



Correctional Service  
Canada

Service correctionnel  
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SAFETY, RESPECT  
AND DIGNITY  
FOR ALL

LA SÉCURITÉ,  
LA DIGNITÉ  
ET LE RESPECT  
POUR TOUS

# Religious and Spiritual Accommodation in CSC Institutions

*Last updated: November 6, 2006*

Canada

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## Introduction

Religious diversity within the Canadian population in general has been expanding in the past few decades. While census information tells us that the fastest growing group consists of people claiming to have no religion<sup>1</sup>, immigration patterns show that Canada is welcoming an increasing number of new citizens from non-European countries and countries in which Christianity is not the predominant religion. As well, people born in Canada are adopting a wide variety of beliefs and faith systems. Although the majority of Canadians still claim to be Christians, they do so within a pluralistic multifaith context requiring greater acceptance of religious and spiritual differences and, ultimately, a better understanding of each other's traditions.

The population of people in the care and custody of CSC reflects the changing trends of the make-up of Canadian society as a whole. At the same time as faith groups and spiritual organisations have been diversifying in the community, a number of their adherents find themselves under a federal sentence and either housed in a CSC institution or living in the community under some form of conditional release.

In April 2005, the Offender Count by Religion on the Offender Management System (OMS) showed the following levels of representation within the offender population (incarcerated and on release):

All Religion	Catholic	Protestant <sup>2</sup>	Muslim	Jewish	Native Spiritual	Buddhist	Sikh
21,702	9,194	4,519	761	159	753	387	102

In addition to these main categories, 1,437 offenders are classified as 'Other'<sup>3</sup>, and 4,286 as 'No Religion'.

CSC Chaplaincy and Food Services made a significant effort to address the religious rights of offenders whose faith entailed dietary obligations and/or prohibitions in its first and second editions of the *General Guidelines on Religious Diets*, published in 1992 and 1998 respectively. Basing the *Guidelines* on information provided by Canada's faith groups allowed the Service to verify specific requests from offenders and ensure greater consistency of service in its institutions across the country.

However, requests not related to diets, but nonetheless required by various religions, continue to arise. The limited knowledge that most Canadians, and therefore most CSC staff, have about these traditions makes the need for a more comprehensive resource apparent. The present resource document constitutes CSC'S response to this need.

<sup>1</sup> For details, see <http://www12.statcan.ca/english/census01/Products/Analytic/companion/rel/canada.cfm>

<sup>2</sup> This does not include the Greek, Russian and Ukrainian Orthodox Christians, who number 104.

<sup>3</sup> This category includes offenders declaring affiliation to the following faith traditions: Agnostic, Atheist, Baha'I, Christian Science, Hinduism, Jehovah's Witnesses, Church of Jesus Christ of Latter Day Saints, Rastafarianism, Scientology, Siddha Yoga, Taoism, Wicca and Zoroastrianism.

## The Principles of Religious and Spiritual Accommodation

### What is Religious and Spiritual Accommodation?

Religious and spiritual accommodation involves CSC making provision for the exercise of offenders' religious and conscientious rights as guaranteed by the [Canadian Charter of Rights and Freedoms](#) and as mandated in the [Corrections and Conditional Release Act \(CCRA\)](#) and [Regulations \(CCRR\)](#).

'Religious and spiritual accommodation' means providing access to an adequate level of resources (leadership, opportunities for worship, educational resources, religious articles, dietary requirements) to allow offenders to practise their religion or spirituality as fully as they desire (up to a level that is generally available to people in the community) within the correctional setting.

The terms 'minority religion' and 'minority tradition' refer to a religious and/or spiritual tradition with which a minority number of inmates are affiliated.

Other related definitions can be found in the Glossary (Appendix)

### Legal Support: Mandate and Responsibility

The accommodation of inmates' spiritual and religious needs is mandated by the following constitutional and statutory provisions:

- The [Canadian Charter of Rights and Freedoms](#)

Section 1 describes the context within which exercise of these rights and freedoms takes place: "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

Section 2 provides for the "freedom of conscience and religion" and section 15 provides that: "Every individual is equal before the law and has the right to the equal protection and benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

- The [Canadian Human Rights Act](#)

The Canadian Human Rights Act s. 3(1) also prohibits discrimination on the basis of religion.

Over the past few years, the Canadian Human Rights Commission has upheld a number of requests for accommodation of valid religious and spiritual practice and ruled that CSC must find ways to accommodate the requests. It has based its

rulings on the basic premise that unless there is a justifiable security-based reason not to, CSC should find ways to make accommodation possible.

- The [Corrections and Conditional Release Act](#)

The *Corrections and Conditional Release Act* (CCRA) underlines the importance of the spiritual dimension of life.

Sections 75 – An inmate is entitled to reasonable opportunities to freely and openly participate in, and express, religion or spirituality, subject to such reasonable limits as are proscribed for protecting the security of the penitentiary or the safety of persons; and

Section 83 (1) For greater certainty, aboriginal spirituality and aboriginal spiritual leaders and elders have the same status as other religions and other religious leaders; (2) The Service shall take all reasonable steps to make available to aboriginal inmates the services of an aboriginal spiritual leader or elder after consultation with:

- (a) the National Aboriginal Advisory Committee mentioned in section 82; and
- (b) the appropriate regional and local aboriginal advisory committees, if such committees have been established pursuant to that section.

