how, these policies are considered in practice by examining the listed court documents and OCI reports. Question 3 seeks to facilitate an interpretive analysis of CSC's policy approach toward mental illness and self-injury in relation to the use of segregation. First, I examine policy that specifically applies to prisoners with mental health concerns and/or who engage in self-injurious behaviour through CD-843, *Interventions to Preserve Life and Prevent Serious Bodily Harm*. I interpret if, and if so how, CD-843 is considered in practice by examining the listed court

documents and OCI reports. Question 4 was designed to identify alternative policy responses and solutions for the segregation framework. The responses and solutions are specifically aimed at social and structural change that reduce inequities and promote social justice in the segregation framework derived from problems identified in the listed court documents and OCI reports.

To answer these research questions, I chose the intersectional-based policy analysis (IBPA) framework developed by Hankivsky, Grace, Hunting, Ferlatte, Clark, Fridkin, Giesbrecht, Rudrum and Laviolette (2012). Next, I provide an overview of the role of public policy and describe the importance of conducting policy analysis in the fields of criminology and gender studies.

4.5. PUBLIC & CORRECTIONAL POLICY

The foundation of public policy is composed of national constitutional laws and regulations that are used to govern and manage society. Public policy can be understood as a “guide to action, a plan, a framework, [or] a course of action or inaction designed to deal with problems” (Pal, 1997, p. 4). In terms of corrections, Public Safety Canada is responsible for developing legislation and policies. CSC operates under the rule of law, notably the *Corrections and Conditional Release Act* (CCRA), adopted in 1992, which enshrined the principles of the *Canadian Charter of Rights and Freedoms* in correctional law (Canada, 1992). Correctional authority is to be exercised within a culture of respect for fundamental human rights and not according to the dictates of administrative convenience (Jackson & Stewart, 2010). The protection of society is a legitimate public policy objective for Canada’s correctional system, which is founded upon a dual-purpose mandate to exercise safe and humane custody and supervision of offenders and to assist their timely return to the community as law-abiding citizens (OCI, 2016). Though it is, ultimately, the government’s responsibility to create policy, ideas underpinning different policies often emerge from outside government; thus, civil society plays a critical role in shaping policy, especially when governments

try to manage public outcries or public dissatisfaction with current societal practices or the government itself (Birkland, 2011; Varcoe, Pauly & Laliberté, 2011). For instance, following numerous reports criticizing CSC's treatment of women prisoners (see for example, the Task Force on Federally Sentenced Women's report *Creating Choices*, 1990; and the Arbour Inquiry, 1996) CSC claims to have reformed women's prisons by developing "women-centred" penology and adopting "gender-sensitive" principles in women's federal prison policy. Additionally, CSC has responded to claims of systemic racism by developing a "healing lodge" and providing "Aboriginal programming". Such policy reform highlights the influence civil society and the courts have on public policy, which in turn, also highlights the need for academics to analyze and critique current policies. Policy analysis is of crucial importance in criminology because correctional policies have tremendous social, economic and political implications. Segregation policies do not only impact women in prison; they impact the families of prisoners, CSC employees, lawyers, politicians, academics, policymakers, activists, and Canadians at large.

Public policy is significant because it is a means by which society is regulated and attempts to channel human behaviour (Birkland, 2011; Kraft & Furlong, 2009; Schneider & Ingram, 1997). Policy informs and governs staff behaviour, sets expectations, and is a contract for the administration of roles, duties and performance. Examining correctional policy is essential to the field of criminology because it is an avenue for questioning and evaluating the policymaking and implementation processes that shape classification, treatment and offender management. Policy decisions combine technical knowledge with complex social and political realities and it can identify and challenge how the Canadian criminal justice system manages racialized and gendered bodies. The aim of policy analysis is to "facilitate improved policies by creating, critically assessing, and communicating policy-relevant knowledge" (Simon, 2009, p. 27). Though many

policy analyses are now conducted where women are the focus, and critical race and feminist lenses are utilized, most policy frameworks are still considered gender neutral (see for example, Karger & Stoesz, 1998) and policy discussions often ignore gender and race completely (see for example, Einbinder, 1995). In highlighting this limitation, I state the importance of conducting an Intersectionality-Based Policy Analysis (IBPA), as it provides a new and effective method for “understanding the varied equity-relevant implications of policy and for promoting equity-based improvements and social justice within an increasingly diverse and complex population base” (Hankivsky, et al., 2012, p. 33). I can utilize an Intersectionality-Based Policy Analysis to examine how gender and race are considered in the development and implementation of CSC policies. The next section provides a more in-depth review of Intersectionality-Based Policy Analysis.

4.6. INTERSECTIONALITY-BASED POLICY ANALYSIS

Though the evidence supporting the differential effects of policy across multiple axes of diversity is in its infancy, intersectionality-based analyses lead this line of inquiry (e.g. Bishwakarma, Hunt, & Zajicek, 2007; Bose, 2012; Collins, 1990; Crenshaw, 1991, 1989; Hancock, 2007, 2011; Hankivsky, 2011; Manual, 2006; Reid, Pederson, & Dupere, 2007). Intersectionality theory is an incredibly useful analytical lens for policy scholars who wish to “strengthen the explanatory power of policy models that evaluate policy impacts and outcomes” (Manual, 2006, p. 175). The objective of an Intersectionality-Based Policy Analysis is to identify and address “the way specific acts and policies address the inequalities experienced by various social groups”, considering that social identities such as race, class, gender, ability, geography and age interact to form unique meanings and complex experiences within and between groups in society (Bishwakarma, Hunt, and Zajicek, 2007, p. 9). These are further affected by multiple systems of power and oppression that Collins (1990) refers to as ‘the matrix of domination’ and

that change over time and place in different institutional domains. In public policy, this perspective reveals the limitations and exclusionary nature of traditional methods of creating policy. Intersectionality recognizes that a one-size-fits-all approach does not work (Canadian Research Institute for the Advancement of Women, 2006; Parken & Young, 2007). It shares similarities with other critical frames that have revealed that even though it is often devised and presented as such, policy is not neutral and it is not experienced in the same way by all populations. Important differences and accompanying needs must be considered when developing, implementing, and evaluating public policy (Hankivsky & Cormier, 2011).

An intersectional policy analysis differs from policy approaches that attempt to understand and address issues of diversity by starting with one identity category, such as gender, to which others are added (Hankivsky & Cormier, 2011; Wilkinson, 2003). CSC policies are currently developed by targeting single identity categories, such as gender, Aboriginality, and mental illness, that are considered to be independent of one another. This approach assumes unitary categories that are based on a uniform set of experiences that are simply brought together to understand differences (Hancock, 2007). This type of “additive approach” is typical but inadequate for “getting at the layered interrelationships between wider social inequalities and individual experience of discrimination” (Parken & Young, 2007, p. 27). In the context of policy, the pitfalls of an additive approach are that “policy makers, [or those implementing policy], can pick their categories of interest and deal with them in isolation, without paying attention to how they intersect with other [markers of] social division” (Thorvaldsdóttir, 2007, p. 6). An additive approach may also lead to what some have described as the “oppression Olympics”, where marginal groups compete with one another for levels of resources instead of cooperating to work for systemic reform that could alter the entire policy logic (Hancock, 2007). Rather than pitting the importance

of race and socioeconomic status against each other, an intersectionality informed analysis points to the relationship and indeed interdependence between these and other social locations and why these should be front and center in any effective affirmative action program (Hankivsky & Cormier, 2011).

Intersectional analyses reveal how policy frameworks can reify the oppressive consequences of intersecting social locations (Hankivsky & Cormier, 2011). Simien (2007) demonstrates the utility of using intersectionality to “better understand the construction and perpetuation of inequalities within public policy by tracing how certain persons get labeled as different, troubled, and in some instances marginalized” (p. 269). An intersectional approach to public policy analysis encourages a more inclusive way of looking at different aspects of policy: how problems are defined, how solutions are developed and implemented, and how the policy is ultimately experienced and evaluated (Hankivsky, 2005). Within the broader framework, then, “*who is at issue*, and indeed the social construction of many populations, matters as much as what is at stake” (Hancock, 2007, p. 65). To fully understand who is at issue requires that the voices of vulnerable and marginalized individuals and groups are represented within the policy-making process. In relation to Indigenous women’s experiences of inequity, an IBPA interrogates how colonialism and the systems and processes with which it intersects, for example, patriarchy, capitalism, and racialization, converge within public policy. My application of IBPA will demonstrate how the intersection of gendered and colonial processes plays a central role in how policy both shapes and responds to Indigenous women’s experiences of inequity. The descriptions produced through intersectional analyses illuminate the actors, institutions, policies, and norms that intertwine to create a given situation. Such textured analyses are “critical to our ability to

effect progressive change in the face of the fundamentalist forces, neoliberal economic policies, militarization, new technologies, entrenched patriarchy and colonialism” (AWID, 2004, p. 7).

To systematically analyse correctional policies pertaining to the administrative segregation of women in federal prison, I opted to use an Intersectionality-Based Policy Analysis framework developed by Hankivsky et al. (2012). In viewing the lived realities of federally sentenced women in segregation as extensions of larger sociocultural processes embedded within a historical context, the impact of different policies and policy processes can be revealed. A policy analysis framework can produce information and data that, when used by analysts, will shed light on the consequences of public policies (Karger & Stoesz, 2006). The framework selected must fit both the project and the analyst. Fitting the analyst means “fitting with the ideology and values of analysts based on their personal, professional, political views, and identities as well as academic disciplines and skills” (McPhail, 2003, p. 40). The questions that an analyst asks are important as they shape what answers are given, what solutions are proposed and what recommendations are made.

This research was guided by Hankivsky et al.’s IBPA framework, which they developed and refined through an iterative, participatory process between 2011-2012. The final framework reflects not only the efforts of ground-breaking scholars in IBPA (see Bishwarkarma et al., 2007; Parken & Young, 2007; Rönnblom, 2008), but comments and feedback received from emerging and established scholars in the field at roundtable discussions and learning institutes. IBPA is intended to improve tools for evaluating the differential effects of policy on populations and, in particular, health impact assessments which seek to tackle health inequalities when making health and health-related decisions at the level of policy and programming (Hankivsky et al., 2012). Given the documented detrimental emotional, psychological and physiological impacts of segregation (see Andersen, Lillebaek & Sestoft, 1997; Andersen et al., 2004; Andersen, 2004;

Haney, 1993, 2003, 2006; Kilty, 2006, 2014; Kuppers, 1999; Grassian 1983; Grassian & Friedman, 1986; Jackson, 1983; Martel, 1999; Rhodes, 2004; Shalev, 2009; Toch, 1992), considering how correctional policies related to segregation might produce health inequalities across groups is an important avenue of inquiry. I have also revised the framework in order to directly consider correctional policies and their implementation.

The IBPA framework has two core components: a set of guiding principles and a list of 12 overarching questions to help guide, frame or shape the analysis (Hankivsky et al., 2012). The IBPA guiding principles, found in Appendix A, are intended to ground the questions, ensuring that each is asked and answered in a way that is consistent with an intersectionality-informed analysis. The questions are divided into two categories: *descriptive* and *transformative*. Their combined effects are “intended to expand and transform the ways in which policy problems and processes are understood and critically analyzed to ensure fine-tuned and equitable policy recommendations and responses” (Hankivsky et al., 2012). The first set of *descriptive* questions is intended to generate critical background information about policy problems in their full context, with specific attention to the processes and mechanisms by which policy problems are identified, constructed and addressed (Hankivsky et al., 2012). The purpose of *descriptive* questions is to reveal assumptions that underpin existing government priorities, the populations targeted for policy interventions, and what inequalities and privileges are created by current policy responses (Hankivsky et al., 2012). In this part of the analysis, I will critically examine inequalities and privileges that are produced by/within segregation policies and how they are implemented, taking care to highlight the populations that are especially targeted for this intervention. The second set of *transformative* questions is intended to assist with the identification of alternative policy responses and solutions specifically aimed at social and structural change that reduce inequalities

and promote social justice (Hankivsky et al., 2012). In this part of the analysis, I examine the strategic plan I developed that offers solutions to transform the segregation framework. The strategic plan includes reference to the recently amended CSC segregation policy (August 2017), Bill C-56, an *Act to Amend the Corrections and Conditional Release Act* and the *Abolition of Early Parole Act* (tabled June 2017), and the B.C. Supreme Court decision that declared indefinite solitary confinement in Canadian prisons to be unconstitutional (January 2018). I examine the recent policy amendment and court decisions in order to prompt policy designers/decision makers to consider actions that will ensure the meaningful uptake of equity-focused policy solutions and the measurement of the impacts and outcomes of proposed policy responses.

I tailored Hankivsky et al.'s framework to better address the objectives of this research. Four *descriptive* questions (listed below) and three *transformative* questions (listed below) guided the analysis. The IBPA questions chosen to guide this analysis are as follows:

Descriptive Questions

1. *What is the 'policy problem' under consideration?*
2. *What are the current policy responses for segregation?*
3. *How are groups differentially affected by risk/need management in the segregation framework?*
4. *What are the current policy responses for admission to segregation?*

Transformative Questions

5. *Where and how can interventions be made to improve the segregation framework?*
6. *What are feasible short, medium and long-term solutions?*
7. *How will the proposed responses reduce inequities?*

4.7. LIMITATIONS

There are several limitations of the research design to address. First, I highlight the limitations of collecting descriptions of women's material experiences of segregation by way of OCI reports and legal case documents. Unfortunately, because I was unable to interview formerly incarcerated women or to interview or observe women who are currently in segregation, I was limited in terms of how to access information pertaining to their experiences in and of segregation. In conducting a secondary data analysis of case documents and OCI reports, I lack control over the conditions and quality of the data collection. I am unable to know, for instance, how questions were asked, what questions were asked, and if respondents understood the questions. Also, I am analyzing OCI data sets published in the past; therefore, I cannot analyze if the implementation of the recent CSC segregation policy amendment has affected how women experience their time in segregation. In future studies, it will be of the utmost importance to examine how or if the policy amendment has affected the management of prisoner mental health needs and whether the revised policy framework for administrative segregation has changed how CSC manages federally sentenced women specifically.

