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1410-2-04-23 (CSC)
3447-2-ULAYUK (NPB)

**NATIONAL JOINT BOARD OF INVESTIGATION
INTO THE RELEASE AND SUPERVISION
OF AN OFFENDER ON FULL PAROLE
CHARGED WITH FIRST-DEGREE MURDER
OF A PAROLE OFFICER
ON OCTOBER 7, 2004
IN YELLOWKNIFE, NORTHWEST TERRITORIES**

**Correctional Service of Canada
&
National Parole Board**

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A) PROFILE OF PAROLE OFFICER LOUISE PARGETER

LOUISE PARGETER was born on 1969- [REDACTED] in Saltburn, England. In 1981, together with her parents and brother, she immigrated to Canada and the **PARGETER** family made Calgary its new home. [REDACTED]
[REDACTED]

LOUISE moved to Yellowknife, Northwest Territories, [REDACTED]
[REDACTED]
[REDACTED]

In 2001 she joined the Correctional Service of Canada to work as a community parole officer in the Yellowknife Parole Office. [REDACTED]
[REDACTED]

[REDACTED] Louise quickly took on a large and challenging caseload and brought with her the dedication and skills she had shown in her previous work.

LOUISE was an outdoor person. [REDACTED]
[REDACTED]

[REDACTED] Yellowknife provided the opportunity to pursue her recreational interests, so much so that her employer, the Correctional Service of Canada (CSC), had featured a picture of her in a cover story of their in-house magazine “*Let’s Talk*” in a boat en route to supervise offenders at an Aboriginal camp.

Her love of life and her sense of humour drew people to **LOUISE**. [REDACTED]
[REDACTED]
[REDACTED]

LOUISE went on maternity leave for a year following the birth of her daughter and returned to work at the parole office in April 2004. This time she had to juggle her official work responsibilities with those of a new parent.

During interviews of many of her colleagues the Board was struck by the close-knit nature of the Yellowknife Parole Office and how everyone considered **LOUISE** first and foremost their good friend. She seemed to exemplify the energy and spirit of the office. Professionally, they described her as conscientious and hard working. [REDACTED]

[REDACTED] The Board found that **LOUISE** was a highly respected and much-liked colleague within the criminal justice community in Yellowknife.

It was apparent to the Board that **LOUISE** chose the kind of work where she felt she could genuinely make a difference and help people cope with their challenges in life. She was optimistic, always trying to make things better, and not willing to give up. **LOUISE** inspired the Board to dig deep in an attempt to identify what went wrong and what can be done better in the future. It is the Board's hope that the systemic problems and challenges identified in this report will be addressed with the same kind of positive energy and dedication that **LOUISE** brought to her work.

B) EXECUTIVE SUMMARY

Introduction

Louise **PARGETER** was a 34 year old Correctional Service of Canada Parole Officer who had worked in the Yellowknife Parole Office since 2001. At the beginning of October 2004, she was re-assigned the case of Eli **ULAYUK** and arranged to meet with the offender at his apartment on 2004-10-06 at 10:00hrs. She did not return to the office at 11:30hrs as scheduled and her colleagues made a number of attempts to locate her. Her body was found by the RCMP in **ULAYUK**'s apartment later that day and **ULAYUK** was arrested early the following morning.

ULAYUK has been charged with First-Degree Murder and at the time of the completion of this report, he is awaiting trial. He is presumed, by the law of Canada, to be innocent until found guilty by a court.

On 2004-11-04 the Acting Commissioner of the Correctional Service of Canada (CSC), Don **HEAD** and the Chairman of the National Parole Board (NPB), Ian **GLEN**, directed that an investigation be conducted and convened a Board of Investigation (BOI). The BOI was chaired by Andrejs **BERZINS**, Community Member, with Janice **RUSSELL**, Permanent Investigator, Incident Investigations Branch, National Headquarters, CSC, Simonne **FERGUSSON**, Regional Director, Ontario/Nunavut Region, NPB and Titus **ALLOOLOO** (Community Member) as members.

The Board of Investigation was given a very broad mandate by the Correctional Service of Canada and the National Parole Board. It was asked to examine how **ULAYUK** was dealt with by the CSC since he first entered the system in 1990 and to examine all of the NPB decisions including his grant of Full Parole in June 2004. The Board's mandate also included looking at **ULAYUK**'s supervision in Yellowknife and issues related to the personal safety of CSC community staff. The BOI was invited to make any recommendations that it considers appropriate.

The BOI examined CSC and NPB files, interviewed many individuals who dealt with the offender directly and consulted others who it felt could provide helpful information and advice. Since **ULAYUK**'s case involved a highly unusual index offence in 1988 and subsequently numerous psychiatric and psychological assessments, the Board engaged Forensic Psychiatrist Dr. Stephen **HUCKER** and Psychologist Dr. Ralph **SERIN** to assist as consultants. They also provided their own assessments of the case that are attached to this report. (Appendices E and F).

The BOI acknowledges that it has had the benefit of thoroughly reviewing this case with hindsight that was not available to the decision-makers. The BOI has identified numerous shortcomings which may have contributed to this tragedy and that need to be addressed systemically in an attempt to prevent other incidents in the future. Overall, the BOI found that the failures in this case were primarily due to cumulative and systemic problems rather than the fault of any individual(s).

ULAYUK's index offence

ULAYUK is a 36 year old Inuit from Igloolik, a small community in Nunavut. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On August 1988, when he was 20 years old, **ULAYUK** killed a 23 year old female victim in Igloolik by stabbing her repeatedly and finally strangling her. He was arrested by the police and gave an unusual account about his motivation that he repeated in court and has acknowledged while in the CSC. He stated that, after having consumed "home brew", he

had the sudden urge to have sex with the victim's dead body and killed her for that purpose. The police recovered the victim's body with her underwear removed and torn but **ULAYUK** maintained that he changed his mind after killing the victim and did not actually have sexual relations with her body.

Before his trial, **ULAYUK** was ordered by the court to undergo a psychiatric examination at the Clarke Institute of Psychiatry in Toronto (now known as the Centre for Addiction and Mental Health). There was a difference in opinion between doctors from the Clarke Institute and doctors retained by defense counsel as to whether **ULAYUK** had a mental disorder that would render him not criminally responsible for the offence. However, all agreed that he had the sexual deviance of necrophilia. At his trial in 1990, a jury rejected his defenses of "insanity" and intoxication and **ULAYUK** was found guilty of Second-Degree Murder. **ULAYUK** successfully appealed his conviction on technical grounds. In 1992, instead of proceeding with a new trial, the Crown accepted a plea of guilty to Manslaughter. In sentencing **ULAYUK** to life imprisonment, the judge made the following comments and recommended that he receive treatment within the CSC. *"Of the many cases of manslaughter to come before this court in the last 35 years, I can not help but class this as the worst in terms of its extraordinarily horrible facts."* *"Of the many offenders who have come before the courts of the Northwest Territories over the past 30 or more years, there are very few whom I remember to have been potentially as dangerous to the public as Mr. **ULAYUK**."*

The BOI found that important decisions were subsequently made, within the CSC and by NPB Members, without a complete understanding and careful analysis of **ULAYUK**'s index offence. The decision by the Crown to accept a plea of guilty to manslaughter, without explanation, partially contributed to this. The gravity and exceptional nature of the offence, particularly its deviant sexual motivation, necrophilia, tended to be minimized. The decisions affected by this lack of appreciation of the index offence and the offender included his diagnosis and treatment in programs, risk assessments, release decisions, and community supervision decisions. It appears to the BOI that this was at least

partially due to “naivete” and the inability to distinguish this case from the many other serious cases that CSC and NPB officials regularly had to deal with.

The Board found that warning signs were present which should have alerted authorities to the exceptional nature of the offence and the dangerousness of this offender. Considerable information was also available to the authorities that would have given them a clearer picture of this case but there was no vigorous attempt made to obtain that information. **ULAYUK**’s file from the Clarke Institute and the full reports of the doctors who testified at the trial were never obtained by the Correctional Service of Canada or National Parole Board.

ULAYUK in the CSC

ULAYUK entered [REDACTED] in 1992. His criminogenic factors were identified as substance abuse, education/employment and emotional stability. He participated in numerous programs but refused sex offender programming. He considered himself not to be a sex offender since he claimed he had not had sex with the victim’s body.

In 1995, **ULAYUK** was sent [REDACTED] [REDACTED] for a psychiatric assessment for parole purposes. While there, he agreed to go into the [REDACTED] Sex Offender Assessment and Treatment Program, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

The BOI found that the quality of the assessment and treatment of **ULAYUK** in the [REDACTED] Program, as it existed in 1995, was less than what could be reasonably expected of a high intensity sex offender program of the CSC. However, it strongly influenced how **ULAYUK** was subsequently seen and dealt with by decision-makers within CSC and NPB. Essentially, most decision-makers understood that the professionals at the [REDACTED] had ruled

out sexual deviancy as a concern. Despite subsequent significant indications that sexual deviancy may still be an issue most decision-makers continued to rely on the 1995 conclusions. The BOI found that the authorities lost their focus on the pathology of the index offence from that point forward and **ULAYUK** would never undergo any further sex offender programming while incarcerated.

The BOI found an overall failure to recognize that sex offender treatment is a dynamic, long-term process requiring constant monitoring. **ULAYUK** having completed the [REDACTED] Program in 1995 was generally seen as an “inoculation” against future sexual offending. The BOI found a general over-reliance on professional assessments and completion of programs without considering the extent of treatment gains.

In 1997 **ULAYUK** was transferred from the minimum-security [REDACTED] Institution back to [REDACTED] as the result of an incident [REDACTED]. At about the same time a psychologist who had been counselling **ULAYUK** at [REDACTED] Institution filed a report describing serious disclosures **ULAYUK** had made to her during the sessions. [REDACTED]

The BOI found that these disclosures should have led to his immediate return to the [REDACTED] for further assessment and treatment. However, the BOI found that not only was this not done, the report was also inexplicably given little attention despite being placed in CSC and NPB files. It was referred to in only one of several subsequent risk assessments by psychologists and not mentioned in any NPB release decisions. The BOI could find no documentation indicating how the authorities considered that the risk revealed through those disclosures had been satisfactorily addressed.

A psychological risk assessment done for parole purposes in 1998 concluded that **ULAYUK** was a high risk to re-offend violently. Within a year however, another risk

assessment by a different psychologist concluded the opposite without substantiating any reason for this change.

[REDACTED]

[REDACTED]

In June 2000, **ULAYUK** was granted Day Parole to reside at the Salvation Army residence in Yellowknife. He refused to participate in the Sex Offender Maintenance Program and was referred to individual counselling with the contract psychologist to address anger management and impulse control. However, the sexual motivation for the index offence was not addressed in the counselling. During this period he was generally non-compliant with his parole officers. His release was suspended once by CSC and then he was re-released on their authority with a “behaviour contract”. **ULAYUK**’s Day Parole was eventually revoked in June 2001 by NPB on the recommendation of Parole Officer **PARGETER**, for violence and aggressive sexual activity towards his girlfriend.

Instead of being placed in a facility with specialized programs for sex offenders, **ULAYUK** was sent to [REDACTED] Institution which does not generally accommodate such offenders. The BOI found that the case management staff and counselling psychologists at [REDACTED] Institution were not trained or experienced in how to assess and treat sex offenders and were generally reluctant to acknowledge that **ULAYUK** had committed a

sexual offence. They felt that their role was to deal with the immediate issue that led to **ULAYUK**'s revocation and to prepare him for re-release. A psychological risk assessment concluded he was at a low to moderate risk to re-offend and this position did not change when he was expelled from an Aboriginal community-based program [REDACTED]

The BOI found that during **ULAYUK**'s periods of incarceration he completed a large variety of programs and incurred few institutional charges. His Escorted Temporary Absences and work placements were successful and he was considered suitable for minimum security. [REDACTED]

[REDACTED] he generally made a good impression on those directly dealing with him. [REDACTED]

[REDACTED] In some cases the behaviour was interpreted as being due to cultural differences.

During his last period of incarceration at [REDACTED] Institution he was considered a "model inmate". The BOI noted the research findings that good institutional behaviour is not indicative of low risk to re-offend.

ULAYUK under supervision in Yellowknife in 2003 and 2004

In 2003, **ULAYUK** was again released on Day Parole to Yellowknife. At this time Louise **PARGETER** was on leave and he was supervised by other parole officers. **ULAYUK** was closely monitored [REDACTED] and with a few exceptions, his overall behaviour was improved. He was employed, [REDACTED] and participated in programs including a Sex Offender Maintenance Program, a newly stipulated requirement of his Correctional Plan, to which he agreed. In April 2004, Louise **PARGETER** returned to the Yellowknife Parole Office but did not immediately assume supervision of **ULAYUK**. In June 2004, **ULAYUK** was granted Full Parole and began living in an apartment in Yellowknife.

The parole officers, with the help of the contract psychologist, had to manage a series of events in August and September of 2004 concerning **ULAYUK**. [REDACTED]

[REDACTED]

At the end of September 2004, as the result of a re-organization of office responsibilities, **ULAYUK**'s case was re-assigned to Louise **PARGETER** with her agreement. The BOI found that it was not appropriate to transfer the supervision of **ULAYUK** [REDACTED], particularly not to Louise **PARGETER**, because of his unresolved resentment towards the Yellowknife Parole Office resulting from the revocation of his previous Day Parole and considering that she was instrumental in that action.

Louise **PARGETER** was aware of the circumstances surrounding **ULAYUK** in September and October 2004. She decided to visit **ULAYUK** at his home and could have scheduled her visit with him elsewhere. She did not request accompaniment, however, the BOI found that the practice and culture in CSC generally, including in the Yellowknife Parole Office, was such that it would have been unusual for any parole officer to make such a request.

The BOI found that a thorough analysis and an in-depth understanding of this case would have led to the conclusion that a parole officer, particularly a female, could be at undue risk doing an unaccompanied home visit with **ULAYUK** at this time. [REDACTED]

[REDACTED]


General findings and recommendations

In examining the overall quality of the information provided by the CSC to the NPB, the BOI found that in the Assessments for Decision, the parole officers essentially reviewed **ULAYUK**'s progress over the most recent periods of incarceration or community supervision and assessed his risk from that limited perspective. The BOI believes that it would have been more helpful to the NPB for the parole officers to also take into account and highlight the significant aspects of this case, that were relevant to risk, from the commencement of his sentence.

There was limited independent critical analysis by the NPB Members of the information on the file and at the hearings. The focus generally was on the most recent phase of the sentence. The BOI found that risk assessments by both Correctional Service of Canada and National Parole Board focused more on the positive aspects of **ULAYUK**'s case and did not accurately reflect the negatives. A contributing factor for both Correctional Service of Canada and National Parole Board was the multi-volume file and the conflicting reports. This complicated the analysis of the case in the limited time provided for review by National Parole Board Members and Correctional Service of Canada staff.

The BOI examined the issue of CSC community staff safety and made findings in specific areas. Overall, the BOI considers that CSC, as an organization, gave inadequate attention to this question. The BOI made a number of recommendations that include calling for the establishment of a comprehensive CSC policy on community staff safety. It is recommending that there be a presumption that all home visits by parole officers be accompanied. Reasonable criteria and procedures for exceptions to this general rule may be developed, but parole officer safety must at all times be the overriding consideration.

The BOI made recommendations relating to the CSC information gathering process at the intake stage, case preparation for NPB release decisions, and the supervision of offenders in the community. Given the history of this case, particular attention was focused on risk assessments by psychologists and psychiatrists. There is a need for CSC staff in the institutions and in the community to receive more specialized training on how to recognize signs of potential violent sexual behaviour.

The BOI addressed the issue of the changing profile of offenders in federal institutions. The proportion of offenders who are serving lengthy sentences for offences of violence has increased. This creates new challenges for the CSC and the NPB. The BOI made recommendations that stress the need for officials to remain focused on the index offence and to consider the offender's progress over the course of the entire sentence rather than during just the most recent part. In order to do that, officials, including NPB Members, must be provided adequate time to thoroughly review complex cases such as this and the files must be better organized in order that they can more readily identify critical information.

The BOI also recommended that the format for National Parole Board written decisions should be more structured and should direct decision-makers to address specific factors. In addition, National Parole Board members should be required to clearly justify the risk assessment and reasons for a re-release following revocation of an earlier parole.

The need for a strategy for supervision of Life-sentenced cases and long-term offenders and to respond to breaches of release in these cases was also noted. Additional recommendations were made related to management of future Boards of Investigation, follow-up to BOI recommendations and the need for development of protocols to improve information collection in cases resolved through plea bargaining.

The BOI made certain observations and recommendations relating to Inuit offenders. These included development of an Inuit-specific risk assessment tool and further

development of the Kajusiniq Inuit Action Plan. It also recommended additional training for National Parole Board Members and Correctional Service of Canada staff related to Inuit culture and history, as distinct from southern Aboriginal traditions.

The BOI found that Critical Incident Stress interventions were generally well managed for Correctional Service of Canada staff and for Louise **PARGETER**'s partner and parents, but that adequate support was not provided in this respect for the National Parole Board.

The BOI found that some positive steps have already been taken by the CSC and NPB to address some of the problems and issues identified in this report. In order to ensure that this constructive response to the tragic loss of a valuable employee continues without losing momentum, the BOI recommended that after 12 months from receiving this report, an independent body or person be appointed to review the extent to which all of its recommendations have been implemented.

In conclusion, the BOI would like to thank the staff of the Yellowknife Parole Office for their assistance and cooperation in this investigation. We found them to be dedicated, professional individuals who used their best judgment under crisis conditions on 2004-10-06. The BOI is satisfied that at all times during this crisis they acted with the best interests of their friend and colleague, Louise **PARGETER**, in mind.

All persons interviewed were advised of the protection offered through section 13 of the *Inquiries Act*.

ULAYUK's first language is Inuktitut. [REDACTED]

[REDACTED]

Criminal History

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The original offence and trials

The reader is referred to the more detailed description in Index Offence Section.

Within a few months of his return to Igloolik [REDACTED] in 1988, **ULAYUK** killed 23-year-old Martha **AMMAQ**, by stabbing her and finally strangling her with a cord. He admitted the offence was motivated by his desire to have sex with a dead body. He was initially convicted of Second-Degree Murder in March of 1990, and on the recommendation of the jury, parole eligibility was set at 15 years. **ULAYUK** successfully appealed the conviction on technical reasons, and in 1992, he pled guilty to a lesser charge of Manslaughter. He was given a Life sentence, the maximum sentence for Manslaughter.

Institutional and Release History

ULAYUK began his Life sentence in [REDACTED]. Because **ULAYUK** had been in custody from the time of his arrest in 1988 and while awaiting his trials, he became eligible for Day Parole very soon after the Manslaughter conviction, in August of 1993, and subsequently for Full Parole in August 1995. He submitted his first Day Parole application in June 1993, approximately one year after his Life sentence was imposed.

Initially **ULAYUK** had difficulty adjusting to federal custody. [REDACTED]
 [REDACTED] He experienced language and cultural barriers. He participated in programs in Anger Management and

Cognitive Living Skills and educational upgrading, but his lack of English limited what he could learn in any of the programs. He refused to acknowledge that he was a sex offender because he denied actually having sex with the victim's body and refusing to attend the Sex Offender Treatment Program until 1995. [REDACTED]

[REDACTED]

[REDACTED]

After initially resisting treatment, **ULAYUK** finally agreed to participate in sex-offender treatment at the [REDACTED] High Intensity Sex Offender Treatment Program [REDACTED]

[REDACTED]

ULAYUK was transferred to minimum-security [REDACTED] Institution and began a Work Release and Escorted Temporary Absence Program. He continued to take various programs. In June of 1997 [REDACTED] he was returned to medium security at [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ULAYUK was referred back to [REDACTED] in the summer of 1999,

[REDACTED]
[REDACTED]

[REDACTED] He was found suitable for minimum-security again, [REDACTED]
[REDACTED]. He returned to [REDACTED] Institution and by the
spring of 2000 had begun another Work Release.

In June 2000, ULAYUK was granted Day Parole to Yellowknife to reside at the Salvation Army residential facility. ULAYUK refused to participate in the community Sex Offender Maintenance Program in Yellowknife, although this had been part of the release plan put forth to NPB. He again claimed he was not a sex offender and was also resistant to participate in the Substance Abuse Program. He was referred to the community psychologist for individual counselling and eventually agreed to attend the Substance Abuse Program as well as Alcoholic Anonymous (AA). He continued to push the limits of his release over the next few months, until in December 2000 his Day Parole was suspended following aggression towards his girlfriend. CSC cancelled the suspension and developed a behavioural contract with ULAYUK [REDACTED]
[REDACTED]

Over the course of the next few months, however, his behaviour did not change significantly despite constant support and attempts at control by the CSC, finally resulting in revocation of Day Parole in June 2001. He had violated the behaviour contract within days and constantly pushed the limits of what he was allowed to do.

ULAYUK was returned to medium-security at [REDACTED] Institution where he spent almost the next two years. He was considered to be a “model inmate”. He participated in a Conflict Resolution Program, AA, and was again on extensive ETA’s and Work Release Programs. [REDACTED]

In March 2003, CSC again recommended ULAYUK for Day Parole to Yellowknife. He was accepted by the Salvation Army residential facility again, on the condition he would [REDACTED] attend the Sex Offender Maintenance Program and psychological counselling and attend AA. The National Parole Board concurred and granted a second Day Parole to Yellowknife in April 2003.

Over the course of the next year on Day Parole ULAYUK participated in counselling with the community psychologist and attend the Sex Offender Maintenance Program group meetings eight times. He was employed throughout the period, but continued to push the limits of his release conditions and to have difficulty accepting controls. [REDACTED]

In the latter months of his Day Parole, ULAYUK’s stability appeared to improve and in June 2004, ULAYUK was granted Full Parole and began living by himself at his own apartment. Supervision by CSC was intensive, however, numerous issues [REDACTED]

[REDACTED] began to emerge in the late summer. [REDACTED]

[REDACTED] During this time, [REDACTED]

[REDACTED] the

supervision of his case was transferred to Parole Officer Louise **PARGETER** who had previously been instrumental in the revocation of his first Day Parole.

On 2004-10-06, **ULAYUK** is alleged to have murdered his parole officer at his apartment in the course of her first supervision interview with him. He escaped Yellowknife in the CSC vehicle and was apprehended a few hours later in the bush by the RCMP.

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D) CHRONOLOGY OF EVENTS 1988 TO 2004

DATE TIME	EVENT
88-08-19	ULAYUK killed Martha AMMAQ in Igloolik, Nunavut (formerly NWT)
89-09-08	Ordered to undergo psychiatric examination at the Clarke Institute of Psychiatry in Toronto
89-11-25	Discharged from Clarke Institute
90-03-29	Following a trial by judge and jury, ULAYUK was convicted of Second-Degree Murder
90-03-31	ULAYUK was sentenced to Life; Parole Eligibility set at 15 years
90-05-25	ULAYUK was admitted to [REDACTED]
92-01-22	Appeal of Second-Degree Murder conviction was allowed. New trial was ordered. ULAYUK returned to Yellowknife Correctional Centre
92-02-20	[REDACTED]
92-04-14	Crown accepted plea of guilty to Manslaughter. ULAYUK was sentenced to Life for Manslaughter Day Parole eligibility was 93-08-18 Full Parole eligibility was 95-08-18
92-06-19	Appeal of sentence denied
92-06-19	Admitted to [REDACTED] on Manslaughter conviction
93-06-08	ULAYUK applied for Day Parole
93-11-16	First Parole Hearing took place Day Parole was denied by National Parole Board Noted as high risk and need for sex offender treatment
94-03-14	ULAYUK refused to attend [REDACTED] assessment. [REDACTED]
95-06-13	Admitted to [REDACTED] Sex Offender Program at [REDACTED]
95-07-26	Psychiatric parole report prepared by Dr. [REDACTED] [REDACTED] Noted it would be helpful to have court psychiatric reports from the first trial. Recommended sex offender treatment

95-07-26	Initial assessment prepared by Psychologist [REDACTED]
95-11-07	[REDACTED]
95-11-27	[REDACTED]
95-11-28	Psychiatric Discharge Summary completed by Dr. [REDACTED] Added that ULAYUK is better able to control anger and frustration
95-12-07	Progress Summary by Social Worker [REDACTED] Returned to [REDACTED] November 1995 Noted understanding and attitude toward criminal behaviour had not changed [REDACTED]
96-01-29	Community Assessment noted that Yellowknife Correctional Centre and Salvation Army were not willing to accept ULAYUK on Day Parole as risk was too high Offender Management Review Board at [REDACTED] did not support transfer to Yellowknife on Exchange of Services Agreement as there was no in-depth understanding of his motivation for offence "Ongoing issues to work on, [REDACTED]"
96-02-06	Program Summary and Appraisal recommended Day Parole and Full Parole denied
96-03-07	Community Assessment completed in Igloolik [REDACTED]
96-04-03	[REDACTED]

96-08-08	Second National Parole Board Hearing Day Parole and Full Parole were denied [REDACTED]
97-03-18	ULAYUK transferred to [REDACTED] Institution (minimum-security)
97-06-18	[REDACTED] Returned to medium security [REDACTED]
97-06-25	Psychological Assessment prepared by Llana PHILLIPS [REDACTED] [REDACTED] [REDACTED] <i>The writer conveyed concerns of ELI's risk to case management and administration".</i>
98-06-03	Psychological Assessment completed by Edward OLADELE Noted Llana PHILLIPS' report of 1997-06-25 [REDACTED] [REDACTED] Noted [REDACTED] <i>"ULAYUK is presently in a high risk category for violent recidivism".</i> [REDACTED]
98-06-26	Decision by National Parole Board to recommend ETA's to the Warden
99-01-11	Psychological report completed by [REDACTED] [REDACTED]
99-01-21	Transferred to [REDACTED] Institution (minimum-security)
99-06-24	Transferred to [REDACTED] for assessment [REDACTED] [REDACTED]
99-06-26	Mental status examination by Dr. [REDACTED] (handwritten in [REDACTED]) [REDACTED]
99-08-18	Psychological report completed by [REDACTED] Noted previous conflicting psychological reports Overall conclusion was that ULAYUK presented low risk to re-offend violently
99-10-19	Psychiatric Discharge Summary by Dr. [REDACTED] [REDACTED]
99-08-19	Final Program Performance Report [REDACTED]
99-08-25	Returned to [REDACTED] Institution

00-06-21	Third Hearing before National Parole Board Day Parole was granted to Salvation Army CRF in Yellowknife Special condition was imposed to abstain from intoxicants
00-06-27	ULAYUK released on Day Parole to Yellowknife Salvation Army
00-07-16	[REDACTED]
00-07-21	Special condition imposed by National Parole Board for ULAYUK to have no contact [REDACTED]
00-11-30	CSC prepared Assessment for Decision recommending Full Parole
00-12-20	ULAYUK suspended due to jealous behavior with girlfriend [REDACTED]
01-01-04	Report to NPB noted behaviour contract with ULAYUK [REDACTED] CSC cancelled suspension and recommended to NPB to continue Day Parole
01-01-08	National Parole Board agreed to take no action to revoke Day Parole and Continued Day Parole for six months
01-02-15	[REDACTED]
01-03-13	Parole Officer Louise PARGETER assumed supervision of ULAYUK
01-05-25	Psychological report completed by SMITH [REDACTED]
00-06-11	The offender was suspended again [REDACTED]
01-07-05	Parole Officer PARGETER recommended Day Parole revocation
01-08-08	National Parole Board conducted a Post Suspension Hearing in Yellowknife (ULAYUK 's fourth Hearing) Day Parole was revoked due to controlling behaviour and aggression to his partner [REDACTED] and deceit to case management team
01-08-17	Transferred to [REDACTED] Institution (medium-security)
02-02-18	Psychological Risk Assessment by Dr. [REDACTED] " <i>Overall moderately low probability of both general and violent recidivism</i> "
02-05-13	Transferred to [REDACTED] for [REDACTED] [REDACTED] program
02-05-16	Report received from [REDACTED] [REDACTED] indicated that [REDACTED] [REDACTED] was no longer acceptable to the

	<p>program ULAYUK was transferred back to [REDACTED] Institution</p>
02-05-24	<p>Psychological Risk Assessment by Dr. [REDACTED] <i>"There is no significant new information that would alter his current moderately low risk for criminal recidivism"</i></p>
03-02-21	<p>Community Strategy completed by Yellowknife CSC Noted ULAYUK has been accepted by Salvation Army residence but must [REDACTED] attend Sex Offender Maintenance Program, psychological counselling and AA</p>
03-04-08	<p>ULAYUK participated at his 5th Hearing before the National Parole Board Day Parole was granted again to Yellowknife Special conditions were imposed to abstain from intoxicants, [REDACTED] avoid former girlfriend No overnight leave privileges were authorized</p>
03-04-15	<p>ULAYUK was released to Salvation Army CRF in Yellowknife</p>
03-05-16	[REDACTED]
03-05-27	[REDACTED]
03-07-24	[REDACTED]
03-08-12	<p>Assessment for Decision by PETTET Recommended Day Parole continued Noted: [REDACTED] Noted: ULAYUK required highly structured environment Noted: Anger at CSC for revoking previous Day Parole</p>
03-08-22	<p>National Parole Board continued Day Parole with the same conditions and no overnight leave privileges</p>
04-03-04	<p>LEBLANC recommended Full Parole with the same 3 special conditions</p>
04-04-26	<p>Parole Officer Louise PARGETER returned from maternity leave</p>
04-06-04	<p>ULAYUK appeared before the National Parole Board in Yellowknife for his sixth hearing. Full Parole was granted with special conditions to abstain from intoxicants, [REDACTED] and no contact with previous girlfriend [REDACTED]</p>
04-08-19	<p>Case Conference. LEBLANC was ULAYUK's Parole Officer. PARGETER attended. Overall ULAYUK was seen by the CMT as doing well. He was living in his own apartment, working at two jobs, attending AA and SOMP meetings</p>

04-08-20	[REDACTED]
04-08-23	[REDACTED]
04-08-24	[REDACTED]
04-08-30	[REDACTED]
04-08-31	[REDACTED]
04-09-01	[REDACTED] LEBLANC away until 2004-09-20, DAY to supervise ULAYUK during this interval
04-09-07	[REDACTED] CSC should monitor the relationship closely
04-09-08	[REDACTED]
04-09-09	ULAYUK requested to see SMITH [REDACTED]
04-09-16	ULAYUK and DAY met. [REDACTED] DAY offered ULAYUK to stay at the Salvation Army until 2004-09-21 when he could meet with SMITH and LEBLANC. [REDACTED]
04-09-16	DAY met with ULAYUK [REDACTED] at apartment. [REDACTED] DAY advised ULAYUK his concerns [REDACTED] and arranged for ULAYUK to stay at Salvation Army that night and until 2004-09-20. [REDACTED]

	ULAYUK reluctantly agreed
04-09-16	DAY briefed SMITH by phone. [REDACTED]. Advised the issues were serious but did not feel any risk at present. [REDACTED]
04-09-17	ULAYUK failed to stay at the Salvation Army. DAY spoke to ULAYUK and agreed to remove this requirement [REDACTED]. ULAYUK agreed
04-09-20	SMITH met with ULAYUK . SMITH believed that ULAYUK was coping well with the recent stresses. SMITH had no immediate concerns
04-09-21	LEBLANC returned and met with ULAYUK . [REDACTED]
04-09-22	Case Conference. Monthly review. Parole Officer PARGETER present. LEBLANC and SMITH updated the group on events of the past week. <i>“Subject is doing better [REDACTED]. This situation will continue to be closely monitored but for the present time, it appears to be going well”.</i>
04-09-27	[REDACTED]
04-09-28	LEBLANC met with ULAYUK at Parole office. [REDACTED] LEBLANC advised ULAYUK he would be transferring to Parole Officer PARGETER 's caseload effective October 4
04-09-29	ULAYUK was confronted again by his parole officer [REDACTED]
04-09-30	DAY and LEBLANC met to discuss case in detail. (Parole Officer PARGETER not present). DAY noted: <i>“The case continues to be manageable and the appropriate resources are being deployed. [REDACTED]. This case is being very well managed”.</i>

04-10-05	ULAYUK called LEBLANC . Asked when they were meeting. LEBLANC transferred the call to Parole Officer PARGETER who set up the home visit
04-10-06	Parole Officer PARGETER visited ULAYUK in his apartment and was killed
04-10-07	ULAYUK arrested and charged with First-Degree Murder of Parole Officer PARGETER .