- The [Corrections and Conditional Release Regulations](#)

Section 101 reads: The Service shall ensure that, where practicable, the necessities that are not contraband and that are reasonably required by an inmate for the inmate's religion or spirituality are made available to the inmate, including

- (a) interfaith chaplaincy services;
- (b) facilities for the expression of the religion or spirituality;
- (c) a special diet as required by the inmate's religious or spiritual tenets; and
- (d) the necessities related to special religious or spiritual rites of the inmate.

(1) Every inmate shall be entitled to express the inmate's religion or spirituality in accordance with section 75 of the Act to the extent that the expression of the inmate's religion or spirituality does not

- (a) jeopardize the security of the penitentiary or the safety of any person; or
- (b) involve contraband.

(2) Sections 98 and 99 apply in respect of any assembly of inmates held for the purpose of expressing a religion or spirituality.

These provisions allow for limitations of such practices when the practices could jeopardize anyone's safety or the security in the institution. In other words, no right or freedom is absolute and it is legitimate to restrict religious/spiritual and conscientious practices if they are unlawful. However, any time a limitation to a Charter right is imposed it must meet the test outlined in Section 1 of the Charter:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedom set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Among people incarcerated in CSS institutions, 18.7% are Aboriginal<sup>4</sup>. Because this represents a disproportionately high percentage of the incarcerated population relative to the Canadian population (of which only 1.7% are Aboriginal), specific legislation and regulations have been introduced which take into account the historical experience and present circumstances of Aboriginal offenders, their families and communities.

The Interfaith chaplaincy services mandated in *CCRR* 101(a) indicate the responsibility of chaplains to exercise their profession in a multi-faith setting in co-operation with representatives of religious expressions different from their own, and to seek to provide pastoral care to persons of different faith communities with the same commitment as to members of their own community. These services are intended to strengthen the participation of offenders in the faith life of their own communities.

- The United Nation Conventions

When interpreting the Canadian legislation, reference is often made to the following United Nations conventions that relate to human rights and correctional issues.

The [Universal Declaration of Human Rights](#) (1948) Article 18 states that: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

The [United Nations Standard Minimum Rules for the Treatment of Prisoners](#) expand these principles in Section 42 as follows: "As far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination."

The [United Nations Standard Minimum Rules for Non-Custodial Measures](#)  
(The Tokyo Rules)

The [United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

Principle 3 -There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognised or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognise such rights or that it recognises them to a lesser extent.

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<sup>4</sup> as of March 2006

Principle 5 - These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

- The [Mission Statement of the Correctional Service of Canada](#)

The Mission Statement of the Correctional Service of Canada reflects the principles outlined in the legislation when it states:

“...[W]e will accommodate, within the boundaries of the law, the cultural and religious needs of individuals and minority groups, provided the rights of others are not impinged upon” (Guiding Principles, Core Value 1).

[The Service is to] “respect the social, cultural and religious differences of individual offenders”. (Strategic Objective 1.7)

- The Memorandum of Understanding with the Interfaith Committee

In 1982 CSC entered into a *Memorandum of Understanding* (MOU) with the Interfaith Committee on Chaplaincy in the Correctional Service of Canada (IFC) which outlines the relationship and joint responsibility of CSC Chaplaincy and the IFC to provide religious and spiritual care to the people serving federal sentences. The current version signed in 2000 contains a number of clauses relating to CSC's access to information and leadership from Canada's faith communities in order to fulfil its legal mandate.

Preamble: (This MOU) reflects the mutual concerns (of CSC and the IFC) held for the spiritual dimension of life as expressed by the delivery of pastoral care through the effective provision of Chaplaincy services.

The IFC will provide liaison, linkage and information, and will stimulate involvement by churches and other faith communities in correctional ministry both in the institutions and in the community from a restorative justice perspective. (3d)

Special needs of non-Christian faith groups shall be met by additional part-time contract positions or volunteers. (4m)

The faith community and the CSC will establish partnerships to assist ex-offenders to live in the community as law-abiding citizens. (4p)

CSC has also produced a [Code of Professional Conduct for Chaplains](#), which includes the following Guiding Principle (5):

The chaplain affirms the necessity of respecting the practice and beliefs of persons under his/her responsibility and of being careful not to impose on them

responsibilities which would contradict the beliefs of their respective faith communities.

In addition CSC's Human Rights Branch responds to complaints based on the *Canadian Charter of Rights and Freedoms*, whether received directly from a complainant or lodged with the Canadian Human Rights Commission.

## Freedom of Religion

Offenders retain the right to exercise freedom of religion during their incarceration. The legislation governing CSC's activities - the *CCRA* and *CCRR* - use both 'religion' and 'spirituality' without qualification apart from the exclusion of practice that is illegal, that requires the use of contraband articles, or that negatively impacts the safety and security of the institutions. The Supreme Court of Canada (in *Syndicat Northcrest v. Amselem*, 2004) has provided for the first time in case law a definition of religion:

“Defined broadly, religion typically involves a particular and comprehensive system of faith and worship. In essence, religion is about freely and deeply held personal convictions or beliefs connected to an individual's spiritual faith and integrally linked to his or her self-definition and spiritual fulfilment, the practices of which allow individuals to foster a connection with the divine or with the subject or object of that spiritual faith.”