The case documents and OCI reports do not contain all the information that would be beneficial in conducting a complex Intersectionality-Based Policy Analysis. Since I am basing the analysis of women's material experiences of segregation on demographic information collected by BCCLA, JHSC, and the OCI, I am unable to examine gender beyond the normative gender binary labels of female and male. In turn, variables have been categorized differently than I might have chosen and there are possible discrepancies between how one is labelled by institutional authorities and how one identifies. Since I did not collect the data, I have no control over what is contained in the data set. This fact limited the analysis and altered the original questions I sought

to answer. Originally, I had aspired to collect administrative segregation data on race, class, and gender identity, but because neither the CSC nor the OCI collect this data, I was unable to conduct the type of intersectional analysis I would have liked. This study could be expanded in the future if information can be collected on class, gender identity and race outside of Aboriginality rather than those identity markers that are imposed by the CSC. Future research should endeavour to interview federally sentenced women who have been admitted to segregation as it is valuable to hear directly from the population that is affected by the policy being examined.

The literature also identifies several challenges associated with adopting an Intersectionality-Based Policy Analysis. These challenges stem primarily from a lack of literature demonstrating its ‘how to’ application. There is a lack of certainty as to how, when, and where intersectionality frameworks can be applied (Davis, 2008; Hankivsky and Christoffersen, 2008). Subsequently, it may be unclear to policymakers in some cases as to how they can reconsider their approaches to research and policy in such a way as to reflect the variety and density of differences across the populations that are affected by the policy. While policy analysts must identify which intersectional categories should be included in their investigation, the categories I utilize were pre-determined by my primary and secondary data sources, the CSC and the OCI.

Despite the promise of opening new spaces for knowledge production and emerging research from many policy domains, intersectionality, to date, “has failed to reshape substantively mainstream public policy largely because of the salient challenges of operationalizing this perspective” (Manuel, 2006, p. 187). Even when the importance of diversity is noted and recommendations are made to include an intersectionality-based approach to policy, some decision-makers continue to espouse one-dimensional policy approaches, such as gender mainstreaming, which scholars and activists have argued cannot be adapted to address the multiple

inequalities facing different groups of men and women. Although various bodies within the UN system, for instance, have recognized the value of intersectional analyses, no specific policies have been developed to address intersectional inequalities (CWGL, 2006). In Canada, intersectionality remains a relatively unknown and underdeveloped concept in policy discourse and application (Hankivsky & Cormier, 2011).

A significant number of scholars have acknowledged the lack of effective intersectional methodologies (see Hancock, 2007; Phoenix & Pattynama, 2006; Nash, 2008). In the era of evidence-based decision-making, policymakers rely and draw on the knowledge generated from empirical research. Thus, the lack of a clearly defined intersectional methodology may undermine the generation of appropriate information for policy application (Hankivsky & Cormier, 2011). I am combating this limitation by utilizing Hankivsky et al.'s (2012) IBPA framework, which I argue provides an effective methodology to shift the focus of policy analysis from the aim of quickly producing feasible segregation policy solutions in a fast-paced policy-making environment, to carefully considering the complex social and political contexts in which policies are developed, implemented and, furthermore, experienced by federally sentenced women.

4.8. CONCLUSION

The purpose of this chapter was to revisit my research objective and to provide a detailed overview of the research design, an Intersectionality-Based Policy Analysis. I provided an overview of the role of public policy and described the importance of conducting policy analysis in the fields of criminology and gender studies. I outlined how I will utilize an Intersectionality-Based Policy Analysis to examine how gender and race are considered in the development and implementation of CSC policies. I then provided an in-depth review of an Intersectionality-Based Policy Analysis as well as limitations to utilizing this research design. The next chapter applies

this methodological approach to analyse CSC segregation policy as it is used for federally sentenced women in Canada. I examine four *Correctional Service of Canada Commissioner's Directives*, Administrative Segregation Guidelines and associated sections of both the *Corrections and Conditional Release Act (CCRA)* and *Corrections and Conditional Release Regulations (CCRR)*. To analyze how intersecting policies are implemented, I will begin by examining documents published by the Office of the Correctional Investigator. Following the examination of OCI reports, I analyzed case documents that challenge solitary confinement in Canadian prisons. The first is the case of plaintiff Bobbylee Worm, in *the British Columbia Civil Liberties Association (BCCLA), v. the Attorney General of Canada* (2011). I also examined the lawsuit and court decision in *BCCLA and JHSC (John Howard Society of Canada) v. the Attorney General of Canada* (2017).

CHAPTER 5: ANALYSIS

5.1. INTRODUCTION

This analysis is guided by the descriptive and transformative questions developed from the IBPA framework and aims to evaluate and provide recommendations to transform CSC's segregation framework. The application of IBPA will demonstrate how the intersection of gendered and colonial processes play a central role in how policy has both shaped and responded to women's experiences of inequity in admission to segregation. This policy analysis consists of four central components: (5.2) Considering Segregation Policy; (5.3) the Development of the Segregation Framework; (5.4) the Assessment of the Segregation Framework; and (5.5) Transforming the Segregation Framework. In the first section, Segregation Policy-Under Consideration, I answer the IBPA descriptive question '*What is the policy 'problem' under consideration?*' by outlining key arguments in the literature that problematize the use of segregation. In the second section, the Development of the Segregation Framework, I answer the IBPA question, '*What are the current policy responses for segregation?*' by outlining the policies and procedures that are implemented by CSC when admitting a federally sentenced woman to segregation. In the third section, Assessment of the Segregation Framework, I answer the IBPA question, '*How are groups differentially affected by risk/need management in the segregation framework?*' by examining the impact of hybridizing women's needs and risks. In the fourth section, Transforming the Segregation Framework, I answer the IBPA questions '*Where and how can interventions be made to improve the segregation framework?*' and '*What are feasible short, medium and long-term solutions to reduce inequities?*' by identifying and examining the alternative strategic plan and policy responses and solutions I developed and that are specifically aimed at reducing inequalities through social and structural change.

5.2. SEGREGATION POLICY- UNDER CONSIDERATION

This section of the analysis answers the IBPA descriptive question, ‘*What is the policy ‘problem’ under consideration?*’ I outline key arguments in the literature to problematize the use of segregation and corresponding policy. Segregation has a well-documented negative impact on mental health and wellbeing, amounting to cruel, inhumane or degrading treatment or punishment (Shalev, 2008). The UN Special Rapporteur of the Human Rights Council on torture and other cruel, inhumane or degrading treatment or punishment (2011) concluded that solitary confinement is contrary to the rehabilitation and reintegration aims of the penitentiary system. Very similar conclusions were drawn by the World Health Organization (WHO Europe) in their 2014 report, *Prison and Health*. WHO Europe concluded that solitary confinement has a negative impact on the health and well-being of those subjected to it, especially for a prolonged time. Those with pre-existing mental illness are particularly vulnerable to the effects of solitary confinement. Isolation can affect rehabilitation efforts and former prisoners’ chances of successful reintegration into society following their release (WHO Europe, 2014). Unfortunately, unlike the legal provisions that guide disciplinary segregation, the CSC is solely responsible for placing and maintaining offenders in administrative segregation and for complying with Canada’s international obligations (Office of the Correctional Investigator, 2015). CSC maintains that they need administrative segregation to safely manage their institutions and they have resisted nearly every call to reform or limit its use or to introduce some form of external oversight (Office of the Correctional Investigator, 2015).

The Office of the Correctional Investigator has extensively documented administrative segregation, stating that it has “become the most commonly used population management tool to address tensions and conflicts in federal correctional facilities” (Office of the Correctional

Investigator, 2015). Between 2004 and 2014, the Office made 31 separate recommendations to strengthen the administrative segregation governance and accountability framework including: calls to strengthen oversight and accountability deficiencies; independent adjudication of administrative segregation placements; enhanced due process; prohibiting the use of segregation for those who are seriously mentally ill, self-injurious or suicidal; and creating alternatives (immediate mental health care units) to segregation to meet the least restrictive criteria (Office of the Correctional Investigator, 2015). CSC has accepted a few recommendations regarding staff training and made recent changes to the administrative segregation framework. As highlighted in the methodology chapter, effective August 1, 2017, specific groups of inmates will not be admitted to administrative segregation, unless there are exceptional circumstances (CSC, 2017b).

The damaging psychological consequences of long-term segregation are well documented (Andersen, Lillebaek & Sestoft, 1997; Andersen et al., 2004; Andersen, 2004; Haney, 1993, 2003, 2006; Kilty, 2006, 2014; Kupperts, 1999; Grassian, 1983; Grassian & Friedman, 1986; Jackson, 1983; Martel, 1999; Rhodes, 2004; Shalev, 2009; Toch, 1992). The adverse effects of segregation are related both to the conditions and duration of internment (Rhodes, 2004; Shalev, 2009). Though it has not been concluded that short periods of time in segregation produce negative outcomes for the emotional well-being of prisoners, it is widely accepted that long-term segregation does have harmful psychological effects. According to Shalev (2008), between one-third and 90% of prisoners experience some negative impacts of long-term segregation. The symptoms may include insomnia, confusion, feelings of hopelessness and despair, distorted perceptions and hallucinations. Women experience intolerable feelings of rage, frustration and anger. Angry outbursts and acts of self-harm by women are often used to justify more restrictive conditions of

confinement, however, “rage is a reaction against, not a justification for their oppressive confinement” (Haney, 1993, p. 5).

In 2014, nearly half (48%) of the inmate population had experienced segregation at least once during their present sentence (Office of the Correctional Investigator, 2015). Segregation, often referred to as a ‘prison within a prison’, is argued to be the most punitive form of control used by correctional institutions (Carlen, 1983; Howe, 1994; Jackson, 1983; Messerschmidt, 1997; Rhodes, 2004; Shalev, 2009; Shaw & Rodgers, 1991; Shaylor, 1998). Units are “intentionally designed to create stark, severe and highly controlled environments, justified as absolutely necessary for managing dangerous and high-risk prisoners to ensure prison security” (Shalev, 2009, p. 24). To be designated high-risk is to be singled out as requiring expert advice, surveillance and self-regulation (Lupton, 1999). A recurring theme in official justifications for highly controlled spaces of confinement is a “focus on the dangerous nature or disposition of labelled prisoners” (Shalev, 2009, p. 51). The over-reliance on segregation is not uniform as certain incarcerated groups are more affected than others including federally sentenced women, women with mental health issues, Indigenous and Black inmates. Bauman (2000) argues that segregation units act as a factory of exclusion for people who are socially marginalized based on their race, class and gender. CSC suggests that prisoners in segregation have greater difficulty adjusting to the institutional environment, while critical scholars contend that the system is racialized; therefore, it is not that racialized women have a greater difficulty in adjusting to institutional life but, instead, experience greater difficulty due to structures of oppression (McGill, 2008; Martel, 2001; Shaylor, 1998).

Through examining the key arguments in the literature, I conclude that the over-representation of racialized women in segregation signals the need to examine how CSC policy

currently attends to the needs of federally sentenced women. In doing so, I draw attention to how multiple and intersecting systems of power operate through CSC policy. I highlight how subject positions and categories, such as gender and race, are constructed and shaped by processes and systems of power which operate together to shape experiences of privilege and penalty (Collins, 2000) between and among groups in the segregation framework. Within an IBPA, the focus is on the intersecting processes by which power and inequity are produced, reproduced and actively resisted (Dhamoon, 2011). Given that segregation is the most “onerous and depriving experience that the state can legally administer in Canada”, equitable safeguards for all prisoners are of the utmost importance (Office of the Correctional Investigator, 2015).

5.3. INTERSECTING POLICIES: SEGREGATION FRAMEWORK

This section answers the IBPA question, ‘*What are the current policy responses for segregation?*’ I outline policies and procedures that are implemented by CSC for federally sentenced women admitted to segregation in Canada. It is important to highlight that examining all policies and procedures relative to segregation is beyond the scope of this research. The implementation of one policy often has several coinciding Commissioner’s Directives, procedures, related links, and corresponding sections of the CCRA and CCRR that overlap. I focus specifically on developing a decision-making framework out of Commissioner’s Directives, guidelines and sections of the CCRA and CCRR that address segregation, federally sentenced women and race. I have developed several corresponding hierarchy charts (Appendix A-E, pp. 160-164) as visual aids. Commissioner’s Directives, Guidelines, sections of the CCRA and CCRR are referenced by their filing number. I have provided a legend of all the policies included in my analysis and their corresponding filing numbers, located at the beginning of the thesis on page IV. This chapter is structured to establish the anticipated decision-making process of CSC employees when admitting

federally sentenced women to segregation. In doing so, I highlight how race and gender are considered in segregation policy.

Creating Choices established a correctional philosophy for women offenders that acknowledges their unique needs⁴ as being crucial to consider when developing policies, guidelines, and procedures. To meet their needs, the CSC takes a “holistic, women-centred approach that prioritizes public safety” (Correctional Service of Canada, 2017h). In section 4 of the CCRA, the Correctional Service of Canada is mandated to ensure that “correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and are responsive to the special needs of women, Indigenous people, persons requiring mental health care and other groups” (CCRA, 1992, s. 4(g)). CD-578, *Intensive Intervention Strategy in Women Offender Institutions/Units*, provides “operational direction for the Intensive Intervention Strategy which encompasses the management of inmates classified as maximum security and/or with mental health needs at women offender institutions/units” (CD-578, 2017) (see Appendix A, p. 160). The purpose of CD-578 is to ensure the effective integration of mental health services, interventions, and appropriate security measures in the Structured Living Environment and Secure Units⁵ (CD-578, 2017). CD-578 is to complement the health services policies and procedures as they relate to inmates with mental health needs and applies to all staff working in women offender institutions/units (CD-578, 2017). All staff are responsible to “support the ongoing activities and interventions that comprise the Intensive Intervention Strategy, including those that are gender and

⁴ ‘Unique needs’ as identified by the CSC include: history of trauma and victimization, substance abuse, socio-economic status, ethno-cultural status, mental health, interpersonal relationship, and motherhood.

⁵ Secure Unit: “a unit that provides accommodation at regional women offender institutions (not including Okimaw Ochi Healing Lodge) for inmates classified as maximum security. This unit also contained cells that may be utilized for a segregation placement and/or for observation” (CD-578, 2017).

culturally informed”; sharing information and documenting interactions or observations related to these populations in an appropriate format (CD-578, 2017, para. 13).

Staff providing services to “Aboriginal inmates will consult with institutional Elders⁶ for decision making and case planning to ensure that their Aboriginal social history is considered when making decisions and referrals” (CD-578, 2017, para. 14). The Intensive Intervention Strategy consists of four key aspects, one being the Secure Unit, which addresses segregation for federally sentenced women. Inmates placed in segregation or in an observation cell are managed pursuant to CD-709, *Administrative Segregation*, GL-709-1, *Administrative Segregation Guidelines* and/or CD-843, *Management of Inmate Self-Injurious and Suicidal Behaviour* (CD-578, 2017, para. 32) (see Appendix B, p. 161).