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E) DESCRIPTION AND ANALYSIS OF EVENTS AND ISSUES

1) THE INDEX OFFENCE

The BOI believes that it is essential to have a good understanding of **ULAYUK**'s index offence, his initial psychiatric and psychological assessments and the subsequent court proceedings to fully appreciate this case. For that reason the Board reviewed records going back to 1989, including transcripts of his trial and his file from the Clarke Institute of Psychiatry.

The Legal Proceedings

On 1988-08-19, at the Hamlet of Igloolik, in the Northwest Territories (now Nunavut) Eli **ULAYUK**, then age 20, killed Martha **AMMAQ**, a female acquaintance age 23, by repeatedly stabbing and then strangling her. His motivation for the killing was to have sexual intercourse with her dead body (necrophilia). He was arrested later the same day by the RCMP, charged with the offence of Second-Degree Murder and detained in custody at the Yellowknife Correctional Center pending his trial.

On 1989-09-08, a Justice of the Supreme Court of the Northwest Territories ordered that **ULAYUK** be transferred to the Clarke Institute of Psychiatry in Toronto for psychiatric examination. He was assessed at that institution until 1989-11-25.

A trial with a jury, presided over by Mr. Justice J.E. **RICHARD** of the Supreme Court of the Northwest Territories, was held in Igloolik in March 1990. After hearing the evidence a jury found him guilty of Second-Degree Murder. On 1990-03-31, Mr. Justice **RICHARD** sentenced **ULAYUK** to Life imprisonment and following the jury's recommendation, set his Parole Eligibility period at 15 years.

ULAYUK appealed his conviction to the Northwest Territories Court of Appeal. On 1992-01-22, that court upheld his appeal and ordered a new trial. The basis for ordering

the new trial was that the law in relation to the defence of insanity had changed since **ULAYUK**'s conviction in 1990 and the trial judge's instructions to the jury could no longer be considered technically correct.

The Crown chose not to proceed with a new trial on the charge of Second-Degree Murder and instead, on 1992-04-14, the Crown accepted a plea of guilty by **ULAYUK** to the offence of Manslaughter before Mr. Justice **DE WEERDT** of the Northwest Territories Supreme Court. Mr. Justice **DE WEERDT** imposed the maximum sentence for Manslaughter; Life imprisonment.

ULAYUK appealed his Life sentence to the Northwest Territories Court of Appeal. On 1993-01-19 the court upheld the Life sentence and dismissed his appeal.

Assessment at the Clarke Institute of Psychiatry

At the Clarke Institute **ULAYUK** was assessed by a multi-disciplinary team that conducted psychiatric interviews, nursing observations, psychological testing, neuropsychiatric examination, social work assessments, phallometric testing and physical examinations including an ECG and a CT scan. The team was headed by Dr. Graeme **GLANCY**, then Chief Psychiatrist at the Forensic Service at the Clarke Institute. Dr. **GLANCY** prepared a report for the court dated 1989-11-15 and also testified at **ULAYUK**'s trial in March 1990.

The Clarke Institute found no evidence that **ULAYUK** had a major mental illness such as schizophrenia or any signs of epilepsy or brain damage. In his report to the court, Dr. **GLANCY** wrote *“It would appear that he has a diagnosis of substance abuse in remission, and possibly a sexual deviation, namely necrophilia.”* At the trial, Dr **GLANCY** testified *“We can therefore make a diagnosis of necrophilia by the things that Mr. **ULAYUK** said to us, and indeed, by the things that Mr. **ULAYUK** has said in this courtroom in the past week. Necrophilia means love of corpses or dead people, and suggests that a person has sexually arousing fantasies about having sex with a dead person.”*

Dr. GLANCY further testified *“The offence was clearly sexually motivated...He carried out a purposeful series of acts in a logical sequence to satisfy his sexual urges. He has a disorder involving sexually arousing fantasies about having sex with a dead woman. He told me he had these thoughts not only when he was taking chemicals or drugs but also when he was having sex or about to have sex with a woman. It means that when his sexual thoughts were somewhat disinhibited, when he wasn’t keeping a lid on them, this released perhaps what was really going on inside...He is a person where control, particularly over a woman is very important. It is possible that since [REDACTED] (a girlfriend) did not turn up, and he lost control over her in a way, it increased his urge to control a woman, and the most control a man can have over a woman is to kill her, and then have total control over her body, and do what you want to it.”*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The file from the Clarke Institute, including the reports from the professionals who assessed **ULAYUK**, was never obtained by the CSC or the NPB throughout their dealings with **ULAYUK**.

Assessments by experts retained by **ULAYUK**'s lawyers

A Psychiatrist, Dr. Hans **ARNDT**, and a Psychologist, Dr. J Allen **LONG**, both of Toronto, were retained by **ULAYUK**'s lawyers and examined **ULAYUK** at the Yellowknife Correctional Center and at the Clarke Institute. Dr. **ARNDT** submitted a report to **ULAYUK**'s lawyer dated 1990-03-07 and Dr. **LONG** a report dated 1990-03-02. Both experts testified at the trial on behalf of the defence.

Dr. **ARNDT** and Dr. **LONG** both testified that in their opinion, **ULAYUK** was suffering from the mental illness of Borderline Personality Disorder and possibly, Temporal Lobe Epilepsy. At the time of the incident he was psychotic and therefore did not appreciate his actions and did not know what he was doing was wrong.

In his report Dr. **ARDNT** stated “*Over a period of years, Mr. **ULAYUK** had been sexually promiscuous, stating that by the time he did get arrested he might well have had contact with up to forty women... Over a period of years though, particularly when under the influence of chemicals, Mr. **ULAYUK** started to fantasize what it would be like to have sexual contact with a dead woman.*”

Dr. **LONG** testified “*At age 13, while sniffing glue, **ULAYUK** had been looking at a pornographic magazine which showed a man having sex with a dead woman. This had made a very deep impression on him. From that point on he had recurring thoughts about having sex with a dead woman. This obsession did cause him to become somewhat programmed in the possible manner of satisfying this urge. He had this picture and the fantasy returned to him many times afterwards, always and only when he was intoxicated with some drug. It also occurred at least over the recent few years while he was intoxicated and having normal sexual relations. He found himself with a woman whom he had a previous relationship, and he had thought of sex with a dead woman while with her previously. He was unable to control his actions.*”

The reports from the professionals who assessed **ULAYUK**, on behalf of the defence were never obtained by the CSC or the NPB throughout their dealings with **ULAYUK**. However, a summary of some of the evidence that they gave at trial was contained in an Agreed Statement of Facts that the CSC obtained.

The circumstances of the index offence as revealed by the transcripts of the trial for Second-Degree Murder in March 1990

ULAYUK testified at his trial. He stated that on the night in question he had consumed about 14 cups of home brew and then went to a friend’s house. The friend was not home but the victim Martha **AMMAQ** was watching TV. **ULAYUK** decided to watch TV with her while waiting for his friend. A war movie was playing and at one point there was a scene with a woman. **ULAYUK** said he experienced an overpowering urge to have sex with a dead woman’s body. He remembers stabbing the victim twice but claimed that

he could not remember where he got the knife. He then put a belt around her neck and dragged her to a shed where he strangled her to finish her off and put her out of her suffering. He stated he intended to have sex with her dead body and he pulled off her jeans but he changed his mind as he “*was embarrassed, or scared about something that wasn’t there.*” He denied having intercourse with her body. After leaving the shed he considered committing suicide but decided against it. He went home, told his brother that he had killed the victim, got his brother to put his blood stained clothes in the washing machine and went to sleep.

ULAYUK testified that previous to the night in question he had experienced the urge to have sex with dead women, particularly when he was smoking pot and when he was with a female. He said that about one or two months before this incident he had experienced such urges for about four days and that they came back on the night in question when he was drinking home brew.

The police recovered the victim’s body under a caribou hide on the floor of the shed.

[REDACTED]

There were seven stab wounds to her body. [REDACTED]

[REDACTED]

[REDACTED]. The pathologist testified that the belt tied tightly around her neck was the immediate cause of death and that she was strangled while still alive. [REDACTED]

[REDACTED]

All witnesses who had contact with **ULAYUK** before and after the incident were questioned about any observations they had made about **ULAYUK**'s state of intoxication. In this respect, the evidence at trial was contradictory. Some were under the impression that he was quite drunk while others thought the opposite. [REDACTED]

[REDACTED]

[REDACTED]

The transcripts of the evidence presented at the trial were never obtained by the CSC or the NPB throughout their dealings with **ULAYUK**.

Results of the trial

The jury rejected the defences of insanity and drunkenness and found **ULAYUK** guilty, as charged, of Second-Degree Murder. On 1990-03-31, Mr. Justice J.E. **RICHARD** sentenced **ULAYUK** to Life imprisonment without eligibility for parole until he has served 15 years.

In his Reasons for Sentence, Mr. Justice **RICHARD** made the following comments: *“Although Mr. **ULAYUK** may very well have been obsessed by sexually deviant thoughts at the time, it is clear from the Jury’s decision that he knew what he was doing, and that he killed her deliberately to further his sexual purposes.” “The gravity of the circumstances surrounding the commission of this offence is overwhelming. The motivation for this worst of all crimes is abhorrent to all people.” “I am going to direct the Clerk of the court to endorse the warrant of committal with this court’s recommendation that while you are imprisoned, you be given an opportunity to receive psychiatric treatment, and also to receive further education and trades training.”*

These Reasons for Sentence were found in CSC and NPB files.

Police Report

A brief police report dated 1990-06-05 was forwarded by the officer in charge of the RCMP detachment in Igloolik to the CSC. The report generally described the circumstances of the offence [REDACTED]

[REDACTED]

This report was found in the CSC and NPB files.

The plea of guilty to a charge of Manslaughter

The Court of Appeal set aside the conviction for Second-Degree Murder and ordered a new trial. However, instead of going through a second trial the Crown entered into a “plea-bargain” with **ULAYUK**’s counsel and allowed **ULAYUK** to plead guilty to the

lesser offence of Manslaughter on 1992-04-14. The understanding between Crown and defence counsel was that they would jointly recommend a sentence between 10 and 15 years in the penitentiary.

An Agreed Statement of Facts was filed with the court. This Statement contained a synopsis of some of the evidence heard at the trial including very brief summaries of the evidence of each doctor at trial. Notably, the Statement did not include any reference to the contradictory evidence from the witnesses about the extent of **ULAYUK**'s intoxication on the night in question. [REDACTED]

[REDACTED] The Statement indicated that *"He had previously had the idea of having sex with dead women when he was smoking "pot." On one occasion this idea had recurred for a period of about 4 days. The idea returned to his mind again about 1 or 2 months after that."*

It is apparent that the Sentencing Judge, Mr. Justice M.M. **DE WEERDT**, assumed that the Crown had accepted a plea of guilty to Manslaughter because of **ULAYUK**'s drunkenness. In his reasons for sentence Mr. Justice **DE WEERDT** stated:

"Where there are grounds for reasonable doubt as to whether death was intended; for example, where a person has become so drunk that one has to ask if they really did have the intent to cause death; the court must give the benefit of its doubts to the person who is accused of the offence and because of those doubts reduce the offence from murder to manslaughter. It is for this reason, as I understand, that the Crown, in this case, has decided to put forward a charge of manslaughter only after having gone through a lengthy jury trial here in Igloolik in March, 1990 on a charge of murder arising out of the same set of circumstances as are now before the court." Later in his reasons, Mr. Justice **DE WEERDT** noted *"Whatever the reason for his overindulging in the home brew, it is apparent that he became highly intoxicated."*

Despite the joint recommendation by the Crown and Defence Counsel for a definite sentence, Mr. Justice **DE WEERDT** decided to impose the maximum sentence of life imprisonment. In doing so, he made the following comments:

*“Of the many cases of manslaughter to come before this court in the last 35 years, I can not help but class this as the worst in terms of its extraordinarily horrible facts.” “Of the many offenders who have come before the courts of the Northwest Territories over the past 30 or more years, there are very few whom I remember to have been potentially as dangerous to the public as Mr. **ULAYUK**. In saying that I realize that his criminal record does not reflect that fact. I base my conclusion on the agreed facts and more particularly on the findings of the doctors and the psychologist.” “This case, then, is in my view, in the category of “worst class of manslaughter” coupled with “worst (or most dangerous) class of offender.”*

Mr. Justice **DE WEERDT** indicated *“I direct the Clerk to endorse the warrant of committal with the recommendation of this court that Mr. **ULAYUK** be given early priority for attention by experts to assist him with any problem which he may have as a result of his mental condition or in relation to alcohol or other substance abuse or in relation to sexual matters.”*

The Statement of Facts and a transcript of the Judge’s Reasons for Sentence following the plea of guilty to the offence of Manslaughter were obtained by the CSC and NPB.

Sharing of information about the offence

As part of its mandate, the BOI was asked to investigate issues relating to the communication and sharing of information among relevant agencies.

The BOI found that there was contradictory information on the CSC file with respect to the extent of **ULAYUK**’s intoxication at the time of the offence. On the one hand, the file contained [REDACTED]

together with a Judge's Reasons for Sentence for Second-Degree Murder confirming that fact. On the other hand, the file contained another Judge's Reasons for Sentence for Manslaughter indicating that **ULAYUK** was highly intoxicated at the time of the offence. The BOI could find nothing in CSC or NPB files clarifying this apparent contradiction.

[REDACTED]

FINDINGS

(1) The BOI found that the decision to accept a plea of guilty to the lesser charge of Manslaughter, without explanation, contributed to the lack of clear understanding of the index offence by certain authorities within CSC and NPB. **ULAYUK's** conviction for Manslaughter, as opposed to Murder, gave substantial credence to his claim that he was grossly intoxicated at the time of the killing. [REDACTED]

(2) The BOI found that if information about [REDACTED] had been clearly documented in the CSC files from the beginning, there may have been less minimization of the sexual nature of the index offence by some CSC and NPB officials.

(3) The BOI found that there is a systemic problem concerning the sharing of information between the Crown/Police and the court system with CSC/NPB in certain cases, such as this, that are resolved through "plea bargaining". This issue will be addressed in the BOI's recommendations.

2) THE INTAKE PROCESS AND THE FIRST YEARS OF SENTENCE 1990 - 1995

Incarceration at Yellowknife Correctional Center

ULAYUK was at the Yellowknife Correctional Center from August 1998 until he was transferred to [REDACTED] in May 1990 after his conviction for Second-Degree Murder. When a new trial was ordered by the Court of Appeal he was returned to the Yellowknife Correctional Center from January 1992 to June 1992 in order to be dealt with by the court.

[REDACTED]

In the initial Criminal Profile completed 1990-08-07 at [REDACTED], the institutional parole officer described the offence in detail and identified the substance abuse problem. The offender's action plan to deal with his issues was participation in AA/NA and other related programming. No plan was developed to address his sexual deviancy. In a subsequent review of the Criminal Profile in 1993 the issue of sexual deviancy was indicated as an area to be addressed.

In September 1992, **ULAYUK** was recommended for an involuntary transfer to a maximum-security because of his lack of compliance with his Correctional Plan, [REDACTED]

[REDACTED] The transfer was not completed.

Information Gathering

When **ULAYUK** initially entered the CSC there was no centralised intake process in place in the Prairie Region and each parole officer was responsible for pursuing documents related to their caseload of offenders.

The policy in place in the early 1990's regarding case management was the Case Management Manual of March 1993. It stated in Section 2 , Collecting Information , Additional Information, paragraph 6, that for offenders convicted of a Schedule I and II offences (includes Manslaughter) *psychiatric, psychological or other assessments presented to the court **during the trial** must be obtained.* Paragraph 7 stated that *Case Management Officers are responsible for ensuring that information that is not received is actively pursued.*

The legislation that governed the requirement for the CSC to collect information was the **Corrections and Conditional Release Act** that came into force on 1992-11-01. It is broader than the CSC policy that was in place when **ULAYUK** entered the CSC. Section 23(1) provides that:

- (1) When a person is sentenced, committed or transferred to penitentiary, the Service **shall take all reasonable steps** to obtain, as soon as is practicable,*
 - (a) relevant information about the offence;*
 - (b) relevant information about the person's personal history, including the person's social, economic, criminal and young-offender history;*

(c) any reasons and recommendations relating to the sentencing or committal that are given or made by

(i) the court that convicts, sentences or commits the person, and

(ii) any court that hears an appeal from the conviction, sentence or committal;

(d) any reports relevant to the conviction, sentence or committal that are submitted to a court mentioned in subparagraph (c)(i) or (ii); and

(e) any other information relevant to administering the sentence or committal, including existing information from the victim, the victim impact statement and the transcript of any comments made by the sentencing judge regarding parole eligibility.

CSC obtained the following information:

- A transcript of the Judge's Reasons for Sentence following conviction for Second-Degree Murder,
- A transcript of the Judge's Reasons for Sentence following the plea of guilty to Manslaughter,
- The Agreed Statement of Facts filed at the time of the plea of guilty to Manslaughter.
- A one-page report from the RCMP in Igloolik, briefly describing the facts.

CSC did not obtain the following information:

- Reports of Drs. **GLANCY**, **ARDNT** and **LONG**.
- Transcripts of any of the evidence at the trial for Second-Degree Murder including that of the doctors who testified and of **ULAYUK** himself.
- **ULAYUK**'s file from his assessment at the Clarke Institute of Psychiatry in 1989.

Intake was completed on **ULAYUK** by an institutional parole officer. It appears that she contacted the Crown Counsel in Yellowknife in order to obtain psychiatric and psychological reports relating to **ULAYUK**. In a letter to her, dated 1993-01-13, Crown Counsel indicated that he was unsure as to whether he could release the psychiatric and psychological reports. (The BOI noted that they had not been filed as exhibits at the first trial nor on the plea of guilty). The parole officer responded on 1993-01-27 that the Agreed Statement of Facts and the Judges Reasons for Sentencing would suffice. The Agreed

Statement of Facts contained a summary of the evidence of the psychiatrists and the psychologist at the initial trial.

The parole officer learned from the Yellowknife Correctional Center that **ULAYUK** had been assessed by a psychiatrist and was found to be dangerous and likely to commit further violent offences. On 1993-09-29, the parole officer asked **ULAYUK** to sign a release of this report, that was in the possession of his lawyer, but **ULAYUK** refused [REDACTED]. (The BOI noted that on 1993-01-19, the Court of Appeal had dismissed **ULAYUK**'s appeal of his Life sentence and legal proceedings had terminated.) The BOI has been unable to verify if this was the report of one of the psychiatrists who had testified at **ULAYUK**'s trial or of another psychiatrist.

As of January 1993 these the reports of Drs. **GLANCY, LONG** and **ARDNT** were in **ULAYUK**'s file at the courthouse in Yellowknife and, as public documents, were readily available to the CSC. The Judge's Reasons for Sentence on the charge of Manslaughter clearly highlighted the importance of the psychiatric and psychological information in this case. However, the report of Dr. **GLANCY** was filed with the court before **ULAYUK**'s first trial. The reports of Drs. **LONG** and **ARDNT** were filed at the time of his Manslaughter sentence appeal. None of the reports were filed at his trial or on his plea of guilty. The assessments of the three professionals were "presented during the course of the trial" but in the form of testimony rather than by the filing of their reports. CSC is required to take "all reasonable steps" to obtain these reports pursuant to the CCRA due to the broad definition of "court" in the Act.

FINDINGS

(4) Given these circumstances, the BOI considers that it is unclear whether the policy on information collection as set out in the Case Management Manual of March 1993 was complied with.

(5) The BOI found that some attempt was made by the parole officer to obtain the reports of Drs. **GLANCY, LONG and **ARDNT** by communicating with the Crown and**

noted that a summary of the conclusions of these doctors was contained in the Agreed Statement of Facts that was obtained. Furthermore, ULAYUK was requested to consent to the release of one psychiatrist's report although it remains unclear who that psychiatrist was.

(6) Although not required by CSC policy in effect at the time, the BOI found that ULAYUK's file from the Clarke Institute was "relevant to administering the sentence" as provided by the CCRA and, therefore, all reasonable steps should have been taken to obtain this file. However, the BOI was advised that in order to obtain the Clarke Institute patient chart, as opposed to the report of an individual psychiatrist from that Institute filed in a court, the CSC would have required ULAYUK's consent since it is personal medical history.

(7) There was no indication that ULAYUK was specifically asked by the parole officer to consent to the release of his Clarke Institute chart. In light of his refusal to consent to the release of an individual psychiatrist's report when requested, it is unlikely that he would have consented to release his medical chart at that time. The BOI believes that attempts to obtain this information should have been made throughout the course of ULAYUK's sentence. This information would have been particularly relevant when he was admitted to the [REDACTED] in 1995 and agreed to undergo sex offender assessment and treatment in the [REDACTED] Program, and well as for the preparation of subsequent psychological risk assessments.

(8) The Corrections and Conditional Release Act (CCRA) does not specifically require trial transcripts be obtained nor did CSC policy or practice at that time. The BOI is aware of the cost associated with ordering trial transcripts and the practical limitations to where this can be done. In this case, however, the BOI believes that a transcript of the evidence of the doctors at the trial for Second-Degree Murder and of ULAYUK himself was "relevant to administering the sentence" as provided by the CCRA. This is due to the highly unusual nature of the offence, and to the special importance attributed by the sentencing judge to the psychiatric and psychological

findings. In particular, the BOI finds that those transcripts would have been relevant when ULAYUK was assessed and treated at the [REDACTED] and for the preparation of psychological risk assessments. Furthermore, the BOI noted that a full transcript of the trial evidence existed since ULAYUK appealed his conviction to the Court of Appeal. The BOI located those transcripts in ULAYUK's file at the courthouse in Yellowknife. Additional comments on this issue will be made in the Recommendations section of this report.

Incarceration at [REDACTED] Institution

During his incarceration at [REDACTED] Institution, ULAYUK denied that he was a sex offender and refused to take sex offender treatment. He agreed to be referred to the [REDACTED] for an assessment for the Aggressive Behaviour Program but he was refused admission due to his denial of his sexual deviancy.

[REDACTED]

[REDACTED]

[REDACTED]

A Progress Summary dated 1993-11-04 was completed and submitted to the NPB concerning ULAYUK's Day Parole Eligibility on 1993-08-18. A psychologist who assessed ULAYUK indicated that he should be treated at [REDACTED] and that neurological and sexual arousal testing should be completed. She did not recommend Day Parole as she considered that his risk to re-offend violently remained high.

The institutional parole officer noted in the Progress Summary that there were concerns that the sexual deviancy had not been addressed and particularly referred to a

psychiatrist's opinion in the Agreed Statement of Fact that **ULAYUK** was necrophilic. [REDACTED]

The documents obtained by CSC from the Yellowknife Correctional Centre (YCC) [REDACTED] were held on the preventive security file and were referred to in the Progress Summary Report.

The Progress Summary stated that due to language difficulties, the offender needed to repeat Cognitive Skills training and Anger Management courses. He was attending school full time, attending Alcoholics Anonymous weekly and had become involved in Christianity.

In a Community Assessment prepared for his Day Parole release plan, the Salvation Army, Yellowknife Correctional Centre and the RCMP indicated that they did not want him in Yellowknife due to the nature of the offence and his failure to treat his sexual deviancy. Consequently Day Parole was not recommended by the CSC institutional parole officer.

ULAYUK's first hearing before the National Parole Board took place on 1993-11-16, and Day Parole was denied. The NPB's written decision was concise and stated that from all indications **ULAYUK** was a dangerous untreated sex offender. The NPB Members noted he had killed his victim to have sex with her but did not consider himself to be a sex offender. They recommended extensive treatment.

The offender continued to attend school and religious group meetings at [REDACTED]. He experienced some difficulties in English but could function adequately without the need for an interpreter. There are notes of some incidents of verbal outbursts with staff, however, he was reassessed as being a medium-security offender in August 1994.

[REDACTED]

[REDACTED]

A psychologist who specialized in Aboriginal offenders assessed **ULAYUK** and in a report dated 1995-11-16 noted the need for the offender to obtain treatment for his sexual deviancy.

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3) ADMISSION TO [REDACTED] UNIT) IN 1995

ULAYUK was scheduled to be reviewed by the NPB in July 1995 for Day and Full Parole. Consequently, NPB policy required a Psychiatric Assessment and existing practice was for offenders to attend the [REDACTED] for three weeks to complete that assessment. ULAYUK was admitted to the [REDACTED] on 1995-06-13 and while undergoing the assessment, he agreed to postpone his NPB hearing and go into the [REDACTED] Sex Offender Treatment Program. [REDACTED]

Dr. [REDACTED] examined ULAYUK in his capacity as an external consulting psychiatrist and submitted a Psychiatric Parole Report on 1995-07-26. [REDACTED] Program Coordinator, Psychologist Dr. [REDACTED], submitted a Progress Report on the same date (which, the BOI noted was around the beginning of the assessment and treatment process in the program). The BOI reviewed these reports and interviewed both doctors.

[REDACTED]

[REDACTED]

[REDACTED]

Dr. [REDACTED] report referred to **ULAYUK** having undergone Psychiatric Assessment at the Clarke Institute. [REDACTED]
[REDACTED]. Dr. [REDACTED] also referred to the evidence of the doctors at **ULAYUK**'s trial and noted "there are no reports by these individuals on file". He was aware of the diagnosis of Temporal Lobe Epilepsy by one of the psychiatrists and wrote "It might be helpful if these reports could be made available, if they exist." In conclusion, Dr. [REDACTED] stated that "This man is an ideal candidate for an intensive sexual offender program.... [REDACTED]"

Following the completion of his report, Dr. [REDACTED] did not participate further in the assessment or treatment of **ULAYUK** in the [REDACTED] Program.

[REDACTED]

Dr. [REDACTED] made no mention in his report of the opinions of the doctors who had testified at the trial or of **ULAYUK**'s assessment at the Clarke Institute.