The Court also defines the parameters of the exercise of freedom of religion:

“Freedom of religion under the Quebec (and the Canadian) Charter consists of the freedom to undertake practices and harbour beliefs, having a nexus with religion, in which an individual demonstrates he or she sincerely believes or is sincerely undertaking in order to connect with the divine or as a function of his or her spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials. This understanding is consistent with a personal or subjective understanding of freedom of religion. As such, a claimant need not show some sort of objective religious obligation, requirement or precept to invoke freedom of religion. It is the religious or spiritual essence of an action, not any mandatory or perceived-as-mandatory nature of its observance, that attracts protection.”

Historically, CSC has relied on the religious leadership of Canadian faith groups to validate offenders' religious affiliation and authenticate the requests for religious accommodation. The Supreme Court ruling, however, means that the individual is not required to conform to the recommended practice of religious organizations or leadership; his or her understanding and interpretation of a specific religious tradition, if it can be shown to be sincerely held, enjoys the same protection as does the 'official' understanding and interpretation.<sup>5</sup> In the same vein, offenders are free to identify their

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<sup>5</sup> “A claimant may choose to adduce expert evidence to demonstrate that his or her belief is consistent with the practices and beliefs of other adherents of the faith. While such evidence may be relevant to a

religious affiliation and have their choice recorded without that affiliation being necessarily recognized by the faith community in question.

This is not to say that religious leadership becomes irrelevant. The faith authorities still determine what is required in order for adherents to remain 'in good standing' with their organization, and offenders wishing to do so must defer to them. It does mean that if an offender chooses to practice his or her religion independently of the recognized religious leadership, he or she is free to do so. In that case, the religious leaders remain a valuable resource to CSC in terms of providing information about their faith tradition, and possibly assisting in evaluating the claimant's sincerity, but the onus is on the offender to articulate the precise nature and importance of the beliefs and practices being claimed and to demonstrate that they are sincerely held and consistently practised.

According to the Supreme Court decision in *Amselem*,

"An individual advancing an issue premised upon a freedom of religion claim must show the court that (1) he or she has a practice or belief, having a nexus with religion, which calls for a particular line of conduct, either by being objectively or subjectively obligatory or customary, or by, in general, subjectively engendering a personal connection with the divine or with the subject or object of an individual's spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials; and (2) he or she is sincere in his or her belief. Only then will freedom of religion be triggered."

When it comes to evaluating the importance and sincerity of an individual's beliefs, the Supreme Court offered the following criteria:

"Sincerity of belief simply implies an honesty of belief and the court's role is to ensure that a presently asserted belief is in good faith, neither fictitious nor capricious, and that it is not an artifice. Assessment of sincerity is a question of fact that can be based on criteria including the credibility of a claimant's testimony, as well as an analysis of whether the alleged belief is consistent with his or her other current religious practices."

For the purposes of religious and spiritual accommodation in CSC institutions offenders may determine their own beliefs, whether they are shared by anyone else or not. It is only when they lay claim to particular requirements based on their beliefs that CSC

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demonstration of sincerity, it is not necessary. Since the focus of the inquiry is not on what others view the claimant's religious obligations as being, but rather what the claimant views these personal religious "obligations" to be, it is inappropriate to require expert opinions to show sincerity of belief. An "expert" or an authority on religious law is not the surrogate for an individual's affirmation of what his or her religious beliefs are. Religious belief is intensely personal and can easily vary from one individual to another." Requiring proof of the established practices of a religion to gauge the sincerity of belief diminishes the very freedom we seek to protect."

requires validation of those beliefs by an external religious representative. If a religious or spiritual leader in the community can be found to validate the offender's claim, CSC allows and facilitates the practice of the religion or spirituality in question within the context of the *Guiding Principles*.

It is important to underline that the Supreme Court ruling does not mean that 'anything goes' when it comes to spiritual and religious practice within CSC institutions. CSC can impose limits on offenders' freedom of religion that are prescribed by law in order to ensure the safety of individuals and the security of the institution if it can justify the 'reasonableness' of those limits in accordance with s. 1 of the Charter.

In *Amselem* the majority of the Supreme Court of Canada highlights this point by stating:

"[O]ur jurisprudence does not allow individuals to do absolutely anything in the name of that freedom. Even if individuals demonstrate that they sincerely believe in the religious essence of an action, for example, that a particular practice will subjectively engender a genuine connection with the divine or with the subject or object of their faith, and even if they successfully demonstrate non-trivial or non-insubstantial interference with that practice, they will still have to consider how the exercise of their right impacts upon the rights of others in the context of the competing rights of private individuals. Conduct which would potentially cause harm to or interference with the rights of others would not automatically be protected. The ultimate protection of any particular Charter right must be measured in relation to other rights and with a view to the underlying context in which the apparent conflict arises."

## **Freedom of conscience**

The exercise of freedom of conscience is guaranteed under the *Canadian Charter of Rights and Freedoms* in the same section that guarantees freedom of religion. Conscience represents spirituality in its most personalized, generic and humanistic expressions.

Freedom of conscience is not exercised in mutual exclusion from freedom of religion. Adherents to a given religious tradition may exercise their freedom of conscience in opposition to the teachings and practice of their tradition with which they may disagree. Conversely, persons who claim no formal religious or spiritual beliefs still exercise their freedom of conscience.