As stated in CD-709, “administrative segregation⁷ is only used for the shortest period of time necessary, when there are no reasonable and safe alternatives” and occurs only after ensuring that vulnerable offenders are not placed in administrative segregation, except in exceptional circumstances⁸ (2017). The Institutional Head is the decision maker for the admission to, maintenance in, and release from administrative segregation in accordance with sections 31-37 of the CCRA (CD-709, 2017, para. 8 a). In accordance to the CCRA, “the purpose of administrative segregation is to maintain the security of the penitentiary or the safety of any person by not allowing an inmate to associate with other inmates” (CCRA, 1992, s. 31.1). An inmate in “administrative segregation has the same rights and conditions of confinement as other inmates,

⁶ Institutional Elders: “The CSC contracts Indigenous Elders to work with the Indigenous men and women who are under care and custody of the Service. Elders provide counselling, ceremony, teachings and guidance to offenders who are following a traditional healing path. There are currently approximately 120 Elders who are working within CSC’s institutions across Canada” (Correctional Service of Canada, 2017i).

⁷ Administrative segregation: “The separation of an inmate to prevent association with other inmates, when specific legal requirements are met, other than pursuant to a disciplinary decision” (CD-709, 2017).

⁸ Exceptional circumstance: “An immediate situation which endangers the life, safety or health of inmates, staff, visitors, or the security of the institution” (CD-709, 2017).

except for those that (a) can only be enjoyed in association with other inmates; or (b) cannot be enjoyed due to (i) limitations specific to the administrative segregation area, or (ii) security requirements” (CCRA, 1992, s. 37). It is expected that the Institutional Head considers the “inmate’s mental health needs, gender, ethnic, cultural and linguistic differences and are responsive to the special needs of women and Aboriginal peoples” (CD-709, 2017, para. 8.i.iv).

Inmates with a serious mental illness with significant impairment⁹, including “inmates who are certified in accordance with the relevant provincial/territorial legislation, and inmates actively engaging in self injury, which is deemed likely to result in serious bodily harm or at elevated or imminent risk for suicide, will not be admitted to segregation” (CD-709, 2017, para. 19a, 19b). Inmates admitted to administrative segregation who are subsequently identified as falling within paragraph 19a and/or 19b will be released from administrative segregation and managed in accordance with CD-843- *Interventions to Preserve Life and Prevent Serious Bodily Harm* (CD-709, 2017, para. 20). CD-843 ensures the “safety of inmates who: 1) are self-injurious¹⁰; 2) are suicidal¹¹; or 3) have a serious mental illness with significant impairment, by using observation or restraint as a last resort for the purpose of preserving life and preventing serious bodily harm, while maintaining their dignity in a safe and secure environment” (CD-843, 2017). All staff will intervene immediately when an inmate is discovered in the act of self-injury or attempting suicide in accordance with CD-567- *Management of Security Incidents* and CD 567-2 *Use of and*

⁹ Serious mental illness with significant impairment: “Presentation of symptoms associated with psychotic, major depressive and bipolar disorders resulting in significant impairment in functioning. Assessment of mental disorder and level of impairment is a clinical judgement and determined by a registered health care professional. Significant impairment may be characterized by severe impairment in mood, reality testing, communication or judgement, behaviour that is influenced by delusions or hallucinations, inability to maintain personal hygiene and serious impairment in social and interpersonal interactions. This group includes inmates who are certified in accordance with the relevant provincial/territorial legislation” (CD-709, 2017).

¹⁰ Self-injury/self-injurious behaviour: “The intentional, direct injuring of body tissue without suicidal intent” (CD-843, 2017).

¹¹ Suicidal behaviour: “a behaviour that intentionally puts one’s life at risk and may result in death, done with the intention to end life” (CD-843, 2017).

Responding to Alarms (CD-843, 2017). CD-567 consists of an engagement and intervention risk-based model “intended to guide staff in both security and health activities to prevent, respond to, and resolve incidents using the most reasonable interventions” (CD-567, 2018). Using the AIM risk evaluation tool¹², staff will arrive at a level of risk. As part of formulating an intervention strategy, staff must consider situational factors, including self-injurious or suicidal behaviour (CD-567, 2018). Intervention strategies include isolation and control, first aid, and health care intervention (CD-567, 2018).

Under CD-843, like CD-709, all staff and contractors are “responsible to respect gender, cultural, religious and linguistic differences, and be responsive to the special needs of women and Indigenous peoples” (CD-843, 2017). Upon admission to administrative segregation, the Immediate Needs Checklist- Suicide Risk (CSC 1433e) must be used. According to CD-843, “an inmate who is at elevated or imminent risk for suicide, is actively engaged in self-injurious behaviour, or has been identified by a health care professional as having a serious mental illness with significant impairment and whose risk cannot be safely managed within the normal institutional routine may be placed on High or Modified Watch¹³” and therefore, cannot be placed in segregation (CD-843, 2017).

Pursuant to Annex B of GL-709-1- *Administrative Segregation Guidelines*, the CSC Administrative Segregation Assessment Framework, including the Segregation Assessment Tool (SAT), must be completed prior to an admission to administrative segregation (see Appendix C,

¹² AIM tool is based on the following factors: A) Ability: physical and mental capacity and opportunity to carry out the threat B) Intent: shows intent to behave or act in a specific manner (verbal-non-verbal) to carry out the threat C) Means: has the means to carry out specific action or behaviour associated with the threat (CSC, 2018).

¹³ High or Modified Watch: “Will only be used as a last resort after all reasonable efforts to use alternative, less restrictive measures and de-escalation strategies have been considered or implemented and assessed as not effective. The decision to use High Watch or Modified Watch is based on an individualized risk assessment” (CD-843, 2017, para. 8).

p.162 for the SAT and Appendix D, p. 163 for the Segregation Assessment Framework). The Segregation Assessment Tool (Annex A, GL 709-1) consists of a series of questions for CSC employees when assessing admission to or as part of a segregation review. Pursuant to CD 709, CSC engages the Segregation Assessment Tool (SAT) that must be completed prior to an admission to administrative segregation. The SAT is divided into sections, holding the user accountable to reflect on and formally document the purpose of admission, procedural safeguards regarding admission, procedural safeguards in review, and the inmate's needs in review. The SAT is supposed to be completed by the Institutional Head, or delegate, prior to admission to administrative segregation and prior to each Institutional Segregation Review Board hearing (GL-709-1, 2017). The completed SAT is attached to the Admission and Review screens in the Offender Management System (OMS)¹⁴. For the purpose of this analysis, I concentrate on examining the SAT questions, options and outcomes for the admission to segregation process¹⁵. The purpose of admission assessment consists of six sections¹⁶, totalling 38 questions. Reasons for admission require the user to answer in the affirmative to at least one of the following three questions: has the inmate acted or does the inmate intend to act in a manner that jeopardizes the security of the institution and/or safety of other individuals, section 31(3)(a) of the CCRA; will allowing the inmate to associate with other inmates interfere with an investigation that could lead to a criminal charge or a charge under subsection 41(2) of a serious disciplinary offence, section 31(3)(b) of the

¹⁴ The Offender Management System (OMS): is a computerized case file management system used by the Correctional Service of Canada, the Parole Board of Canada, and other criminal justice partners, to manage information on federal offenders throughout their sentences. The system gathers, stores, and retrieves information required for tracking offenders and making decisions concerning their cases.

¹⁵ The SAT is divided into 4 categories: Purpose, Procedural Safeguards: Admission, Procedural Safeguards: Review, and Inmate's Needs: Review.

¹⁶ Sections for Purpose of Admission: Section 1: Reason for Admission, Section 2: Establishing the Facts, Section 3: Risk Assessment, Section 4: Alternatives Considered and Eliminated as Viable Options, Section 5: Consultation, Section 6: Additional Considerations

CCRA; and will allowing the inmate to associate with other inmates jeopardize the inmate's own safety. If the user selects CCRA 31(3)(a) as reason for admission, the user is asked to select the inmate's specific behaviour demonstrating that the has acted or intends to act in a manner that jeopardizes the security of the institution and/or the safety of others. The options are as follows: credible threats, inciting a riot/disturbance, safety risk to others, physical fight, contraband seizure, safety risk to himself/herself and other (selection of which, the user must describe the behaviour). Out of the listed options, the tool result becomes "segregation is recommended" if the staff member assesses that the individual poses a safety risk to himself/herself.

Section 3 of the SAT, is titled Risk Assessment. The user is first asked to indicate the severity of the threat that will actualize if the inmate is not segregated, with the options being high, moderate and low severity. If the user indicates low, the tool result becomes "segregation not recommended". If the user selects high or moderate, they are asked if the threat includes serious bodily injury, incitement of others to compromise the safety/security of the institution, or major destruction of property. If the user answers yes, they rate the likelihood that the threat will actualize if the inmate is not segregated, again as either high, moderate or low. Only if the user indicates low, is segregation not recommended. At least one of the responses to questions 15, is the behaviour ongoing, 16, is the inmate threatening more or similar behaviour, or 17, is there reliable information that indicates the intention and imminence of similar behaviour in the future, must be 'yes' or the tool will instruct the user to review the level of likelihood and consider setting it to low. The next question in the assessment tool requires the user to assess whether the individual's continued placement outside of segregation compromises the security of the institution, the safety of another person, and/or an investigation; if not, segregation is not recommended. If yes, the user is asked if admission to administrative segregation is the only option to contain the behaviour in

question, if no, the tool result becomes “segregation not recommended”. Alternatives that must be considered and eliminated as viable options by the user before segregation placement are: invoking a change in unit, transfer, voluntary cell confinement, mediation, culturally appropriate/restorative alternatives and mental health care placement. Section 6 of the Segregation Assessment Tool, *additional considerations*, states that the inmate’s health and health care needs, including readily apparent physical and mental health concerns and Aboriginal social history must be considered before admission to segregation (GL-709-1, 2017, s. 6). If there are any readily apparent physical or mental health concerns pursuant to section 87 of the CCRA¹⁷, they should be considered before placing an inmate in administrative segregation.

Annex B of GL-709-1, is the Segregation Assessment Framework. The following information must be included in the reason/rationale section of the Segregation Admission screen in the Offender Management System (OMS): 1) Incident description; 2) procedural safeguards¹⁸; 3) Alternatives considered and eliminated as viable options; 4) Aboriginal social history; 5) physical and mental health; 6) segregation history; 7) recommendation; 8) regional review; and 9) recording decisions. I focus on physical and mental health, segregation history and Aboriginal social history as they relate to women, and Aboriginal and/or other culturally specific needs. The user is asked if the individual’s physical and mental health needs were taken into consideration in the decision to place them in administrative segregation (GL-709-1, 2017, Annex B, s. 5). The user must demonstrate that all readily apparent physical and mental health concerns were considered in rendering a decision, particularly in relation to their initial admission to administrative segregation,

¹⁷ “87. The Service shall take into consideration an offender’s state of health and health care needs; (a) in all decisions affecting the offender, including decisions relating to placement, transfer, administrative segregation and disciplinary matters; and (b) in the preparation of the offender for release and the supervision of the offender” (CCRA, 1992, s. 87).

¹⁸ Procedural safeguards: “Verify that all procedural safeguards have been addressed in the Segregation Assessment Tool” (GL-709-1, 2017).

including a discussion about the incident prompting the segregation assessment and its possible link to the inmate's physical and mental health (GL-709-1, 2017, Annex B, s. 5). For segregation history, users are expected to provide a description of the inmate's segregation history and demonstrate that this information was considered in rendering a decision (GL-709-1, 2017, Annex B, s. 6). In the segregation framework, the CSC does not provide any details on how history is assessed nor how it factors into decision making. For Aboriginal social history¹⁹, users are expected to consider all factors relevant to the inmate's Aboriginal social history prior to rendering a decision. This includes discussion about the incident, consideration of any possible link this incident has with the inmates' Aboriginal social history, and access to Elder support, Aboriginal programs and traditional healing paths as outlined in CD-702, *Aboriginal Offenders* (GL 709-1, 2017, Annex B, s. 4) (see Appendix E, p. 164). In *R. vs. Gladue* (1999), the Supreme Court of Canada declared that the courts must take notice of the unique social, historical and cultural circumstances of Indigenous people and how this history has contributed to their over-representation in Canada's criminal justice system. CD-702 applies this ruling to corrections. The purpose of CD-702 is to respond to the specific needs of Aboriginal offenders by providing effective interventions through a continuum of care model²⁰. As identified in the hierarchical chart, sections 79 to 84 of the CCRA address Aboriginal inmates. Section 79 defines Aboriginal as

¹⁹ Aboriginal social history: "The various circumstances that have affected the lives of most Aboriginal people. Considering these circumstances may result in alternative options or solutions and applies only to Aboriginal offenders (not to non-Aboriginal offenders who choose to follow the Aboriginal way of life). The circumstances include the following (note that this is not an exhaustive list): effects of the residential school system, sixties scoop into the adoption system, effects of the dislocation and dispossession of Inuit people, family or community history of suicide, family or community history of substance abuse, family or community history of victimization, family or community fragmentation, level or lack of formal education, level of connectivity with family/community, experience in the child welfare system, experience with poverty, loss of or struggle with cultural/spiritual identity" (CD-702, 2013).

²⁰ Strategic Plan for Aboriginal Corrections: "the Continuum of care recognizes that Aboriginal communities must be involved in supporting Aboriginal offenders during their healing journey and reintegration, as they link offenders to their history, culture and spirituality" (CD-702, 2013, Annex B).

Indian, Inuit or Métis; (autochtone), and Aboriginal community as a First Nation, tribal council, band, community, organization or other group with a predominantly Aboriginal leadership (collectivité autochtone) (CCRA, 1992). Sections 80-84 of the CCRA provide details on programs, agreements, advisory committees, spiritual leaders and elders, and release to Aboriginal community.