He advised the BOI that he was not provided with the above-mentioned reports. He stated that the [REDACTED] Treatment Team was given only the Agreed Statement of Facts introduced at the trial. To his knowledge, there was no clearly designated position responsible for collecting offender history, at that time, at the [REDACTED]. He believed that to be the responsibility of the institutional parole officer.

In his interview with the BOI, Dr. [REDACTED] stated that it was not his practice to verify self-reported details [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] He stated that his report of 1995-07-26 was an initial assessment only and not a risk assessment.

The documentation in the [REDACTED] chart indicated that the [REDACTED] Unit Treatment Team that dealt with ULAYUK consisted of Dr. [REDACTED], Psychologist, primary nurse [REDACTED], a Head Nurse, Unit Social Worker [REDACTED], and Unit Psychiatrist Dr. [REDACTED]. On 1995-11-06, a Final Treatment Summary was prepared by Nurse [REDACTED] (since deceased), reportedly reflecting “the views and opinions” of the Treatment Team. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The final recommendation was that **ULAYUK** be “transferred to Yellowknife and begin the process of obtaining a conditional release from there. Substance abuse or clear signs of escalating anger and aggression will likely serve as indicators that he is having difficulty managing his risk.”

Dr. [REDACTED] explained to the BOI how he understood the issue of **ULAYUK**’s deviant sexual behaviour was explored during the [REDACTED] Program. He stated that firstly, **ULAYUK** would have been helped to report and develop an understanding of his history and identify factors contributory to criminal behaviour generally and sexual behaviour in particular. Secondly, treatment staff would have worked with him to help him identify and understand the immediate precursors to the offence. The final treatment activity would have focused upon helping him develop a plan to live in the community without harming other people.

The BOI did not find **ULAYUK**’s “autobiography” in the [REDACTED] file and the BOI noted that his Relapse Prevention Plan did not address any strategy for dealing with deviant sexual fantasies.

Dr. [REDACTED] prepared a psychiatric Discharge Summary on 1995-11-07. [REDACTED]

[REDACTED]
[REDACTED] He made no reference to the opinions of the doctors who had testified at the trial or of **ULAYUK**’s assessment at the Clarke Institute. [REDACTED]

[REDACTED]
[REDACTED] He recommended that **ULAYUK** be “*transferred to a lower security facility closer to his cultural milieu in order to begin a slow process of*

conditional release. Ongoing monitoring [REDACTED] would be essential.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dr. [REDACTED] was [REDACTED] employed [REDACTED] as a Psychiatrist at [REDACTED] in January 1995. Dr. [REDACTED] advised the BOI that although his name is identified as part of the Treatment Team on the [REDACTED] Unit, he was not asked to play a role in the initial assessment and diagnosis of **ULAYUK**, nor in the development of a plan or program for his treatment. He did not participate in daily rounds or at team meetings. He advised the BOI that he played virtually no role in relation to **ULAYUK** until the Treatment Team decided that **ULAYUK** should be discharged from the program and he was requested to complete a Psychiatric Discharge Summary. His report was based on the treatment provided by others. He met with **ULAYUK** on one occasion and reviewed the [REDACTED] chart and the institutional file. He did his assessment based on the information that was available and he was not aware of the existence of reports from the Clarke Institute and from the other doctors who had examined **ULAYUK** before his trial. Dr. [REDACTED] stated he was not involved with the preparation of the Final Treatment Team Report although he would have reviewed it and signed it as required.

Following his discharge from the [REDACTED] Program, Social Worker and Treatment Team member [REDACTED], in a report dated 1995-12-07, described **ULAYUK**'s understanding and attitude toward his criminal behaviour as follows: *“This area does not appear to have changed significantly since the subject’s admission [REDACTED]. The subject continues to deny that he is a sex offender.”* The BOI noted that this appears to

contradict the statement in the Final Treatment Summary that “*Upon completing the program ELI gained a basic understanding of his sexual offending behaviour.*”

In arriving at its findings regarding **ULAYUK**’s assessment and treatment at the [REDACTED] in 1995, the BOI took into consideration the opinions expressed by Drs. **HUCKER** and **SERIN**.

The consultants to the BOI have expressed the following opinions in their reports:

Dr. Stephen **HUCKER** re [REDACTED] “*Given that necrophilia is a rarity it is surprising that the offender’s case appears to have generated so little curiosity in a professional group purportedly specializing in and supposedly having expertise in sexual disorders. The failure to obtain previous test materials and the records from an in-depth prior assessment at a facility with a reputation in the area of research and treatment of sex offenders is hard to understand. Moreover, the nature of the index offense itself should have implied more [REDACTED] This naïve explanation suggests a lack of understanding of the dynamics of more typical homicides, let alone those with underlying sexual psychopathology*”.

Dr. Ralph **SERIN**: “*This is an extraordinary case. Recognizing that I am not a sex offender treatment expert, yet in 30 years of correctional practice involving thousands of offenders I have never encountered such a case. It would seem the rarity of the case would have prompted staff to be particularly judicious in their management and decision-making. Upon carefully reviewing information from the BOI it appears that many staff had only recently begun work in corrections when they were involved with **ULAYUK**. This highly unusual case had important dynamics that repeated over time but the offender presented as disarming. One explanation for the manner in which certain information was not given due weighting is that of naiveté*”.

In the course of interviews at [REDACTED] the BOI learned that nurses provide most of the therapy in the program. The BOI was advised that while a background in general nursing was a necessary qualification for the positions, no previous experience or training in the area of sex offenders is required, and new staff are expected to learn on the job. The CSC provides no formal training program to them. The BOI was also informed that the staff ratio of psychologists in the [REDACTED] Program is currently less than in other CSC Intensive Sex Offender Assessment and Treatment Programs.

FINDINGS

(9) The BOI found that the 1995 assessment of ULAYUK at the [REDACTED] strongly influenced how ULAYUK was subsequently seen and dealt with by decision-makers within CSC/NPB. Most decision-makers assumed that necrophilia had been ruled out as a problem for ULAYUK, or that ULAYUK had been successfully treated for that disorder and that it was no longer an issue.

(10) The BOI found that the overall quality of the assessment and treatment of ULAYUK in the [REDACTED] Program, as it existed in 1995, was less than what could be reasonably expected of a High Intensity Sex Offender Program of the CSC.

(11) The BOI saw no evidence that any attempt was made at the [REDACTED] to obtain certain background information that would have been important for a thorough assessment of ULAYUK and consistent with the CCRA and CSC's policy on Intake Assessment. That included the reports of the professionals who had assessed him for the purpose of his trial and his file from the Clarke Institute.

(12) There was no clear rationale given, in the reports of the members of the Treatment Team, as to why they considered that sexual deviancy was not a problem for ULAYUK.

(13) The Final Treatment Summary and the Psychiatric Discharge Summary contained recommendations relating to the release of ULAYUK even though the psychiatrist had no involvement in his treatment and only a minimal role in his assessment.

(14) The BOI found contradictory information as to whether ULAYUK's understanding and attitude toward his criminal behaviour had changed as a result of his admission to the program.

(15) The Final Treatment Summary stated that "*Substance abuse or clear signs of escalating anger and aggression will likely serve as indicators that he is having difficulty managing his risk*". A similar caution was contained in the Psychiatric Discharge Summary. However, despite the unusual sexual nature of the index offence, no expert advice was passed on to those who would subsequently be responsible for dealing with ULAYUK in the institutions or supervising him in the community. In particular, no recommendations were provided about what kind of sex offender maintenance programs, if any, he would require and no guidance was given about how to monitor and deal with ULAYUK [REDACTED]

(16) [REDACTED]
[REDACTED]
[REDACTED]

4) AT [REDACTED] IN 1996

[REDACTED]

In February 1996 the CMT recommended that Day and Full Parole be denied due to the fact that the offender was considered too great a risk [REDACTED]

[REDACTED]

The psychological and psychiatrist reports had been completed in 1995 and were still applicable for the purpose of release consideration. [REDACTED]

[REDACTED]

[REDACTED]

A Community Assessment with numerous members of the Igloodik community, completed in April 1996, generally indicated that they were not ready for him to return. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In July 1996, **ULAYUK** was evaluated in a Progress Summary for Escorted Temporary Absences for community service, as being a medium risk to re-offend and a moderate risk to escape. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ULAYUK's second hearing before the National Parole Board took place 1996-08-08 and again release was denied. It was an Elder-assisted hearing. In the written decision the NPB Members noted the reports from the psychiatrists at the first trial, substance abuse [REDACTED]. They also referenced completion of the [REDACTED] Program and questioned whether sexual deviance had been adequately addressed [REDACTED]. They concluded that there was insufficient evidence of fundamental change to determine that risk had lessened.

One month later, on 1996-09-06, the National Parole Board recommended Escorted Temporary Absences for community service to the Warden. (Although the authority was the Warden's, NPB recommendation was required by policy at that time.) The NPB made the decision by file review with no hearing and used exactly the same written reasons as it had to deny parole. The offender was granted permission to engage in work outside the penitentiary perimeter.

In 1997, **ULAYUK** requested a transfer to [REDACTED] Institution in the hope of eventually being transferred to the Yellowknife Correctional Center.

5) THE REPORT OF A [REDACTED] INSTITUTION PSYCHOLOGIST IN 1997

In 1997-05, while at Riverbend Institution, **ULAYUK** was referred by his parole officer to Staff Psychologist Llana **PHILLIPS** for individual counselling. The counselling was terminated in June 1997, as a result of **ULAYUK**'s involuntary transfer [REDACTED]

[REDACTED]

PHILLIPS prepared a one and a half page Psychological Assessment Report entitled "Treatment Summary and Termination Report" dated 1997-06-25. This report was found in CSC and NPB files and was entered in OMS. The BOI reviewed the report and interviewed **PHILLIPS**.

[REDACTED]

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

During her interview with the BOI, **PHILLIPS** stated that when she submitted her report she believed **ULAYUK**'s level of risk was uniquely high [REDACTED]. She did not agree with the [REDACTED] Treatment Team about his case and felt that they had failed to recognize **ULAYUK** as a sex offender. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] At the time she felt a referral to a forensic psychiatrist specializing in sex offenders would have been appropriate.

[REDACTED]

[REDACTED] She stated that she expressed her concerns about **ULAYUK** at Case Management meetings but she did not think the Case Management Team shared her concerns. They questioned her why **ULAYUK** [REDACTED] was any different from any other sex offenders. She advised the BOI that she was never contacted or questioned by anyone within CSC or NPB about **ULAYUK** after submitting her 1997-06-25 report.

In order to determine what action was taken by the CSC following the report by **PHILLIPS**, the BOI interviewed the parole officers and psychologists at [REDACTED] Institution and at [REDACTED] who dealt with him.

[REDACTED] was **ULAYUK**'s Parole Officer at [REDACTED] Institution in 1997 and had referred him for counselling to **PHILLIPS**. He was his Parole Officer again in 1999 and 2000 when **ULAYUK** was returned from [REDACTED] advised the BOI that he could not recall the **PHILLIPS**' report or speaking to her about the offender. He could provide no explanation about what was done with **ULAYUK** in the institution as a result of the disclosures. Upon reviewing the files, Parole Officer [REDACTED] indicated that he assumed that the concerns expressed in the report must have been addressed during **ULAYUK**'s admission to the [REDACTED] in 1999.

Parole Officer [REDACTED] advised the BOI that he was not trained in sex offender treatment programs. He stated that he regularly discussed **ULAYUK**'s case with psychologists (other than **PHILLIPS**) at [REDACTED] Institution, but they were of the opinion that **ULAYUK** did not meet the program criteria for inclusion in the Sex Offender Relapse Prevention treatment offered within the institution. This was because that program was only available to inmates who had had completed a Sex Offender Treatment Program and actually committed a sexual offence. **ULAYUK** was considered ineligible for the Relapse Prevention Program since there was no evidence that a sexual assault had actually taken place at the time of his index offence. Parole Officer [REDACTED] advised the BOI that consequently, when he was dealing with **ULAYUK**, he had just one available option within the scope of programs available within the CSC, namely, individual psychological counselling.

[REDACTED] spoke at **ULAYUK**'s NPB hearing on 2000-06-21. No mention was made of **PHILLIPS**' or **OLEDALE**'s reports. [REDACTED]

[REDACTED] He told the NPB that **ULAYUK** has "been sent back inside [REDACTED]"

██████████ He's come back to us after programming. He's also been sent to ██████████ for evaluation." Based on those interventions and his "excellent" behaviour ██████████ supported his release.

██████████ was **ULAYUK**'s Parole Officer at ██████████ when **ULAYUK** was transferred from ██████████ Institution. He had recently become a parole officer (was still in an acting capacity) and had no experience or training in dealing with sex offenders when **ULAYUK** was added to his caseload. Although he advised the BOI that he was aware of the **PHILLIPS**' report, the BOI found no reference to it in any of the reports he authored. ██████████ stated that **ULAYUK**'s case, including the disclosure to **PHILLIPS**, was considered by the Program Board at ██████████. The preferred action by the Program Board would have been to transfer **ULAYUK** back to the ██████████ for further sex offender assessment and treatment. However, the policy of the ██████████ at that time, was that they would not take offenders, who had already completed the Sex Offender Program, back a second time. ██████████ explained that there may have been Low Intensity Sex Offender Program at ██████████ at that time, but it would not have been suitable for **ULAYUK**. ██████████ said that the only option available to him was to refer **ULAYUK** for individual counselling with Institutional Psychologist ██████████ starting in May 1998.

The BOI interviewed Psychologist ██████████ and reviewed his Psychological Assessment Report dated 1999-01-11. His report indicates that **ULAYUK** came to him for counselling on his own volition in May 1998 and that it was not clear that **ULAYUK** had any issues he wanted to work on. ██████████ also told the BOI that **ULAYUK** was not referred to him by the parole officer.) ██████████ the bi-weekly counselling sessions continued to January 1999 ██████████

██████████ told the BOI that he does not recall the **PHILLIPS** report nor is it mentioned in his own report. He stated that he did not do sex offender counselling with

ULAYUK. [REDACTED] felt that, based on the reports in the file, it was unclear whether the offence that ULAYUK had committed was sexual in nature. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]s report states that it is not intended to be a comprehensive risk assessment to be used for NPB purposes, but that some of the information contained in it may be relevant for “*gauging risk, the appropriate placement for managing the level of risk, as well as the offender’s rehabilitation.*” He administered the Level of Service Inventory-Revised (LSI-R) and scored him in the LOW-MODERATE range of risk and needs (35th percentile).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

In 1998, while **ULAYUK** was at [REDACTED] a formal risk assessment was done by Psychologist Edward **OLEDALE**. The BOI was unable to locate **OLEDALE** in order to interview him. It appears that **OLADELE**'s only involvement with **ULAYUK** was this assessment prepared for the purpose of a Day/Full Parole Hearing scheduled in July 1998. The Psychological Assessment Report is dated 1998-06-03 and includes the following statements:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

*“Overall, this report concludes that, relative to other male inmates, Mr. **ULAYUK** is presently in a Moderate-High risk category for general recidivism, and in a High risk category for violent recidivism. However, it should be noted, that even among high risk inmates over 60 percent do not commit a violent offence within 3 years of release.”*

*“While awaiting release, Mr. **ULAYUK** should be encouraged to discuss and deal with many of his issues [REDACTED]
[REDACTED] Further explorations of the aforementioned difficulties are warranted, and they may provide answers to some of his criminogenic factors.”*

*“Should Mr. **ULAYUK** be considered a candidate for release by the Board, it is strongly recommended that he should be released into a highly structured, and highly supervised residential treatment program*

[REDACTED]

When **ULAYUK** was returned to [REDACTED] Institution in 1999, **PHILLIPS** had left and was replaced by Psychologist [REDACTED] counselled **ULAYUK** from November 1999 until he was released on Day Parole in 2000. In fact, at **ULAYUK**'s request, she attended and spoke in support of his parole application at the NPB hearing on 2000-06-21.

The BOI interviewed [REDACTED] and reviewed her brief reports dated 2000-02-11, 2000-05-10, and 2000-06-26, as well as her testimony before the NPB. She has no recollection of **PHILLIP**'s report and there was no reference to it in any of her own reports. She was also not aware of **OLADELE**'s reference to **PHILLIPS** in his risk assessment.

[REDACTED] indicated to the BOI that she had just started working with CSC when she began counselling **ULAYUK** and at that time, had no sex offender training. [REDACTED]

[REDACTED]

[REDACTED] Her counselling with him focused on his current adjustment in the institution rather than sexual offending. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

At the NPB hearing, [REDACTED] made no mention of **PHILLIPS**' or **OLEDALE**'s reports [REDACTED]. In supporting his application for Day Parole, she told the NPB [REDACTED]

[REDACTED]

The BOI found that, since his suspension from [REDACTED] Institution, ULAYUK did, in fact, take various programs to help reduce his risk generally. He completed SOARR, OSAPP, Alcohol Relapse Prevention and Employability Skills. He regularly attended the AA Program and was successful in ETAs. In 1999 (as will be described later in this report) he was referred back to the [REDACTED]. However, he received no further sex offender programming and the BOI found no evidence that the serious disclosures made by ULAYUK were directly addressed in any programs or other interventions.

FINDING

(17) **The BOI found that the serious disclosures by ULAYUK to Psychologist Llana PHILLIPS in 1997, [REDACTED] [REDACTED] should have led to his immediate return to the [REDACTED] for further sex offender assessment and treatment. However, the BOI found that not only was this not done, the report was also inexplicably given little attention. It was referred to in only one of several subsequent risk assessments by Psychologists (OLADELE) and not mentioned in any NPB release decisions. The BOI could find no documentation indicating how the CSC/NPB authorities considered that the risk revealed through those disclosures had been satisfactorily addressed.**

6) SECOND ADMISSION TO [REDACTED] UNIT) IN 1999

On 1999-06-03, **ULAYUK** was referred a second time for assessment to the [REDACTED] The Referral for Psychiatric Assessment by the Warden of [REDACTED] Institution at [REDACTED] [REDACTED] The Warden is requesting an in-depth psychiatric as well as psychological assessment...The Warden is requesting several concerns to be addressed in this assessment:

1. Assessment for risk - is his public safety still considered low?
2. Is he in his crime cycle again?
3. Has he “internalized” the programs he has taken?
4. Is his thought process appropriate? Is there a deviant sexual thought process?”

ULAYUK was placed on the [REDACTED] [REDACTED] and was there from 1999-06-24 to 1999-08-25.

The BOI reviewed the reports of the psychologist and psychiatrists who examined **ULAYUK**, the patient’s chart, and the Final Program Performance Report written by a Nurse. The BOI also interviewed some of the authors of the reports.

At the beginning of the assessment period, a mental status examination was done by Staff Psychiatrist Dr [REDACTED] on 1999-06-26. [REDACTED]

[REDACTED] **ULAYUK**’s treatment plan was to include a “collateral information review”, referral for risk assessment and a “diagnostic interview”.

Dr. [REDACTED], a Part-Time Psychologist, who was contracted to do risk assessments at the [REDACTED] reviewed **ULAYUK**'s file, interviewed him on one occasion, and submitted a Psychological Assessment Report, dated 1999-08-18. The report indicated that **ULAYUK** was referred to him by the [REDACTED] staff psychologist for an assessment of his risk for being placed in minimum security.

[REDACTED]

In his report, Dr. [REDACTED] noted that *“Previous assessments bearing on risk for future violence have been somewhat conflicting.”* He referred to Dr. [REDACTED] 1995 report and the Discharge Summary from the [REDACTED] Program, contrasted with Edward **OLEDALÉ**'s assessment of 1998-06-05 that **ULAYUK** posed a “high risk to re-offend violently.” He wrote *“Due to the discrepancies in these findings, the current assessment employed four empirically verified instruments that have been found to predict risk for future violence and sexual offending.”* The instruments he used were the PCL-R, HCR-20, VRS-2, and the Static-99.

Dr. [REDACTED] concluded that *“There was nothing that emerged during the current assessment that raises significant concerns about placing him in a minimum security environment. It is important that he avoids substance abuse and activities that will impair his emotional stability. With this caveat in mind, Mr. **ULAYUK** appears to pose a low probability of engaging in future violent behaviour either within or outside an institution.”*

Dr. [REDACTED] told the BOI that he was not an expert on sex offenders. Nevertheless, he was comfortable doing this risk assessment since other experts like Dr. [REDACTED] had concluded that sex offending was not an issue in his case.

Dr. [REDACTED] made no request to obtain **ULAYUK**'s file from the Clarke Institute. He advised the BOI that the Clarke Institute reports were completed ten years before his assessment and were therefore badly outdated. Even if he had access to these reports, there were a number of much more recently completed psychiatric reports that would be expected to provide a more valid indication of Mr. **ULAYUK**'s psychiatric status at the time of his assessment.

Dr. [REDACTED] made no mention in his report of the disclosures made by **ULAYUK** to Psychologist Llana **PHILLIPS** in 1997 and referred to by Edward **OLEDALE** in 1998. However, he told the BOI that he was aware of these reports and reviewed them when completing his assessment. He stated that this information was considered alongside more recent reports [REDACTED].

Dr. [REDACTED] also advised the BOI that the instruments each psychologist employed and how they were applied could explain the difference between his assessment and Dr. **OLEDALE**'s.

[REDACTED]

Dr. [REDACTED] advised the BOI that at the time he examined **ULAYUK** he was new to the hospital and to the CSC, having started work at [REDACTED] in July 1999. Dr. [REDACTED] stated that he was not involved in managing **ULAYUK**'s case, that his report was not intended to be a risk assessment and that it was only a synopsis of **ULAYUK**'s mental state on discharge.

The BOI could find no evidence that anyone at the [REDACTED] investigated the complaints of the female staff by interviewing the staff members involved.

The Final Program Performance Report, dated 1999-08-19, written by a nurse, indicated that **ULAYUK** “has demonstrated stable institutional behaviour”. [REDACTED]

[REDACTED] The Treatment Team recommended that he be discharged back to [REDACTED] Institution. When interviewed, the author of this report was unable to provide the BOI with any other information about **ULAYUK**'s assessment.

In arriving at its findings regarding **ULAYUK**'s assessment and treatment at the [REDACTED] in 1999, the BOI took into consideration the opinions expressed by Drs. **HUCKER** and **SERIN**.

FINDINGS

(18) **The BOI could find little evidence that the concerns that led to **ULAYUK**'s referral to the [REDACTED] in 1999 were thoroughly explored during his two-month stay at that institution.**

(19) **The risk assessment by the psychologist incorporated most of the current widely used instruments but his report did not indicate that he had taken into account certain essential clinical information contained in the files.**

(20) [REDACTED]
[REDACTED]
[REDACTED]

- (21) The BOI could find no evidence in the reports that the staff, including the psychiatrists and psychologist, took into consideration ULAYUK's disclosure to Psychologist Llana PHILLIPS in 1997.
- (22) The psychiatric examinations of ULAYUK were focused on determining [REDACTED] and not on risk issues.
- (23) The conclusions following ULAYUK's completion of the [REDACTED] Program in 1995 were accepted without thorough re-evaluation by the psychiatrists.
- (24) There was no indication that any attempt was made to obtain the reports from the Clarke Institute and from the doctors who had examined ULAYUK for his trial.

7) CASE PREPARATION FOR DAY PAROLE IN 2000 AT [REDACTED] INSTITUTION

The 10-page Assessment for Decision dated 2000-05-10 prepared by Institutional Parole Officer [REDACTED] generally followed the content guidelines provided in the *SOP 700-07 Pre-Release Decision Process, 1999*. The BOI noted some exceptions to this and found the quality of the analysis lacking.

The Correctional Plan Progress Report referred to in the above Assessment for Decision was prepared 2000-02-11. The report was 24 pages in length with an attached four page Community Strategy. The BOI had difficulty in identifying the essential elements required by *SOP 700-05 Progress Monitoring- Institution, 1999* due to the length and unwieldiness of the document. The report contained numerous pages of extracts from all the Psychological and Psychiatric Reports completed on the offender during his incarceration. This practice was addressed subsequently in a CSC Case Management Bulletin dated 2002-06-03 entitled *The Use of Cut and Paste in CSC Reports*. The analysis provided by the parole officer was limited and provided no information on the details of the offence or the motivation for it. The offence was essentially referred to as Manslaughter with no reference as to the uniqueness of the offence or the motivation of necrophilia. The BOI noted that the offender had consistently acknowledged that necrophilia was the motivation for his index offence.

In interview the parole officer indicated his intent in producing this lengthy report was to provide information to the NPB about all the conflicting Psychological and Psychiatric Reports on the offender.

In the Assessment for Decision, the parole officer did not include a description of the index offence nor information surrounding its motivation. There was a one line reference in the body of the report that indicated that the offender completed [REDACTED] because his

conviction of Manslaughter was believed to have sexual overtones. The *SOP 700-07* required that an analytical statement of the major case specific factors including the dynamics factors or other areas be addressed and the BOI considered that it was not completed in this case.

Parole Officer [REDACTED] advised the BOI that the Criminal Profile Reports on file provided information on the details of the offence and its motivation and would have been available to the decision-makers.

Based on the information provided in the Community Strategy, the institutional parole officer indicated in the Assessment for Decision that the offender would be evaluated for referral to a sex offender maintenance program once released. The issues of substance abuse were to be addressed through referral to a substance abuse relapse maintenance program and the Salvation Army Life Recovery Treatment Program. The offender was recommended for Day Parole with residence at the Salvation Army. The special condition proposed was to abstain from intoxicants.

In the Assessment for Decision, Parole Officer [REDACTED] emphasized the fact that the offender had completed Substance Abuse Prevention Programming and Anger Management Programming to deal with the issues identified as being the case specific factors requiring intervention. The offender was described as having benefited from these programs and demonstrating a high level of motivation. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The offender was also described as being an active participant in AA, both in and outside the institution. It was also mentioned that the offender was receiving psychological counselling [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Parole Officer [REDACTED]

indicated to the BOI that he believed that sexual deviancy as a possible issue had again been ruled-out when the offender was assessed for a second time at the [REDACTED]

In terms of the offender's understanding of his crime cycle indicators, the report focussed primarily on anger and substance abuse. The extent of the offender's insight into the unique circumstances of his offence, particularly sexual deviancy, was not addressed. This is inconsistent with the requirements the *SOP 700-05 Progress Monitoring in the Institution, 1999*.

In the CPPR, the parole officer made reference to the fact that according to the most recent psychological risk assessment completed at the [REDACTED] Unit by Dr. [REDACTED] the offender was considered a suitable candidate for a minimum-security institution and that his risk to re-offend was considered manageable in the community,

Parole Officer [REDACTED] indicated there were no recent Preventive Security Reports. He evaluated ULAYUK's motivation as high, and the level of intervention required as medium, based on dynamic factors.

The parole officer proposed a structured release plan for **ULAYUK**, incorporating residence at the Salvation Army, attendance at AA [REDACTED] activities with the John Howard Society, and professional counselling. Abstention from intoxicants was considered important in order to manage risk. The officer made no reference to the need for a sex offender maintenance program or psychological counselling to address this specific issue. However, in the Assessment for Decision, Parole Officer [REDACTED] integrated the Yellowknife Parole Office recommendation that the offender be evaluated for sex offender treatment. The officer suggested **ULAYUK** participate in the Aboriginal Healing Program.

The BOI noted that the parole officer had not requested the court-related Psychological and Psychiatric Assessments. Consequently, the Documentation Check List was not updated as required by *SOP 700-02 on Intake Collection, 1999*.

An extract from Psychologist Llana **PHILLIPS**' 1997 report was included in the Assessment for Decision along with many extracts from other reports. However, the **PHILLIPS** report was not highlighted in any fashion nor was its content analysed by the parole officer.

Community Strategy

The offender's file was referred to the Yellowknife Parole Office for their input regarding the offender's release plan.

The BOI reviewed the Community Strategy dated 2000-05-01 and considers that it was consistent with the policy *SOP 700-03, Assessments Completed by the Community, 1999*.

The analysis completed was detailed and captured the issues of sexual deviancy, program performance evaluation inconsistencies and the inconclusive psychological

assessments on the offender. Subject to the exception noted below, the Yellowknife Parole area director's assessment, conclusion and recommendations for community supervision in ULAYUK's case for a potential Day Parole release were logical and appeared to be based on a thorough overview of the information in OMS and consultation with the appropriate community collaterals.

The BOI questions whether [REDACTED] "Extensive program interventions specific to the offender's needs are readily available in the community of Yellowknife" was realistic, considering the nature of the index offence and that the community psychologist on contract with the parole office was new and had little experience in dealing with adult sex offenders.

FINDINGS

(25) The court-related Psychological and Psychiatric Assessments were not requested during the 2000 case preparation, consequently the Documentation Check List was not updated as required by SOP 700-02 on Intake collection, 1999. No reasonable steps were taken to obtain the offender's file from the Clarke Institute as the BOI considers would have been required pursuant to the CCRA.

(26) The report did not include a description of the index offence nor information concerning its unique motivation. The SOP 700-07 Pre-Release Decision Process, 1999 required that an analytical statement of the major case specific factors, including the dynamics factors or other areas, be addressed, however, it was not completed in this case.