In *Maurice (2002)* a Federal Court judge ruled that CSC should accommodate an inmate's request for a vegetarian diet made on the basis of a credible conscientious argument unless public safety, order, health of morals or the fundamental rights and freedoms of others are threatened. The Court ruled that (paraphrase) vegetarianism is a dietary choice founded on a belief that consumption of animal products is morally wrong. Motivation for practicing vegetarianism may vary, but in the opinion of the Court

its underlying belief system can be considered an expression of conscience. Just as the entitlement to a religious diet is found in s. 2(a) of the Charter, so a similar entitlement for a vegetarian diet exists based on the right to freedom of conscience.

According to the Court, CSC's [Religious Diets General Guidelines](#) indicate that, in practice, many religious diets include some form of a vegetarian menu. As a result, accommodating a vegetarian's conscientiously held beliefs imposes no greater burden on an institution than that already in place for the provision of religious diets. Requests for accommodation based on freedom of conscience – and freedom of religion without reference to religious leadership or a religious organization – may involve issues other than vegetarian diets; however, a similar process using the same criteria (of demonstrating sincerity and consistency of practice) will be adopted.

### **Guiding Principles**

Religious accommodation in the correctional system covers a whole host of issues including food services, security and fire issues, and training of staff, among others. Making provision for inmates to practice their religion or spirituality to the fullest extent possible while in CSC's care, therefore, involves the collaboration of many sectors whose work in the field is impacted by religious rights.

The attitudes and values held by the people who manage the lives of offenders in the correctional environment significantly affect how requests for religious and spiritual accommodation are handled. In addition to the respect for the law, the respect for differing versions or visions of the sacred and an acknowledgement of the importance of religious articles or practices to the believer facilitate communication with offenders and with the representatives of their faith communities. A positive appreciation for the role that the faith community can play in an offender's integration during incarceration and reintegration improves the prospect of helpful relationships being established.

The following principles form the basis of decisions related to religious accommodation issues and problems:

#### *a. Valid Affiliation*

- ◆ In order to claim access to religious rights, especially when a given tradition places particular obligations or prohibitions upon its adherents, it is imperative that the person's religious affiliation be validated.

CSC's database contains the name of the religion the person claimed at the time of his or her admission or at any subsequent point of serving the sentence. If the person claims affiliation to a tradition that is not recorded, and the person has no documentation of his or her conversion or change of membership, a representative from the local faith community is usually called in to validate the person's claim.

*b. Correct Religious Information*

- ◆ The faith community is the final authority on religious teaching and practice. Although the onsite chaplain may be knowledgeable about accommodating specific religious needs, he or she is not the religious authority, except with regard to the specific tradition to which he or she belongs. The relevant faith community has the responsibility of providing information concerning community spiritual or religious practices.

Respecting the Charter right to freedom of religion requires having access to correct information about the tradition in question. It is impossible for a government agency such as CSC to decide the validity of teaching and practice associated with the religions represented within its federal inmate population. Relying on this community-based expertise allows CSC to base its operational decisions on information beyond that which a given offender may have access to.

*c. Variations in Religious or Spiritual Beliefs and Practice*

- ◆ Within a given faith tradition, there may be different branches or expressions which have different teachings and requirements. It is important to consult the appropriate faith community to obtain information that is relevant and accurate.

In compiling the information for this resource book, CSC sought to obtain information from the national bodies governing the various faiths and attempted to distil a consensus among those offering different perspectives. It is possible, however, that local leaders or representatives may make different suggestions or recommendations on a given question. Some of these may be rooted in deeply held convictions with a well-established historical or theological basis. Others may arise from differing cultural expressions of a given religion or spirituality, with a view to making the teaching or practice more easily recognisable or applicable to certain inmates. Whatever the case, CSC cannot require community leaders to act against their convictions or beliefs and, whenever possible, attempts to find ways of accommodating the religious requirements expressed by those offering spiritual care to offenders.

*d. Institutional and Correctional Realities*

- ◆ Within the context of the penitentiary, CSC personnel work together with the faith groups to determine specific religious and spiritual requirements. The specific aspect of accommodation need only be consistent with what is accessible to the average person of the faith community in question.

There are many settings and circumstances within CSC institutions that present particular challenges with regard to the accommodation of religious and spiritual needs. Each of these realities has the potential to affect the limits placed on access to religious leadership, resources or practice. These include:

- Segregation Units
- Secure Units and Structured Living Environments (SLE) in CSC institutions for women offenders
- Health Services Units
- Designation of incompatible offenders
- Integrated Correctional Intervention Strategies

In addition, the conditions of an offender's release may include restrictions on allowable associates and could conceivably impact on his or her participation in a given faith community.

## **Common Issues**

### **1. Affiliation**

In the course of each offender's preliminary assessment, a declaration of religious affiliation is requested, but cannot be demanded. If the offender makes requests or claims based on his or her religious beliefs and is not able to provide proof of affiliation, it may be necessary to contact the appropriate religious leader or faith group in the community to authenticate both the affiliation and the validity of the request.