Through unifying policies that address race, gender, mental illness and self-injurious behaviour, this chapter has established the anticipated decision-making processes CSC employees engage when assessing whether or not to admit a federally sentenced woman to segregation. The current policies are guided by two narratives; namely, how to address and best manage an ‘at-risk’ prisoner and a ‘risky’ prisoner. The ‘at-risk’ prisoner is in ‘need’ of a “safe and supportive environment [that provides] opportunities to empower” them in pro-social ways (Correctional Service of Canada, 2017b). The ‘risky’ prisoner is isolated in segregation “to maintain the security of the penitentiary or the safety of any person” (CCRA, 31 (1)). Within these narratives, the current segregation framework attempts to respond to the histories, needs and experiences of three distinct target groups: women, Indigenous people, and those suffering from mental illness. Hannah-Moffat (1999, 2000) argues that within correctional practice, women’s histories, needs and experiences, including self-injury, victimization and mental health concerns are reframed as problematic and even dangerous through the imposition of risk-based decision-making templates. In the next section, I assess how the hybridization of needs and risks in the segregation framework impacts the experience of racialized and gendered women in prison through answering the descriptive question, *how are groups differentially affected by risk/need management in the segregation framework?*

5.4. ASSESSMENT: SEGREGATION FRAMEWORK

In this section, I evaluate the differential effects of risk/need assessment and management on women placed in segregation. I examine the processes and mechanisms by which ‘risky’ women are identified, constructed and addressed as documented in OCI reports, court documents, and legal, medical and social science literature. The purpose of this section is to reveal assumptions that underpin existing government priorities, the populations targeted for policy interventions, and what inequities and privileges are created by current policy responses. To answer the descriptive question, *‘How are groups differentially affected by risk/need management in the segregation framework?’*, I examine how the CSC considers the differences between and among women, including Indigenous women and those suffering from mental health issues.

Constructing Difference

Women offenders, Indigenous women in particular, are the fastest growing population in Canadian corrections (Office of the Correctional Investigator, 2017). Indigenous women are disproportionately over-represented in segregation placements, use of force interventions, maximum security institutions and amongst self-injurious incidents (Office of the Correctional Investigator, 2017). Scholars argue that the universalized category of ‘women’ derives from patriarchal characterizations of women’s behaviour and that standards generated based on research done with male prisoners are used to determine who is constructed as ‘risky’, ‘defiant’ or ‘misbehaved’ in women’s prisons (Dell, Fillmore, Kilty, 2009; Hannah-Moffat, 2000). The criminal justice system continues to prioritize traditional interpretations of womanhood that construct women as passive and compliant over those that are interpreted as unfeminine, defiant and misbehaved (Dell, et al., 2009). Gender responsive policy, including CD-578, addresses the histories, needs and experiences of women that conform to a traditional view of femininity and by so doing, work to construct women who do not express their womanhood in that way as inherently

‘risky’, an interpretive framework that is used to justify segregation placements (Hannah-Moffat, 2000).

As referenced in *Worm v. Canada* (2011), the Management Protocol²¹ was used to govern women prisoners deemed to be ‘high risk’ in a way that prioritized expectations of hegemonic femininity by segregating women who did not reflect gender normative expectations. The Protocol imposed a “zero” tolerance policy for ‘aggressive behaviour’ which was broadly defined to include physical or emotional behaviour and could include behaviours that are unrelated to a woman’s level of risk, such as swearing or being disrespectful to staff (*Worm v. Canada*, 2011). The approach embodied in the Management Protocol resulted in Worm being kept in segregation for prolonged periods of time and returning to segregation for minor disciplinary infractions that would not warrant segregation if the prisoner were in the general prison population. No similar protocol was created for men which indicates that the CSC views women as inherently more ‘risky’ and in need of control. The vast majority of women under the Management Protocol were Indigenous, which suggests that the CSC identifies Indigenous women as inherently ‘risky’ in comparison to other women prisoners. Intersections of sexism, racism, and colonialism operate through this segregation framework to produce and consolidate Indigenous and Black women as ‘risks’ to the security of the institution. A stereotypical ‘Indian’ or Black woman’s identity characterization as being tough and often times promiscuous, contrasts with normative expectations of femininity (Carter, 1997; Collins, 2000, 2004; Ford, 2008; Gossett, 1997; Hamilton & Sinclair, 1991; Razack, 2000; Stevenson, 1999; West, 2008). Staff in women’s prisons report

²¹ The Management Protocol was a program developed by CSC for women prisoners who were deemed to be “high risk”. A key aspect of this program was its use of prolonged and indefinite solitary confinement. No similar program was created for men (*Worm v. Canada*, 2011). In response to the *Worm v. Canada* lawsuit, CSC abolished The Management Protocol in 2011.

being concerned about judgemental attitudes towards minority women who may be seen as too assertive, outspoken, or submissive (Shaw and Hannah-Moffat, 2000).

Worm reported discrimination by the Correctional Service of Canada against Indigenous women as they were often given fewer privileges and longer and harsher punishments (Dhillon, 2017). Similarly, Black women prisoners face significant discrimination once behind bars. Arlene Gallone, a Black woman, placed in a segregation cell for a total of nine months, has accused the CSC of placing her in segregation for benign instances such as banging too loudly on her door or blocking the toilet (Woods, 2017). As reported by the Office of the Correctional Investigator (2013), Black women are targeted and penalized by correctional staff for “kissing their teeth”²². Despite consistent over-representation of Black inmates in segregation placements, (OCI, 2013b), the CSC has not developed responsive policy to address the needs, histories and experiences of Black Canadians in federal institutions. The CSC responds to culture singularly through CD-702, Aboriginal Offenders. This is problematic as the over-representation of Black prisoners in segregation is not being addressed through responsive policy, indicating it is not a priority of the Canadian Government. In comparison, the Canadian Government has prioritized “greater recognition and understanding of Indigenous community issues and Indigenous cultures and traditions” (CSC, 2017g) to “renew a nation-to-nation relationship with Indigenous Peoples” (Public Safety, 2015). As a multi-cultural country, it is of the utmost importance to ensure that policies are designed to address the rehabilitative needs of all prisoners with varying histories and experiences.

²² The phrase “kissing their teeth”, as reported by Black women, means essentially saying “whatever”, showing attitude, to correctional staff (OCI, 2013b).

CD-702 responds to the specific needs of Indigenous offenders by “providing effective interventions through a Continuum of Care model” (CD-702, 2013). As identified in the segregation framework, acknowledging social history is the primary way that the CSC attempts to be responsive to Indigenous needs. As stated in the notice of civil claim (2011), Worm suffered from a serious history of trauma and abuse. Many of her family members were sent to residential schools and she suffered extreme physical, emotional and sexual abuse throughout her childhood and adolescence (*Worm v. Canada*, 2011). As a result of her abusive childhood and adolescence, Worm suffers from Post-Traumatic Stress Disorder (PTSD), however, she was not provided monitoring or access to therapy for the majority of her time in prison (*Worm v. Canada*, 2011). Failure to consider Worm’s social history and furthermore, mental health demonstrates that CD-702, CD-578, and CD-843 were not mobilized to address her needs.

In fact, the OCI (2016) reported that CSC staff are poor at documenting how they take Indigenous social history factors into account, which is exemplified through the testimony of a CSC employee who was not aware of any cases in which an inmate’s Indigenous social history prevented segregation (*BCCLA & JHSC v. AG of Canada*, 2018). Indigenous women are differently affected by administrative segregation as it can exacerbate distress for individuals with a history of physical or sexual abuse (*BCCLA & JHSC v. AG of Canada*, 2018). Therefore, segregation policy must prioritize ensuring that they respond to the needs of Indigenous women to facilitate a more rehabilitative environment rather than a harmful and excessively punitive one. Worm was only granted access to therapy after spending more than two years in solitary confinement; she stated that CSC employees told her that “solitary confinement would help, but it made [her] even worse” (Dhillon, 2017). During her imprisonment, Worm showed significant signs of psychological deterioration attributable to being segregated for an extended period of time

(*Worm v. Canada*, 2011). The lack of attention Worm received from mental health providers indicates how CD-843 fails to ensure that women suffering from mental illness are monitored frequently. Furthermore, while in segregation, Worm was unable to access treatment for her pre-existing PTSD or the spiritual Indigenous services to which she was entitled, which demonstrates CSC's inherent focus on the security of the institution rather than the rehabilitative needs of women prisoners (*Worm v. Canada*, 2011).

According to the CSC, the major factor contributing to Indigenous offenders' success upon release is their participation in spiritual and cultural activities and programs (CD-702, 2013). The Medicine Wheel, found at the centre of the Continuum of Care, "reflects research findings that culture, teachings and ceremonies (common aspects of Indigenous identity) appear critical to the healing process" (CD-702, 2013). CD-702 is built upon the identity criteria that are set by the Canadian government and that critics suggest demonstrate a "clearly racialized construction of the otherness of Indigenous people" (Martel & Brassard, 2008, p. 344). In practice, correctional staff come to interpret and manage these behaviours and attitudes of 'otherness' as factors that jeopardize the security of the prison, which means that the specific needs and experiences of Indigenous prisoners are addressed as risks. This interpretative framework fails to disrupt, and in fact, reinforces colonized relations via the application of the segregation framework. The construction of Indigenous identity in CD-702 cannot be understood in isolation of intersecting historical, social and political contexts (Fridkin, 2012). The Canadian Government's role in imposing an identity on Indigenous people, as opposed to legitimizing Indigenous people's right to define themselves, is an example of how colonialism operates within the segregation framework to shape a particular view of Indigenous identity, which is "constructed as wholesale, as a single, all-encompassing object in which traditional- and susceptibly stigmatized- identity markers of

Indigenous cultures, such as sweat lodges, occupy a sizeable portion” (Martel & Brassard, 2008, p. 344).

CD-702 operates in a way that stigmatizes Indigeneity by ‘othering’ Indigenous people, specifically Indigenous women, whose ‘needs’ are understood based on the presumption that one Indigenous identity exists and that the women who self-identify as Indigenous, want to be reconnected to a particular positioning of Indigenous culture (Martel & Brassard, 2008, p. 346). Martel and Brassard (2008) suggest that there is a lack of fit between the institutional construction of hegemonic Aboriginality and individual self-identifications as Indigenous. Such situated selves tend to contradict the intention of the prison regime and hegemonic Aboriginality in general (Martel & Brassard, 2008, p. 357).

The assessment of CD-578 and CD-702 demonstrates that neither policy addresses women’s or Indigenous peoples needs, experiences, or histories in ways that contest gendered and racialized power imbalances within risk management. A patriarchal, colonial model for risk management has been imposed on women and Indigenous populations by interpreting their identities as one dimensional and different despite a government commitment to recognize and address women’s varying needs. A key shortcoming of homogenizing target groups through CD-578 and CD-702 is that it individualizes social concerns by addressing needs as risks. In practice, the segregation framework constitutes Indigenous women as threats to the security of the institution rather than women in need of rehabilitative programming and support. These gendered and racialized interpretations of women’s behaviours and attitudes further intersect with policies that addresses mental illness and self-injurious behaviour to potentially fatal ends.

Addressing Mental Illness and Self-Injurious Behaviour

As reported by CSC (2012), women with mental health needs are more likely to be placed in maximum security and segregation units. These women present with unique psychological needs such as major mental illness, personality disorder, cognitive impairment, learning disorder, substance abuse, trauma, or any combination of these (Office of the Correctional Investigator, 2017). To evaluate how women with mental health needs are differentially affected by risk/need management, I reference two investigations completed by the OCI: *Maxed Out: A Review of the Secure Units at the Regional Women's Facilities* (2017) and *Risky Business: An Investigation of the Treatment and Management of Chronic Self-Injury Among Federally Sentenced women* (2013) as well as two BCCLA court cases: *Worm v. Canada: Working to End Solitary Confinement* (2013) and *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons* (2015). All experiences examined in this section were documented prior to the August 2017 amendment to CD-709 and CD-843 which indicates that inmates with significant mental impairment and those partaking in self-injurious behaviour are not admissible to segregation. By examining the material experiences of federally sentenced women in segregation as described in these reports, I will demonstrate how responsive policy for mental illness and self-injurious behaviour are operationalized in practice.

In *Maxed Out: A Review of the Secure Units at the Regional Women's Facilities* (2017), the OCI reports that a significant number of women in maximum security engage in chronic, repetitive self-injurious or suicidal behaviour. In one incident, a woman committed suicide on the segregation range, located in a Secure Unit, while under observation for serious mental health issues, which demonstrates that observation cells do not provide an environment that fosters or addresses the needs of mentally ill women (Office of the Correctional Investigator, 2017). Both women and staff voiced their concerns with the lack of support to respond to women's mental

health needs (Office of the Correctional Investigator, 2017). Offenders who have been identified in their Correctional Plans as having mental health issues are much more likely to have a history of being segregated than those who have been identified as having no mental health needs (63.2% compared to 48%) (Office of the Correctional Investigator, 2015). Upwards of 90% of the women interviewed reported being segregated during their sentence and one-quarter of the women reported being under some form of mental health monitoring for self-harm or suicide watch during the previous year (Office of the Correctional Investigator, 2017). Though CD-843 protects prisoners from being placed in segregation while self-injuring or experiencing suicidal thoughts or a serious mental illness, women can still be placed in observation cells for mental health monitoring or clinical isolation. Conditions of observation cells mirror those of segregation units. The OCI was informed by CSC staff in one region that women are provided earplugs while on clinical isolation to assist them to cope with the screaming from other women in segregation, co-located on the same wing (Office of the Correctional Investigator, 2017). The investigation found that women's mental health problems were often exacerbated during their placement in segregation and clinical isolation, as many reported feeling extremely anxious or paranoid and some women discussed becoming suicidal during their stay in segregation (Office of the Correctional Investigator, 2017). One woman described her experience in this way:

Being in a hole in the wall because that's what it is: it's a cement hole in the wall.... I started getting claustrophobia while I was in segregation. I started feeling like I couldn't breathe and...um... I actually tried to kill myself, I came very close... tried to hang... I tried to kill myself... I almost died. I tried to take my own life... it literally, like it destroys you. It literally destroys your spirit. (Office of the Correctional Investigator, 2017, p. 63)

As documented by the BCCLA, Worm also described several feelings of depression, hopelessness and lack of control while in segregation (*Worm v. Canada*, 2011). She, too, struggled with suicidal thoughts, anxiety and paranoia. Worm said that while in segregation, she suffered

from loss of memory, as well as attention deficits (*Worm v. Canada*, 2011). She showed significant signs of psychological deterioration attributable to being segregated for an extended period of time (*Worm v. Canada*, 2011). Worm described solitary confinement as (Griffin, 2013):

[doing] one thing: [breaking] a person's will to live. Being locked up [in solitary confinement] you start to feel like you're losing your mind. The only contact with another human is through a food slot. Days turn into nights- you have no idea whether you will ever get out. If you're not broken when they put you in the hole, you're broken when they take you out... it makes no sense to hurt people so badly that they can't function when they come out. (Para. 8)

The vast majority of women struggle to cope with their mental health problems in an environment that is far from supportive or conducive to treatment. Worm felt that CSC counsellors and psychologists were there to sign off on her continued segregation rather than to help her, and that anything she told them would be used against her; as a result, she did not trust counsellors or psychologists (*BCCLA and JHSC v. AG of Canada*, 2017). The court cases and the OCI investigation (2017) illustrates the many ways in which the physical infrastructure of the Secure Unit and its operational policies and practices act as barriers to any improvement in women's mental health (Office of the Correctional Investigator, 2017). Women consistently report numerous harmful consequences of their daily routine that are linked to the management of complex cases on the maximum security unit, notably being routinely confined or "locked up" in their cell and subsequently having their interventions cancelled (Office of the Correctional Investigator, 2017). These lock-ups cause a great deal of frustration for the women and for the program and therapeutic staff who cannot provide these services. Despite the emphasis on compliance and control that dominates the correctional philosophy and the movement of women into the Secure Unit, a significant number of women have reported that they do not feel safe in this environment (Office of the Correctional Investigator, 2017). As a result, many engage in self-harm once isolated.