(27) Due to the length and cut and paste format of the document, the BOI had difficulty in identifying the essential elements in the Correctional Plan Progress Report required by SOP 700-05 Progress Monitoring- Institution, 1999. The report was 24 pages long (including multiple extracts from Psychological and Psychiatric Reports) with an additional 4 page Community Strategy. The Assessment for

Decision was another 10 pages long. In examining the overall quality of the information provided to the NPB, the BOI noted that more coherent and concise reports would have been helpful to the NPB for the purpose of their risk assessment. However, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

(28) In the Correctional Plan Progress Report, the institutional parole officer did not discuss the offender's degree of insight into his criminal behaviour and special circumstances of his offence, specifically sexual deviancy. This was inconsistent with the requirements of the *SOP 700-05 Progress Monitoring in the Institution, 1999*.

(29) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(30) The reports prepared by the institutional parole officer did not demonstrate a full understanding of the sexual deviancy underlying the index offence and what was required to safely manage the offender in the community. The parole officer appears to have relied on the opinion of [REDACTED] professionals that sexual deviancy was not a concern. He stated that he also relied on the opinions of [REDACTED] Institution psychologists that ULAYUK was ineligible for sex offender relapse prevention programming since there was no evidence he had committed a sexual assault.

(31) The Community Strategy, dated 00-05-01 and prepared by the Yellowknife Parole Office, was consistent with the *SOP 700-03, Assessments Completed by the Community, 1999*, subject to the question about the availability of suitable resources in Yellowknife. This report indicated the need for an assessment for sex offender treatment on release.

(32) In developing the Community Strategy for the offender's release, the area director indicated that the community parole offices do not receive any information such as the judges comments, Psychological and Psychiatric Reports prepared at trial or the Police Report. Only the information on the Offender Management System is available to community parole staff at this point in the case management process.

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8) NATIONAL PAROLE BOARD DECISION TO GRANT DAY PAROLE IN
JUNE 2000

ULAYUK's third hearing with the National Parole Board was held on 2000-06-21 at [REDACTED] Institution with Board Members [REDACTED] and [REDACTED]. It was an Elder-assisted hearing. The decision was to grant Day Parole to Yellowknife.

After examining the Reasons for Decision, reviewing a transcript of the hearing and interviewing both NPB Members, the BOI made the following observations.

There was no indication in the Reasons for Decision that the NPB Members took into consideration the comments by the sentencing judge that this was one of the worst cases he had ever seen and about ULAYUK's potential dangerousness and for that reason the maximum sentence was imposed. The NPB Members told the BOI that lack of mention of the Judge's Reasons or other information did not mean they did not consider these reports.

[REDACTED]

There was no indication that the NPB Members had any concern that reports from the psychiatrists and psychologist who testified at trial had not been obtained by CSC even though the importance of their findings were referred to in the Judge's Reasons for Sentence contained in the NPB file. The same applies to ULAYUK's assessment at the Clarke Institute. Recognition of the importance of this information could have resulted in the NPB Members requesting the reports or at the least addressing them in the decision to release.

The Reasons for Decision listed the various programs ULAYUK had completed during his sentence but did not analyze what gains, if any, resulted from those programs.

Completion of the [REDACTED] Sex Offender Program in 1995 was mentioned positively in the Reasons for Decision. However, at the hearing **ULAYUK** admitted that he did not take programs prior to 1997 seriously [REDACTED]. Despite this new information the NPB Members did not question him about his participation at the [REDACTED] Program or break to deliberate and analyze the significance of this disclosure. They made no mention of it in their Reasons for Decision. Comments from CSC staff that there was no change in **ULAYUK**'s behavior after completion of the [REDACTED] Program were also not referenced.

There was no indication at the hearing or in the Reasons for Decision that the NPB Members had considered the serious disclosures made by **ULAYUK** to Psychologist Llana **PHILLIPS**, although her report was in the NPB file. It was not evident in the Reasons how the NPB Members considered the risk revealed through those disclosures had been satisfactorily addressed.

There was no reference to the conflicting Psychological Reports on file. Only the most recent report that found him to be low risk to re-offend was noted. A report that found him to be a high risk to offend violently a year earlier was not mentioned. There was no explanation of how the NPB Members weighed the conflicting assessments.

The NPB Members did not take the opportunity to ask the psychologist present at the hearing about the conflicting risk assessments in previous Psychological Reports, about necrophilia, about the 1995 and 1999 [REDACTED] assessments, about how this type of sex offender can be managed in the community, [REDACTED]
[REDACTED]

At the hearing the NPB Members did not question **ULAYUK** about the index offence. They did not question **ULAYUK** about [REDACTED] the information he had provided to Llana **PHILLIPS**. The **PHILLIPS**' report had been obtained by National Parole Board in June 2000 and was included with the most recent Correctional Service of

Canada reports on the National Parole Board file. They asked no questions about his offence cycle or any relapse prevention plan.

There was no indication at the hearing or in the Reasons for Decision that the NPB Members took into consideration [REDACTED] his sentence and analyzed its significance given the nature of the index offence.

There was no indication that any consideration was given to asking for an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy before making the release decision.

NPB imposed one special condition, to abstain from intoxicants. It did not require sex offender programming in the community or any other counselling. (NPB Member [REDACTED] told the Board that sex offender programming in the community was the responsibility of CSC and if she had felt it was absolutely necessary she would not have released him).

A substantial portion of the questioning and commentary at the hearing focused on whether or not CSC had investigated the possibility of a release to an Aboriginal community under Section 84 of the *Corrections and Conditional Release Act*, on Aboriginal culture and on the need to return Aboriginal offenders to the north.

FINDINGS

(33) There was a lack of independent critical analysis by the NPB Members of the information provided in the file and at the hearing.

(34) The NPB Members did not fully address the dynamics of the index offence as part of their assessment of risk. The BOI is not convinced that they fully understood the deviant sexual nature of the offence.

(35) The Reasons for Decision referred mainly to information provided in the file and at the hearing that supported the decision to release.

(36) The hearing was focused on healing and cultural concerns. While those are important aspects for the NPB to consider, at this hearing they appeared to have occupied more of the members' attention than the assessment of risk.

(37) Given the unusual nature of the offence, and the contradictory information from CSC officials about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy, before making the release decision.

9) FIRST DAY PAROLE TO YELLOWKNIFE IN 2000-01

The Board of Investigation reviewed the supervision of **ULAYUK** during this period and examined its compliance with the CCRA and Correctional Service policy. Yellowknife Parole Office staff and contractors were also interviewed.

ULAYUK was released on Day Parole on 2000- 06-27 to the Salvation Army in Yellowknife, which is a residential facility that provides programs and services to offenders who have substance abuse issues. The Yellowknife Parole Office, which had the responsibility for supervising the offender, had a staff of one area director, two parole officers and two administrative support staff.

During his initial interview with the Area Director **WINKFEIN** of the Yellowknife Parole office, **ULAYUK** indicated that he did not wish to participate in a community sex offender maintenance program [REDACTED]

[REDACTED] **ULAYUK** also did not consider himself to be a sex offender. [REDACTED]

[REDACTED] The offender was directed to participate in individual counselling sessions with a community psychologist [REDACTED]

[REDACTED] The psychologist was asked to evaluate the offender's appropriateness for sex offender programming, adjustment to the community and to monitor his mental health status.

Yellowknife is a small community and has few resources available to deal with sex offenders. The Community Psychologist Bruce **SMITH**, who had agreed to counsel **ULAYUK**, had participated in a one week CSC training program on sex offender programs [REDACTED]

[REDACTED] He had only recently been under contract to CSC. The psychologist indicated in interview with the BOI that he felt he could counsel the offender as he had assumed that the evaluations completed

on the offender by CSC psychologists (experts in this area) indicating that his sexual deviancy was no longer a major concern were accurate. The counselling sessions with the offender addressed areas [REDACTED] which was consistent with the contractual expectations CSC had requested.

ULAYUK had also refused to attend substance abuse programming until he was instructed to do so in a disciplinary interview in September 2000. He had been attending AA in lieu of this program. In the Correctional Plan Progress Report completed on 2000-07-12 the community parole officer indicated that the offender was not attending the Life Recovery Program and stated that the offender would begin a Substance Abuse Program in the fall. The offender had a special condition to abstain from intoxicants [REDACTED] [REDACTED] The fact that he was not attending a sex offender program nor complying with the Correctional Plan, was not officially brought to the NPB's attention, since the Case Management Team did not believe the overall level of risk to the community was affected.

An Assessment for Decision was completed 2000-07-12 by his parole officer requesting the addition of a special condition [REDACTED] [REDACTED] [REDACTED] The Assessment for Decision did not include the information that the offender was resistant to participating fully in his Correctional Plan. The NPB concurred and imposed the special condition.

[REDACTED] [REDACTED] The frequency of contact between the offender and his parole officer (4 times per month as required by Correctional Service policy *Standard Operating Practice 700-06 Community Supervision dated 1999-02-1*) was surpassed during this period. Over 50 % of the visits were in the community. Parole Officer **MARKOWSKI** indicated, in a Correctional Plan Progress Report date 2000-07-12, that the Case Management Team had

evaluated the offender's motivation level as moderate and therefore his reporting frequency was increased to twice a week.

[REDACTED]

The community psychologist prepared an assessment on the offender as required by CSC. The report dated 2000-12-11 indicated that the offender had made progress towards adjustment to the community. The psychologist indicated that the offender did not need to attend sex offender programming and was at low risk to re-offend.

On 2000-12-01, an Assessment for Decision was prepared for the National Parole Board regarding the offender's Full Parole Eligibility. The parole officer recommended that Full Parole be granted. The Board of Investigation noted that the offender had been resistant to sex offender treatment despite the serious sexual nature of his index offence and had refused to participate in a substance abuse program until instructed by the area director to attend. The use of intoxicants had been identified as being a precipitating factor in his index offence. The offender, however, did attend a AA program during the summer months.

[REDACTED]

The same day that Full Parole was recommended in the Assessment for Decision, the offender was suspended [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The suspension was cancelled by CSC and **ULAYUK** was released on 2001-01-02 following his agreement to abide by a behavioral contract [REDACTED]

[REDACTED] In a brief decision dated 2001-01-05, the National Parole Board continued Day Parole for six months with the same special conditions. The NPB Members noted the recent suspension and resulting behaviour contract.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Parole Officer **PARGETER** began working at the Parole Office 2001-03-07 and took responsibility for the offender's case on 2001-03-13. Parole Officer **MARKOWSKI** had replaced **WINKFEIN** as the area director on 2000-01-10. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

The offender's parole was suspended again 2001-06-11 on the recommendation of Parole Officer **PARGETER**, due to aggressive behavior with his girlfriend. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The offender was subsequently revoked by the National Parole Board on the recommendation of Parole Officer **PARGETER**.

[REDACTED]
[REDACTED]
[REDACTED]

There was no centralized process for placing offenders in the institutions in the Prairie Region. Once the offender was revoked by the National Parole Board the procedure was for each parole officer to contact different penitentiaries to attempt to find an appropriate residence for the offender. Although an attempt was made to place **ULAYUK** at Bowden Institution, he was refused and the Chief Psychologist at Bowden Institution suggested he be placed in RPC. **ULAYUK** was eventually placed at [REDACTED] Institution. Staff were unable to clearly explain to the BOI why this had occurred. Overcrowding at the other institutions was suggested as a possible reason.

FINDINGS

(38) The offender refused to attend sex offender programming and substance abuse prevention programming and was therefore not complying fully with his Correctional Plan during his Day Parole release in 2000.

**(39) When supervised by Parole Officer MARKOWSKI, [REDACTED]
[REDACTED] The frequency of contact was surpassed and over 50% of the visits were in the community.**

(40) [REDACTED]
[REDACTED]
[REDACTED]

(41) The BOI considered that the rationale for recommending Full Parole for ULAYUK at this juncture was unclear due to his refusal to address the sexual nature of his offence, together with the fact that he was serving a Life sentence for a sexually motivated offence, [REDACTED]
[REDACTED]

(42) The same day that Full Parole was recommended the offender was suspended [REDACTED] This was the second suspension during his Day Parole release in 2000. [REDACTED]
[REDACTED]
[REDACTED]

(43) [REDACTED] Institution did not have specific programming available to treat sex offenders. The BOI considered ULAYUK was not placed in an appropriate institution that could reassess his sexual deviancy and provide appropriate treatment. This placement appeared to be related to a lack of a centralized assessment and placement process in the Prairie Region.

(44) The BOI noted that no attempt was made to place the offender at Fenbrook Institution that had a program for Inuit offenders. Yellowknife parole staff understood that placement at Fenbrook required an inter-regional transfer process which could occur only after ULAYUK was first placed in some other institution.

**10) NATIONAL PAROLE BOARD DECISION TO REVOKE DAY PAROLE
IN JUNE 2001**

On 2001-06-30 National Parole Board Members Elizabeth **MCKALL** and Marlene **CHOMA** conducted a Post-Suspension hearing and revoked the Day Parole of **ULAYUK**. This was **ULAYUK**'s fourth hearing with the National Parole Board. Parole Officer **PARGETER** was present at the hearing and recommended revocation of the release.

The decision documentation described the factors which led to the initial grant of Day Parole approximately one year previously and described both the positive and negative aspects of the Day Parole period. It outlined the previous suspension by CSC in December 2000 and the subsequent action taken to manage risk. [REDACTED]

[REDACTED]

[REDACTED]

The rationale for revoking the Day Parole was clearly expressed.

During the hearing the NPB Members questioned and challenged **ULAYUK** about his behaviour on Day Parole, his blaming of others and his dishonesty with his Case Management Team and the pattern of his behaviour.

FINDING

(45) The Post-Suspension hearing and the written decision met the requirements of NPB policy.

11) [REDACTED] INSTITUTION IN 2001-03

ULAYUK spent approximately 20 months in [REDACTED] Institution following his Day Parole revocation, up until his second Day Parole release. [REDACTED] Institution was a medium-security institution and did not provide any specific programming or treatment for sex offenders. Sex offenders were generally not directed to this institution since they are not easily integrated into the population.

The Board interviewed various staff members (psychologists, institutional parole officers and correctional officers and the Yellowknife Parole Office area director) who had dealt with ULAYUK during this period of his sentence and reviewed the related reports and policy requirements.

While at [REDACTED] Institution, ULAYUK completed the Conflict Resolution Program and the weekly Safe Relationships-Family Violence Intervention Program in Calgary from 2002-08-24 to 2002-11-30.

The Chief Psychologist was consulted by an institutional parole officer regarding whether the offender should be transferred to the [REDACTED] [REDACTED] however, the Chief Psychologist indicated that individual counselling sessions would be appropriate. That psychologist had many years experience in treating sex offenders but did not deal with ULAYUK personally.

ULAYUK attended school, participated in 17 sessions of individual counselling sessions with psychologists focusing on such issues as [REDACTED] identified in his Correctional Plan. No institutional charges were reported [REDACTED] [REDACTED] He was consistently described by staff as a “model inmate”. The BOI noted that good institutional behaviour is not an indicator of parole performance as indicated by Dr. Ralph SERIN in his report.

In May 2002, ULAYUK was transferred to [REDACTED] participate in the [REDACTED] Program. [REDACTED]
[REDACTED]
[REDACTED] He [REDACTED] was immediately returned to [REDACTED] Institution.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ULAYUK was referred to Dr. [REDACTED] an experienced Staff Psychologist at [REDACTED] Institution, for a risk assessment in order to assist in NPB and CSC decision-making regarding parole and security level. He prepared a Psychological Assessment Report dated 2002-02-18 and a further report dated 2002-05-24 following ULAYUK's expulsion from the [REDACTED] Program.

In his first report Dr. [REDACTED] concluded that *“Estimates of risk, including static and dynamic factors based on four independent instruments, indicate an overall moderately low probability of both general and violent recidivism”*. He identified no serious concerns about ULAYUK's placement in a minimum-security environment. With respect to community reintegration, his opinion was *“There will be significant recidivism concerns if he should become involved in alcohol or drug use, ongoing relationship conflict, or he has become detached from sources of help and support.”*

ULAYUK was reassessed by Dr. [REDACTED] at the request of the institutional parole officer following the [REDACTED] incident. The psychologist assessed the offender as low risk to re-offend and did not consider the offender had re-entered his crime cycle. No consultation with the Chief Psychologist occurred. Dr. [REDACTED] accepted ULAYUK's

version of events at face value and in his report concluded *“There is no significant new information that would alter his current moderately low risk for criminal recidivism.”*

Dr. [REDACTED] reports were significant because his risk assessments, as well as other information, were used by CSC officials at [REDACTED] Institution to reach decisions regarding minimum-security, temporary absences and to support **ULAYUK**'s Day Parole application. The NPB in their decision to grant Day Parole in 2003-04-07 also referenced Dr. [REDACTED] report, as did members of **ULAYUK**'s Case Management Team in Yellowknife, including the psychologist.

ULAYUK was eventually transferred to the Minimum-Security Unit at [REDACTED] where he completed a lengthy series of ETA and Work Release absences without incident and attended AA/NA in the community. [REDACTED]
[REDACTED]

In interviews with the staff, the Board of Investigation found that there was some difference of opinion between how [REDACTED] staff perceived **ULAYUK**'s risk to the community and how the staff of the Yellowknife Parole Office assessed him.

Yellowknife staff initially perceived that [REDACTED] staff were working to return him as quickly as possible to the community without having addressed the specific issue of relationship violence that the community parole staff had identified as the primary justification for the revocation. Yellowknife parole staff determined that this concern was subsequently addressed once the offender completed the Safe Relationships Program.

Some institutional parole staff at [REDACTED] indicated that they understood their principal role to be to deal with the immediate issue that led to **ULAYUK**'s revocation and to prepare him for re-release.

In interviews, the BOI noted that staff at [REDACTED] in general were reluctant to acknowledge the sexual nature of the Manslaughter offence and to identify **ULAYUK** as a sex offender. Consequently they did not identify a relationship between the aggressive behaviour **ULAYUK** demonstrated towards his girlfriend while on Day Parole in 2000-2001, [REDACTED] the index offence. The offender's failure on Day Parole was perceived by [REDACTED] staff to be a minor setback in his reintegration process rather than an indicator of increase in his level of risk to the community.

When queried on the outcome of **ULAYUK**'s participation in the Intensive Sex Offender Program at [REDACTED] in 1995, the institutional parole staff and psychologists generally did not appear to comprehend the limitations of the sex offender programming. They were of the opinion that necrophilia had been discounted [REDACTED] and therefore needed no further intervention. (See Appendix F - Dr. Ralph **SERIN**'s report to the BOI in which he points out sex offending is a long-term after care issue.)

The BOI also noted that since [REDACTED] Institution does not generally accommodate sex offenders. The case management staff and counselling psychologists were not trained in how to clearly assess and treat sex offenders. Some staff indicated to the BOI that they felt discussing the index offence and its motivation with the offender would be counterproductive. The Chief Psychologist at the institution told the BOI that he was not asked for his assessment of how to manage this case and was not even aware of his presence in the institution, although, according to the reports of staff, he had been initially consulted regarding the offender's treatment when **ULAYUK** arrived at [REDACTED] Institution.

FINDINGS

(46) [REDACTED] Institutional staff were limited in their ability to properly assess a case of this nature and complexity. This was due to the uniqueness of the index offence, the lack of critical information on file, and their inexperience and naiveté in working

with sex offenders. The conflicting Psychological and Psychiatric Assessments produced throughout the offender's incarceration and the volume of information on file because of the Life sentence further exacerbated this situation.

(47) [REDACTED] Institution does not generally accommodate sex offenders and therefore the case management staff and counselling psychologists were not trained in how to clearly assess and treat sex offenders.

(48) Some of the staff at [REDACTED] Institution were reluctant to acknowledge the sexual nature of the index offence and believed that discussing the offence and its sexual motivation with the offender would be counterproductive. The BOI agrees with Dr. SERIN who indicated in his report that "the index offence is crucial to the risk assessment and that the dynamics of the initial murder must be addressed as part of the risk assessment".

(49) Parole staff at [REDACTED] Institution indicated that they understood their principal role to be to deal with the immediate issue that led to ULAYUK's revocation and to prepare him for re-release.

(50) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(51) The staff at [REDACTED] Institution did not consider any possible relationship between the aggressive behaviour ULAYUK demonstrated towards his girlfriend while on Day Parole in 2000-2001, [REDACTED] [REDACTED] and the index offence.

(52) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(53) When queried on the outcome of ULAYUK's participation in 1995 in the Intensive Sex Offender Program at [REDACTED] the [REDACTED] institutional parole staff and psychologists did not appear to comprehend the limitations of the sex offender programming. They were of the opinion that necrophilia had been "ruled out", [REDACTED] and therefore needed no further intervention on their part. They did not appear to fully recognize, as pointed out by Dr. SERIN, that sex offending is a long-term, after-care issue.

(54) There was a failure by case management staff to obtain the full psychiatric and psychological reports from the first trial and the Clarke Institute, contrary to SOP 700-02.

(55) Dr. [REDACTED] used accepted actuarial risk assessment instruments to assess ULAYUK but, as pointed out by Dr. HUCKER in Appendix E, he did not use a sex offender specific risk scale such as the STATIC-99. He had doubts about whether ULAYUK should be considered a sex offender and he did not feel that this was an issue when he did the risk assessment. Dr. [REDACTED] advised the BOI that he believes a sex offender risk assessment, such as the STATIC-99, would not contribute significantly to understanding prevention of violence in this case, or otherwise change the opinion of risk.

During an interview Dr. [REDACTED] acknowledged that, in retrospect, ULAYUK was clearly a sex offender.

(56) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], it is unclear why Dr. [REDACTED] made no reference in his reports to the serious disclosures made to Psychologist Llana PHILLIPS in 1997, although her report was in the CSC file and was also referred to in the 1998 report of Psychologist Edward OLEDALE.

(57) It was not evident if Dr. [REDACTED] was aware of the PHILLIPS report and, if so, what if any significance he attached to those disclosures in his assessment of risk. In his report, Dr. [REDACTED] did not explain why he arrived at a different assessment of risk than Edward OLEDALE. The G.S.I.R instrument was not formally designed to assess risk of violent criminal recidivism and the Michigan instrument OLEDALE employed is not well researched on Canadian and Aboriginal male offenders.

Dr. [REDACTED] advised the BOI that, in his view, the risk assessment instruments used by OLEDALE were not optimally selected or well-informed.

(58) Dr. [REDACTED] partially based his assessment of risk on certain conclusions he drew from his review of information in the file, [REDACTED]
[REDACTED] The BOI found information in the file that could have lead to different conclusions, such as the information relating to the revocation of his Day Parole.

(59) Dr. [REDACTED] was aware that Psychiatric and Psychological Assessments were done before trial but had access only to the brief summaries of those assessments contained in the CSC files. He did not request the full reports of those earlier assessments, but instead relied on Dr. [REDACTED]'s 1995-08-17 conclusion,

when ULAYUK entered the [REDACTED] Program, that “*there is no indication that necrophilia is an ongoing sexual interest in this case.*”

Dr. [REDACTED] advised the BOI that based on his review of this case, he would continue to rely on Dr. [REDACTED]'s (1995) report and conclusion/opinion regarding the necrophilia issue.

(60) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



12) CASE PREPARATION FOR DAY PAROLE IN 2003 AT [REDACTED]
INSTITUTION

The Assessment for Decision completed 2003-2-21, by Institutional Parole Officer [REDACTED] concerning **ULAYUK**'s eligibility for release, generally covered the areas required by CSC's *Pre-release Decision SOP 700-07, 2000*. The BOI noted some exceptions to this.

In terms of the collection of information, there was no evidence that the parole officer ensured that the Documentation Checklist had been updated. The *SOP 700-07 Pre-Release Decision Process indicates in paragraph 20, 2002* that all parole officers must ensure that all critical information is received or is unavailable as defined in the *SOP 700-02, Intake Information 1999*. The assessments completed by the psychologist and psychiatrist at the trial and the file from the Clarke Institute were not obtained nor was there evidence that efforts had been made to obtain them.

The parole officer's statement [REDACTED] was consistent with the most recent Psychological and Psychiatric Assessments but inconsistent with several earlier assessments. The parole officer made no mention in his report of the grave disclosures by **ULAYUK** in 1997 to Psychologist Llana **PHILIPS**, or the risk assessment by Edward **OLADELE** in 1998.

The offender was recommended for a release on Day Parole to Yellowknife. However the BOI noted certain inconsistencies in the report concerning the parole officer's recommendation for parole.

Referring to the offender's participation in the Safe Relationships Program, Parole Officer [REDACTED] focused on the fact the offender was open and participated freely in the

discussions, as a rationale for supporting parole rather than the fact that the treatment gains were limited. [REDACTED]

[REDACTED] However, he also agreed with the facilitator's conclusion that "*we would consider Mr. ULAYUK's participation to indicate a reduction in risk for him*".

In regards to the offender's insight into the offence, Parole Officer [REDACTED] stated that "*there was no change since the last CPPR was completed.* [REDACTED]

[REDACTED]

In forming his recommendation for Day Parole, Parole Officer [REDACTED] relied on Psychologist [REDACTED] conclusion about ULAYUK's potential for reintegration. In addition, and as required by CSC policy, the parole officer considered the offender's completion of correctional programs, successful completion of work releases and good institutional behavior.

The offender's failure [REDACTED] was not noted in the report to the NPB, nor was this information included in the CPPR. Parole Officer [REDACTED] advised the BOI that this information was contained in the CSC file and that his practice was not to repeat all information that was already documented. However, *the SOP 700-05 Progress Monitoring 2002 indicates in section 26* that significant disciplinary problems or

segregation periods or preventive security concerns in the last year should be reviewed in reassessing his reintegration potential. [REDACTED]

The BOI recognizes the complexity of the task for parole officers to complete assessments on offenders serving long sentences for sexually related offences due to the sheer volume of information. Additionally, assessments provided by professionals, who were sometimes of a contradictory or superficial nature, may have contributed to further confuse the parole officer about the offender's sexual deviancy.

Further guidance and mentoring for parole officers to ensure that all significant information and markers in cases and their potential impact on safe reintegration are considered of importance.

Community Strategy

The Community Strategy prepared 2003-02-21 for **ULAYUK**'s application for day parole was in compliance with *SOP 700-03 Assessments Completed by the Community, 1999*.

The Area Director **MARKOWSKI** recommended that following the offender's release he should participate in sex offender maintenance programming, substance abuse reduction programming and psychological counselling. Consultation with the Director of the Salvation Army was completed and it was agreed the **ULAYUK** would be accepted to reside there based on the offender's commitment to participate in the necessary programming in the community.

She proposed a number of special conditions including: abstain from use of intoxicants, no contact with [REDACTED] [REDACTED] as well as no overnight leave.

Area Director **MARKOWSKI** also mentioned in the Community Strategy that it would be expected that **ULAYUK** [REDACTED] Contact frequency with the parole officer was established at four interviews per month.

The area director indicated in her assessment of the offender that any dishonesty, [REDACTED] substance abuse or deterioration in attitude or behaviour could result in the offender's return to custody.

FINDINGS

(61) The institutional parole officer indicated in the Assessment for Decision regarding the offender's Day Parole review, that the offender had a good understanding of his offence despite the fact that the assessing psychologist had indicated the opposite.

(62) There was no evidence that the institutional parole officer in preparing ULAYUK's case in 2003, ensured that the Documentation Checklist had been updated or made a reasonable attempt to obtain the Psychiatric or Psychological Assessments completed at the offender's trial as required by SOP *Pre-release Decision* SOP 700-07, 2002, or the offender's file from the Clarke Institute of Psychiatry as required by the CCRA.

(63) The Assessment for Decision completed on 2003-02-21 by the institutional parole officer concerning ULAYUK's eligibility for release, generally covered the areas required by CSC's *Pre-release Decision* SOP 700-07. The BOI noted some exceptions to this and found the quality of the analysis lacking.

(64) The offender's failure at the [REDACTED] was not noted in the Assessment for Decision submitted to the NPB regarding the offender's application for Day Parole, nor was this information included in the CPPR, contrary to *SOP 700-05 Progress Monitoring, 2002*.

(65) The institutional parole officer generally focused on program participation rather than the treatment gains from the programs as a rationale for supporting the offender's release. However, the officer also considered the offender's good behaviour [REDACTED] as well as his success on work releases and temporary absences.

(66) The Community Strategy prepared 2003-02-21 for ULAYUK's application for Day Parole was in compliance with *SOP 700-03 Assessments Completed by the Community, 2003*.

(67) In examining the overall quality of the information provided to the NPB, as required by its mandate, the BOI noted that in the Assessment for Decision the parole officer essentially reviewed ULAYUK's progress while in [REDACTED] Institution over a period of two years and assessed his risk from that limited perspective. Although this may have been the normal practice, the BOI believes that it would have been more helpful to the NPB for the parole officer to also take into account and highlight the significant aspects of this case, that are relevant to risk, from the commencement of his sentence. This would include the unusually strong comments of the sentencing judge, [REDACTED] the limitations of the sexual offender treatment ULAYUK received and the unresolved contradictions in the different Psychological and Psychiatric Assessments. In saying this, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

13) NATIONAL PAROLE BOARD DECISION TO GRANT DAY PAROLE IN
APRIL 2003

ULAYUK's fifth hearing with the National Parole Board was held on 2003-04-07 at [REDACTED] Institution with NPB Members [REDACTED] and [REDACTED]. It was an Elder-assisted hearing. The decision was to grant Day Parole a second time to Yellowknife.