### **2. Beliefs and Practices**

People of all religions believe and practice their faith to a greater or lesser extent. An individual's observance of his or her faith tradition may fall anywhere on a continuum between strict orthodoxy and nominal adherence. The religious affiliation declared by an offender upon admission to a CSC institution does not indicate the level of religious observance that he or she practises. In addition, the degree to which the person ends up practising his or her religion 'inside' may depend upon a variety of factors and shift for a variety of reasons.

Decisions related to personal observance and the fact that religion never exists outside the context in which it is practised add to the diversity of religious expression. People do not experience their spirituality apart from the rest of their lives. As a result there can be no clear distinctions between religious tenets and how they take shape in the social and cultural aspects of the lives of believers.

Because people who share the same faith may have different countries of origin, their ethno-cultural expressions of those beliefs may vary substantially. If one thinks of the wide variety of national backgrounds represented by Christians in Canada and the different family traditions that have evolved over the years around religious holidays, it should come as no surprise that there is no homogeneity among people of other faith and national backgrounds within the inmate population.

This does not mean, however, that anything that is part of a given tradition enjoys protection as an expression of religious freedom under the Charter. CSC relies on the chaplains and visiting community-based leaders to distinguish between what normally takes place in the worship life of a faith group and what events would be held in meeting rooms or people's homes.

### **3. Birth**

Very few women give birth while in the care and custody of CSC. Provision can usually be made for their release prior to delivery. When this is not possible, the Mother and Child Program governs the arrangements for a child to live with the mother in the institution until the age of four.

CSC recognizes that the teaching of certain religious traditions contains obligations and/or prohibitions on the part of the mother and/or father during the pregnancy.

#### **4. Cell Effects**

Offenders may seek authorization to keep articles related to the practice of their religion or spirituality in their room or cell. These items may include sacred religious texts or scriptures, basic literature or study material about their faith, or objects related to personal devotion. These articles may hold strong significance for the offenders; in some cases their faith community may consider these items to be holy or sacred.

Commissioner's Directive (9.5) [Prevention of Security Incidents](#) instructs staff to show respect when handling these items:

The Institutional Head shall ensure that all cell searches are done by staff members who possess the knowledge or training to recognize and respect cultural and spiritual artifacts.

When a valid religious article cannot be approved for use in an offender's room or cell for security or safety reasons, the chaplain may arrange a time and space for the offender to use the article elsewhere in the institution, sometimes in the Chapel or Spirituality Centre.

By way of promoting respect within CSC institutions Commissioner's Directive 764 [Access to Material and Live Entertainment](#) regulates access to material and live entertainment. Paragraph 5(b) states that:

"...material that includes the following content shall not be permitted entry into the institution: material which advocates or promotes genocide or hatred of any identifiable group that may be distinguished by colour, race, religion, ethnic origin, sex, sexual orientation, or by other specific traits."

In addition Paragraph 7 prohibits the purchase, use or display of any material that might reasonably be seen to "undermine a person's sense of dignity, cause humiliation or embarrassment to a person on the basis of sex, race, national or ethnic origin, colour or religion."

#### **5. Chaplaincy's Role**

The ability of any chaplain to provide ministry to offenders belonging to religions other than his or her own, including other branches of his or her own religion, is limited by the individual's knowledge and ability. All chaplains, however, can ensure that offenders have access to literature (and religious articles, as applicable) pertaining to their faith and, so far as they are available, to the ministry of qualified and responsible members of the faith group in question.

Chaplains may need to consult authorities of a given religion about questions that arise in the course of life in the institution. They are also responsible for making arrangements for the visit of other religious representatives and accompanying them during their visits, the only exception being Native Spirituality, which is the purview of the institutional Elder.

## **6. Confidentiality**

Chaplains and other spiritual visitors need to be trusted by those to whom they minister, both staff and offenders. This is of paramount importance to their personal credibility. Their position of neutrality in the institution is possible only because they are recognized as agents of the faith community serving those who work and live within the correctional system.

The purpose of maintaining confidentiality is primarily pastoral, providing a 'safe' place for people to look at issues of a spiritual, moral and/or ethical nature with a view to increasing their wellbeing. Both legal and moral demands are created by accepting confidences and chaplains need to be sure that they and their confidants are agreed in their understanding of the obligations and limits of confidentiality.

## **7. Contacts and Services in the Community**

In Canada, the government cannot determine religious practice. When the government has responsibility for a setting in which a religious practice takes place - such as hospitals, schools and prisons - it relies on the services of community faith leaders to advise its personnel on religious matters.

Therefore, CSC has entered into a partnership with the Interfaith Committee on Chaplaincy in the Correctional Service of Canada (IFC), which is composed of some 30 representatives of their respective religious organisations. The IFC collaborates with the Chaplaincy Branch to establish policy and to select and evaluate those who provide of chaplaincy services on behalf of their religious authority.

## **8. Conversion and Initiation**

Many offenders find themselves exploring the spiritual dimension of life and the role of spirituality in addressing the challenges of incarceration and reintegration. Some may deepen their relationship with a religion already known to them, while others may seek and discover a tradition or faith community that resonates with their needs and hopes. Offenders continue to enjoy the Charter guarantee of freedom of religion, and therefore the freedom to change religion, to the same degree as all other Canadians.