The second investigative report, *Risky Business*, documents how the CSC responds to the mental health needs of women and assesses the use and impact of disciplinary measurements and security controls to manage and prevent self-injury (Office of the Correctional Investigator, 2013). There have been clear indications that a “security-driven culture among correctional staff has resulted in a risk-averse reflex to control and/or contain self-injury incidents” (Office of the Correctional Investigator, 2013, p.12). CD-843 states that all staff and contractors must intervene immediately when an inmate is discovered in the act of self-injury or attempting suicide in accordance with CD-567, Management of Security Incidents (CD-567, 2018). A security response involves assessing and treating a self-injurious incident as a compliance issue for example, ordering a woman to comply with an order to cease their self-injury. If the inmate does not comply with verbal negotiations or with orders to stop self-injuring, then staff typically respond by using mechanical restraints in order to control her behaviour (Office of the Correctional Investigator, 2013). The investigation found that security and control interventions are generally disproportionate to the risk presented and are often inappropriate from a mental health needs perspective (Office of the Correctional Investigator, 2013). The OCI heard from several women that they routinely refrain from discussing their self-injury ideations or behaviour with either mental health or other support staff out of fear that these individuals will inform security staff and they will be segregated as a result (Office of the Correctional Investigator, 2013). In most cases, these measures “simply contain or reduce immediate risk of self-injury, but are not intended to deal with the underlying reasons or symptoms of mental illness manifested in self-injury behaviour” (Office of the Correctional Investigator, 2013, p. 14).

Despite CD-843 guidelines, the practice of isolating women who self-injure remains a significant management strategy, often made by security personnel rather than mental health staff

(Office of the Correctional Investigator, 2013). Mental health professionals are expected to play a large role in the treatment and management of prison self-injury and a file review found that, per policy, mental health staff consistently met with offenders within 24 hours of the self-injury incident (Office of the Correctional Investigator, 2013). However, in the majority of the incidents reviewed, the decision to place an inmate in seclusion was made and carried out by security staff even when mental health staff were on site at the time of the incident (Office of the Correctional Investigator, 2013). The majority of the mental health staff that were interviewed indicated that they were often called only after the incident had been contained and the offender had been moved to the segregation range for observation (Office of the Correctional Investigator, 2013). This is in direct contravention of the requirement that mental health professionals make all decisions regarding seclusion placements when available. A mental health professional suggested that there was an “unwritten rule” at that particular institution that mental health staff are not to intervene in self-injury incidents, as these incidents are construed as security incidents (Office of the Correctional Investigator, 2013). She elaborated that the only time she felt permitted to “intervene immediately in a self-injurious incident was if the woman disclosed her ideations of self-injury while involved in a treatment session” (Office of the Correctional Investigator, 2013, p. 26). Many women did not associate mental health staff with the self-injury intervention process. In the words of one woman, “it’s the officers that deal with you” (Office of the Correctional Investigator, 2013, p. 26).

In some cases, contextual factors led to more restrictive placements. For example, if the woman resisted the placement for clinical seclusion²³ and began engaging in self-injury or refused

²³ Clinical seclusion: “the involuntary confinement alone in a cell/room of a seriously disordered inmate/patient who presents an imminent risk of physical harm to self or others” (OCI, 2013, p. 17)

orders to stop self-injuring, security staff may decide to admit her to administrative segregation for jeopardizing the security of the penitentiary under CCRA 31(3)(a) (Office of the Correctional Investigator, 2013). The investigation found considerable confusion among the women with respect to the difference between segregation and clinical seclusion as most indicated, in both cases, feeling as if they were being punished for engaging in self-injury (Office of the Correctional Investigator, 2013). One woman told the OCI that she was in segregation for two years. A review of her file “indicated that she had never been placed in administrative segregation during the review period; however, was under a clinical seclusion regime” (Office of the Correctional Investigator, 2013, p. 18). Research has found that isolating practices, even when used solely for monitoring purposes, are often perceived as punitive measures, which increases negative emotions and heightens the risk for further self-injury (Heney, 1990; CSC, 2010; Howells, Hall & Day, 1999). The extreme deprivation and isolation that prevails in segregation, observation or clinical seclusion cells can exacerbate symptoms of mental illness. A disproportionate number of prison self-injury incidents occur in cells that are “particularly austere (Secure Units in Maximum Security), lack external stimuli (clinical seclusion), or limit contact and association with others for behavioural, disciplinary or protective reasons (segregation)” (Office of the Correctional Investigator, 2013, p. 28). The severity and frequency of self-injurious and/or restrictive behaviours often intensifies as the conditions of confinement become more isolating. In prison, placements on suicide watch, clinical seclusion or observation cells are preservation of-life measures; in most cases, they are not clinical interventions. The management of self-injurious behaviour and/or suicidal persons in federal custody has long been a concern of the OCI.

As demonstrated in the material experiences recounted by incarcerated women in the OCI reports, the current emphasis on criminogenic risk may in fact disadvantage women, as their needs,

such as those related to self-injury and past abuse and trauma, are reconfigured as static risk factors (Hannah-Moffat, 2006). Specifically, women with substantial mental health needs, including those who self-injure and who act out, are often classified as “high risk/need” and are, therefore, separated from the general population and housed in secure or segregated units (Hannah-Moffat, 2010). Risk assessments frame women’s experiences of victimization in a way that simultaneously infers they had some choice and thus responsibility for that victimization and that they also have the capacity to change. The rational self-governing subject’s capacity for choice and individual responsibility, is therefore, privileged over considerations of the structural forces that create inequalities and the increased risk of victimization. The next section examines where and how interventions can be made to reduce the inequities that are currently reinforced through the segregation framework.

5.5. TRANSFORMING THE SEGREGATION FRAMEWORK

This section answers the following transformative questions, *‘Where and how can interventions be made to improve the segregation framework? What are feasible short, medium and long-term solutions? and lastly, ‘How will proposed policy responses reduce inequities?’*. I identify and examine alternative policy responses and solutions specifically aimed at social and structural change to reduce inequities and promote social justice in the segregation framework. I consider actions that will ensure meaningful uptake of equity-focused policy solutions as well as the measurement of the impacts and outcomes of proposed policy responses. An intersectional lens enables a more critical consideration of the complex ways that gender and race come to structure how men and women are treated as they move through the criminal justice system. This is important if policy actors are going to account for the broader conditions that structure the differential treatment *between* and *within* gender and race that are documented throughout my

analysis. Although it is ultimately CSC's responsibility to create a segregation framework, ideas underpinning these policies often emerge from interventions with key stakeholders including legal and medical professionals, academics and activists (Birkland, 2011; Varcoe, Pauly & Laliberté, 2011).

In acknowledging the many components and steps of policy reform, I have developed a strategic plan for transforming the segregation framework (see Appendix F, p. 165, *Transforming the Segregation Framework: Strategic Plan*). The strategic plan outlines the policies to be reformed, the potential timeline, previous policy and legislative decisions and Calls to Action²⁴ I have developed to increase equity and social justice in the segregation framework. The policies to be reformed are listed in a series of sequential steps, beginning with short-term reformative policy solutions, progressing to the long-term transformative solutions. I have organized steps in the strategic plan to reflect current priorities of the government, CSC, academics, and legal/medical professionals. First, I address administrative segregation and the tabling of Bill C-56, an *Act to Amend the Corrections and Conditional Release Act* and the *Abolition of Early Parole Act*. Tabling Bill C-56 is a recent step taken by the Government of Canada to reform segregation legislation. Second, I address mental health policy, specifically CD-709 and CD-843, as they were recently amended by the CSC and discussed among academics, and legal and medical professionals. Third, I discuss gender and culturally responsive policy and training, specifically CD-702 and CD-578. Lastly, I propose long-term alternative approaches to the segregation framework, informed by the Ontario Human Rights Commission (2016), WHO Europe (2014), UN special Rapporteur (2011), CAEFS, BCCLA, JHSC and affected groups that have experienced segregation, including women and Indigenous. Activists calling for the abolition of segregation acknowledge that legislative and

²⁴ The Calls to Action refer to recommendations I have developed for CSC policy reform.

policy transformation is needed to achieve this goal. As a long-term goal, I argue abolishing segregation is the only way to achieve true social justice and equity.

Segregation policy and its processes can only become equity-oriented when current evidence, assumptions, and knowledge surrounding segregation are interrogated and informed by the principles of intersectionality (Hankivsky et al., 2012). Policymakers and CSC employees must attend to the intersecting processes of discrimination that mediate access to rehabilitation. The purpose of the strategic plan is to propose policy solutions that incorporate intersectionality into the segregation framework. Prioritizing culturally and gender safe practices and paying attention to intersections of power that situate such practices are integral to advancing segregation policy and practice reform. To begin, I examine the proposed interventions by the Government of Canada and the CSC regarding the use of administrative segregation.

Administrative Segregation

The Canadian Government and the CSC acknowledge the need to reform administrative segregation policy and legislation. This section will reference Bill C-56, an *Act to Amend the Corrections and Conditional Release Act* and the *Abolition of Early Parole Act*. The Government of Canada is undertaking a broad examination of Canada's criminal justice system to ensure that it is "just, compassionate and fair, and promotes a safe, peaceful and prosperous Canadian society" (Transforming the CJS, 2015, para. 3). In transforming the criminal justice system, the government, in the short-term, has committed to looking at how to improve treatment for offenders with mental illness or addiction issues and how to reduce the use of segregation in prisons (Transforming the CJS, 2015). Justice Canada's Mandate Letter (2015), noted the importance of implementing the recommendations from the Inquest into the death of Ashley Smith regarding the restriction of the use of solitary confinement and the treatment of those with mental illness. CSC's

response to the Ashley Smith's Inquest, 104 recommendations delivered by the Ontario Coroner, was released on December 11, 2014, nearly one year after the verdict and seven years after Ashley Smith died in a segregation cell at Grand Valley Institution for Women in October 2007 (Office of the Correctional Investigator, 2015). The OCI described the CSC's response as frustrating and disappointing in that it failed to specifically address any of the 104 individual recommendations that were issued by the jury (Office of the Correctional Investigator, 2015). The jury recommended that indefinite solitary confinement be abolished, that long-term segregation not exceed 15 days and that restrictions be placed on the number of days that offenders can spend segregated (Office of the Correctional Investigator, 2015). The CSC stated that there are "various aspects of the jury recommendations that the government is unable to fully support without causing undue risk to the safe management of the federal correctional system" (Correctional Service of Canada, 2014).

Despite their initial resistance to implementing jury recommendations from the Ashley Smith Inquest, the CSC stated that they support the Government of Canada in "strengthening the country's federal correctional system" with Bill C-56, tabled on June 19, 2017 (Correctional Service of Canada, 2017). Bill C-56 would make important changes to the CCRA, including the use of administrative segregation. The legislation would limit segregation placements initially to 21 days, then dropping to 15, setting a maximum of 90 days per year for any inmate (Correctional Service of Canada, 2017). Bill C-56 incorporates social science, legal and medical literature that documents the damaging psychological consequences of long-term segregation (Andersen, Lillebaek & Sestoft, 1997; Andersen et al., 2004; Andersen, 2004; Haney, 1993, 2003, 2005; Kilty, 2006, 2014; Kupers, 1999, 2017; Grassian, 1983; Grassian & Friedman, 1986; Jackson, 1983; Martel, 1999; Parkes, 2017; Rhodes, 2004; Shalev, 2009; Toch, 1992). Bill C-56 also requires the CSC to have independent external reviewers appointed by the Minister of Public Safety and

Emergency Preparedness to review the files and make a recommendation in relation to any offenders who: are in administrative segregation for longer than 21 calendar days; have been in segregation for a total of at least 90 cumulative days within the same calendar year; or have been in administrative segregation at least three previous times in the same calendar year (Correctional Service of Canada, 2017). External oversight is also extremely important in ensuring accountability and approval of decision-making processes by the CSC. As stated in The Arbour Report (1996):

The absence of the Rule of Law is most noticeable at the management level, both within the prison and at the Regional and National levels. The Rule of Law must be imported and integrated, at those levels, from the other partners in the criminal justice enterprise, as there is no evidence that it will emerge spontaneously. (p. 99)

Academics and professionals have demanded that the CSC be subject to independent adjudication and external oversight to ensure that any prisoners held in segregation or separate confinement are not isolated, are provided work, programs, and education to keep their minds productively occupied and have adequate levels of meaningful human contact each day. To do this, extensive reporting requirements and independent external inspection of prisons is essential to prevent further abuses. The Ontario Human Rights Commission also recommended independent review and oversight of segregation placements and healthcare assessments, and procedural fairness rights for prisoners to allow them to challenge segregation placement with legal assistance.

Bill C-56 indicates that the Canadian Government acknowledges the detrimental impacts of long term segregation. However, I, along with many scholars, advocates and professionals, argue that if implemented, Bill C-56 is only a first step as it does not disrupt the punitive, inhumane use of segregation. As outlined in the Strategic Plan, the proposed amendment to segregation policy is a one-dimensional short-term solution. Using the IBPA, I have listed Calls to Action that foster policy reform promoting social justice and equity. Segregation policy can only become

equity-oriented when current evidence, assumptions and knowledges surrounding women in prison are interrogated and informed by the principles of intersectionality. Fully understanding and addressing the over-representation of Indigenous women and women with mental health issues in segregation requires the meaningful and participatory input of those who may be directly or indirectly affected by the segregation framework.

