



Name of policy: Aging and Elderly People in Conflict with the Law

Date of Policy Adoption: *SLSC Annual General Meeting, June 2, 2018, Belleville, ON.*

Mission and Mandate: St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

- a. Endorses evidence-based approaches to criminal and social justice.
- b. Conducts research and develops policy.
- c. Supports its member affiliates; and
- d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

Purpose of SLSC Policies: Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative and organizational relevance.

Background:

Canada's federally sentenced population is aging. In the criminal justice context this has typically referred to people in conflict with the law age 50 and over, due to the accelerated aging effects of an institutionalized lifestyle. Age 50 is typically demarcated by recognized authorities as the threshold for aging institutionalized individuals. This was recognized in February 2018, for example, when the Office of the Correctional Investigator (OCI) and the Canadian Human Rights Commission jointly launched an investigation into the special needs of aging and elderly incarcerated people (age 50 and over).

In 2017, SLSC became an official endorser of the 'Improve Health Care in Canadian Prisons' Change.org petition launched by the families of people who died in CSC custody. The petition calls for access to a variety of essential health care options for all incarcerated individuals; with respect to the aging and elderly, it calls for access to: palliative care and swift compassionate release when terminally ill; the transfer of responsibility from prison health services to community based services to better manage conflict between health resources and security protocols; and, to be accountable for implementing recommendations made by the Office of the Correctional Investigator (OCI).

The OCI reports that people age 50 and over made up 24% of the incarcerated population in 2015-2016. The community-supervised population was even greater at 37.6% aged 50 or older. The median age of individuals upon admission to Canadian penitentiaries also continues to rise, from age 33 in 2006-2007 to age 34 in 2015-2016. Overall, the number of individuals between ages 50 to 59 admitted to federal corrections also increased by nearly 40% in the last decade.

Common concerns particular to aging/elderly people in conflict with the law include:

- Estrangement from, or lack of, connection to other incarcerated individuals that extends to isolation in the community;
- Physical vulnerability to more serious consequences of assault;
- More difficulty adjusting to new environments and greater length of time to do so;
- Higher rate of completed suicide;
- Greater possibility of dying during incarceration;
- Higher incidences of loss of external support system (e.g., spouse, family, friends);¹
- Loss of autonomy;
- Difficulty reintegrating back into the community due to modernization, the effects of institutionalization; and
- Lack of institutional and community resources that are adapted specifically for the elderly.

In 2016-2017, there were 47 deaths in federal custody, 37 of which were attributable to natural causes. This far out-numbered other causes such as homicide (1); overdose (1); suicide (3); and undetermined (5), underscoring the need for ongoing attention to palliative and end-of-life care.

Issues/Scope:

Managing the sentences of the aging and elderly presents unique challenges for correctional administrators and community-based service providers; and, will come into sharper focus as the aging incarcerated and paroled population reflects and outpaces the larger, greying Canadian population. The challenge will be finding ways to balance public safety and safe reintegration mandates, along with the additional challenges posed by those with unique and costly physical and long-term needs. These challenges have been prevalent for many affiliates of SLSC who are striving to meet those needs within a community corrections context.

Among these challenges, specific issues include:

- **The intersection of risk and age** – security levels that are proportionate to age-related risk factors such as mobility, disability, and mental health. This is particularly significant for those whose parole eligibility dates have passed;
- **Physical accommodation** – there are a multitude of challenges in creating physical spaces which accommodate the needs of this population, both in institutions and the community;
- **Timely access to specialized care** – including community-based staff, peers, gerontologists, palliative care specialists, audiologists, access to prescribed medications, etc.;
- **Timely access to essential health items** – such as hearing aids, dentures, adult incontinence products and related items; and,
- **Confronting isolation** – many people voluntarily withdraw from programming and other activities for fear of intimidation by others; and,
- **Awareness of physical and mental health challenges** – enhancing sensitivity towards conditions of mental and physical age-related health constraints which isolate aging/elderly people in conflict with the law to encourage pro-social activities and support effective reintegration.

¹ *Canadian Journal of Public Health*, 95(4). (2004). Canadian Public Health Association.

These issues highlight the broad scope of unique needs and the need for the development of strategies specifically tailored to this growing cohort. These developments – both in prisons and the community – may include:

- Fostering the maintenance of cognitive skills and autonomy;
- Promoting physical activity and healthy eating habits;
- Fostering age-appropriate leisure and social activities; and
- Reinforcing the notion of self-care (e.g., exercise, eating well, not taking drugs or alcohol).

Striving for such developments requires a shift in mentality and attitude in the way that the aging and elderly are perceived and treated. This shift is occurring within the SLSC membership. For example, many have retrofitted Community-based Residential Facilities (CBRFs) to adjust physical space/capacity to address the needs of older clients under community supervision (e.g. installation of elevators and accessible spaces). However, many have been burdened with the costs associated with doing so, and arguably this should not be the sole responsibility of CBRFs.

Resolutions:

SLSC recognizes that those age 50 and over increasingly make up a significant proportion of the sentenced population, both in-custody and in the community. We believe they should be provided services in the community.

Be it resolved that SLSC will:

- Support an aging well strategy that seeks the expertise and knowledge of community, including but not limited to St. Leonard's Society of Canada
- Support the development of, and access to, resources that address the particular needs of aging and elderly people in conflict with the law including mobility constraints, social isolation, community supports and end of life care;
- Engage correctional authorities to tailor community-based strategies that consider the special needs of aging and elderly people in conflict with the law. This shall include creation of community-based geriatric services, timely access to palliative/end-of-life care, and physical accommodation modifications suited for an older clientele (e.g. wheelchair access);
- Advocate for correctional authorities to appropriately cascade aging and elderly people in conflict with the law to the community based on their current risk level, and those who do not present a public safety risk;
- Affirm the principles of autonomy, justice, non-malevolence, and benevolence², and promote healthy lifestyles for aging and elderly people in conflict with the law; and,
- Support partners to make decisions and changes to accommodate geriatric, mental and physical health services for aging/elderly people in conflict with the law.

² Beauchamp, T. L., & Childress, J. F. (2001). *Principles of Biomedical Ethics*. New York, NY: Oxford University Press.

Additional information:

SLSC Reports/Publications:

- St. Leonard's Society of Canada. (2016). *Bibliography of Articles on Elderly Prisoners*. Ottawa, ON: St. Leonard's Society of Canada.

External Reports/Publications:

- Beauchamp, T. L., & Childress, J. F. (2001). *Principles of Biomedical Ethics*. New York, NY: Oxford University Press.
- EXCOM Correctional Service of Canada. (no date). *Correctional Strategy for Older Offenders: "Aging with Dignity"*.
- Gagnon, M. (2016). *Aging Well: An Elderly-Focused Criminological Intervention Model*. Montreal, QU: Maison Cross Roads Corp.
- Human Rights Watch, (January 27, 2012). *Old Behind Bars: The Aging Prison Population in the United States*. Retrieved from <https://www.hrw.org/report/2012/01/27/old-behind-bars/aging-prison-population-united-states>
- Pittaro, M. (May 1, 2018). *How the aging prison population challenges correctional facilities*. Retrieved from <https://www.correctionsone.com/correctional-healthcare/articles/474317187-How-the-aging-prison-population-challenges-correctional-facilities/>
- Sapers, H. (June 29, 2011). *Annual Report of the Office of the Correctional Investigator 2010-11*. Retrieved from <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20102011-eng.aspx>