That being said, another type of law - known in many traditions as canon law - governs the provisions for changing religion, whether one wishes to adopt or renounce a specific faith. Each tradition determines the requirements that 'converts' must meet in order to belong. These might include education about the faith (sacred texts, important events

such as marriage, funeral/burial, and religious festivals), instruction about prayer and worship, a period in which the seriousness of the inquirer's spiritual commitment can be evaluated, etc.

Changing religions is an important decision that necessitates the involvement of religious leaders for teaching, counseling and guidance. Chaplaincy Management recommends that at least three months be allowed for this process; however, decisions about the length of time an offender should spend in preparation rest with the spiritual leader of the tradition in question.

An offender may establish his or her own links with a faith community and arrange to satisfy its requirements for membership. If, however, the practice of the new faith requires specific accommodation during the person's incarceration, he or she must ensure that the faith community validates both the person's membership and the accommodation required to practise the religion to the fullest extent possible in a correctional setting.

Alternatively, an offender seeking to establish contact with a faith community while serving time may request the assistance of the institutional chaplain. The chaplain will then make every effort to arrange contact between a leader from the faith community in question and the offender and facilitate visits when possible. The leader will need to provide the necessary information about preparation for membership, any related rites of initiation and corresponding certificates or proofs of membership to the chaplain in order for the conversion to be recognised within CSC. The expectations about religious practice on the part of the inmate as well as any requirements for religious accommodation must be clearly articulated to the chaplain by the faith leader.

Some religious traditions require that they be informed if a member renounces their affiliation in order to convert to a different one. The Roman Catholic Church, for example, expects members to inform the local Diocese so that a representative can visit to discuss the person's reasons for changing religious affiliation and the implications of doing so from the faith community's perspective. If the person decides to follow through with the conversion process, there is a process of making mention of abandonment of faith (apostasy) in the baptismal registers held by the relevant Parish or Diocese.

If at some future date the offender decides to revert back to his or her former religious affiliation or religion of origin, the faith community again has sole prerogative over the requirements for such a change, if it is indeed permitted at all.

Offenders wishing to enter into a relationship with a faith community may seek to follow the rites of initiation practised by the community. Chaplains are responsible to assist in meeting offender's religious needs, either by taking part in the lead up to the person's initiation (if his or her own religious is being adopted) or by involving responsible representatives of the specific faith group. In the latter case, the chaplain contacts a local representative of the faith community in question, asking that the spiritual leader or other designated person prepare the candidate for initiation.

## 9. Death of an Inmate

Action to be taken around the death of an offender is governed by Commissioner's Directive 530 [Death of Inmates and Day Parolees](#). If the death is anticipated by Health Services allowance is made for any ritual requirements at the time of death in accordance with *CSC's Palliative Care Guidelines*.

Even though the CD does not mention specific involvement by the chaplain, the Institutional Head customarily delegates responsibility for many of his or her functions to the chaplain.

## 10. Religious Diets

CSC's [Religious Diets: General Guidelines](#), produced by CSC Chaplaincy and Food Services, are based on *Canada's Food Guide to Healthy Living*.

Within all religious groups there are to be found adherents who practise the stated beliefs and practices of their faith to greater or lesser degrees. As a result, inmates belonging to the same religion may have different requirements when it comes to their religious diet.

### *i. Fasting*

Fasting is a common devotional practice in many religions that aims to foster people's spiritual strength by giving occasion for them to focus on the importance of spiritual nourishment as distinct from physical nourishment.

In some traditions fasting can mean that nothing passes the lips for the designated time, such as from sunrise to sunset (during Ramadan for Muslims); in others but it can mean taking only one meal a day, abstaining from one food, or only having fluids. Each faith community that recommends certain days for fasting is responsible for providing CSC with a calendar of the days on which offender may choose to fast and the types of fast they should observe.

### *ii. Diets of Conscience*

A Federal Court judge determined that vegetarianism is a dietary choice, founded in a belief that consumption of animal products is morally wrong. Motivation for practicing vegetarianism may vary, but, in the opinion of the Court, its underlying belief system may fall under an expression of 'conscience'. The broad principles in s. 4(e) and (h) of the *CCRA* reinforce the view that dietary requirements based on religion or conscience should be accommodated.

Food Services, in consultation with the NHQ Religious Accommodation Advisory Group has prepared draft guidelines for the management of diets requested on the basis of conscience.

## **11. Dress Requirements**

The overlap of cultural and religious aspects of religious observance can be most apparent when it comes to requests by inmates to wear particular articles of clothing related to their faith. Adherents of a given religion in one country may express their faith in a very different way from adherents of the same faith in another country. This can pose significant challenges in the correctional setting of another country. Head covering, flowing robes, or religious symbols (such as those required to be worn by Sikhs) may indeed represent important aspects of the person's identity; but they also clearly distinguish certain offenders from others. Because of this, they have the potential of leading to allegations of preferential treatment and/or may pose safety or security concerns.

It is, therefore, important to consult with community faith leaders to clearly identify articles of dress that must be worn during private prayer or group worship as well as those required outside that context. CSC tries to find ways to accommodate the use of articles required for prayer/worship and/or daily life. If an article of clothing presents a problem for the institution its use may be permitted only in the chapel, or allowed for private and group worship but not for day-to-day use.

## **12. Family and Parenting**

Separation from family members is a reality with which most offenders live. They may experience great sadness at not 'being there' to participate in raising their children; they may feel very lonely without their spouse/partner. They may also live with a lot of guilt about not being able to support their family financially and knowing the circumstances in which their loved ones now live.