A key way in which people's experiences and perspectives on segregation can be elicited is through consultation and dialogue grounded and informed by intersectionality. This would include encouraging reflexivity and paying attention to the voices and experiences of marginalized people. In shifting the frame towards intersectionality and social justice, discriminatory discourses that have impeded equitable segregation policies and practices may be disrupted. This would allow citizens and stakeholders to reflect and share their assumptions, understandings, and needs regarding the over-representation of marginalized women in segregation. To reform the segregation framework, the CSC must consider the gendered and racialized ways in which they interpret the behaviours, attitudes, and even personalities of the women they place in segregation. Using an intersectional lens, I examine how policies can be reformed to best address diversity in needs, histories and experiences of women in segregation. To begin, I examine possible solutions for CD-709 and CD-843 in order to reduce inequities among women with mental health issues and to increase social justice in segregation placements.

Mental Health

In addition to the United Nations' Mandela Rules prohibiting the use of solitary confinement for prisoners with mental health disabilities, several other authorities have called for this reform including the Correctional Investigator of Canada, the Ontario Human Rights Commission, the National Commission on Correctional Health Care and the American Public

Health Association. As reported by the OCI (2017), segregation units are not an appropriate environment for women who are under observation for mental health problems, especially those experiencing suicidal ideation or self-harm. The CSC has incorporated recommendations from the OCI and other influential bodies including academics, physicians and the courts, through enacting policy that identifies specific groups of inmates as inadmissible to administrative segregation, as well as additional groups that are not admissible unless there are exceptional circumstances (CD-709, 2017). The following inmates are not admissible to administrative segregation and are instead managed under CSC's policy to preserve life and prevent serious bodily harm: inmates with a serious mental illness with significant impairment, inmates actively engaging in self-injury that is deemed likely to result in serious bodily harm, and inmates of elevated or imminent risk for suicide (CD-709, 2017). Two policies have been updated: CD-709 and CD-843; as stated by CSC Commissioner, Don Head "these policy changes will make a tangible and immediate improvement to inmates with complex mental health needs, and to the way we manage administrative segregation" (Correctional Service of Canada, 2017, para. 3). Though the possible benefits of the policy amendments do not go unrecognized, it is important to identify potential concerns.

Despite numerous recommendations by the OCI, academics and physicians to transfer women with acute and complex mental health needs to external psychiatric facilities, the CSC instead chose to modify the way they are managed in a security driven culture. The safety of inmates who are self-injurious, suicidal or have serious mental illness with significant impairment is said to be ensured through the use of enhanced observation or restraint (CD-843, 2017), despite the fact the prisoners perceive little to no difference in the conditions of confinement between enhanced observation and segregation (Office of the Correctional Investigator, 2017). Also, problematic is the fact that if an inmate's needs are not deemed serious, staff can continue to admit

them to segregation. Staff and contract employees continue to be expected to intervene immediately when an inmate is discovered in the act of self-injury or attempting suicide in accordance with CD-567, *Management of Security Incidents*. Managing mental health needs and self-injurious behaviour as security issues continues to respond to needs as though they are risks. In the absence of segregation, observation cells (dubbed “segregation lite”) are used to manage groups of offenders with behavioural, emotional or cognitive issues (Office of the Correctional Investigator, 2017). These units often have restrictive routines, including limited out-of-cell and association time (Office of the Correctional Investigator, 2017). Known by various names, such as structured or enhanced supervision, they may approximate, but not quite reach the international definition of solitary confinement as “22 hours or more a day without meaningful human contact” (Office of the Correctional Investigator, 2017, p. 42). Though it is *technically* not solitary confinement, “it may just be segregation by any other name- or means” (Office of the Correctional Investigator, 2017, p. 42).

Treatment for mental illness and self-injurious behaviour continues to fit within the broader and ongoing correctional project of controlling ‘troubled’ women through physical restraints and isolation (Kendall, 2000; Kilty, 2006; Pollack, 2006). Through identifying concerns of the recent policy amendment to CD-709 and CD-843, I argue that power inequalities continue to perpetuate in the segregation framework and I highlight how interventions can be made for improvement. As identified in the literature, women with pre-existing mental illness are at risk for developing psychiatric symptoms in segregation (Haney, 2006). I recommend that CD-843 is amended to manage ALL inmates with mental illness and impairment. CSC must also acknowledge that there is a struggle with the physical infrastructure and design limitations that compromise the delivery of program and services needed to address mental health concerns in prison (Office of the

Correctional Investigator, 2013, 2014, 2015, 2016, 2017). Prisons are not hospitals and conditions that prevail in correctional settings are punitive rather than rehabilitative or therapeutic (Zinger, 2012). I recommend that women with mental health issues and/or women that engage in self-injurious behaviour have increased opportunity for community supervision over the course of their sentence rather than being held captive in a security-focused prison environment that aggravates their self-harming behaviour. Next, I examine gender and culturally responsive policy and training, indicating the importance of addressing diversity in identity as it is interpreted in the segregation framework.

Gender/Culturally Responsive Policy

In the *Gladue* decision (1999), the Supreme Court of Canada recognized that there are mitigating social factors and historical circumstances that should be considered when sentencing Indigenous offenders. A *Gladue*-informed analysis²⁵ of the unique circumstances affecting the lives of most Indigenous people could yield important insights into the underlying causes, treatment of, and response to, Indigenous men and women in prison. Though the CSC has integrated *Gladue* principles into policy and has provided training to staff members, the OCI and the Office of the Auditor General of Canada (OAG) argue that there continues to be an insufficient and uneven application of *Gladue* social history considerations in correctional decision-making (Office of the Auditor General of Canada, 2016; Office of the Correctional Investigator, 2015). For example, it is not uncommon to find in an Indigenous offender's file a brief reference that Aboriginal social history was considered in a correctional decision that impacts retained security and liberty interests (Office of the Correctional Investigator, 2015). The Segregation Assessment

²⁵ *Gladue* factors include, but are not limited to, effects of the residential school system; family or community history of substance abuse and/or victimization; experience in child welfare or adoption system; experiences with poverty; level or lack of formal education; loss of or struggle with cultural/spiritual identity.

Tool asks if the offender's Aboriginal social history has been considered but does not outline how that consideration occurs (GL-709-1, 2017). There is often very little meaningful analysis with respect to how these considerations impact, influence, alter, or mitigate correctional decision-making. Simply stating that Aboriginal social history was considered does not ensure the due diligence is carried out by this policy requirement (Office of the Correctional Investigator, 2015).

Considering the CSC is mandated to provide programs and interventions that are responsive to the unique needs of Indigenous offenders, the OAG examined whether the CSC provides correctional interventions in a timely manner to Indigenous offenders (Office of the Auditor General of Canada, 2016, para. 1). The OAG concluded that CSC "staff were not provided with sufficient guidance or training on how to apply Aboriginal social history factors in case management decisions", and, therefore, recommends that the "CSC develop guidelines and training for staff working with Indigenous offenders" (Office of the Auditor General of Canada, 2016, para. 8). The OAG suggests that CSC reform training and guidelines to better "demonstrate the impact of culturally specific interventions on an offender's progress toward successful reintegration into the community" (Office of the Auditor General of Canada, 2016, para. 8). Training is an essential element of policy reform; therefore, I recommend that the CSC develops mandatory intersectionality-based training programs alongside policy reform. Intersectionality-based training programs can assist in ensuring gender and culturally responsive policies are understood, and, therefore, more likely to be implemented by CSC staff. I recommend that training programs are developed in collaboration with traditional CSC stakeholders, community members, Elders, as well as prisoners, to incorporate various knowledges and experiences of gender and culture. Beyond the collaborative development of training programs, I suggest that independent

external reviewers examine training materials and attend all training sessions to ensure accountability and approval of decision-making processes by the CSC.

In acknowledging CSC's inability to successfully integrate *Gladue* principles in both policy and training, The OCI recommends that the CSC develop new "culturally appropriate and gender specific assessment tools, founded on *Gladue* principles, to be used with men and women Indigenous offenders" (Office of the Correctional Investigator, 2016, p. 32). I do not wholly agree with this recommendation, as culturally appropriate and gender specific assessment tools are often criticized for assuming homogeneity within social identities (Martel and Brassard, 2008; Shaw and Hannah-Moffat, 2000). Instead, I recommend the CSC revisit the *Gladue* principles, ensuring they are not applied in ways that reinforce hegemonic Aboriginality. I also recommend including Indigenous voices at the centre of the segregation framework, which would require that the CSC craft evidence-based policies based on meaningful input from those groups that are directly impacted by segregation policies (Fiske & Brown, 2008; Kenny, 2004; Tait, 2008). Including the perspectives and worldviews of people who are typically marginalized or excluded in the production of knowledge can work towards disrupting forces of power that are activated through the production of knowledge (Dhamoon, 2011). The inclusion of colonized peoples' traditional knowledges in the production of knowledge generated by policy analysis can work to shift dominant colonial or racialized discourses in policy and can thus have decolonizing effects (Fredricks, Adams, & Edwards, 2011). As CSC has failed to generate viable alternatives to segregation, they should consult with the populations that are detrimentally affected to *learn* what would be a more respectful and helpful response to behaviour considered to be threatening (to the individual or institution).

Given IBPA's focus on addressing inequities and power, knowledge generated through IBPA can and should include the perspectives and knowledges of people who are typically excluded in policy analysis (Hankivsky, et al., 2012). IBPA expands understandings of what is typically constituted as "evidence" by recognizing a "diversity of knowledges, paradigms and theoretical perspectives that can be included in policy analysis, such as knowledge generated from qualitative and quantitative research; empirical or interpretive data; and Indigenous knowledges" (Hankivsky et al., 2012). Including Indigenous voices could work to disrupt the structural relations of colonial and patriarchal power that are perpetuated by the CSC. Policy development based on Indigenous methodologies and moderated by Indigenous leadership would foster the central positioning of Indigenous knowledges, thus promoting inclusion of Indigenous perspectives (Fridkin, 2012).

I argue that applying IBPA can work to decolonize the segregation framework as CD-702 could be reformed based on knowledge paradigms that are inclusive of anti-colonial/anti-racist and Indigenous epistemologies. An intersectional lens disrupts colonial assumptions and promotes the inclusion of Indigenous knowledges and perspectives in policy definition. If there is community control over defining indignity, it is a step towards self-determination and decolonization which is essential for the development of policies that address the needs of Indigenous in prison (Hankivsky, 2012). The CSC must be aware of variation in identity of both Indigenous peoples and between women in order to address their needs and to offer valuable rehabilitation efforts. Principles of equity and social justice prompt further analysis of how such identity constructions perpetuate or mitigate unequal power relations between Indigenous people and non-Indigenous people as well as between and among Indigenous groups (Fridkin, 2012). Challenging the essentialization of a pan-Indigenous identity or people as a singular group draws attention to the

multiplicity of oppressions that affect Indigenous peoples and produce layers of inequity (Fridkin, 2012). Intersections of sexism, racism and colonialism operate through the segregation framework to produce and consolidate inequities between Indigenous people and between genders. This was first illustrated as far back as the establishment of the *Indian Act* in 1867, which created differential privileges for Indigenous women and men by restricting Indigenous women's status and property rights (Bourassa et al., 2004). Such intersecting systems of power manifest in the segregation framework as Indigenous women have largely been excluded from policy decisions that impact them, even when attempts to include Indigenous people as a "whole" have been made (Harvard-Lavell & Lavell, 2006). In order to facilitate effective policy reform, I argue that the CSC must go beyond simply acknowledging the existence of Aboriginal social history, to examine the unique intersection of power relations that structure the incarceration experience for individual Indigenous women prisoners. The interpretation of an Indigenous woman's needs cannot be done in isolation from consideration of the intersection of the historical, social and political contexts that shape her experiences. Thus far, I have exposed a policy framework rooted in patriarchal colonialism that positions white men as key decision-makers in Indigenous and women-centred policy. In the following section, I examine the next step in transforming the strategic plan, namely, the abolition of segregation.

Abolition of Segregation

Numerous reports have called for independent adjudication of decisions to place or maintain prisoners in solitary, hard time limits on its use, and, more recently, the abolition of the practice all together (*BCCLA and JHSC v. Canada*, 2017; CAEFS, 2018; Kupers, 2017; Parkes, 2017; West Coast Prison Justice Society, 2016). The history of the use of segregation in Canada indicates that a significant transformation is needed to ensure that prisoners are protected from the

abuses associated with the practice. The Canadian Association of Elizabeth Fry Societies (CAEFS), in solidarity with its 24 member societies, “views all forms of segregation as cruel and unusual punishment which results in long-term negative consequences for those subjected to its often torturous conditions” (CAEFS, 2018). CAEFS continues to advocate for the Government of Canada to abolish the use of segregation to “ensure the well-being and safety of women prisoners and the communities they will inevitably return to” (CAEFS, 2018). The Ontario Human Rights Commission calls for the abolition of the use of segregation in Ontario because as “long as segregation remains an option in Ontario’s correctional system, the OHRC believes there will not be a sufficient incentive to develop and support alternatives, and segregation will continue to be overused” (Ontario Human Rights Commission, 2016). Churcher (2016), The Executive Director of the Canadian Association of Elizabeth Fry Societies identified this concern as well, stating that “with the federal government tabling the idea of reducing [segregation] to a maximum of 15 days, or even at the provincial level seeing some provinces reducing it to 10 days, [CAEFS’] position is still that segregation is inhumane” (Ayers, 2017, para. 9).

Instead of tweaking policies to slightly reduce the use of segregation, prison officials should be addressing the root causes behind the decisions made to isolate prisoners (Ayers, 2017). Prisoners’ Legal Services echoes this concern (West Coast Prison Justice Society, 2016); they suggest the culture of corrections needs to change and that there must be greater recognition of the fact that most prisoners suffer from past trauma that, in turn, affects their mental health and behaviour. The response to behavioural difficulties for prisoners should not be punitive in nature. Correctional administrators and staff must take a trauma-informed approach to corrections to ensure that prisoners are treated professionally and with dignity, and that they are provided

treatment in all housing units. To achieve the abolition of segregation in Canada, governments must set out strict requirements to guarantee the rights of prisoners in legislation.

Solitary confinement as it is currently practiced in Canada violates core constitutional rights as it has led to preventable death and suffering (West Coast Prison Justice Society, 2016). It is discriminatory in its use because women, mentally ill and Indigenous prisoners are placed in solitary confinement at higher rates than other prisoners. And while lengthy isolation can seriously worsen mental illness, solitary confinement is increasingly being used to warehouse prisoners with mental health issues (OCI, 2016). Under the “administrative segregation” regime, prisoners are deprived of fundamental procedural protections as prisoners can spend months and years in solitary confinement without even a hearing before an independent body to determine whether their confinement is justified (BCCLA, 2018).