After examining the Reasons for Decision, reviewing a transcript of the hearing and interviewing both NPB Members, the BOI made the following observations.

The NPB Members were provided with very limited time to review the case file and prepare for the hearing with ULAYUK. They were preparing for approximately 20 other cases to be heard during the same week. They therefore relied to a great extent on the reports provided by Correctional Service of Canada, including the assessment of progress made at Drumheller Institution and the latest psychology report.

On the date of the hearing the NPB Members were scheduled to conduct a total of 3 Elder-assisted hearings including ULAYUK's, after driving from Edmonton [REDACTED] therefore had limited time for the hearing.

Both NPB Members told the BOI they had reviewed and considered all the relevant information on the file in advance of the hearing even though it may not have been referenced in the written decision or questioned at the hearing.

According to National Parole Board policy, the written decision is the formal record of the hearing. Policy requires that the decision document provides analysis of key factors and conclusion, but does not specify that every factor must be listed.

The written decision was mostly a synopsis of the information provided in the Correctional Service of Canada reports. The NPB Members' analysis of what significance was given to specific issues was unclear. As a result the BOI noted:

- There was no indication in the Reasons for Decision that the NPB Members fully considered the dynamics of the index offence as part of their assessment of risk.
- There was no indication in the Reasons for Decision that the NPB Members took into consideration the comments by the sentencing judge that this was one of the worst cases he had ever seen, about **ULAYUK**'s potential dangerousness and the fact that for those reasons, the maximum sentence of life imprisonment was imposed.
- There was no evidence that the NPB Members took into consideration the fact that **ULAYUK** received no specialized sex offender assessment or treatment during his 16 months stay at [REDACTED] Institution.
- The fact that **ULAYUK** had completed the [REDACTED] Sex Offender Program in 1995 was mentioned positively in the Reasons for Decision. However, there was no indication that the NPB Members analyzed what, if any, gains had resulted from that program. There was no reference in the Reasons to observations made by [REDACTED] staff that his behaviour had not changed following the program.
- There was no indication in the Reasons for Decision that the NPB Members had considered the serious disclosures made by **ULAYUK** to Psychologist Llana **PHILLIPS** although her report was in the National Parole Board file. There was nothing in the Reasons to indicate how the NPB Members considered the risk revealed through those disclosures had been satisfactorily addressed and why sexual sadism and/or necrophilia was not an ongoing concern.
- [REDACTED]
[REDACTED]

[REDACTED]

- There was no indication in the Reasons for Decision that the NPB Members analyzed the conflicting psychological reports on file, including the report of Llana **PHILLIPS**. Only the most recent report was noted.

The Elder-assisted hearing was conducted according to the Prairie Region’s interpretation of the policy in effect at the time (Policy 9.2.1). It stated that the NPB Members were to adhere to the established criteria for decision-making, but that “*when discussing the information relevant to risk assessment, a strong focus of the hearing will be on the offender’s progress towards healing...*” as well as the extent of success addressing the risk factors which led to offending, among other factors. (The policy has since been clarified and does not focus on healing.) The NPB Members advised the BOI they did not question **ULAYUK** about aspects of his past as this was not part of the Aboriginal approach. As a result the BOI noted:

- The NPB Members did not question **ULAYUK** about the index offence [REDACTED]
- They did not question **ULAYUK** or his institutional parole officer about the reasons for his expulsion from [REDACTED]
- [REDACTED]
- The NPB Members advised the BOI that the Elder had questioned **ULAYUK** during the hearing about his risk, however, they stated the regional policy is not to tape record anything said by the Elder, therefore, there is no record of this.
- The NPB Members did not break to deliberate.

There was no indication that the NPB Members had any concern that reports from the psychiatrists and psychologist who testified at trial had not been obtained by CSC even though the importance of their findings were referred to in the Judge's Reasons for Sentence contained in the NPB file. The same applies to **ULAYUK**'s assessment at the Clarke Institute. Recognition of the importance of this information could have resulted in the NPB Members requesting the reports or at the least addressing them in the decision to release.

There was no indication that any consideration was given to asking for an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy before making the release decision.

There were no special conditions imposed that would require **ULAYUK** to participate in sex offender programming in the community or any other counselling.

FINDINGS

(68) There was limited time provided for review of the case prior to the hearing and pressure to conduct the hearing in a short timeframe. This resulted in reliance mainly on the most recent reports from Correctional Service of Canada and limited the independent critical analysis by the NPB Members of the information provided in the file and at the hearing.

(69) NPB Members did not fully understand the index offence was motivated by necrophilia [REDACTED]

(70) The written decision summarized the reports from Correctional Service of Canada but did not clearly describe the analysis of the risk factors and did not reference all the critical information available.

(71) The hearing was focused on healing and the future and less on risk assessment. National Parole Board has since revised its policy on Cultural Hearings.

(72) Given the unusual nature of the offence and the contradictory information about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy, before making the release decision.

23

14) SECOND DAY PAROLE TO YELLOWKNIFE IN 2003-04

ULAYUK was released from [REDACTED] Institution on 2003-04-15 to the Salvation Army residence in Yellowknife. The offender had three special conditions which were, to abstain from use of intoxicants, no contact [REDACTED] [REDACTED]. In addition, no overnight absences from the Community-Based Residential Facility were authorized by the National Parole Board. In the offender's Community Strategy dated 2003-02-21, the community parole officer had indicated that any [REDACTED] dishonesty would involve a return to custody. The offender was seen weekly by his parole officer and regular case conferences were held with the CRF staff. The offender was working in construction and participating in Substance Abuse Maintenance Programming and Sex Offender Maintenance Programming.

No issues were noted during the first month of his release until 2003-05-16 when concerns were noted by the director of the Salvation Army [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Parole Officer **PETTET** clearly articulated ongoing concerns about **ULAYUK**'s [REDACTED] lack of transparency in the Assessment for Decision dated 2003-08-12. The Case Management Team recommended that Day Parole be continued and the National Parole Board concurred.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] SMITH was noted as saying that ULAYUK required an ongoing structured environment.

The parole officer indicated that the offender could be safely maintained in the community with a highly structured environment and routine challenges by the members of his Case Management Team. He felt that with close supervision and the offender's active participation in programs the offender's probability of re-offending was low. In terms of severity of re-offending, the officer indicated any return to the offence cycle would have serious ramifications.

The offender was commended on his level of commitment to working with the community psychologist, however, it was noted that he was angry with the Yellowknife Parole Office because of his previous parole revocation. The parole officer further indicated he was unsure how much information the offender really shared with him.

The offender's overall level of risk was considered manageable as long he continued to reside at the Salvation Army and to participate in the programs prescribed in his Day Parole release plan developed in April 2003. Three special conditions were recommended; must abstain from intoxicants, to have no contact directly or indirectly [REDACTED]
[REDACTED]

The Risk Assessment addressed all the required components of the *SOP 700-07 Pre-release Decision Process, 2003-06-20*.

FINDINGS

(73) The case preparation report prepared 2003-08 -12 conformed to Correctional Service policy regarding the pre-release decision process.

(74) The BOI considers that Parole Officer PETTET thoroughly supervised the offender and intervened after each incident.

(75) The BOI found that suspension could have been considered in August 2003 based on the concerns expressed in the parole officer's Assessment for Decision, where he cited the escalating risk [REDACTED] in light of the index offence and his lack of transparency with staff, see CSC policy (*Interim Standard Operating Practice Post –Release decision making 700-10-2003, section entitled Breach of Conditions/Increase in the Level of risk*). However, the BOI found that the decision not to do so was a reasonable exercise of discretion and judgment on the part of those supervising him.

The National Parole Board reviewed **ULAYUK**'s case by way of a file review (no hearing) and continued his Day Parole on 2003-08-19.

The NPB Members noted the previous violation of Day Parole in July 2001 and the continuing difficulties with communication, trust, victim empathy and understanding high risk situations as described in the Assessment for Decision. They noted the CMT's reference that **ULAYUK** needed ongoing challenges in order to develop a better understanding of risk. They concurred with the recommendation for Day Parole rather than Full Parole because of the need for a structured release. They did not authorize any

overnight leave privileges, noting limited supports in the community and continued the three special conditions.

Another new Parole Officer, Guy **LEBLANC**, was assigned to supervise the offender in September 2003. During this period, the offender was compliant, [REDACTED] supervision contact was weekly or more and meetings with the psychologist were considered positive and the offender was seen as making progress.

The offender rented an apartment with a fellow worker [REDACTED] however, no formal assessment appears on file concerning the fellow worker contrary to the *Standard Operating Practice, Assessments Completed by the Community 700-03 dated 2003, 700-03B*.

The offender was given a 48-hour pass [REDACTED] on 2004-02-16, however, there was no Community Assessment on file. There was only an indication that the Salvation Army had spoken with [REDACTED] The overnight pass was in contravention of the National Parole Board Day Parole decision which prohibited overnight leave privileges and no subsequent report was sent to the NPB within the required 5-day period, regarding this decision. See *NPB policy section 4. Day Parole Leave Privileges*.

Although the subject was not directly supervised by the Salvation Army, the parole officer appeared to indirectly delegate certain decision-making to the agency in regards to weekend passes. Active contact with tertiary collaterals such as his co-worker and the police was not made. Most meetings with the offender occurred in the parole office, at coffee shops or his workplace.

15) CASE PREPARATION FOR FULL PAROLE IN 2004

The Assessment for Decision dated 2004-03-04 prepared by Parole Officer Guy **LEBLANC** and co-signed by Area Manager Egan **DAY** was prepared to address **ULAYUK**'s eligibility for Full Parole. The presentation of this report was somewhat confusing as the risk assessment section dealt with the offender's release plan. The parole officer indicated the offender's release plan would include employment at [REDACTED] as well as continuing his church activities. The latter was confirmed with a friend who attended the same church. **ULAYUK** was to continue his participation in the Substance Abuse Maintenance Program, the Sex Offender Maintenance Program and individual counselling with the psychologist.

The most recent evaluation on file prepared by the community psychologist was dated 2004-03-05. [REDACTED]

[REDACTED] No other mention was made of this information despite the fact the offender had been on release for over a year.

When the supporting documents were prepared recommending Full Parole, the offender was planning to live in an apartment with another co-worker. An updated Community Assessment does not appear on file but Parole Officer **LEBLANC** did note some information on the co-worker in the report. There were no consultations completed with the police in this case. At the request of the RCMP, it was not the practice in Yellowknife to consult with the police at that time.

The offender was described as regularly attending church, participating in both Substance Abuse Prevention and Sex Offender Maintenance Programs and in weekly counselling sessions with his psychologist. The report referenced his previous Day Parole revocation, noting his aggressive behavior with his girlfriend [REDACTED]

Although [REDACTED] ongoing concern was expressed [REDACTED] [REDACTED] the expectation was that his level of risk was manageable.

Parole Officer **LEBLANC** stated that **ULAYUK** would be required to continue to report any involvement with women to his Case Management Team, however, a special condition was not recommended to NPB as the parole officer considered that the offender was being open in discussing these issues.

It was noted in the report that, should the offender return to his offence cycle, his re-offending would likely be serious and the parole officer discussed the circumstances and the motivation for the index offence. The parole officer was unclear, however, as to the motivation behind the offence [REDACTED].

ULAYUK's resentment towards the Yellowknife Parole Office about his previous revocation was not reflected in the assessment. The parole officer indicated that he found the offender amenable to supervision and open in his discussions.

The overall risk was evaluated by the Case Management Team as manageable and three special conditions were recommended: not to contact [REDACTED] [REDACTED] and to abstain from intoxicants. **ULAYUK** was expected to continue his weekly visits with the psychologist and his participation in the Sex Offender Maintenance and Substance Abuse Programs. The parole officer indicated that urinalysis testing would be performed if there was suspicion of substance abuse.

Although the risk was evaluated as manageable, the CMT considered that the offender still required a high level of intervention.

FINDINGS

(76) The Assessment for Decision dated 2004-03-04 covered all areas required by CSC policy.

(77) No updated Community Assessment (as required by *SOP Assessments completed by the Community 700-3 paragraph 24*) appeared on file but Parole Officer LEBLANC did note some information on the co-worker in the Assessment for Decision report dated 2004-03-04.

(78) [REDACTED]

(79) Although ongoing concern was expressed [REDACTED] [REDACTED] the assessment of the Case Management Team was that the level of risk was still manageable.

(80) The members of the BOI questioned whether it was reasonable to expect that an offender serving a Life sentence for a violent offence of this nature, who required such a high level of support and supervision, was an appropriate candidate for Full Parole.

(81) In examining the overall quality of the information provided to the NPB, as required by its mandate, the BOI noted that in the Assessment for Decision, the parole officer essentially reviewed ULAYUK's progress while on parole in Yellowknife over a period of one year and assessed his risk from that limited perspective. Although this may have been the normal practice, the BOI believes that it would have been more

helpful to the NPB for the parole officer to also take into account and highlight the significant aspects of this case, that are relevant to risk, from the commencement of his sentence. This would include the unusually strong comments of the sentencing judge, [REDACTED] the limitations of the sexual offender treatment ULAYUK received and the unresolved contradictions in the different Psychological and Psychiatric Assessments. In saying this, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

23

16) NPB DECISION TO GRANT FULL PAROLE IN JUNE 2004

ULAYUK's sixth hearing with the NPB was held on 2004-06-01 in Yellowknife. The NPB Members were [REDACTED] and [REDACTED]. This was not an Elder-assisted hearing. The decision was to grant Full Parole.

After examining the Reasons for Decision, reviewing a transcript and the tape of the hearing and interviewing both members, the BOI made the following observations.

The NPB Members were provided with very limited time to review the case file and prepare for the hearing with **ULAYUK**. They therefore relied to a great extent on the recent reports provided by CSC, especially the Assessment for Decision prepared by the Yellowknife Parole Office and the supporting reports from the community psychologist.

The NPB Members also had limited time to conduct the hearing and to write the decision. NPB policy describes the Reasons for Decision as a "clear, concise and understandable" summary of the overall assessment and evaluation of the offender. Since the NPB case file was four volumes, the NPB Members told the BOI it would not have been reasonable within the time constraints to detail all the information considered. Additionally, no NPB staff support was provided to prepare a draft of the key factors, as is normal NPB practice at hearings.

Both NPB Members told the BOI they had reviewed and considered all the relevant information on the file in advance of the hearing even though it may not have been referenced in the written decision or used as the basis for questioning at the hearing.

According to NPB policy, the written decision is the formal record of the hearing. NPB policy requires that the written Reasons for Decision include an analytical statement of

the major case specific factors, but it does not specify that every factor must be listed.

Bearing in mind NPB policy, the BOI noted:

- There was no reference to the comments of the sentencing judge that this was one of the worst offences he had ever seen, about **ULAYUK**'s potential dangerousness and that the maximum sentence of life imprisonment had been imposed.
- There was no reference to the fact that the reports of the psychiatrists and psychologist who testified at the original trial had not been obtained, even though the importance of their findings was referred to in the Judge's Reasons. There was also no reference to the assessment at the Clarke Institute. The NPB Members told the BOI they were satisfied the concerns raised had been addressed by CSC experts in the approximately 14 years since those assessments took place.
- The Reasons for Decision noted that **ULAYUK** had told the NPB in the hearing [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] it appears the NPB Members accepted this claim at face value. The NPB Members advised the BOI there is no policy requirement to verify information and noted it was not unreasonable to record information obtained at the hearing.
- The Reasons for Decision did not mention the serious disclosures made by **ULAYUK** to Psychologist Llana **PHILLIPS** in 1997. The NPB Members noted to the BOI that, given the passage of time since the report and the number of psychological and psychiatric reports since then, they believed the issue had been addressed by CSC.
- There was no indication in the Reasons for Decision that the NPB Members took into consideration the pattern of inappropriate behaviour by **ULAYUK** towards female staff throughout the course of his sentence and analyzed its significance

given the nature of the index offence. [REDACTED]

- The Reasons for Decision did not reference the conflicting psychological reports on file. Only the most recent report from **ULAYUK**'s therapist was noted.
- There was no reference in the Reasons for Decision to the fact that **ULAYUK** had been on Day Parole in 2000-01 and the resulting revocation. While this was addressed to some extent during the hearing, there is no indication in the written decision of what weight the NPB Members placed on the earlier non-compliance and what they determined had changed.

The NPB Members did not impose any special conditions to require **ULAYUK** to participate in sex offender programming in the community. They advised the BOI this was appropriately addressed in his Correctional Plan, had been part of his Day Parole program and would be continued under the direction of the parole supervisor.

During the hearing, the NPB members discussed with **ULAYUK** the requirement that he report and discuss [REDACTED] (This was not imposed as a special condition but was part of the Correctional Plan and had been part of the plan during the Day Parole.) There was no discussion with the parole officer or **ULAYUK** about how this expectation could be monitored on Full Parole.

The NPB Members indicated to the BOI that the practice and direction from management in the Prairie Region is to impose only those special conditions which are absolutely required in keeping with the CCRA requirement for the "least restrictive option". Any involvement in "case management" was considered in their region to be inappropriate for NPB Members.

There was no indication that any consideration was given to asking for an assessment from an independent, external, psychologist or psychiatrist with specific

expertise in sexual deviancy. The NPB Members advised the BOI that such a request would be exceptional and that they had confidence in the expertise of CSC.

FINDINGS

(82) There was limited independent critical analysis by the NPB Members of the information on the file and at the hearing. The focus generally was on the most recent phase of the sentence. A contributing factor was the inadequate time provided to the NPB Members to review the multi-volume file in advance of the hearing and to conduct the hearing and write the decision, with no staff support.

(83) The NPB accepted ULAYUK's self-reported information [REDACTED] without verifying its accuracy. While there is no policy requiring that all information from an offender be verified, the BOI feels it would have been an obvious practice to do so in the circumstances of this case.

(84) The Reasons for Decision documenting the grant of Full Parole did not clearly describe the analysis of the risk factors the NPB Members had considered and did not reference all the critical information available.

(85) The NPB Members accepted the requirement in the Correctional Treatment Plan that ULAYUK report all relationships with women to his parole officer. There is no indication that the NPB Members analyzed how realistic it was that such a requirement could be effectively enforced on Full Parole, [REDACTED]

(86) Given the unusual nature of the offence and the contradictory information about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual

deviance, before granting Full Parole. This would have been an exceptional request in the Prairie Region.

23

17) WHILE ON FULL PAROLE IN YELLOWKNIFE IN 2004

The offender was granted Full Parole on 2004-06-04. The release plan submitted to the National Parole Board required that **ULAYUK** would continue his Sex Offender Maintenance Program, attend individual counselling sessions with the psychologist and attend AA. He was to live in his own apartment in Yellowknife. [REDACTED]

[REDACTED] The offender was seen by his parole officer at the required frequency of four face-to-face contacts per month. Case conferences were held on a monthly basis with the Case Management Team which generally included the psychologist, the second Yellowknife parole officer and Salvation Army staff.

Parole Officer **LEBLANC** attended **ULAYUK**'s apartment on 2004-08-04 for the first time. [REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The offender was assessed as being compliant with his treatment plan in that he was reporting as directed to his parole officer (more frequently than required), attending counselling sessions with the psychologist, attending both Sex Offender Maintenance Program and the Substance Abuse Relapse Prevention Program, working full time and appearing overall to be stable. [REDACTED]

The Yellowknife parole staff also did not consult with the police about any concerns about ULAYUK [REDACTED]. They advised the BOI that the concerns with ULAYUK's [REDACTED] were being addressed through increased supervision [REDACTED]. The BOI noted that the practice in the Yellowknife

Parole Office, at the time, did not include regular official discussions with the police concerning offenders under CSC supervision. Apparently, this was the preference of the RCMP. The BOI was advised by the district director Northern Alberta/NWT that this practice has since been modified to provide for a regular exchange of information between the Yellowknife Parole Office and the RCMP.

Because of challenges in managing the workload in the Yellowknife Parole Office, Acting Area Director **DAY** determined that it would be efficient to reorganize the caseload distribution at this time. In consultation with the parole officers, the area director (who was on leave at the time) and Acting District Director **CHAPMAN** and after receiving their support for his plan, he decided to split the workload between case preparation at the Yellowknife Correctional Center and supervision in the community.

Parole Officer **PARGETER** chose to do the community supervision and Parole Officer **LEBLANC** undertook the case preparation. The BOI was advised by the acting area director that this re-organization was flexible and if Parole Officer **PARGETER** had not wanted to supervise a particular case, or if he felt it was not appropriate for that case to be transferred to her, either Parole Officer **LEBLANC** or he could have supervised it. The acting area director advised the BOI that Parole Officer **PARGETER** supported the new organizational set-up and did not object to the transfer of **ULAYUK** to her caseload nor express any fear of the offender to him.

On 2004-09-28, **ULAYUK** was informed by Parole Officer **LEBLANC** that he was to be supervised by Parole Officer **PARGETER** due to a re-organization of the caseload. According to his parole officer, the offender showed no particular reaction to this information and asked when the appointment with Parole Officer **PARGETER** would occur.

On 2004-09-30, Parole Officer **LEBLANC** met with Acting Area Director **DAY** and discussed **ULAYUK**'s case in depth. [REDACTED]

█ The acting area director entered a note in the casework records that the case was being well managed and appropriate resources deployed. Parole Officer **PARGETER** was not present at this discussion. The BOI notes, however, that Parole Officer **PARGETER** had participated in 12 case conferences about **ULAYUK** with the rest of the Yellowknife Case Management Team since her return from maternity leave. Parole Officer **LEBLANC** informed the BOI that he provided Parole Officer **PARGETER** with a written brief on all the offenders being transferred to her.

Acting Area Director **DAY** and Parole Officer **LEBLANC** advised the BOI that, in their opinion, **ULAYUK** was not in a state of crisis at the time his case was transferred to Parole Officer **PARGETER**. They believed the sources of his stress were being effectively managed and that he appeared to be coping well. However, the BOI noted the following:

- Acting Area Director **DAY** found it necessary to extract **ULAYUK** █ by making arrangements for temporary accommodation at the Salvation Army;
- He consulted with the psychologist to determine if risk was still manageable with the steps taken;

█
█

ULAYUK telephoned the Yellowknife Parole Office on 2005-10-05 and was transferred to Parole Officer **PARGETER**. It is understood by the Yellowknife Parole Office staff that Parole Officer **PARGETER** made an appointment to meet **ULAYUK** at his apartment at 10:00 hrs the following day.

FINDINGS

(87) The supervision of ULAYUK in the community during his Full Parole to Yellowknife generally met the supervision policies with the exceptions noted below.

(88) During this period, ULAYUK appeared to the Case Management Team to be open and honest and coping reasonably well. The BOI found that this impression was shared by others including the Salvation Army staff.

(89) [REDACTED]

(90) The BOI found that during the month of September 2004, with the accumulation of stressful events, [REDACTED] Suspension of his parole due to all of these circumstances could have been justified, however, the BOI found that the decision not to do so was a reasonable exercise of discretion and judgment on the part of those supervising him.

(91) [REDACTED]

(92) [REDACTED]

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

(93) The BOI found that, in the above circumstances, it was particularly not appropriate to transfer the supervision of ULAYUK to Parole Officer PARGETER because of her role in the revocation of his previous Day Parole. (The BOI also found it is not an uncommon practice in Correctional Service of Canada to re-assign the same case to a parole officer on a subsequent release following revocation.)

(94) The BOI found that Parole Officer PARGETER was generally aware of the circumstances surrounding ULAYUK, having participated at numerous case conferences where his case was discussed. In addition, Parole Officer LEBLANC advised the BOI that he and Parole Officer PARGETER met and discussed each case they were transferring.

(95) Parole Officer PARGETER agreed to take on the supervision of all community cases pursuant to the re-organization plan, including ULAYUK's case.

(96) The re-organization plan was flexible enough to allow the "institutional" parole officer or the acting area director to continue supervising some community cases where that was considered necessary and appropriate.

(97) Parole Officer PARGETER decided to visit ULAYUK at his home alone and could have scheduled her visit with him elsewhere. She did not request accompaniment, however, the BOI found that the practice and culture in CSC generally was such that it was not regular practice for parole officers to make such requests.

(98) The BOI found that a thorough analysis and an in-depth understanding of this case would have led to the conclusion that a parole officer, particularly a female, could be at undue risk doing an unaccompanied home visit with ULAYUK at this time. The Yellowknife parole staff did not fully appreciate ULAYUK's potential dangerousness, having assumed that issues such as serious sexual deviance had been satisfactorily addressed during his period of incarceration. The BOI found that the absence of such an in-depth understanding of this case was due to cumulative and systemic problems rather than the fault of any individuals in the Yellowknife Parole Office.

LOUISE PARGETER's Training

Louise **PARGETER** had received no training on personal safety. She had taken the 2-week Parole Officer Orientation Program in June 2001 but, at that time, it did not include a safety component. In addition, she had missed a video presentation on personal safety which had been shown to the Yellowknife Parole Office staff while she was on maternity leave. Her training regarding sex offenders consisted of the first week of the national 2-week Sex Offender Training Program that dealt with treatment issues. She did not get the second week that dealt with risk assessment. In February 2001, before she had officially started working for CSC, she voluntarily took a 2 to 3 day training session on the use of the Violence Risk Scale, sex offender version. She had co-facilitated the Sex Offender Maintenance Program in the community, but its focus was on treatment and not risk assessment.

FINDING

(99) Parole Officer PARGETER had no formal training in issues of personal safety. She received limited training on dealing with sex offenders.

Community Psychologist

The Yellowknife Parole Office relied considerably on contract Psychologist Bruce SMITH to assist them in supervising ULAYUK. The BOI reviewed SMITH's notes, interviewed him and made the following findings:

FINDINGS

(100) The BOI found that the Yellowknife Parole Office had an excellent relationship with the contract Psychologist, Bruce SMITH. The parole office staff regularly sought his advice regarding issues with ULAYUK and he participated in case conferences as a member of the Case Management Team when ULAYUK's case was discussed.

(101) Although SMITH had experience [REDACTED] his experience and training relating to adult sex offenders, particularly during ULAYUK's first parole period, was more limited. [REDACTED] told the BOI that he felt he could counsel ULAYUK since CSC psychologists had concluded that sexual deviancy was not a concern in this case.

(102) SMITH advised the BOI that upon ULAYUK's referral to him on his second release, he attempted to obtain a copy of the final report from the [REDACTED] Program. He was only able to get Dr. [REDACTED]'s intake assessment and a note that the program had been "successfully completed". [REDACTED] SMITH regularly informed ULAYUK's parole officer of any concerns or issues that ULAYUK had disclosed to him.

(103) SMITH regularly met in counselling sessions with ULAYUK. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(104) During the second period of parole, in addition to individual psychological counselling, ULAYUK participated in the Sex Offender Maintenance Program co-facilitated by SMITH. However, the BOI noted that he only attended about 8 SOMP sessions in total. He was enrolled in the monthly (rather than the bi-weekly) group because most of the other participants were also Inuit. [REDACTED]
[REDACTED]

(105) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] In saying this, the BOI has taken into account the considerable extent to which parole officers systemically appear to rely on the capability of psychologists to identify and know how to deal with any special risks.

(106) The BOI questions the adequacy of individual psychological counselling, as part of an after care program, if it does not address the sexual component of the offence. This would appear to be inconsistent with the requirements of the *CD 840 Psychological Services, section 4* which states that all psychological services shall focus on the needs of the offender, specifically the behavior that contributed to criminal activity. In this instance the motivation for the index offence, as acknowledged by the

18) OCTOBER 6, 2004

In an effort to get an accurate picture of the events of 2004-10-06, the Board of Investigation interviewed the staff members of the Yellowknife Parole Office, interviewed staff from the Salvation Army and North Slave Correctional Centre, met with the RCMP who investigated the murder, and met with Parole Officer **PARGETER**'s partner and her parents. In addition, all the casework records and other related documents have been reviewed.