In the context of their faith, parents may find themselves unable to participate in their children's religious education or to attend religious ceremonies involving their children. Depending on the religious tradition there may be obligations on the part of the parent that the offender is unable to meet. Offenders may particularly feel regret about this at times of religious festivals.

Contact with family can make a significant difference to the life of an offender and to his or her chances of successful reintegration. The warden of each institution determines the level of family participation in socials or seasonal religious celebrations held at the institution. Some institutions have shown great creativity in providing opportunities for offenders to maintain meaningful contact.

Some family members consider traditions related to the religious holiday as practised in different ethnic communities of origin to be part and parcel of the celebration. These

traditions, however, may or may not meet with CSC approval. Family members should be apprised beforehand about what they can and cannot bring with them in terms of food and other articles related to the religious celebration.

While primary responsibility for helping families access spiritual and emotional support falls to faith leaders in the community and/or community chaplains, institutional chaplains can fulfil a useful function by facilitating contact with spiritual leadership in the community, especially if the family has no previous connection with a faith community.

One community agency dedicated to helping families of offenders to cope with life during the incarceration of a family member and to access community-based services is the [Canadian Families and Corrections Network](#) (CFCN). *Time Together* is a valuable resource produced by the CFCN that contains information to assist the offender's partner in the community with issues such as separation, divorce and visits to the prison. It contains several suggestions about how to maintain a relationship with an older child or an incarcerated parent. CFCN also has a list of books written specifically for children of incarcerated parents designed to help them better understand and respond to what they are going through.

### **13. Gender Differences**

The religious obligations and prohibitions of some religious traditions dictate practice when it comes to prayer, conversion, dress and leadership which may differ for their male and female adherents.

### **14. Health and Illness**

A number of situations may lead an offender to refuse medical or therapeutic care because of strongly held religious beliefs. Some religious traditions for example prohibit their adherents from receiving blood transfusions. Others have very strict obligations around the disposal of anything belonging to one's body, such as hair and finger/toe nails or amputated body parts. In addition there may be gender-based obligations or prohibitions arising out of the religious tradition that dictate if and when health care can be delivered by a person of the opposite sex.

CSC chaplains often notify the chaplain of the community hospital when an inmate is transferred to it for any length of time. The required security arrangements and the constraints these may place on pastoral visitation is valuable information for the CSC chaplain to share.

If the offender participates in Chapel programs, hospitalization may provide an opportunity for Chaplaincy volunteers to assist the chaplain in providing pastoral care to the offenders in the community hospital. Alternatively, if the offender belongs to a local faith group, the chaplain may contact its leader about a possible visit during his/her stay at the community hospital.

The CSC *Palliative Care Guidelines* make explicit provision for religious and spiritual care of offenders who are terminally ill. The multidisciplinary team working with the offender should consult the Guidelines to ensure that appropriate care and contacts with his or her faith are offered.

## **15. Holy Days and Holidays**

The holidays of many religions are determined by the lunar calendar, such as Easter for Christians, and therefore vary from year to year. The opportunity for inmates to fully celebrate these days depends on many things: the number of inmates belonging to the faith tradition, the institutional security level, the level of involvement required by community members, the articles needed in the celebration, CSC policy and institutional routine, as well as other possible factors.

It is the responsibility of each religious community to provide the CSC with a calendar of applicable special feast days, major festivals or seasons along with any specific gatherings or worship events, dietary requirements, symbols for corporate worship or private prayer, or other practices. If a religious tradition practises specific dietary requirements on a given day or during a particular religious season, for example around Passover or during Ramadan, Food Services staff make every effort to accommodate the needs that cannot simply be met by purchasing the necessary items from the canteen.

The provision in Commissioner's Directive 890 [Inmate's Canteen](#) for Holiday Canteen items is as follows:

The institutional head may allow inmates whose equivalent [i.e. to Christmas] major holiday occurs at another time of the year to purchase a Holiday Canteen for the same amount approved as per this paragraph.

## **16. Religious Law**

The context and history underlying religious law(s) can sometimes be quite foreign to North Americans living in the 21<sup>st</sup> century. This can make it difficult to appreciate their importance to people bound to uphold them. Questions may arise about CSC's ability to accommodate the provisions of the law(s) given the constraints of the correctional setting. The advice given by different community leaders may vary from one location or region to another. This means that CSC cannot impose uniformity of belief or consistency of practice across the country. Keeping in mind the Charter's guarantee of the right to exercise freedom of religion, CSC staff need to work with the chaplains and community leaders to determine ways in which offenders can abide by the law(s) of their religion to the greatest extent possible.

## **17. Leadership**

Because a government service cannot determine religious policy or practice, CSC relies on its relationships with faith leaders from the community to advise it on questions of religious accommodation and to provide spiritual and religious services to offenders in its custody and care.

Canada's main faith traditions are represented on the Interfaith Committee on Chaplaincy in the Correctional Service of Canada (IFC). For questions of policy and for assistance in selecting and evaluating chaplains, Chaplaincy usually relies on assistance from the appropriate IFC member.