I recommend that the CSC strive to do more than prevent torture or cruel treatment for women prisoners by ensuring that prisoners are treated with dignity and live in an environment where rehabilitation is supposed to be prioritized. To do so, I call on correctional authorities to end the practice of solitary confinement entirely, rather than merely placing limits on its use where it is considered to have crossed the line of torture or cruel treatment. Women prisoners continue to be held in long-term isolation and continue to report staff misconduct and conditions of confinement that violate basic standards of human dignity (West Coast Prison Justice Society, 2016). Any scheme that continues to allow for the solitary confinement of prisoners for any amount of time would allow for such abuses to continue. I call on the CSC to establish adequate numbers of specialized mental health units to address the specific therapeutic needs of prisoners, and to widely implement a trauma informed approach, dynamic security and de-escalation practices in all correctional settings in order to prevent the behaviours that have led prisoners to be placed in

segregation. External oversight of correctional population management practices and mental health supports are necessary to ensure that correctional practices are socially just.

5.6. CONCLUSION

This study examines the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation using an intersectional lens. I utilized the IBPA framework to allow for an in-depth examination of CSC policies in comparison to the ways in which federally sentenced women describe the material realities of their time spent in segregation. This analysis consists of four central components: (1) Considering Segregation Policy (2) the Development of the Segregation Framework (3) the Assessment of the Segregation Framework and (4) Transforming the Segregation Framework. My findings suggest the CSC interprets the behaviours, attitudes and needs of the women they place in segregation as though they are risks to be managed. The security-driven culture among correctional staff has resulted in a risk-averse reflex to control and/or contain women that are deemed ‘unfeminine’, which is disproportionately racialized women and women with substantial mental health needs or who engage in self-injurious behaviour. Interpretations of risk that shore up normative gendered behavioural expectations and position women as rational actors partially responsible for their own victimization fail to consider the role that systemic oppression plays in women’s criminalization. Through the homogenization of race and gender in the segregation framework, variations in identity are ignored in favour of a white heteronormative Western ethos that reinforces the otherness of women who fail to meet these gendered and raced standards of behaviour (Joffe, 1999). Correctional policy subsequently situates the ‘otherness’ of Indigeneity and ‘unfeminine’ behaviour as a risk or as presenting risk. Correctional staff interpret the behaviours and attitudes of ‘otherness’ as jeopardizing the security of the prison and therefore turn

to segregation as a way to try to control the individual and preserve the security of the institution. Correctional policy needs to resist constructions of 'risky' women merely needing individual forms of intervention and the CSC must reframe their segregation framework in order to better consider the social conditions that shape inequity at the structural level – namely colonialism, racism and patriarchy.

CHAPTER 6: CONCLUSION

6.1. INTRODUCTION

This study examines the gendered and racialized ways in which the CSC interprets the behaviours, attitudes, and even personalities of the women they place in segregation by conducting an Intersectionality-Based Policy Analysis (IBPA). An IBPA provides a method for understanding the varied equity-relevant implications of the CSC segregation framework and for promoting equity-based improvements and social justice within an increasingly diverse and complex prison population in Canada. The analysis consists of four central components: (5.2) Considering Segregation Policy; (5.3) the Development of the Segregation Framework; (5.4) the Assessment of the Segregation Framework; and (5.5) Transforming the Segregation Framework. To facilitate this analysis, I began by outlining the key arguments in the literature that problematize the use of segregation and corresponding policy. To develop the segregation framework, I analyzed four Correctional Service of Canada (CSC) Commissioner's Directives²⁶, Administrative Segregation Guidelines and associated sections of both the *Corrections and Conditional Release Act* (CCRA) and *Corrections and Conditional Release Regulations* (CCRR). To assess the segregation framework, I compared CSC policies to the ways in which federally sentenced women describe their experiences in segregation as documented in case documents²⁷ and publications by the Office of the Correctional Investigator (OCI)²⁸. To transform the segregation framework, I developed a

²⁶ Commissioner's Directives examined: CD-709, Administrative Segregation; CD-843, Interventions to Preserve Life and Prevent Serious Bodily Harm; CD-578, Intensive Intervention Strategy in Women's Institutions; CD-702, Aboriginal Offenders.

²⁷ Case documents examined: *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons* (Filed January 19, 2015). *BCCLA and JHSC v. AG of Canada: Challenging Solitary Confinement in Canadian Prisons* (Judgement January 17, 2018). *Worm v. Canada: Working to End Solitary Confinement* (Filed March 4, 2011).

²⁸ OCI documents examined: *Risky Business, Administrative Segregation in Federal Corrections, and Annual Reports for 2014-2015, 2015-2016, and 2016-2017*.

strategic plan that identifies and examines alternative policy responses and solutions specifically aimed at social and structural change to reduce inequities and promote social justice.

The analysis was guided by the descriptive and transformative questions developed from the IBPA framework. To address issues of inequity and social injustice exemplified through the over-representation of women, especially Indigenous women, in segregation, I mobilized an intersectional framework to consider how intersecting systems of power shape policy processes and outcomes. This chapter revisits key findings, outlines the limitations of this research, and describes opportunities for future research.

6.2. KEY FINDINGS

To examine the impact that segregation can have on physical and mental health of incarcerated women, I first developed an understanding of which policies must be considered when admitting federally sentenced women in segregation. Section 2 of the analysis, *Intersecting Policies: Segregation Framework*, established the anticipated decision-making process of CSC employees when admitting federally sentenced women to segregation. In doing so, I unified policies that address race, gender, mental illness and self-injurious behaviour into a more clearly delineated segregation decision-making framework.

I examined the impact of CSC's risk/need assessment and management approach on how the identities of federally sentenced women are constructed, noting how race, gender, mental illness and self-injurious behaviour are implicated in these characterizations. CSC's identity-based categories in the segregation framework isolate gender and Indigeneity from their social contexts and foster homogenized assumptions about gender and Indigenous difference. As a result, gender and culturally responsive policy within the context of risk/need management does not protect marginalized women, but rather converts the needs of marginalized groups into risks to be

managed. Through omitting any mention of the intersecting social locations that shape women's experiences, the CSC perpetuates a 'one-size-fits-all' understanding that fails to disrupt the stigmatization and over surveillance of 'unfeminine' and racialized women. This approach problematically constructs women who do not express their womanhood in normative ways (e.g. passive, compliant etc.) as inherently 'risky', an interpretive framing that is used to justify segregation placements (Hannah-Moffat, 2000). The effects of this strategy were exemplified through Worm's experience under the Management Protocol, which effectively imposed a "zero tolerance" policy for aggressive behaviour broadly defined to include physical or emotional behaviour unrelated to a women's level of risk but rather, how she performs femininity (*Worm v. Canada*, 2011).

I then examined how the segregation framework equates mental health disabilities and the acts of self-injury with risk. This perpetuates the social construction of people with disabilities or those that self-injure as dangerous to themselves or others and who must, therefore, be segregated in order to manage their behaviour (Hannah-Moffat, 2004). Many women suffering from mental illness are placed in segregation. This demonstrates that women with substantial mental health needs, including those who self-injure and who act out, are often classified as "high risk/need" and are therefore, separated from the general population and housed in secure or segregated units (Hannah-Moffat, 2010). Through examining the material experiences of women in segregation as documented in OCI reports and case documents, I conclude that the provisions of CD-843 fail to respond to the actual needs of mentally ill prisoners and instead imposes burdens in a manner that reinforces, perpetuates or exacerbates their disadvantage and distress.

I argued that the existing segregation framework does not operate in a way that disrupts structures of patriarchy or colonialism and is, instead, mobilized in ways that continually

disadvantage groups targeted by supposedly gender- and culturally responsive policy. After identifying the criticisms and limitations of the segregation framework, I identified and examined alternative policy responses and solutions by developing a strategic plan specifically aimed at producing the social and structural changes necessary to reduce inequities and promote social justice. The steps in the strategic plan reflect current priorities of the government, CSC, academics, and legal/medical professionals. I outlined suggested short-term equitable-based solutions for CD-709, CD-843, CD-702 and CD-578. Citing numerous sources that identify segregation as torture, I identified abolishing segregation as a long-term goal and the only way to achieve true social justice and equity.

6.3. LIMITATIONS

This research has several limitations. Collecting descriptions of women's material experiences of segregation by way of OCI reports and case documents significantly limited the analysis. Unfortunately, because I was unable to interview formerly incarcerated women or to interview or observe women who are currently in segregation, I was limited in terms of how to access information pertaining to their experiences in and of segregation. I was only able to examine women's experiences as they are recounted in published case documents and OCI reports, which do not contain all the information that would be beneficial in conducting a complex Intersectionality-Based Policy Analysis such as indicators of class, diversity in gender identity, and descriptions of ability. Since I based the analysis of women's material experiences of segregation on demographic information collected by BCCLA, JHSC, and the OCI, I was unable to examine gender beyond the normative gender binary labels of female and male. I was also unable to examine diversity in culture and/or race. Though the OCI indicates that Black prisoners are over-represented in segregation, I was unable to provide an analysis of Black women in

segregation as I could not access documented accounts of their material experiences. Variables were also categorized differently than I might have chosen and there are possible discrepancies between how one is labelled by institutional authorities and how one identifies. Since I did not collect the data, I had no control over what is contained in the data set. This fact limited the analysis and altered the original questions I sought to answer. Originally, I had aspired to collect administrative segregation data on race, class, and gender identity, but because neither the CSC nor the OCI collect this data, I was unable to conduct the type of intersectional analysis I would have liked.

6.4. FUTURE RESEARCH

In completing this analysis, I have several suggestions for future research projects. First, it would be beneficial to analyze primary data collected through interviewing women who are currently in or have been in segregation. As identified above, the largest limitation of my analysis was relying on secondary data to account for women's material experiences of segregation. In future studies, it will be of the utmost importance to examine how or if the policy amendment has affected the management of prisoner mental health needs and whether the revised policy framework for administrative segregation changes the ways in which CSC manages federally sentenced women specifically. This study could be expanded in the future if information can be collected on class and gender identity rather than those identity markers that are imposed by the CSC. Future research should endeavour to interview federally sentenced women who have been admitted to segregation as it is valuable to hear directly from the population that is affected by the policy being examined. Lastly, I stress the importance of government organizations like the CSC conducting IBPA analyses when endeavouring to develop new and/or reform existing policies.

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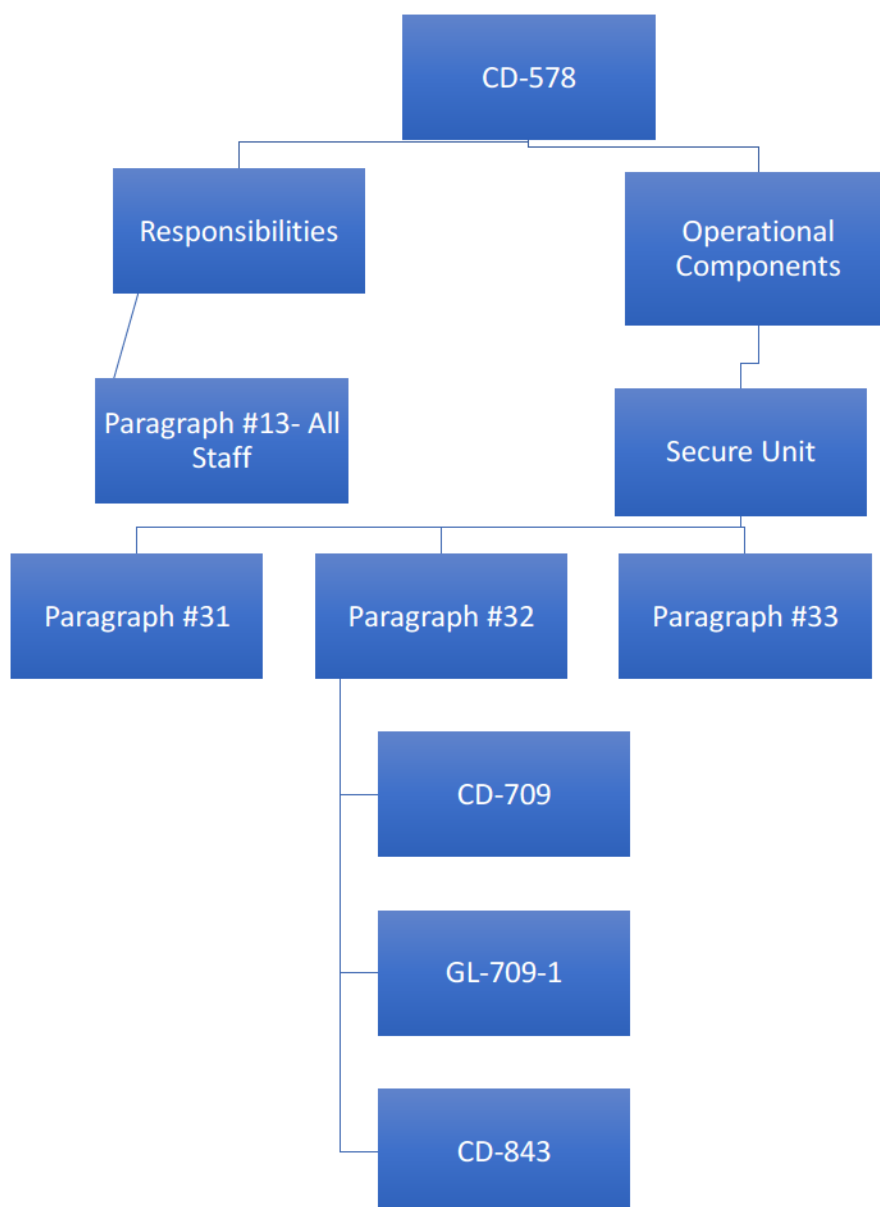
APPENDIX A: CD-578

Figure 1 CD-578: Intensive Intervention Strategy in Women Offender Institutions/Units