The following is a chronology of the events on 2004-10-06

2004-10-06	<u>CHRONOLOGY</u>
09:30 hrs	Parole Officer PARGETER left Yellowknife Parole Office after signing out at 09:30 hrs to visit ULAYUK at home for a 10:00 hrs appointment. She was scheduled to return at 11:30 hrs. The parole officer left with the CSC fleet vehicle and duty cell phone
11:30 – 12:00 hrs	Parole Officer PARGETER did not return to office and Office Manager KOSKI attempted to contact her by phone several times but the phone was unanswered
12:00 hrs	NWT Parole Office staff left for a staff luncheon at a local restaurant. Phone calls to the area office were forwarded to Edmonton District Office. There were several attempts to contact Parole Officer PARGETER from the restaurant with no response
13:00 hrs	NWT Parole Office staff returned to the office
13:00 - 13:30 hrs	DAY (Acting Area Director, Yellowknife Parole Office) called ULAYUK 's home, left a message asking for information about Parole Officer PARGETER . DAY contacted Correctional Centre to see if Parole Officer PARGETER had signed into center; but she had not.
13:30 hrs	Following consultation with [REDACTED] KOSKI advised DAY that Parole Officer PARGETER had gone to [REDACTED] at 12:30 hrs [REDACTED]
13:40 hrs	DAY contacted Salvation Army asking for Parole Officer PARGETER . She was not there and the Salvation Army was requested to follow up after 14:00 hrs when she was expected to attend a meeting there
14:20 hrs	The Salvation Army advised DAY that Parole Officer PARGETER did not show for her case conference meeting at 14:00 hrs
14:20 hrs	KOSKI called Parole Officer [REDACTED] to ask if she had gone to other appointments. [REDACTED] KOSKI advised DAY that information regarding Parole Officer PARGETER being present at [REDACTED] at 12:30hrs was

	inaccurate
14:25 hrs	DAY and Parole Officer LEBLANC left the parole office and went to ULAYUK 's apartment
14:35 hrs	DAY and LEBLANC circled the apartment building and did not see a CSC fleet vehicle. DAY and LEBLANC entered the building with assistance from a resident and knocked on the offender's locked apartment door as well as on adjacent apartments. Neither response nor activity was noted in the offender's apartment. At the same time, LEBLANC contacted the subject's employer who indicated he had dropped the offender at his apartment at 10:00 hrs and ULAYUK had not returned to work. DAY contacted RCMP while at the apartment building to report Parole Officer PARGETER was missing
14:45 – 14:50 hrs	DAY advised the associate district director CSC in Edmonton of missing parole officer. The district director was informed and advised the Regional Deputy Commissioner, Prairie Region, CSC
15:10 hrs	[REDACTED]
15:15 hrs	RCMP advised DAY they were at ULAYUK 's apartment. Requested ULAYUK 's phone number
16:00 hrs	RCMP contacted DAY asking him to report to Yellowknife RCMP Detachment with the offender's files
16:10 hrs	The associate district director e-mailed the Regional Duty Officer and Western Canada Duty officers to notify them of situation
17:03 hrs	DAY reported to RCMP detachment, was advised of Parole Officer PARGETER 's death, was interviewed and provided a taped statement
17:46 hrs	CSC Prairie Regional Headquarters and CSC National Headquarters Duty Officer officially informed of developing situation by e-mail
17:50 hrs	The associate district director requested that the Western Duty officer issue a suspension warrant for breach of a term/condition, for whereabouts unknown
18:00 hrs	DAY returned to NWT Parole Office and advised staff of Parole Officer PARGETER 's death. [REDACTED]
18:05 hrs	The District Director FOX was advised by DAY that the RCMP had found Parole Officer PARGETER 's body in the offender's apartment
18:30 - 22:00 hrs	DAY made numerous calls within CSC and to RCMP to discuss situation. CSC partners advised
	KOSKI and MARKOWSKI go to [REDACTED]

	The offender was seen by the RCMP driving a CSC car in the direction of Rae (north of Yellowknife). After a short car chase, the offender escaped into the woods
	CSC staff met at MARKOWSKI 's home
22:30 – 01:00 hrs	DAY responded to calls from RCMP
2004-10-07 01:20 hrs	RCMP [REDACTED] confirmed it to be Parole Officer PARGETER
02:15 hrs	ULAYUK was arrested by the Yellowknife RCMP and charged with First-Degree Murder

FINDINGS

(107) The staff members of the Yellowknife Parole Office are dedicated, professional individuals who used their best judgement under crisis conditions on 2004-10-06. The BOI is satisfied that, at all times during this crisis, they acted with the best interests of their friend and colleague Parole Officer **PARGETER** in mind. Given all the circumstances, it is unlikely that others facing a similar situation would have acted more diligently. Nevertheless, in looking towards the future for lessons to be learned, the BOI made the following additional findings.

(108) No training in community crisis management had been provided to any staff of the Yellowknife Parole Office, nor had any of them had previous experience in managing hostage-taking situations or missing persons. The Yellowknife Parole Office had no plan in place about what steps to take when a member of their staff went missing.

(109) The staff began attempting to locate Parole Officer **PARGETER** by calling her cell phone within one half hour from the time she was due to return to the office. Given that the indicated return times for parole officers was not rigidly adhered to and monitored, the BOI considers that this action was reasonable.

(110) Between 12:00 hrs and 13:00 hrs, the staff left the office to attend a pre-arranged lunch that Parole Officer PARGETER would have considered important to attend. [REDACTED]

[REDACTED] The staff continued to make calls to the cell phone with no success. [REDACTED]

[REDACTED] The BOI noted that the acting area director called ULAYUK's home and the Yellowknife Correctional Center upon returning to the office.

(111) From the information that the BOI has learned from the police, it is clear than any additional attempts by the staff to locate Parole Officer PARGETER would not have prevented this tragedy.

(112) At 13:30 hrs, some misinformation obtained from community sources about Parole Officer PARGETER's personal schedule that day resulted in confusion for the Yellowknife parole staff about her possible whereabouts. In the circumstances, the BOI considers that understandable. When apprised of the error at 14:20 hrs, Acting Area Director DAY and Parole Officer LEBLANC took immediate action to investigate her situation.

(113) [REDACTED]

(114) Acting Area Director DAY took the proper step of notifying the RCMP at ULAYUK's apartment and by providing police with the required information.

(115) According to police records, Acting Area Director DAY was advised by the police of Parole Officer PARGETER's death shortly after 17:03 hrs. He completed providing a statement to the police at 17:30 hrs and returned to the parole office and advised staff at 18:00 hrs. [REDACTED]

(116) [REDACTED]

However, considering the time period involved from when he first learned of the death and his subsequent actions assisting the police immediately thereafter, the BOI believes that neither Acting Area Director DAY or any other staff member of the parole office could have done anything differently that would have resulted in earlier notification [REDACTED]

(117) The present CSC policy concerning the management of a crisis in the community is not effective or realistic for small offices. The Yellowknife Parole Office had only three officer-level employees, one of whom was missing. Acting Area Director DAY and Parole Officer LEBLANC were alone in covering the numerous functions outlined in the policy (5 positions plus an advisory body). DAY's responsibility as the Crisis Manager was further complicated by the fact he had to communicate with district, regional and local officials, according to the policy. At the same time he was actively providing timely and accurate information to the RCMP investigating the situation.

19) CSC COMMUNITY STAFF SAFETY ISSUES**FINDINGS**

(118) The BOI found that the CSC, as an organization, gave inadequate attention to issues of community staff personal safety.

(119) The BOI found that there are some CSC policies that deal directly or indirectly with issues of community staff safety, but they are scattered through a number of different documents and are not easily identifiable. There is no comprehensive CSC community staff safety policy that deals with important staff safety issues that were examined by the BOI in this case, including:

- **Parole officer accompaniment during home visits;**
- **Responding to the emergency situation when a staff member is missing;**
- **Considerations when transferring an offender's case from one parole officer to another;**
- **Factors to be taken into account when deciding whether a parole officer who was instrumental in a revocation should continue supervising an offender after he/she returns to the community.**

(120) The BOI found that a parole officer in the Yellowknife Parole Office could ask for accompaniment to do a home visit with an offender and that such a request would certainly be granted . The BOI learned that a few times in the past that had been done in Yellowknife. However, the BOI found that it would have been unusual for a parole officer to make such a request. The BOI believes that the following factors contribute to this:

- **Lack of training around personal safety and awareness issues provided to parole officers generally;**

- **The absence of a clear CSC policy in this area;**
- **The relative rarity of incidents in Canada involving serious acts of violence against community parole officers;**
- **The lack of staffing in parole offices;**
- **The general culture and tradition among CSC community staff to do unaccompanied home visits.**

(121) The BOI found that there was a system in place in Yellowknife whereby parole officers were required to sign out when they left for meetings during the day and indicate when they expected to be back. However, this system did not include a specific plan of action for dealing with situations when a parole officer does not return to the office when expected.

(122) The BOI found that formal training offered by the CSC to all community staff on personal safety and awareness is inadequate. The BOI found that the 10-day Parole Officer Orientation Training Program that Parole Officer PARGETER took in 2001 had no component on personal safety. The BOI considers the current 13-day program contains insufficient content on this subject.

(123) The BOI noted that the acting area director presented a training video entitled “Personal Safety in Community Corrections” to the Yellowknife staff on 2003-04-04. At that time, Parole Officer PARGETER was on leave and the video was not shown to her upon her return. The BOI believes that minimal personal safety training that Parole Officer PARGETER would have received from seeing this video would not have prevented this tragedy.

(124) CSC policy is to provide Occupational Safety and Health (OSH) and Canada Labour Code training as a three-day training for OSH Committee members and representatives. Managers are expected to attend the first day of this training. Katherine KOSKI was the OSH representative in the Yellowknife Parole Office. The BOI found that as of 2004-10-06, KOSKI had not received this training. However, she

received and distributed e-mails regarding OSH issues to the office. Egan DAY and Andrea MARKOWSKI had both participated in the first day session for managers.

(125) The BOI found that the number of parole officer positions in the Yellowknife Parole Office (area manager and two parole officers) was insufficient to properly take into account all staff personal safety considerations. The BOI found that this staff complement did not adequately reflect the following:

- The special needs of a small office impacted by events such as staff leaves.
- The reality that a large proportion of the federal offenders in the Northwest Territories have been convicted of sex offences and offences involving serious violence. Such offenders require more intensive and time consuming supervision.

(126) The BOI found that, given the overall workload, the parole officers in Yellowknife did not have as much time as would be necessarily to thoroughly familiarize themselves with a file such as ULAYUK's (17 volumes) before taking on his supervision.

(127) The BOI found that ULAYUK's file was not "red flagged" in a way that the potential high risk in this case could more readily be identified by the community staff who were responsible for supervising him. [REDACTED]

[REDACTED] The unwieldy nature of the files in themselves also made it more difficult for the community staff to assess his risk. The BOI recognizes that there is an inherent contradiction between flagging a case as potential high risk and granting Full Parole.

(128) During its visit to the Yellowknife Parole Office in November 2004, the BOI found the absence of virtually any basic staff security features in the office. The CSC

Facility Safety Standards for community parole offices that were developed in 1982 had not been implemented in the Yellowknife office. The BOI was advised that staff requests for certain improvements in the past had not been acted on. (The BOI notes that changes have recently been implemented.)

(129) The BOI noted that the one cell phone in the office had to be shared by the staff. The BOI found this to be insufficient and would have expected that each parole officer would be provided his/her own phone as a minimum.

(130) The BOI found that there was inadequate liaison between the Yellowknife Parole Office and the local RCMP detachment surrounding the sharing of information that could be relevant to the safety of community staff.

20) ISSUES RELATED TO LANGUAGE AND CULTURE

The Board of Investigation made the following findings regarding language and culture as a result of file reviews, review of various documents and interviews with CSC staff and NPB Members:

(131) The language and cultural issue was noted throughout ULAYUK's file. His difficulty with the English language was observed early in his incarceration and it was noted this hampered his completion of, and benefit from, correctional programs. None of the institutions he was housed in had specific programs, or Inuit liaison officers, for Inuktitut speaking offenders.

(132) ULAYUK was involved with Aboriginal liaison officers, First Nations Elders, and Aboriginal healing programs, but there were no similar Inuit services. The BOI was advised that First Nations services are not consistent with Inuit Culture.

(133) At various times in his incarceration, some risk assessment tools were not used as they had not been validated for Inuit offenders.

(134) [REDACTED]

(135) The National Parole Board released ULAYUK on Day Parole on two occasions, both following Elder-assisted hearings at which the Elder was First Nations rather than Inuit and the cultural ceremony was not Inuit. At the first Day Parole hearing there was specific reference to the perceived need to return ULAYUK closer to his home in the North and there were questions at the hearing about the possibility of a Section 84 release. Both Day Parole releases were made to Yellowknife, although ULAYUK is from the Eastern Arctic, not the Northwest Territories. The BOI questions the assumption that paroling ULAYUK to Yellowknife would place him in

an environment closer to his roots. The BOI found that for Inuit, coming from very small and remote communities in Nunavut, Yellowknife is as foreign as any large Southern city.

(136) There was limited understanding of the dynamics of a remote Inuit community and inadequate consultation with the hamlet of Igloodik. There was no in-depth exploration of how realistic it was that ULAYUK could be reintegrated into his home community, although the long range plan was to return there. Banishment practices no longer exist in Inuit communities, but the community of Igloodik continued to have strong reservations about ULAYUK which were not fully documented in the CSC or NPB files.

(137) CSC has developed a High Intensity Sex Offender Treatment Program called “Tupiq”, which is Inuit specific and offered in Inuktitut. It is available only at Fenbrook Institution. It has recently (May 2004) been evaluated. Although it is still considered to be a “work in progress” given the limited number of offenders who have been through the program, the evaluation report made several suggestions. These included more outreach to other institutions where there are Inuit offenders, enhancing the role of Inuit healers, stabilizing the funding and more fully involving community links during and after the program.

(138) CSC has also recently developed the “Kajusiniq Inuit Action Plan” addressing programs, community outreach, training and institutional placement. This is a unique plan exclusively for Inuit offenders. Many issues have been identified but some have direct significance for this BOI. They are:

- There is a lack of understanding of the reality of life in the North;
- There is a need for Inuit Elders;

- **CSC staff and NPB Members need cultural awareness training about the Inuit and an understanding of the importance of body language and facial expressions for Inuit people;**
- **There is a need for Inuit NPB Members;**
- **Programs need to be culturally appropriate for Inuit offenders and be taught in a manner suitable to the offender's learning style;**
- **There must be recognition that Inuit culture is separate and distinct from First Nations culture;**
- **Releases pursuant to Sections 81/84 of the CCRA need to be more utilized.**

23

F) RECOMMENDATIONS**1) COMMUNITY STAFF SAFETY**

((1)) The BOI considers that the Joint CSC-USGE Advisory Committee on Community Safety, established following the murder of LOUISE PARGETER, is an excellent vehicle for identifying the safety needs of staff. It is essential that this committee be permitted to finish its work and that the recommendations flowing from it be seriously considered for implementation by CSC. The committee should be given permanent status and, following the completion of its current work, it should meet no less than once a year to identify any new issues and to monitor the implementation of its recommendations. The BOI considers it important that all of the committee's recommendations be brought directly to the attention of the Commissioner and the Executive Committee Members.

((2)) The BOI recommends that the Advisory Committee adopt a broad approach on issues of community safety. In order to be fully informed about existing high quality safety practices generally, the committee should consult, on relevant issues, with external safety experts, including those from industry.

((3)) CSC should develop and provide to all community offices procedures for managing incidents in the community which involve the safety of a parole officer or others, which would address:

- An emergency response plan including contact with police;**
- Accountability of local and district/regional managers;**
- Timely notification to the employee's family of the situation;**
- Critical incident debriefing.**

((4)) The BOI agrees with the current CSC plan to develop a comprehensive Community Safety Policy. The BOI recommends that the issues addressed in this policy include the following:

- Safety considerations when transferring an offender's case from one parole officer to another;
- Factors to be taken into account when deciding whether a parole officer who was instrumental in a revocation should continue supervising an offender after he returns to the community;
- Whether home visits should always be pre-arranged;
- The use of technology relating to personal safety such as distress alarms;
- Parole officer accompaniment during home visits (see Rec. 6).

((5)) The BOI recommends that every parole office have regular local Safety Committee meetings and develop a Safety Plan for the office. The BOI believes that a mandatory feature of every office plan should be a system whereby parole officers are required to sign out when they leave for meetings during the day and indicate where they are going and a time when they expect to be back. It should also include a plan of action for dealing with emergency situations. Specifically, it should address the following:

- The actions to be taken when a parole officer does not return to the office when expected;
- Communications with the family members of the staff person involved.

((6)) The BOI recommends that the following policy be adopted by CSC regarding parole officer accompaniment during home visits:

The general rule, or presumption, shall be that all home visits by a parole officer (or meetings with an offender in an isolated area) must be accompanied,

regardless of the nature of the index offence. Exceptions may be made to this general rule only where the parole officer and his/her supervisor have reviewed the unique risks inherent in a home visit and are both satisfied that there is no concern about the parole officer's safety.

It may be helpful for the CSC to formulate guidelines about the type of situations where it would be appropriate that an exception to the general rule be considered. For example, this could include visits with offenders who have no history of violence in their background.

The accompaniment may be by another parole officer, a police officer, a security guard, a CRC or CCC staff member, community worker, a trained volunteer, etc.

All parole offices must be adequately staffed in order that this policy may be fully implemented, and no exception should be made to the general rule regarding accompaniment based on the lack of staffing.

((7)) The BOI recommends that section 57 of the Standard Operating Practice 700-06 on Community Supervision be amended. It provides that *“The majority (more than 50%) of contacts with the offender are to take place in the community (the offender’s home or place of work). Any exceptions to this standard must be approved, based on case factors, in advance by the parole officer’s supervisor.”* This section has been subject to different interpretations in the regions. However, the BOI’s concern is that, as a result of this section, parole officers may feel compelled to do home visits in all cases. “Community contacts” should, therefore, be given a broader definition and not restricted to the offender’s home or place of work. Furthermore, while the BOI fully agrees with the encouragement of community and collateral contacts, it believes that rigid adherence to a “more than 50% rule” detracts from focusing on the quality of supervision. Good quality supervision should focus on assessing the offender’s home

life, employment situation, use of leisure time, etc through a variety of collateral contacts.

((8)) The BOI considers it essential that all parole officers be provided with adequate communications technology to be able to reach their office and police emergency services from any location where they may be during the course of their work.

((9)) The BOI recommends that close liaison be established and maintained between parole offices and local police forces. Written protocols setting out the terms of cooperation between the agencies should be developed locally and communicated to all police and parole officers in that jurisdiction. The police should be regularly encouraged to share any appropriate information they may have about individual offenders that is relevant to assessment of their risk.

((10)) The BOI recommends that adequate funding be provided in order to ensure that modern substance detection procedures including urinalysis are readily available for use by parole officers and CRC staff in the community. The BOI recommends that CSC community parole officers be instructed to use substance detection procedures provided to them, as a risk management and assessment tool and consistent with the provisions of the CCRA. Adequate funding must be ensured by each level of the organization.

((11)) During its visit to the Yellowknife Parole Office in November 2004, the BOI noted the absence of virtually any basic security features. The BOI recommends that all community parole offices be designed and equipped in accordance with modern and appropriate Facility Safety Standards that are consistent with the special duties performed by the staff in those offices. Parole offices that currently do not comply with such standards must be renovated without delay.

((12)) The BOI noted that the Facility Safety Standards for community parole offices that were developed in 1982 have not been implemented in some offices. These standards should be re-examined and updated with input by the Joint CSC-USGE Advisory Committee on Community Safety and in consultation with external experts.

((13)) The BOI recommends that following the updating of the Facility Safety Standards, a comprehensive security review be conducted of every parole office to assess its compliance with those standards. This review should involve input from the local staff. Any identified non-compliance with the standards must be corrected without undue delay.

((14)) The BOI recommends that a “flag” be entered on the Offender Management System to identify offenders who have exhibited assaultive, threatening or other potentially dangerous behaviour towards staff or others such as visitors or volunteers, in the institutions, or towards others in similar roles in the community.

((15)) The BOI agrees with the current CSC plan to provide a mandatory three-day course to community staff on Safety and Personal Awareness. The BOI recommends that the content of this course be reviewed with police officials and other external safety experts in order to ensure that it reflects best practices. The course should be made available to all community staff including parole officers, managers, administrative staff, CRC staff and volunteers. A refresher course should be provided at regular intervals. New staff should be required to take this course before they start meeting alone with offenders.

((16)) The BOI recommends that the current Initial Parole Officer Training Program be reviewed and reorganized. Currently, institutional and community parole officers are given the same generic program despite the significant differences in their responsibilities. The BOI recommends that consideration be given to conducting the program in two parts. The first part would be for all parole officers while the second

part would separately deal with each group of parole officers and address the special responsibilities of their positions.

((17)) The BOI recognizes that the development of high quality clinical skills in parole supervision and risk assessment must be an on-going process that does not end with the completion of formal training. The BOI believes that parole officers can benefit substantially from the regular exchange of ideas and experiences from others in the field. To promote such on-going learning process, the BOI recommends the establishment of Regional “Professional” or “Clinical” Committees for CSC community staff. The BOI notes that parole officers in the Province of Quebec find such committees helpful and that they were recommended in the Wozniac Report.

((18)) The Correctional Service of Canada should ensure that, prior to the release of an offender to the community, the parole officer who will be responsible for the supervision be given adequate time to thoroughly review and familiarize himself/herself with the offender’s files, paying particular attention to any safety concerns related to supervision in the community. In some cases, notably Life sentences or long sentences, this will require significantly more time.

((19)) The BOI recommends that the parole officer Workload Formula be reviewed by the CSC and changes made to reflect a number of realities including the following:

- A. The special needs of small offices that can be seriously impacted by events such as staff leaves.
- B. The need for additional time for intensive supervision of some offenders.
- C. The need to take into account the reality that different parts of the country have different offender profiles. For example, the BOI was told that a disproportionately high number of the offenders in the Northwest Territories have been convicted of sex offences and offences involving serious violence. Such offenders require more intensive and time consuming supervision.

((20)) The BOI recommends that whenever possible Correctional Service of Canada community supervisors do not transfer an offender's case from one officer to another when the offender is in a crisis situation, except when the transfer will contribute to a reduction to the level of risk to the community and/or the supervising parole officer.

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2) CORRECTIONAL SERVICE OF CANADA

((21)) All Correctional Service staff, who have responsibility for assessment, release recommendations, and supervision in the community should receive specialized training to identify indicators related to potential violent sexual behaviours. This includes managers who co-sign reports in the institution and the community.

((22)) Following the revocation of parole and the return of an offender to an institution there should be a new intake assessment done and the correctional plan re-evaluated.

((23)) CSC should review the clinical support offered to institutional parole officers and modify the existing review process for Assessments for Decision prepared for offenders serving long sentences. This will aid in ensuring a comprehensive review and analysis of the risk factors is completed and documented.

((24)) CSC should separate the institutional role of assessment for release from the case management role of intervention and counselling.

((25)) CSC's case management files for long-term offenders (in this case 17 volumes) should be consolidated or reorganized to eliminate lengthy repetitive reports and administrative documents, to reduce the volume of information and allow the parole officer and decision-makers to complete an efficient and focused file review. The BOI recommends that the re-organization of the files include the following:

- The CSC should develop a chronology document particularly in the case of offenders serving long sentences. The document would highlight the major events and decision points in the offender's file and would resemble a BOI chronology report. A similar recommendation has been made for the NPB.**

- **A comprehensive description of the offence and the offender's background should be set out upon admission to the institution. This document should be a stand alone document that can be referred to but not repeated in subsequent reports.**

((26)) CSC should enhance the training, mentoring and clinical supervision of parole officers to develop the ability to synthesize and analyse complex information held on offenders serving long sentences.

((27)) CSC should require an annual review of the documentation held on the file of offenders serving long sentences and ensure that any outstanding documents are obtained. If the information is unavailable, the reasons why should be clearly documented.

((28)) The content requirements for Assessments for Decision should be reviewed by CSC. The BOI recommends the Assessments for Decision include the following:

- **Information regarding the index offence. (The Assessment for Decision should refer to the stand alone document setting out the offence and background of the offender.);**
- **Judges comments;**
- **A summary of the psychological and psychiatric information in the file and an assessment indicating any divergent professional opinions and their rationale;**
- **The offenders' specific treatment gains rather than program participation while in the institution and community should be described. An analysis of any high risk behaviours or patterns observed during his sentence including any previous failures on release.**

((29)) Correctional programs should be redefined to focus on competencies and observed changes to behaviour, rather than just completion. Maintenance programs should be viewed as part of the continuum of programming. Methods should be developed to incorporate program information into the overall assessment of risk as a measure of changed behaviour.

((30)) CSC should enhance its intelligence capacity to identify and analyze patterns of potential violent sexual behaviour patterns both in the institution and community. The resulting information should be provided to parole officers with the responsibility for the case.

((31)) CSC should develop a management model for small community offices. Resourcing should allow for adequate expertise, supervision and support of parole officers related to risk management. It should also balance the manager's responsibility for administrative issues such as staff safety and training.

((32)) The CSC has issued a bulletin entitled *Management of Violations of Conditions, Increased Risk in the Community 2005-03-01* regarding the assessment of risk in the community. The BOI recommends that this direction be further refined to direct staff that when evaluating high risk behaviours, particularly of sex offenders, ongoing behaviour patterns in the institution as well as on previous releases in the community should be considered.

((33)) CSC should examine the unique issues related to Lifers and long-term offenders and develop a strategy for supervision and responses to breaches.

3) PSYCHOLOGY / PSYCHIATRY AND SEX OFFENDER PROGRAMS

((34)) The BOI has reviewed all of the recommendations made by Dr. Stephen HUCKER and Dr. Ralph SERIN in their reports and fully agrees with them. The BOI recommends that these suggestions be implemented by CSC and NPB.

((35)) The BOI recommends that external/internal reviews or audits be conducted periodically to ensure that the programs described in official program descriptions at the [REDACTED] are in fact being provided as described and in accordance with contemporary professional standards.

((36)) The BOI recommends that there be an internal and external review of the [REDACTED] Sex Offender Assessment and Treatment Program at the [REDACTED].

((37)) The training and credentials of risk assessors employed by CSC need to be reviewed to ensure that they have sufficient experience with the types of offenders (in particular, sex offenders) they are invited to evaluate.

((38)) The training and credentials of psychologists who provide counselling to sex offenders in the institutions and in the community, need to be reviewed to ensure that they have sufficient experience and knowledge in dealing with sex offenders.

((39)) CSC should review the responsibilities of contractual psychologists (in the institution and in the community) to ensure that their contract specifically indicates that they are responsible at all times to ensure that the counselling provided to offenders (specifically sex offenders) addresses the specific motivation for the index offence as specified in the *CD 840 Psychological Service*.

((40)) The roles and functions, training and experience of psychiatrists associated with sex offender programs offered by CSC should be re-evaluated, using appropriately experienced external consultants if necessary.

((41)) Risk assessors should be provided with all CSC files when preparing their assessments, and sufficient time (and associated and appropriate funding) must be provided to ensure that these files are adequately reviewed.

((42)) CSC should develop and implement a standardized psychological assessment protocol which would require all psychologists to address specific issues such as sexual fantasies. It would also include self-reference questions to ensure consistency throughout the case (for example has the offence cycle been addressed and is there a discordant opinion).

((43)) The BOI recommends that when an offender is admitted to a sex offender assessment and treatment program, a thorough review of all background information be conducted by experienced staff who have been trained and are familiar with the pathological phenomena involved. The offender's consent to release all external assessments including relevant hospital reports should be requested. Every effort should be made to obtain any information that could be of assistance in the offender's treatment and assessment.

((44)) An offender's refusal to consent to the disclosure of information that could be of assistance in his/her treatment and assessment should be noted and taken into account in any subsequent risk assessments. Risk assessments should also make reference to any relevant information that was not available for any other reason and address the significance of the missing information.

((45)) The BOI recommends that the CSC conduct further extensive research on the most effective methods for the diagnosis and treatment of paraphilias, including sexual sadism and necrophilia. The research should include drug treatment. Knowledge gained from this research should be widely distributed to professionals throughout the correctional system. The research should include drug treatment and conditions under which offenders with such disorders could possibly be safely managed in the community.

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4) NATIONAL PAROLE BOARD

((46)) NPB should return to a more structured format to document NPB decisions. Risk assessment has become more complex and NPB decision policies are detailed. Increased focus should be required on those factors which are more strongly indicative of risk, in a format which channels the NPB Members to address specific areas. For example this could include reference to previous violations of conditional release or observed changes in behaviour as a result of programs. This format may also assist NPB Members to structure and focus their study of the case prior to making a decision.

((47)) Risk assessment and analysis must focus on measurable, observable changes in behaviour as a result of programs and treatment, or over time, not just attendance at a program. NPB needs to clearly define what “successful” completion of programs and treatment means, and measures of change should be developed to indicate meaningful progress. (See Dr. SERIN’s report.) A similar recommendation has been made for CSC.

((48)) Risk assessment must more clearly focus on events in the entire case. In Life sentences and for offenders serving long sentences it is possible to lose sight of the index offence, the reasons for the sentence and the underlying motivation and problem behaviour of the offender as years pass, particularly when the offender is “a good inmate”. There should be a more focussed and documented review of the events and patterns in the entire case, not just program participation or adaptations in the last few years. This should be a requirement in all Life sentences.

((49)) Where a revocation of a conditional release has occurred, NPB decision policies should require additional justification and rationale for any subsequent positive release decisions. Revocation of a conditional release, or escape, is recognized as a risk

factor. This is included in current NPB policy as something to be considered generally as part of risk assessment, however, there should be a formal requirement to clearly justify the grant of a subsequent release following a revocation.