When it comes to providing pastoral counselling and/or religious services, Chaplaincy tries to identify a leader of the faith community in reasonable proximity to the institution. Accreditation may come from a national or local religious organisation or a locally established centre of worship - a church, temple, mosque, etc. CSC also requires that spiritual leaders from the community obtain security clearance. When CSC does not contract with the person for the spiritual services provided he or she qualifies as a volunteer for whom the chaplain is responsible when visiting the institution.

## **18. Marriage**

It is possible for offenders to marry while in CSC custody, provided that there is no legal impediment to the marriage - such as age of consent, an existing marriage or close blood relationship. Provinces are responsible for regulating (e.g. licensing, registering) the celebration of marriage. In each province, the person officiating at the marriage ceremony is responsible to ensure that the parties meet the province's eligibility criteria, as well as any applicable federal conditions (e.g. family relationships).

The determination of whether permission will be given for a wedding ceremony to take place within a CSC institution is based on an assessment of potential risk to the safety of the persons concerned and the security of the institution. If communication and contact between the two persons do not present any safety or security risks, and approval to hold the wedding is granted, the offender's Parole Officer assists the couple to obtain the necessary institutional clearances for guests who are to attend the ceremony.

If a religious wedding ceremony is requested, the incarcerated person requests the assistance of an institutional chaplain. CSC Chaplaincy encourages the involvement of the couple's faith community if at all possible. Chaplains on contract with CSC remain under the discipline of their faith community and are expected to apply the same standards and practices to their involvement with inmates as they would in a regular parish situation. While some chaplains consider the marriage of offenders an important part of their ministry, many have reservations about performing marriages when one (or both) of the parties is incarcerated. Because freedom of religion is protected by the

[Canadian Charter of Rights and Freedoms](#), religious officials cannot be required to perform any religious function that is against their religious beliefs.

## 19. Searches

Commissioner's Directive 566-9(5) [Searching Of Cells, Vehicles And Other Areas Of The Institution](#) which governs the searching of inmates, requires that staff who carry out searches have knowledge and training "to recognize and respect cultural and spiritual artifacts":

The Institutional Head shall ensure that all cell searches are done by staff members who possess the knowledge or training to recognize and respect cultural and spiritual artifacts.

Some religions prohibit all physical contact between adults of the opposite sex apart from one's spouse or other close relative. Staff should show consideration for people who for religious reasons request to be frisked by an officer of the same sex, rather than by a one of the opposite sex. When staff know that groups of family members belonging to a religious tradition with cross-gender sensitivities will be visiting, institutions could make staff members of both sexes available to perform these searches, providing the requests can be reasonably accommodated without causing undue operational disruptions. Visitors should be aware that in some situations, the person being searched may need to wait while an appropriate officer is re-assigned, or that it may not be possible to accommodate the request at that time.

## 20. Worship

Most faith traditions encourage adherents to participate in prayer and worship in both private and corporate (group) settings. CSC policies and procedures can have an impact on if, how, when and where religious ceremonies take place in its institutions; on which religious articles may be kept in rooms/cells; and on who may and may not associate together in a group context. The scheduling of private prayer or devotion happens within the context of institutional daily routine. Scheduling corporate worship, and specifically the use of the chapel, is the responsibility of the institutional chaplain(s).

All institutions are required to provide space in which the religious needs of inmates can be met. When more than one faith tradition uses the same space, care is taken to show respect for others by allowing the removal or covering of religious symbols when required. In some cases the architecture and appointment of the space make this very difficult. In the newer worship spaces care is often taken to include symbols of all traditions that use the space. Of greatest importance is the spirit within which recognition of and sensitivity to this issue is shown.

**Appendix – Glossary of Terms and Abbreviations**

<b>Affiliation</b>	One's association as a member; to trace one's origin, or to connect or associate oneself
<b>Agnostic</b>	One who holds the view that any ultimate reality (a God) is unknown and probably unknowable
<b>Atheist</b>	One who denies the existence of God or a Supreme Being
<b>BOP</b>	Bureau of Prisons (the U.S. federal department responsible for Corrections)
<b>CCRA</b>	Corrections and Conditional Release Act
<b>CCRR</b>	Corrections and Conditional Release Regulations
<b>CD</b>	Commissioner's Directive (CSC policy statement)
<b>Charter</b>	Canadian Charter of Rights and Freedoms
<b>Cult</b>	A group without roots in a particular religious body which comes into existence in response to a charismatic leader
<b>Faith</b>	A system of belief
<b>Fundamentalism</b>	An approach to religious teaching based on the 'fundamentals' (of sacred texts and/or traditions); often erroneously understood and used as a synonym of extremism, fanaticism, and even terrorism.
<b>IFC</b>	Interfaith Committee on Chaplaincy in the Correctional Service of Canada
<b>NHQ</b>	National Headquarters of the CSC (in Ottawa)
<b>MOU</b>	The Memorandum of Understanding between the Correctional Service of Canada and the Interfaith Committee on Chaplaincy
<b>OMS</b>	Offender Management System (the database of information on offenders)
<b>Religion</b>	An articulated set of doctrines and practices in response to faith
<b>Sect</b>	A group which separates from its parent religious body because of differences of belief or practice
<b>SOP</b>	Standard Operating Procedure (guidelines for implementing CSC policies)

**Spirituality** Expression given to the aspirations of the human spirit

**Tradition** An expression of religious or spiritual belief demonstrated by a group