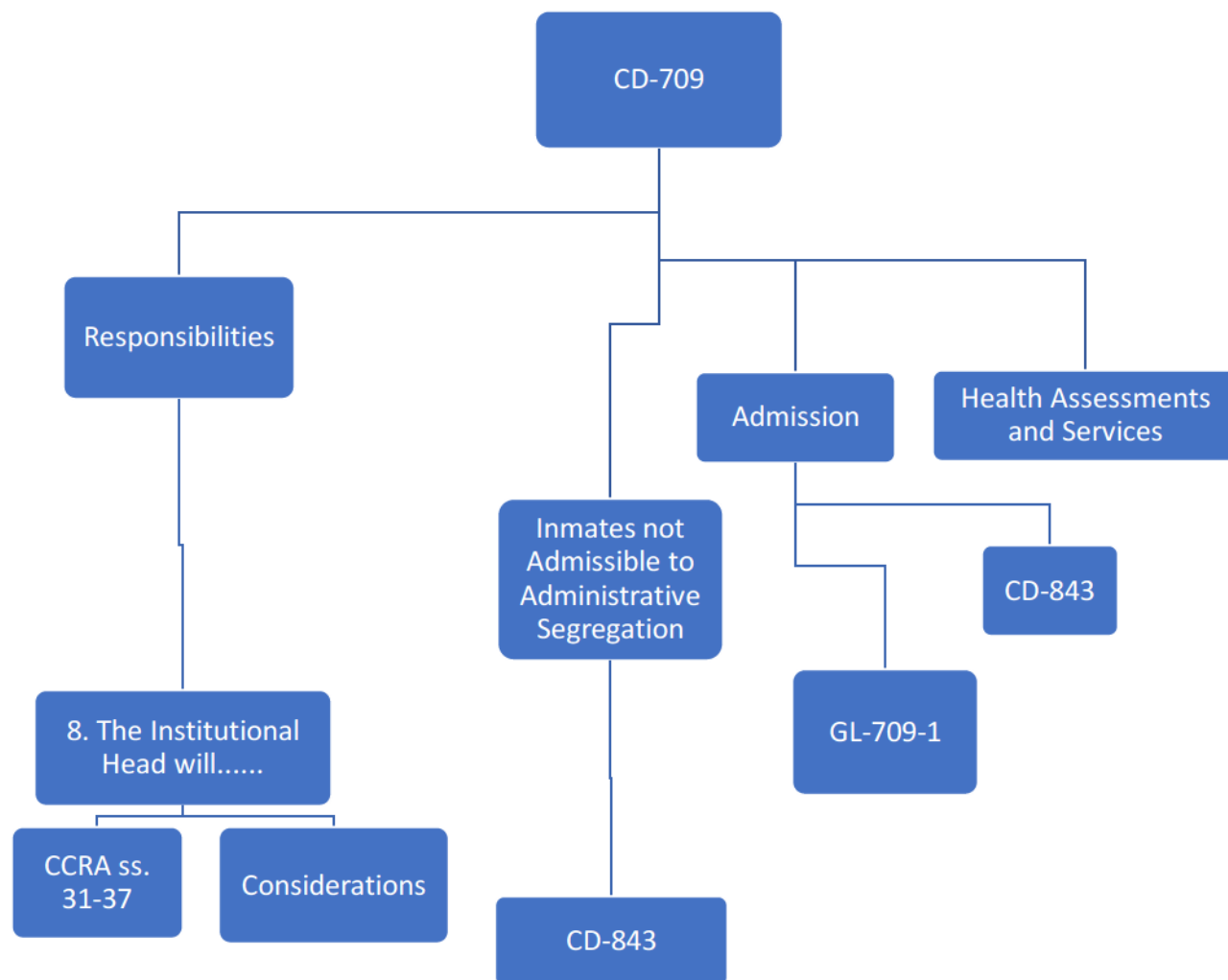
APPENDIX B: CD-709

Figure 2 CD-709: Administrative Segregation

APPENDIX C: GL-709-1 (SEGREGATION ASSESSMENT TOOL)

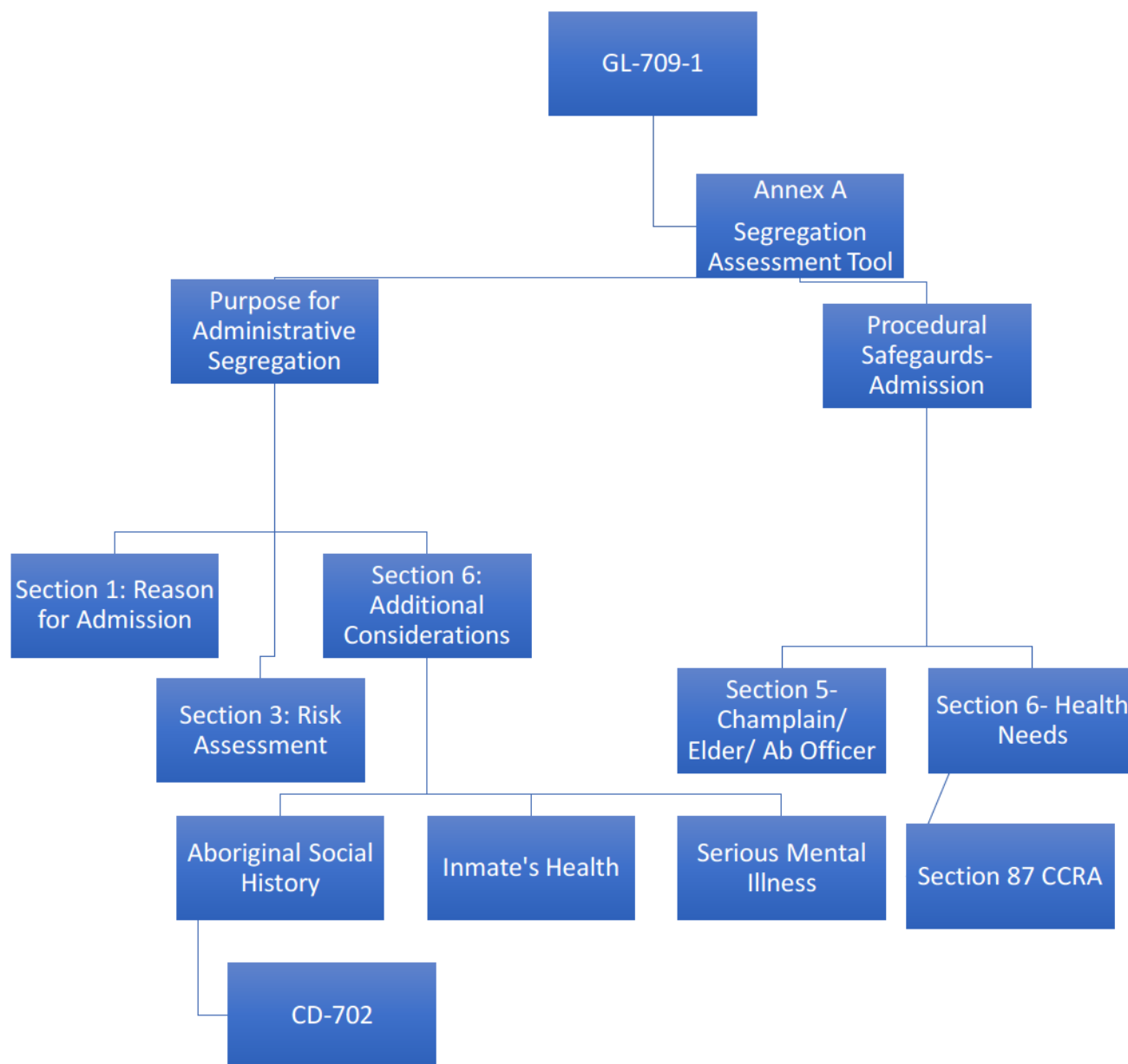


Figure 3 GL 709-1: Segregation Assessment Tool

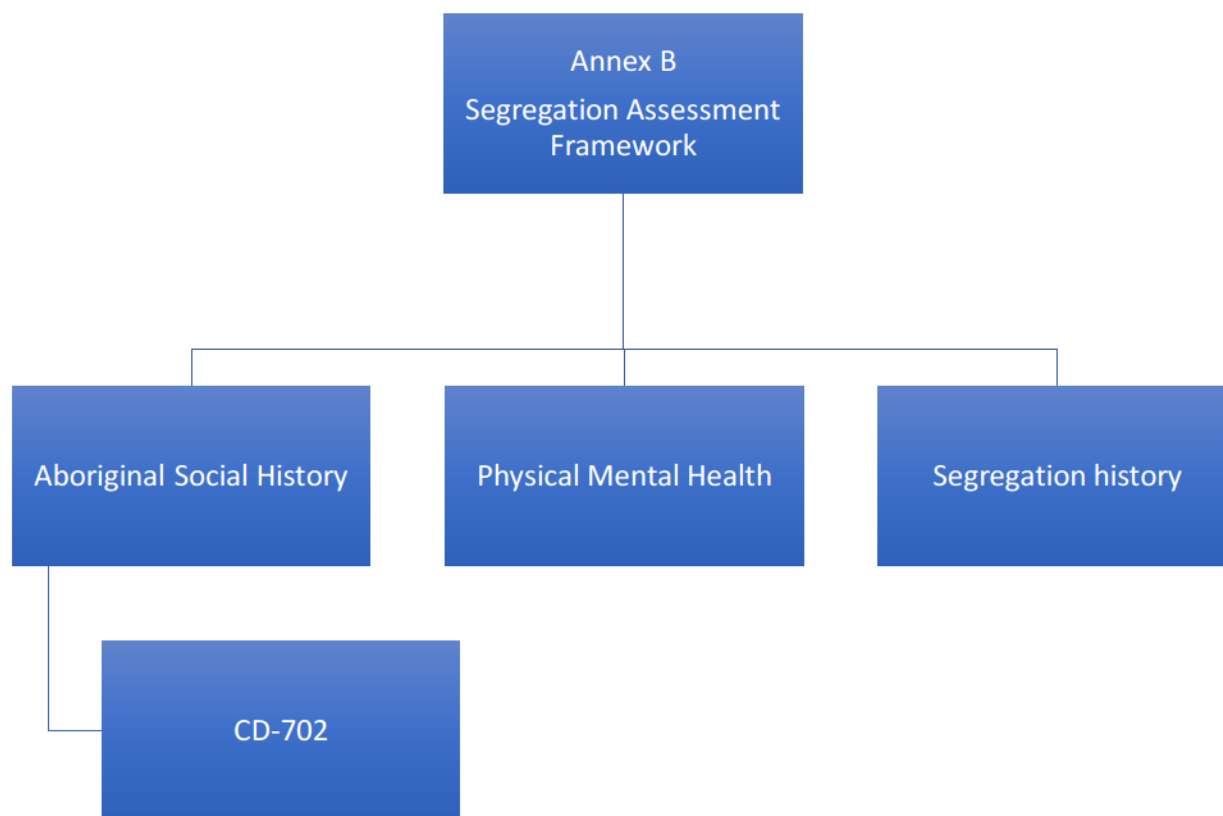
APPENDIX D: GL-709-1 (SEGREGATION ASSESSMENT FRAMEWORK)

Figure 4 GL 709-1: Administrative Segregation Assessment Framework

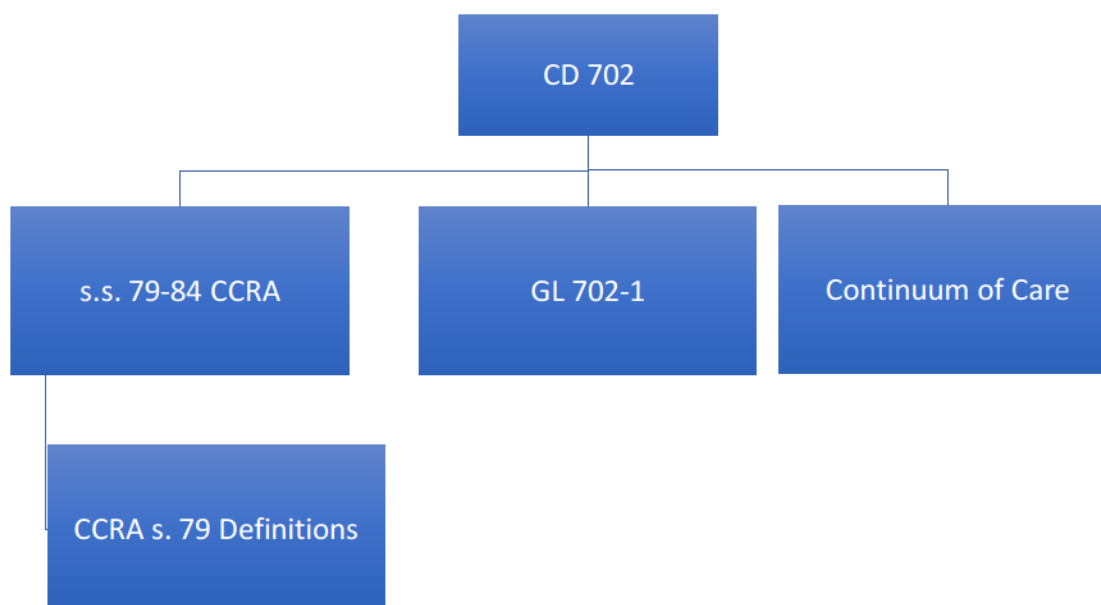
APPENDIX E: CD-702

Figure 5 CD 702: Aboriginal Offenders

APPENDIX F: STRATEGIC PLAN

STEPS	TIMELINE	IMPLEMENTED	CALLS TO ACTION
1. Administrative Segregation	Short-term Solution	• Ashley Smith Inquest • Bill C-56 (Tabled)	• Enact Bill C-56 • Independent adjudication • Policy reform informed by: • Academics • Citizen Input • Activists • Professionals • Experience
2. Mental Health Policy	Short-term Solution	• CD-709 (2017-08-01) • CD-843 (2017-08-01)	• Remove those with mental health issues, including self-injury, from segregation
3. Gender/Culturally Responsive Policy	Short-term Solution	• CD-702 (2013-11-12) • CD-578 (2017-01-23)	• Reduce the over-representation of Indigenous peoples in segregation • Reduce the over-representation of women in segregation • Accurately reflect the diversity of women's and Indigenous peoples' social histories in prison policy, training and decision-making
4. Abolition of Segregation	Long-term Proposed Alternative Approach	Policy Reform Informed by: • Ontario Human Rights Commission • CAEFS • Academics • WHO Europe • UN Special Rapporteur • BCCLA • <i>Worm v. Canada</i>, 2013 • <i>BCCLA and JHSC v. Canada</i>, 2018 • Affected groups (women and Indigenous prisoners)	• Trauma-informed assessment, interventions and management • Mental health services offered and managed outside of the purview of corrections • External oversight and review