((50)) Regardless of ethnicity, religion, or cultural background of an offender, the primary focus of NPB decision-making must be on risk to re-offend. The BOI commends NPB for recognizing the impact of culture on its decision-making. Sensitivity to culture is described in current NPB policy by incorporating it into the hearing process. However, where culture is considered in the analysis of an individual case, it should be more explicitly linked to risk and be part of the entire assessment. Attempts to address systemic racism, cultural inequities, healing and restorative justice should be a consideration only after it has been determined that risk in an individual case is manageable in the community. The hearing process, including specific cultural ceremonies and incorporating the use of cultural Advisors, should add to, but not drive, risk assessment.

((51)) NPB should provide further information and training to NPB Members and staff in order for them to understand the historic and cultural differences between Inuit and Southern First Nations people. NPB is beginning to introduce a hearing model specifically for Inuit offenders. This will help to correct the systemic problem of assuming Inuit traditions are the same as Southern First Nations. Inuit culture does not share the spiritual tradition of First Nations, the role of the Elder, the significance of the Circle, or the experience of residential schools. Imposing the traditions of Plains Indians on Inuit offenders as part of the hearing process is not appropriate and should be further addressed. A more complete knowledge of Inuit culture and life experience could also lead to better assessment of the appropriateness of releasing an Inuit offender to an urban community.

((52)) NPB should improve support for NPB Members in preparing cases for a decision. While additional resources have recently been provided to NPB to allow

more time for NPB Members to review files, there are other organizational steps which could be taken to improve the efficiency of file review for risk assessment. It is recognized that NPB must still rely on hard copy paper files to a large extent until the electronic system is substantially improved. Recommended changes include:

- **Providing a chronology on every file of the significant events and decision points in the case. This would reinforce focus on the case as a whole instead of on recent events. This is particularly applicable to Life sentenced cases and longer sentences where there are multi-volume files. This has also been recommended for CSC;**
- **Reorganizing the current hard copy files. They are physically cumbersome to read and handle, have numerous copies of the same documents, and are cluttered with non-risk related administrative documents interspersed with important reports. For example, procedural safeguard checklists, draft decisions once completed and other administrative items could be kept in a separate appendix file;**
- **Replacing the current file folders with something more user friendly and designed for easier access to documents. Therefore, the file which NPB Members review for decision would be more physically manageable and it would be easy to locate documents related to risk assessment.**

((53)) NPB must improve the quality of hearing tapes. Digital recording must be implemented as a standard practice. Transcripts of past hearings may be useful when NPB Members are preparing for subsequent hearings, or to verify information provided at hearings, and these should be prepared when required. The current hearing tapes are not useful in this regard.

((54)) The Prairie Region of NPB should review the scheduling of hearings and case preparation time for NPB Members. National Parole Board has a resource formula which provides guidelines for the number of hearings per day, the amount of

preparation time provided, and takes into consideration the amount of time required for travel to institutions. The formula has been revised in the last year and additional resources obtained to address the very heavy workloads for NPB Members.

Additionally, management in the Prairie Region should review the practice of assigning NPB Members for a full week of hearings at a time, including travel. The number of cases assigned for a decision without a hearing (“paper cases”) should also be reviewed as these are exceeding the standard workload expected of NPB Members.

((55)) NPB Members should be provided with increased risk assessment training specifically focussed on violent sex offenders. Such training should include emphasis on the need to review the entire case, not just recent developments, especially for long-term offenders, and must focus on the index offence and previous violations of conditional release. NPB policy should also reinforce that good institutional behaviour is not an indicator of success on release.

((56)) NPB should establish procedures for Critical Incident Stress Management and ensure the procedures are communicated, actively offered and accessed in the NPB as needed.

5) OTHER RECOMMENDATIONS

Inuit Offenders

((57)) CSC and NPB should expand training to staff and NPB Members related to Inuit culture and history, as distinct from First Nations.

((58)) CSC and NPB should develop an appropriate statistical risk assessment tool specifically for Inuit offenders.

((59)) CSC should continue development and implementation of the Kajusiniq Action Plan in consultation with NPB and conduct a study on Inuit offenders including examination of the following areas:

- **The need for a special institution for Inuit offenders;**
- **Strategies for reintegration with their community;**
- **Most effective treatment approaches.**

Recommendations and Analysis Regarding Information Gathering by the CSC

The BOI considers that it would have been important for the CSC/NPB to have the following additional information (documentation) about the offence and the offender for the administration of his sentence:

1. The reports of Drs. **GLANCY, LONG** and **ARDNT**.
2. The file from the Clarke Institute of Psychiatry.
3. A transcript of the testimony of **ULAYUK** and Drs. **GLANCY, LONG**, and **ARDNT** at the trial.
4. [REDACTED]
5. Information about the evidence with respect to the extent of **ULAYUK**'s possible intoxication at the time of the index offence.

The BOI examined the current CSC policy in place related to information gathering, *SOP 700-02*, to determine whether it adequately encompasses all of the above information.

1. The reports of Drs. GLANCY, LONG and ARDNT

ULAYUK was ordered to undergo a pre-trial assessment at the Clarke Institute of Psychiatry by a Justice of the Supreme Court of the Northwest Territories. A report by Dr. **GLANCY**, Chief Psychiatrist of the Forensic Service of that Institute, addressed to the court, was filed with the court on 1990-01-04. This was before the actual trial or plea of guilty. On the other hand, the reports of Drs. **LONG** and **ARDNT** were filed with the court, in connection with his appeal after the actual trial or plea of guilty. Upon being filed with any court, and in the absence of an order to the contrary, all of these reports became public documents and would have been accessible to the CSC.

SOP 700-02, section 10(d) requires the CSC to obtain:

any reports relevant to the conviction, sentence or committal that are submitted to a court mentioned in subparagraph 10 (c), for example:

- *Psychiatric, psychological or other assessments presented to the court during the trial;*

10(c) refers to the court “*that convicts, sentences or commits the person and any court that hears an appeal from the conviction, sentence or committal...*”

Dr. **LONG**'s and Dr. **ARDNT**'s reports, filed with a court in connection with an appeal are clearly covered by this section. However, it is less clear whether Dr. **GLANCY**'s report is covered since it could be argued that it was filed pre-trial and not with the actual court that convicted and sentenced **ULAYUK**.

((60)) The BOI recommends that SOP 700-02 be amended to clearly extend the CSC requirement to obtain any psychiatric, psychological, or other assessments filed with a court pre-trial.

2. The file from the Clarke Institute of Psychiatry

The BOI believes that a transcript of the evidence of the doctors at trial and of **ULAYUK** himself was “relevant to administering the sentence” in this case as provided by the CCRA and reflected in *SOP 700-02*, section 10(f). This is due to the highly unusual nature of the offence, and to the special importance attributed by the sentencing judge to the psychiatric and psychological findings. In particular, the BOI found that those transcripts would have been essential when **ULAYUK** was assessed and treated at the [REDACTED] and for the preparation of psychological risk assessments.

As indicated in the findings, the BOI is aware of the cost associated with ordering trial transcripts and the practical limitations to where this can be done. However, in exceptional cases such as this, the BOI feels they are necessary. The BOI is concerned that *SOP 700-02*, as it is currently worded, may give the impression that trial transcripts may only be obtained in the cases specified in section 10(c)(iii).

((62)) The BOI recommends that *SOP 700-02* be amended to make it clear that trial transcripts may be obtain in cases where they are considered essential for the administration of the sentence, in addition to those cases where they are required pursuant to section 10(c)(iii).

4. [REDACTED]
Information about the evidence with respect to the extent of **ULAYUK**'s possible intoxication at the time of the index offence

As indicated in the findings of the BOI, CSC was lacking information about these issues and to some extent this contributed to the confusion surrounding the index offence and the pathology of the offender. The BOI learned that it is not unusual for the CSC to be missing this type of information, particularly in cases that are resolved through **plea bargaining**.

The BOI is aware that since **ULAYUK** first entered the CSC, the *Criminal Code of Canada* has been amended to place some responsibility on courts to provide information to

the correctional system. Section 743.2 now provides that:

A court that sentences or commits a person to penitentiary shall forward to the Correctional Service of Canada its reasons and recommendations relating to the sentence or committal, any relevant reports that were submitted to the court, and any other information relevant to administering the sentence or committal.

The BOI is aware of two systemic problems with this provision.

1. Not all judges comply with this section of the Criminal Code of Canada.
2. Many cases, such as **ULAYUK**'s, are resolved in courts by pleas of guilty. When that happens, judges usually only have the information that is provided to them by counsel. In this case, the judge who sentenced **ULAYUK** did not have before him full information about the above issues that would have been relevant to the CSC for the administration of the sentence. However, the police and the Crown had that information.

The BOI recognizes that proper information gathering has been a long-standing issue and on-going concern of the CSC and the NPB and that many efforts have been made and continue to be made to improve this process. The BOI also believes that it should not be the sole responsibility of the CSC and NPB to “ferret out” essential information about offenders and their offences from the police, crowns, and courts and that those institutions have equal responsibility to provide the information to CSC/NPB on their own initiative. However, the BOI believes that, those institutions, as a whole, have not fully recognized or accepted the notion of a shared responsibility in this area.

The BOI is aware of sections 4 and 5 of *SOP 700-02* that provide that:

- 4 *The Regions shall establish effective notification procedures with the courts, jails, detention centres and Crown Attorney offices to ensure that CSC receives timely notification of all relevant information following the sentencing of an offender.*
- 5 *The Intake Assessment Unit shall review each case following sentencing to determine information requirements. This review involves:*
- c) *Liaison with police, courts, detention centres, and the office of the Crown Attorney; and,*

The BOI is also cognizant of the issue of fundamental fairness and the need to ensure that any information about the offence and the offender that was not before the sentencing court is reliable.

The BOI makes the following recommendations with respect to information collection:

((63)) Constant education is required for the police, judges, and Crown Attorneys about the importance of providing all relevant information about offenders and offences to the CSC. The CSC and the NPB should be actively involved in educational programs for these officials, at all levels, and including at continuing-education conferences, and new member orientation courses. Cases such as ULAYUK's could be used to illustrate the point.

((64)) Protocols should be formalized between the CSC/NPB and the police and prosecuting authorities. This should be done at all levels, including at the Federal, Provincial, and Territorial ministerial level, as well as the regional and local levels.

((65)) Specific action should be taken by the CSC in cases where Section 743.2 of the Criminal Code has not been complied with. Such action could include the following:

- **Communicating with the individual judges concerned and requesting the information;**
- **Bringing problems of non-compliance to the attention of Senior, Regional, or Chief Judges;**
- **Bringing applications in Superior Courts to compel compliance with Section 743.2 of the Criminal Code;**
- **Submitting complaints to regulating bodies.**

((66)) The CSC/NPB should request Federal, Provincial, and Territorial legislators to consider appropriate new laws, similar to section 743.2 of the Criminal Code, that would also require police and prosecutors to provide CSC with information relevant to administering sentences.

((67)) The CSC/NPB should bring to the attention of the Minister of Justice of Canada the findings and recommendations of this BOI that deal with information sharing.

((68)) CSC should examine the practices of all intake units to determine whether the type of information, as was identified by the BOI, to be missing in ULAYUK's case, would currently be obtained for new homicide and sexual offence cases entering the system.

((69)) CSC should take steps to ensure that the type of information, as was identified by the BOI, to be missing in ULAYUK's case, is obtained retroactively for homicide and sexual offence cases currently in the system.

Future Boards of Investigation

The Board of Investigation found that some CSC and NPB Members that it interviewed were inadequately prepared and not sufficiently familiar with the offender's file to meaningfully assist the BOI. Considerable prior notice of the interviews had been given to everyone but some complained of being unable to access the offender's files or not being given enough time to properly review those multi-volume files. At times, the BOI was left with the impression that some of the people expected the interview process to be a formality they were required to go through rather than a forum for fully examining the case.

The BOI appreciates that it cannot reasonably expect people interviewed to have the same in-depth knowledge of the files as the BOI, particularly people who dealt with the case many years ago. The BOI learned that a helpful practice was to provide people with advance notice about the specific areas the BOI was interested in and to give them an opportunity to research those issues.

The BOI found that there is considerable confusion among CSC and NPB Members surrounding "Section 13" notices. Section 13 of the **The Inquiries Act** requires notice to be given only where a Board of Inquiry is considering making a finding of "misconduct". However, CSC/NPB instructions to their Boards of Investigation are broader and extend the requirement for notice to findings of non-compliance with policies and findings that could potentially have a negative impact on a person's reputation. The BOI found that this could give the impression that "misconduct" is being alleged when that is not the intention of the notice.

The BOI learned that the findings and recommendations of Boards of Investigation are not widely made known. The BOI recognizes that there are legitimate issues of confidentiality and fairness that would necessitate the protection of certain information.

However, if lessons are to be learned from tragedies such as this, new ways must be found for more essential information to be shared with all staff in the field.

((70)) CSC and NPB should improve the Board of Investigation process by:

- **Ensuring staff and NPB Members are thoroughly prepared for interviews and recognize the importance of the process;**
- **Providing notice in advance to staff and NPB Members about the areas to be explored by the BOI;**
- **Providing timely access to the case file;**
- **Providing explanations and clarification of the process and intent of S.13 notices;**
- **More widely distributing recommendations and summaries of BOI reports throughout CSC and NPB to be used as a learning tool;**
- **Providing appropriate ongoing administrative support to the BOI.**

Monitoring and implementation of recommendations

The BOI found that some positive steps have already been taken by the CSC and NPB to address some of the problems and issues identified in this report. In order to ensure that a constructive response to the tragic loss of one of a valuable employee continue in the future without losing momentum, the BOI makes the following recommendation.

((71)) The BOI recommends that after 12 month from receiving this report, an independent body or person be appointed to review the extent to which the recommendations set out in this report have been implemented by the CSC and the NPB.

The above report is a complete account of the findings of the investigation into the Release and Supervision of an offender on Full Parole charged with the First-Degree Murder of a parole officer on October 7, 2004 in Yellowknife, Northwest Territories.

Original signed by
Andrejs Berzins
Chairperson and
Community Member

2005-05-12
Date

Original signed by
Janice Russell
Member

2005-05-04
Date

Original signed by
Simonne Fergusson
Member

2005-05-04
Date

Original signed by
Titus Allooloo
Community Member

2005-04-25
Date

CONVENING ORDER AND TERMS OF REFERENCE

**BOARD OF INVESTIGATION INTO THE RELEASE AND SUPERVISION
OF AN OFFENDER ON FULL PAROLE CHARGED WITH
FIRST-DEGREE MURDER OF A PAROLE OFFICER
ON OCTOBER 7, 2004 IN YELLOWKNIFE, NORTHWEST TERRITORIES**

WHEREAS it is provided by Section 20 of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20 that the Commissioner of the Correctional Service of Canada (CSC) may appoint a person or persons to investigate and report upon any matter relating to the operations of the Service;

and

WHEREAS it is provided by Subsection 152(4) of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20 that the Chairperson of the National Parole Board (NPB) may appoint a person or persons to investigate and report on any matter relating to the operations of the Board;

and

WHEREAS at approximately 0930 hours on October 6, 2004, Parole Officer Louise Pargeter signed out of the Northwest Territories Area Parole Office for a scheduled home visit with Eli **ULAYUK**. She failed to report back at the Parole Office at 1130 hours as expected. Efforts to contact and locate her were unsuccessful. At approximately 1500 hours, the Royal Canadian Mounted Police (RCMP) found Ms. Pargeter's body at **ULAYUK**'s residence. **ULAYUK** was arrested by the Yellowknife RCMP at approximately 0215 hours on October 7, 2004 and was later charged with First-Degree Murder.

NOW THEREFORE I, Don **HEAD**, Acting Commissioner of Corrections, and **I**, Ian **GLEN**, Chairperson, National Parole Board, do hereby appoint, by virtue of Section 20 and Subsection 152(4) of the *Corrections and Conditional Release Act*, Andrejs **BERZINS** as Chairperson and Community Member of this investigation, with Janice **RUSSELL** (Permanent Investigator, Incident Investigations Branch, National Headquarters, Correctional Service Canada),

Simone **FERGUSON** (Regional Director, Ontario Region, National Parole Board) and Titus **ALLOOLOO** (Community Member) as members of the Board of Investigation.

WE, Don **HEAD** and Ian **GLEN**, **DIRECT AND CHARGE** the persons so appointed to faithfully execute the duties entrusted to them in the conduct of this investigation and to provide us with:

- a) The background into the incident;
- b) The profile of the offender;
- c) The chronology of key events during the offender's current sentence; and

NOW I, Don **HEAD**, **FURTHER DIRECT** that the Board of Investigation specifically analyze the following issues including any issues of compliance to the law, policies and procedures:

- a) *The possible existence of precipitating factors to the incident under investigation and, if so, the attention provided or action taken;*
- b) *All case preparation related to release considerations during the offender's current sentence;*
- c) The supervision of the offender following release on Day Parole in 2000 including the suspension of his release in 2001 as well as the supervision in 2003 and on Full Parole in 2004, including adherence to any special conditions of release imposed and the extent of any contact that took place while the offender was under supervision;
- d) **The communications and sharing of information among relevant individuals and agencies leading up to the release of the offender on Day Parole in 2000 and 2003 as well as on Full Parole in 2004 and during the course of these periods of supervision;**
- e) The appropriateness of the process of assigning and re-assigning cases to the parole officers at the Northwest Territories Area Parole Office;

- f) The appropriateness of the staff safety practices at the Northwest Territories Area Parole Office surrounding community supervision including, but not limited to, visits;
- g) The services related to the Critical Incident Stress Management offered to staff, family members, offenders and other individuals affected by this incident; and
- h) Any other matters affecting the operations of the Correctional Service of Canada which the Board of Investigation considers relevant to the understanding of the incident.

AND I, Ian GLEN, FURTHER DIRECT that the Board of Investigation inquire into the following issues including any issues of compliance to policy:

- a) The rationale for the National Parole Board's decisions taken prior to the first grant of Day Parole in June 2000;
- b) The rationale for the National Parole Board's decisions to grant Day Parole in June 2000 and continuing the Day Parole in January 2001;
- c) The rationale for the National Parole Board's decision to revoke Day Parole in July 2001;
- d) The rationale for the National Parole Board's decisions, in determining that the offender had changed sufficiently since his revocation, to grant Day Parole in April 2003 and to continue the Day Parole until they granted Full Parole in June 2004;
- e) The rationale provided by the National Parole Board for imposing special conditions on Day Parole and Full Parole;
- f) Any actions taken by the National Parole Board on any reports received on the offender while he was under supervision in the community;
- g) Any issues related to the dynamics of the panel hearings that had a bearing on the National Parole Board's risk assessment;

- h) Any issues related to the quality of the information made available to the National Parole Board that had a bearing on its risk assessment;
- i) Any issues related to compliance with legislation and the policies of the National Parole Board having a bearing on its decisions;
- j) Any other matters affecting the operations of the National Parole Board which the Board of Investigation considers relevant to the understanding of the incident, including its approach to risk assessment for offenders serving life sentences as opposed to those serving determinate sentences.

AND WE FURTHER DIRECT the Board of Investigation to provide us with its findings on the above matters and any recommendations it considers may contribute to the prevention of similar situations or occurrences in the future.

AND FURTHER, to ensure the success of this investigation, the Board of Investigation is authorized:

- a) To adopt such procedures and methods as may be deemed necessary for the proper conduct of this investigation;
- b) To be provided with adequate and secure working accommodation and administrative assistance as required;
- c) To search any building, receptacle or thing being on the property of and in the possession of the Correctional Service of Canada or the National Parole Board, and to seize and retain such books, documents or things as the Board may deem, on reasonable grounds, necessary for the successful execution of its mandate;
- d) *To have complete access to personnel under the employ of, or under contract with, the Correctional Service of Canada or the National Parole Board and to members appointed to the National Parole Board;*

- e) *To communicate, at the discretion of the Chairperson of the Board of Investigation, with any outside person, agency, office or organization which may assist in the successful completion of this investigation; and*
- f) To disclose any personal information it deems necessary to enable the recipient of a Section 13 Notice to fully understand and respond to the allegations of misconduct.

The annex to this convening order outlines the further powers and responsibilities bestowed on this Board of Investigation under Sections 7 to 13 of the *Inquiries Act* pursuant to Section 21 of the *Corrections and Conditional Release Act*. In applying the Section 13 process, the Board of Investigation shall apply the same considerations and follow the same procedures with Section 13 whether the person is a member of the public, a staff member, a Parole Board member, an offender or a contractor.

AND WE FURTHER DIRECT the Board of Investigation to submit to us, through the Acting Director General, Incident Investigations Branch, CSC, and the Manager, Audits and Investigations, NPB, a written report marked “Protected B,” no later than **January 31, 2005**.

Given under our hand in the City of Ottawa, in the Province of Ontario, this 4th of November 2004.

Original signed by

Don Head
Acting Commissioner of Corrections
Correctional Service of Canada

Original signed by

D. Ian Glen
Chairperson
National Parole Board

1410-2-04-23 (CSC)
3447-2-ULAYUK (NPB)

ANNEX TO CONVENING ORDER

This investigation is convened under Section 20 of *the Corrections and Conditional Release Act* which reads: “The Commissioner may appoint a person or persons to investigate and report on any matter pertaining to the operations of the Service.” Section 21 of the Act stipulates that, for investigations convened under Section 20, Sections 7 to 13 of the *Inquiries Act* apply.

By virtue of Sections 7 to 13 of the *Inquiries Act*, for the purpose of their investigation, members of national Boards of Investigation have all the powers of “commissioners” under the *Inquiries Act*, and those special powers and responsibilities are as follows:

INQUIRIES ACT. R.S., c. I-13, s.1

PARTS II AND III

7. For the purposes of an investigation ..., the commissioners

(a) may enter into and remain within any public office or institution, and shall have access to every part thereof;

(b) may examine all papers, documents, vouchers, records and books of every kind belonging to the public office or institution;

(c) may summon before them any person and require the person to give evidence, orally or in writing, and on oath or, if the person is entitled to affirm in civil matters on solemn affirmation; and

(d) may administer the oath or affirmation under paragraph (c). R.S., c. I-13, s. 7.

8.(1) The commissioners may, under their hands, issue a subpoena or other request or summons, requiring and commanding any person therein named;

(a) to appear at the time and place mentioned therein;

(b) to testify to all matters within his knowledge relative to the subject-matter of an investigation; and

7. Pour les besoins de l'enquête, les commissaires peuvent:

a) visiter tout bureau ou établissement public, avec droit d'accès dans tous les locaux;

b) examiner tous papiers, documents, pièces justificatives, archives et registres appartenant à ce bureau ou établissement;

c) assigner devant eux des témoins et les contraindre à déposer oralement ou par écrit sous la foi du serment, ou d'une affirmation solennelle si ceux-ci en ont le droit en matière civile;

d) faire prêter serment ou recevoir une affirmation solennelle. S.R., ch. I-13, art. 7

8.(1) Les commissaires peuvent convoquer des témoins, au moyen d'assignations ou d'autres formes de convocation signées de leur main leur enjoignant de:

a) comparaître aux date, heure et lieu indiqués;

b) témoigner sur tous faits connus d'eux se rapportant à l'enquête;

- (c) to bring and produce any document, book or paper that the person has in his possession or under his control relative to the subject-matter of the investigation.
- (2) A person may be summoned from any part of Canada by virtue of a subpoena, request or summons issued under subsection (1).
- (3) Reasonable travel expenses shall be paid at the time of service of a subpoena, request or summons to any person summoned under subsection (1). R.S., c. I-13, s. 8.
- 9.(1) In lieu of requiring the attendance of a person whose evidence is desired, the commissioners may, if they deem it advisable, issue a commission or other authority to any officer or person named therein, authorizing the officer or person to take the evidence and report it to the commissioners.
- (2) An officer or person authorized under subsection (1) shall, before entering on any investigation, be sworn before a justice of the peace faithfully to execute the duty entrusted to the officer or person by the commission, and, with regard to the taking of evidence, has the powers set out in subsection 8(1) and such other powers as a commissioner would have had if the evidence had been taken before a commissioner. R.S., c. I-13, s. 9.
10. (1) Every person who is liable, on summary conviction before any police or stipendiary magistrate, or judge of a superior or county court, having jurisdiction in the county or district in which that person resides, or in which the place is situated at which the person was required to attend, to a fine not exceeding four hundred dollars.
- (a) being required to attend in the manner provided in this Part, fails without valid excuse, to attend accordingly,
- (b) being commanded to produce any document, book or paper, in his possession or under his control, fails to produce the same,
- (c) refuses to be sworn or to affirm,
- c) produire tous documents, livres ou pièces, utiles à l'enquête, dont ils ont la possession ou la responsabilité.
- (2) Toutes les formes de convocation visées au paragraphe (1) ont effet sur tout le territoire canadien.
- (3) Toute personne assignée reçoit, au moment de la signification de la convocation, une indemnité pour les frais qu'entraînera son déplacement. S.R., ch. I-13, art. 8.
- 9.(1) S'ils le jugent à propos, les commissaires peuvent, au lieu de faire comparaître devant eux la ou les personnes dont ils souhaitent entendre le témoignage, commettre par commission rogatoire ou quelque autre forme de délégation le fonctionnaire désigné par celle-ci, ou toute autre personne expressément nommée, pour recueillir les dépositions et leur en faire rapport.
- (2) Avant d'entreprendre l'enquête, la personne commise au titre du paragraphe (1) prête devant un juge de paix le serment d'exécuter fidèlement la mission qui lui est confiée. Elle est investie, pour recueillir les témoignages, des pouvoirs d'un commissaire, notamment de ceux qui sont énoncés au paragraphe 8(1). S.R., ch. I-13, art. 9.
10. (1) Encourt une amende maximale de quatre cents dollars, sur déclaration de culpabilité par procédure sommaire devant un magistrat de police, un magistrat stipendiaire, un juge de cour supérieure ou un juge de cour de comté ayant compétence dans le ressort soit de sa résidence, soit du lieu d'audition, quiconque:
- a) sans motifs légitimes, ne se présente pas bien qu'ayant été assigné à comparaître conformément à la présente partie;
- b) ne produit pas les documents, livres ou pièces en sa possession ou sous sa responsabilité qu'il a reçu l'ordre de produire;
- c) refuse de prêter serment ou de

or

(d) refuses to answer any proper question put to him by a commissioner, or other officer or person referred to in section 9,

(2) For the purposes of this Part, a judge of a superior or county court referred to in subsection (1) shall be a justice of the peace. R.S., c. I-13, s. 10.

11.(1) The commissioners, whether appointed under Part I or under Part II, may if authorized by the commission issued in the case, engage the services of

(a) such accountants, engineers, technical advisers or other experts, clerks, reporters and assistants as they deem necessary or advisable; and

(b) counsel to aid and assist the commissioners in an inquiry.

(2) The commissioners may authorize and depute any accountants, engineers, technical advisers or other experts, the services of whom are engaged under subsection (1), or any other qualified persons, to inquire into any matter within the scope of the commission as may be directed by the commissioners.

(3) The persons deputed under subsection (2), when authorized by order in council, have the same powers as the commissioners have to take evidence, issue subpoenas, enforce the attendance of witnesses, compel them to give evidence, and otherwise conduct the inquiry.

(4) The persons deputed under subsection (2) shall report the evidence and their findings, if any, thereon to the commissioners. R.S., c. I-13, s. 11.

12. The commissioners may allow any person whose conduct is being investigated under this Act, and shall allow any person against whom any charge is made in the course of an investigation, to be represented by counsel. R.S., c. I-13, s. 12.

13. No report shall be made against any person until reasonable notice has been given to the person of the charge of misconduct alleged against

faire une affirmation solennelle;

d) refuse de répondre aux questions régulières que lui pose un commissaire ou la personne commise à cet effet.

(2) Le juge de cour supérieure ou de cour de comté exerce, pour l'application de la présente partie, les attributions d'un juge de paix. S.R., ch. I-13, art. 10.

11.(1) Les commissaires, qu'ils soient nommés sous le régime de la partie I ou de la partie II, peuvent, s'ils y sont autorisés par leur commission, retenir les services:

a) des experts - comptables, ingénieurs, conseillers techniques ou autres -, greffiers, rapporteurs et collaborateurs dont ils jugent le concours utile;

b) d'avocats pour les assister dans leur enquête.

(2) Les commissaires peuvent - selon les modalités qu'ils fixent - déléguer aux experts qu'ils engagent ou à d'autres personnes qualifiées toute partie d'une enquête relevant de leur commission.

(3) La délégation confère, lorsqu'elle est autorisée par décret, les pouvoirs des commissaires en ce qui touche le recueil de témoignages, la délivrance des assignations, la contrainte à comparution et à déposition et, de façon générale, la conduite de l'enquête.

(4) Les délégués font rapport aux commissaires des témoignages recueillis ainsi que de leurs éventuelles conclusions sur la question étudiée. S.R., ch. I-13, art. 11.

12. Les commissaires peuvent autoriser la personne dont la conduite fait l'objet d'une enquête dans le cadre de la présente loi à se faire représenter par un avocat. Si, au cours de l'enquête, une accusation est portée contre cette personne, le recours à un avocat devient un droit pour celle-ci. S.R., ch. I-13, art. 12.

13. La rédaction d'un rapport défavorable ne saurait intervenir sans qu'auparavant la personne incriminée ait été informée par un préavis suffisant

him and the person has been allowed full opportunity to be heard in person or by counsel. R.S., c. I-13, s. 13.

de la faute qui lui est imputée et qu'elle ait eu la possibilité de se faire entendre en personne ou par le ministère d'un avocat. S.R., ch. I-13, art. 13.

23

**AMENDMENT TO THE
CONVENING ORDER AND TERMS OF REFERENCE**

**BOARD OF INVESTIGATION INTO THE RELEASE AND SUPERVISION
OF AN OFFENDER ON FULL PAROLE CHARGED WITH
FIRST-DEGREE MURDER OF A PAROLE OFFICER
ON OCTOBER 7, 2004 IN YELLOWKNIFE, NORTHWEST TERRITORIES**

WHEREAS it is provided by Section 20 of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20 that the Commissioner of the Correctional Service of Canada (CSC) may appoint a person or persons to investigate and report on any matter relating to the operations of the Service;

and,

WHEREAS it is provided by Subsection 152(4) of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20 that the Chairperson of the National Parole Board (NPB) may appoint a person or persons to investigate and report on any matter relating to the operations of the Board;

and,

WHEREAS at approximately 0930 hours on October 6, 2004, Parole Officer Louise Pargeter signed out of the Northwest Territories Area Parole Office for a scheduled home visit with Eli **ULAYUK**. She failed to report back at the Parole Office at 1130 hours as expected. Efforts to contact and locate her were unsuccessful. At approximately 1500 hours, the Royal Canadian Mounted Police (RCMP) found Ms. Pargeter's body at **ULAYUK**'s residence. **ULAYUK** was arrested by the Yellowknife RCMP at approximately 0215 hours on October 7, 2004 and was later charged with First-Degree Murder.

NOW THEREFORE I, Don HEAD, Acting Commissioner of Corrections, and I, Ian GLEN, Chairperson of the National Parole Board, do hereby direct the Board of

All other aspects of the Convening Order and Terms of Reference dated the November 4th, 2004 remain in effect.

Given under our hand in the City of Ottawa, in the Province of Ontario, this 22nd day of December 2004.

original signed by:

Don Head
Acting Commissioner of Corrections
Correctional Service of Canada

original signed by:

D. Ian Glen
Chairperson
National Parole Board

1410-2-04-23 (CSC)
3447-2-ULAYUK (NPB)

**AMENDMENT TO THE
CONVENING ORDER AND TERMS OF REFERENCE**

**BOARD OF INVESTIGATION INTO THE RELEASE AND SUPERVISION
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and,

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All other aspects of the Convening Order and Terms of Reference dated November 4th, 2004 remain in effect.

Given under our hand in the City of Ottawa, in the Province of Ontario, this 12th day of March 2005.

original signed by:

Lucie McClung
Commissioner of Corrections
Correctional Service of Canada

original signed by:

D. Ian Glen
Chairperson
National Parole Board

1410-2-04-23 (CSC)
3447-2-ULAYUK (NPB)

List of Persons Interviewed

NATIONAL PAROLE BOARD

[REDACTED] NPB Member
Elizabeth **MCKALL**, Regional Vice Chairperson
Marlene **CHOMA**, NPB Member
[REDACTED] NPB Member
[REDACTED] NPB Member
[REDACTED] NPB Member
[REDACTED] former NPB Member
[REDACTED] Acting Regional Director

CORRECTIONAL SERVICE OF CANADA

Yellowknife Parole Office:

Andrea **MARKOWSKI**, Area Manager
Katherine **KOSKI**, Office Manager
Egan **DAY**, Parole Officer and Acting Area Manager
Guy **LEBLANC**, Acting Parole Officer seconded to CSC from Government NWT
Rupeinder **SINDU**, clerk
Luc **PETTIT**, former Parole Officer

Edmonton District Office:

Jan **FOX**, District Director
Hugo **FOSS**, Psychologist
Frank **WINKFEIN**, Director of Grierson Center

Under contract to Yellowknife Parole Office:

Bruce **SMITH**, Psychologist
Dave **HARDER**, Director, Salvation Army Community Residential Centre
Wendy **FEIL**, Assistant Director, Salvation Army Community Residential Centre
Bernice **MAZUR**, Co-facilitator Sex Offender Program
Rita **CHRETIEN**, Co-facilitator Substance Abuse Relapse Prevention Program (Lifeworks)
Terry **GARCHINSKY**, Lifeworks Counselling Inc (Substance Abuse Program)

[REDACTED] Institution :

[REDACTED] Parole Officer
[REDACTED] Psychologist
[REDACTED] Parole Officer
[REDACTED] Native Liaison Officer
[REDACTED] Unit Manager
[REDACTED] Coordinator Case Management
[REDACTED] Correctional Supervisor
[REDACTED] Supervisor Greenhouse
[REDACTED] Chief Psychologist
[REDACTED] Psychologist
[REDACTED] Correctional Officer
[REDACTED] Institutional Preventive Security Officer
[REDACTED] Chief Human Resources
[REDACTED] Warden

[REDACTED]

[REDACTED] Psychologist (currently Regional Psychologist)
[REDACTED] Psychiatrist (currently private practice)
[REDACTED] Psychiatrist
[REDACTED] Parole Officer [REDACTED]
[REDACTED], Social Worker
Llana PHILLIPS, Psychologist (currently private practice)
[REDACTED] Assistant Program Director [REDACTED]
[REDACTED] Program Officer
[REDACTED] Psychiatrist
[REDACTED] Acting Program Director [REDACTED]

[REDACTED] Institution:

[REDACTED] former Parole Officer (now Police Officer)
[REDACTED] Psychologist, Centre régional de santé mentale, Québec Region
[REDACTED] Psychologist, Stony Mountain Institution
[REDACTED] Psychologist previously under contract to Regional Psychiatric Centre

Consultations

Correctional Service of Canada – National Headquarters:

Larry MOTIUK, Director General, Research
Denis LEVESQUE, Director, Community Reintegration and Operations
Jim WLADYKA, Director, Workforce Wellbeing
Fred BELLEMARE, Senior Psychologist

Gillian **TROOP**, Project Manager, Community Reintegration and Operations
Marie-France **SÉGUIN**, Legal Counsel
Charles **HASKELL**, Legal Counsel
Bev **ARSENAULT**, Manager, Institutional Reintegration and Operations
Pamela **YATES**, Acting Director, Correctional Planning
Joint CSC-USGE Advisory Committee on Community Safety
Chris **HILL**, Project Manager, Case Management
Bruce **MALCOLM**, Acting Manager, Sexual Offender Programs

Priairie Region:

Joan **DUNAJSKI**, Acting Regional Administrator, Reintegration

National Parole Board:

John **WILSON**, Regional Manager, Conditional Release Programs
Monique **GODIN**, Manager, Diversity Programs

Union of Solicitor General Employees:

Lynn **RAY**, President
Lawrence **BELL**, Regional Vice President
Lynn **DAVIES**, senior Labour Relations Officer

Human Resources and Development Canada:

Jack **ALMOND**, Health and Safety Officer

Family of Louise **PARGETER**:

Anne **LYNAGH**, Partner
Mike and Judy **PARGETER**, parents

RCMP Yellowknife

Sgt. Mark **CROWTHER**
Cpl. Tim **BELAND**
Cpl. Andy **ING**
Sgt. Marion **LAMOTHE**

List of Documents Reviewed by the BOI

- Booklets from the Yellowknife Ceremony honouring Louise **PARGETER** and from the CSC National Memorial Service held in Ottawa, 2004-11-29.
- Article about Louise **PARGETER**, CSC in the Northwest Territories, Andrea **MARKOWSKI** Let's Talk, Vol. 26, No. 4
- CSC Duty Officer Report on Reportable Incidents 2004-10-06
- CSC Security Branch, Incident Reporting Unit, 2004-10-08
- General Communiqués to CSC employees, 2004-10-07 to 2004-11-02
- Minister's Parliamentary Question Period Notes, 2004-10-07
- CSC, Northern Alberta and NWT District Director's Accountability Report regarding Death of Parole Officer **PARGETER**, and involvement of **ULAYUK**, 2004-10-08
- **ULAYUK** file review by Community Reintegration and Operations, (Chris **HILL**), 2004-10-08
- CSC Acting Commissioner's announcement of Strengthened Parole Supervision Practices, 2004-10-20
- Press Release. Family and Friends Respond to Corrections Canada New Strengthened Practices, 2004-10-21

- CSC Acting Commissioner's letter to [REDACTED] 2004-10-29
- Minutes of a Conference call between CSC officials and [REDACTED]
[REDACTED] 2004-11-01
- CSC/NPB Convening Order and Terms of Reference for the Board of Investigation,
2004-11-04
- CSC Information Package on Investigations for BOI members
- Minutes of a meeting between members of the BOI and [REDACTED]
2004-11-17, prepared by [REDACTED]
- CSC Case files regarding **ULAYUK** up to 2004-10-14
- NPB Case files regarding **ULAYUK** up to 2004-10-19
- NPB hearing tapes and transcripts of hearings regarding **ULAYUK** in 2000, 2001,
2003, 2004
- Centre for Addiction and Mental Health (Clark Institute of Psychiatry) file regarding
ULAYUK
- [REDACTED] file regarding **ULAYUK**
- The Salvation Army NWT Resource Centre (Yellowknife) file regarding **ULAYUK**
- Court Transcripts from **ULAYUK**'s trial in 1990 for Second-Degree Murder and his
plea of guilty to Manslaughter in 1992.

- Pre-trial psychiatric and psychological reports prepared regarding **ULAYUK** in 1989 and 1990.
- Prosecutor's Information Sheet regarding charge of First-Degree Murder against **ULAYUK** on 2004-10-07
- Written submissions from past and present CSC employees and contractors, NPB members, and their legal counsel in response to Section 13 notices issued by the BOI
- Report to the BOI from Dr. Ralph **SERIN**, Consulting Psychologist, 2005-02-28, and additional comments following review of responses to Section 13 notices
- Report to the BOI from Dr. Stephen **HUCKER**, Consulting Psychiatrist, 2005-03-20, and additional comments following review of responses to section 13 notices
- CSC Training records regarding Yellowknife Parole staff and District Director
- Work descriptions: CSC parole officers, area director, institutional community psychologists and contracting psychologists
- Offender Population Profile for [REDACTED] Institution, 2004-11-18
- CSC Case Management Manuals 1990, 1998 and modifications
- CSC Commissioners Directives 1999-2004
- CSC Standard Operating Practices 1999-2004
- CSC Case Management Bulletins

- CSC Security Manual Part II
- NPB Policy Manual (current and previous)
- NPB manual on New Board Member Orientation
- NPB “Risk Assessment Tools: A Guide”, 2003
- Overview of Sex Offender Treatment Programs in Correctional Service Canada
March 21, 1995, Program inventory and Description
- Standards and Guidelines for the Provision of Services to Sex Offenders, CSC, March 1996
- Direction to the Employer under subsection 145.1 of Canada Labour Code –Part II Occupational Health and Safety, issued by Jack **ALMOND**
- Reference materials in Relation to CSC Obligations towards Employee Safety:
Compiled by J. **WLADYKA**, Director Workforce Wellbeing, CSC
- Information Collection for the Response to 5 HRSDC Directions issued to Yellowknife Parole Office, CSC, 2004-12-23
- Minutes of meetings of the Joint CSC-USGE Community Staff Safety Advisory Committee, 2004-2005
- CSC (Parole) Facility Guidelines , Technical Services Branch, 1982
- NWT Community Workload report 2004-12-10

- Submission to the BOI by the Union of Solicitor General Employees dated 2004-12-14
- International Policies re: Home Visits: Dave **CONNORS**, Director International Relations, CSC
- Probation and parole officer Safety Policies from the Provinces and Territories.
- CSC Community Workload data, 2002-2004
- The Work of the Parole Officer Within the Correctional Service of Canada: A Review of Case Management, prepared by Ed **WOZNIAK** , 2002
- The Final Report of The Parole Officer Working Group, 2003. (In response to the Wozniak Report)
- CSC National Security Task Force Report, (updated 2003-02-07)
- Kajusiniq Inuit Action Plan: minutes of consultation meeting of 2005-05-02
- Tupiq program draft manual 2000
- Tupiq preliminary investigation May 2004, Research Report
- Report of the Auditor General 2003, Status Report, Chapter 4 re: Correctional Service
- Release Decision Making, Christopher D. **WEBSTER** and Stephen J. **HUCKER**, published by the Forensic Service, St. Joseph's Healthcare, Hamilton, Centre for Mountain Health Services, 2003

- Forensic Psychology, Policy and Practice in Corrections, CSC, 1995
- **HUCKER**, S.J., Necrophilia, Psych Direct, Evidence Based Mental Health Education and Information,
www.psychdirect.com/forensic/Criminology/para/necro.htm
- **ROSMAN**, J and **RESNICK**, P (1989) Necrophilia: An analysis of 122 cases involving necrophilic acts and fantasies. Bulletin of the American Academy of Psychiatry and the Law, 17(2), 153-163
- Therapy for Sexual Impulsivity: The Paraphilias and Paraphilia-Related Disorders. Martin P. **KAFKA**. Psychiatric Times, June 1996, Vol. 13, Issue 6.
- Lifetime Sex Offender Recidivism: A 25-Year Follow-Up Study. Ron **LANGEVIN** et al. Canadian Journal of Criminology and Criminal Justice, October 2004.
- Corrections and Conditional Release Act, 1992
- Criminal Code of Canada
- Inquiries Act

All documents requested for review by the Board have been received, except for the following documents:

1. [REDACTED]
[REDACTED] (One of the doctors who testified at **ULAYUK**'s trial referred to a report by Dr. **SCHMIDT** but the BOI was advised by the Center that they did not have this report.)
2. [REDACTED]
[REDACTED] (A request was made to the Warden of that institution but no response was received by the final due date for the BOI's report.)

Summary of Findings and Recommendations

FINDINGS

(1) The BOI found that the decision to accept a plea of guilty to the lesser charge of Manslaughter, without explanation, contributed to the lack of clear understanding of the index offence by certain authorities within CSC and NPB. ULAYUK's conviction for Manslaughter, as opposed to Murder, gave substantial credence to his claim that he was grossly intoxicated at the time of the killing. [REDACTED]

(2) The BOI found that if information [REDACTED] had been clearly documented in the CSC files from the beginning, there may have been less minimization of the sexual nature of the index offence by some CSC and NPB officials.

(3) The BOI found that there is a systemic problem concerning the sharing of information between the Crown/Police and the court system with CSC/NPB in certain cases, such as this, that are resolved through "plea bargaining". This issue will be addressed in the BOI's recommendations.

(4) Given these circumstances, the BOI considers that it is unclear whether the policy on information collection as set out in the Case Management Manual of March 1993 was complied with.

(5) The BOI found that some attempt was made by the parole officer to obtain the reports of Drs. GLANCY, LONG and ARDNT by communicating with the Crown and noted that a summary of the conclusions of these doctors was contained in the Agreed Statement of Facts that was obtained. Furthermore, ULAYUK was

requested to consent to the release of one psychiatrist's report although it remains unclear who that psychiatrist was.

(6) Although not required by CSC policy in effect at the time, the BOI found that ULAYUK's file from the Clarke Institute was "relevant to administering the sentence" as provided by the CCRA and, therefore, all reasonable steps should have been taken to obtain this file. However, the BOI was advised that in order to obtain the Clarke Institute patient chart, as opposed to the report of an individual psychiatrist from that Institute filed in a court, the CSC would have required ULAYUK's consent since it is personal medical history.

(7) There was no indication that ULAYUK was specifically asked by the parole officer to consent to the release of his Clarke Institute chart. In light of his refusal to consent to the release of an individual psychiatrist's report when requested, it is unlikely that he would have consented to release his medical chart at that time. The BOI believes that attempts to obtain this information should have been made throughout the course of ULAYUK's sentence. This information would have been particularly relevant when he was admitted to the [REDACTED] in 1995 and agreed to undergo sex offender assessment and treatment in the [REDACTED] Program, and well as for the preparation of subsequent psychological risk assessments.

(8) The Corrections and Conditional Release Act (CCRA) does not specifically require trial transcripts be obtained nor did CSC policy or practice at that time. The BOI is aware of the cost associated with ordering trial transcripts and the practical limitations to where this can be done. In this case, however, the BOI believes that a transcript of the evidence of the doctors at the trial for Second-Degree Murder and of ULAYUK himself was "relevant to administering the sentence" as provided by the CCRA. This is due to the highly unusual nature of the offence, and to the special importance attributed by the sentencing judge to the

psychiatric and psychological findings. In particular, the BOI finds that those transcripts would have been relevant when ULAYUK was assessed and treated at the [REDACTED] and for the preparation of psychological risk assessments. Furthermore, the BOI noted that a full transcript of the trial evidence existed since ULAYUK appealed his conviction to the Court of Appeal. The BOI located those transcripts in ULAYUK's file at the courthouse in Yellowknife. Additional comments on this issue will be made in the Recommendations section of this report.

(9) The BOI found that the 1995 assessment of ULAYUK at the [REDACTED] strongly influenced how ULAYUK was subsequently seen and dealt with by decision-makers within CSC/NPB. Most decision-makers assumed that necrophilia had been ruled out as a problem for ULAYUK, or that ULAYUK had been successfully treated for that disorder and that it was no longer an issue.

(10) The BOI found that the overall quality of the assessment and treatment of ULAYUK in the [REDACTED] Program, as it existed in 1995, was less than what could be reasonably expected of a High Intensity Sex Offender Program of the CSC.

(11) The BOI saw no evidence that any attempt was made at the [REDACTED] to obtain certain background information that would have been important for a thorough assessment of ULAYUK and consistent with the CCRA and CSC's policy on Intake Assessment. That included the reports of the professionals who had assessed him for the purpose of his trial and his file from the Clarke Institute.

(12) There was no clear rationale given, in the reports of the members of the Treatment Team, as to why they considered that sexual deviancy was not a problem for ULAYUK.

(13) The Final Treatment Summary and the Psychiatric Discharge Summary contained recommendations relating to the release of ULAYUK even though the psychiatrist had no involvement in his treatment and only a minimal role in his assessment.

(14) The BOI found contradictory information as to whether ULAYUK's understanding and attitude toward his criminal behaviour had changed as a result of his admission to the program.

(15) The Final Treatment Summary stated that *“Substance abuse or clear signs of escalating anger and aggression will likely serve as indicators that he is having difficulty managing his risk”*. A similar caution was contained in the Psychiatric Discharge Summary. However, despite the unusual sexual nature of the index offence, no expert advice was passed on to those who would subsequently be responsible for dealing with ULAYUK in the institutions or supervising him in the community. In particular, no recommendations were provided about what kind of sex offender maintenance programs, if any, he would require and no guidance was given about how to monitor and deal with ULAYUK [REDACTED]

(16) [REDACTED]
[REDACTED]
[REDACTED]

(17) The BOI found that the serious disclosures by ULAYUK to Psychologist Llana PHILLIPS in 1997, [REDACTED] [REDACTED] should have led to his immediate return to the [REDACTED] for further sex offender assessment and treatment. However, the BOI found that not only was this not done, the report was also inexplicably given little attention. It was referred to in only one of several

subsequent risk assessments by Psychologists (OLADELE) and not mentioned in any NPB release decisions. The BOI could find no documentation indicating how the CSC/NPB authorities considered that the risk revealed through those disclosures had been satisfactorily addressed.

(18) The BOI could find little evidence that the concerns that led to ULAYUK's referral to the [REDACTED] in 1999 were thoroughly explored during his two-month stay at that institution.

(19) The risk assessment by the psychologist incorporated most of the current widely used instruments but his report did not indicate that he had taken into account certain essential clinical information contained in the files.

(20) [REDACTED]
[REDACTED]
[REDACTED]

(21) The BOI could find no evidence in the reports that the staff, including the psychiatrists and psychologist, took into consideration ULAYUK's disclosure to Psychologist Llana PHILLIPS in 1997.

(22) The psychiatric examinations of ULAYUK were focused on determining [REDACTED] and not on risk issues.

(23) The conclusions following ULAYUK's completion of the [REDACTED] Program in 1995 were accepted without thorough re-evaluation by the psychiatrists.

(24) There was no indication that any attempt was made to obtain the reports from the Clarke Institute and from the doctors who had examined ULAYUK for his trial.

(25) The court-related Psychological and Psychiatric Assessments were not requested during the 2000 case preparation, consequently the Documentation Check List was not updated as required by *SOP 700-02 on Intake collection, 1999*. No reasonable steps were taken to obtain the offender's file from the Clarke Institute as the BOI considers would have been required pursuant to the CCRA.

(26) The report did not include a description of the index offence nor information concerning its unique motivation. The *SOP 700-07 Pre-Release Decision Process, 1999* required that an analytical statement of the major case specific factors, including the dynamics factors or other areas, be addressed, however, it was not completed in this case.

(27) Due to the length and cut and paste format of the document, the BOI had difficulty in identifying the essential elements in the Correctional Plan Progress Report required by *SOP 700-05 Progress Monitoring- Institution, 1999*. The report was 24 pages long (including multiple extracts from Psychological and Psychiatric Reports) with an additional 4 page Community Strategy. The Assessment for Decision was another 10 pages long. In examining the overall quality of the information provided to the NPB, the BOI noted that more coherent and concise reports would have been helpful to the NPB for the purpose of their risk assessment. However, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

(28) In the Correctional Plan Progress Report, the institutional parole officer did not discuss the offender's degree of insight into his criminal behaviour and special circumstances of his offence, specifically sexual deviancy. This was inconsistent with the requirements of the *SOP 700-05 Progress Monitoring in the Institution, 1999*.

(29) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(30) The reports prepared by the institutional parole officer did not demonstrate a full understanding of the sexual deviancy underlying the index offence and what was required to safely manage the offender in the community. The parole officer appears to have relied on the opinion of RPC professionals that sexual deviancy was not a concern. He stated that he also relied on the opinions of [REDACTED] Institution psychologists that ULAYUK was ineligible for sex offender relapse prevention programming since there was no evidence he had committed a sexual assault.

(31) The Community Strategy, dated 00-05-01 and prepared by the Yellowknife Parole Office, was consistent with the *SOP 700-03, Assessments Completed by the Community, 1999*, subject to the question about the availability of suitable resources in Yellowknife. This report indicated the need for an assessment for sex offender treatment on release.

(32) In developing the Community Strategy for the offender's release, the area director indicated that the community parole offices do not receive any information such as the judges comments, Psychological and Psychiatric Reports prepared at trial or the Police Report. Only the information on the Offender Management System is available to community parole staff at this point in the case management process.

(33) There was a lack of independent critical analysis by the NPB Members of the information provided in the file and at the hearing.

(34) The NPB Members did not fully address the dynamics of the index offence as part of their assessment of risk. The BOI is not convinced that they fully understood the deviant sexual nature of the offence.

(35) The Reasons for Decision referred mainly to information provided in the file and at the hearing that supported the decision to release.

(36) The hearing was focused on healing and cultural concerns. While those are important aspects for the NPB to consider, at this hearing they appeared to have occupied more of the members' attention than the assessment of risk.

(37) Given the unusual nature of the offence, and the contradictory information from CSC officials about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy, before making the release decision.

(38) The offender refused to attend sex offender programming and substance abuse prevention programming and was therefore not complying fully with his Correctional Plan during his Day Parole release in 2000.

(39) When supervised by Parole Officer MARKOWSKI, [REDACTED] [REDACTED] The frequency of contact was surpassed and over 50% of the visits were in the community.

(40) [REDACTED]
[REDACTED]
[REDACTED]

(41) The BOI considered that the rationale for recommending Full Parole for ULAYUK at this juncture was unclear due to his refusal to address the sexual nature of his offence, together with the fact that he was serving a Life sentence for a sexually motivated offence, his lack of cooperation with his parole officer [REDACTED]

(42) The same day that Full Parole was recommended the offender was suspended [REDACTED] This was the second suspension during his Day Parole release in 2000. [REDACTED]

(43) [REDACTED] Institution did not have specific programming available to treat sex offenders. The BOI considered ULAYUK was not placed in an appropriate institution that could reassess his sexual deviancy and provide appropriate treatment. This placement appeared to be related to a lack of a centralized assessment and placement process in the Prairie Region.

(44) The BOI noted that no attempt was made to place the offender at Fenbrook Institution that had a program for Inuit offenders. Yellowknife parole staff understood that placement at Fenbrook required an inter-regional transfer process which could occur only after ULAYUK was first placed in some other institution.

(45) The Post-Suspension hearing and the written decision met the requirements of NPB policy.

(46) [REDACTED] Institutional staff were limited in their ability to properly assess a case of this nature and complexity. This was due to the uniqueness of the index offence, the lack of critical information on file, and their inexperience and naiveté in working with sex offenders. The conflicting Psychological and Psychiatric

Assessments produced throughout the offender's incarceration and the volume of information on file because of the Life sentence further exacerbated this situation.

(47) [REDACTED] Institution does not generally accommodate sex offenders and therefore the case management staff and counselling psychologists were not trained in how to clearly assess and treat sex offenders.

(48) Some of the staff at [REDACTED] Institution were reluctant to acknowledge the sexual nature of the index offence and believed that discussing the offence and its sexual motivation with the offender would be counterproductive. The BOI agrees with Dr. SERIN who indicated in his report that "the index offence is crucial to the risk assessment and that the dynamics of the initial murder must be addressed as part of the risk assessment".

(49) Parole staff at [REDACTED] Institution indicated that they understood their principal role to be to deal with the immediate issue that led to ULAYUK's revocation and to prepare him for re-release.

(50) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(51) The staff at [REDACTED] Institution did not consider any possible relationship between the aggressive behaviour ULAYUK demonstrated towards his girlfriend while on Day Parole in 2000-2001, [REDACTED] [REDACTED] and the index offence.

(52) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(53) When queried on the outcome of ULAYUK's participation in 1995 in the Intensive Sex Offender Program at [REDACTED] the [REDACTED] institutional parole staff and psychologists did not appear to comprehend the limitations of the sex offender programming. They were of the opinion that necrophilia had been "ruled out", [REDACTED] and therefore needed no further intervention on their part. They did not appear to fully recognize, as pointed out by Dr. SERIN, that sex offending is a long-term, after-care issue.

(54) There was a failure by case management staff to obtain the full psychiatric and psychological reports from the first trial and the Clarke Institute, contrary to SOP 700-02.

(55) Dr. [REDACTED] used accepted actuarial risk assessment instruments to assess ULAYUK but, as pointed out by Dr. HUCKER in the appendix, he did not use a sex offender specific risk scale such as the STATIC-99. He had doubts about whether ULAYUK should be considered a sex offender and he did not feel that this was an issue when he did the risk assessment. Dr. [REDACTED] advised the BOI that he believes a sex offender risk assessment, such as the STATIC-99, would not contribute significantly to understanding prevention of violence in this case, or otherwise change the opinion of risk.

During an interview Dr. [REDACTED] acknowledged that, in retrospect, ULAYUK was clearly a sex offender.

(56) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] it is unclear why Dr. [REDACTED] made no reference in his reports to the serious disclosures made to Psychologist Llana PHILLIPS in 1997, although her report was in the CSC file and was also referred to in the 1998 report of Psychologist Edward OLEDALE.

57) It was not evident if Dr. [REDACTED] was aware of the PHILLIPS report and, if so, what if any significance he attached to those disclosures in his assessment of risk. In his report, Dr. [REDACTED] did not explain why he arrived at a different assessment of risk than Edward OLEDALE. The G.S.I.R instrument was not formally designed to assess risk of violent criminal recidivism and the Michigan instrument OLEDALE employed is not well researched on Canadian and Aboriginal male offenders.

Dr. [REDACTED] advised the BOI that, in his view, the risk assessment instruments used by OLEDALE were not optimally selected or well-informed.

(58) Dr. [REDACTED] partially based his assessment of risk on certain conclusions he drew from his review of information in the file, [REDACTED]
[REDACTED]

[REDACTED] The BOI found information in the file that could have lead to different conclusions, such as the information relating to the revocation of his Day Parole.

(59) Dr. [REDACTED] was aware that Psychiatric and Psychological Assessments were done before trial but had access only to the brief summaries of those assessments contained in the CSC files. He did not request the full reports of those earlier assessments, but instead relied on Dr. [REDACTED] 1995-08-17

conclusion, when ULAYUK entered the [REDACTED] Program, that “*there is no indication that necrophilia is an ongoing sexual interest in this case.*”

Dr. [REDACTED] advised the BOI that based on his review of this case, he would continue to rely on Dr. [REDACTED]’s (1995) report and conclusion/opinion regarding the necrophilia issue.

(60) Dr. [REDACTED] noted that there were some reports on file expressing concerns [REDACTED]. However, it appears that Dr. [REDACTED] accepted ULAYUK’s explanation for his behaviour.

(61) The institutional parole officer indicated in the Assessment for Decision regarding the offender’s Day Parole review, that the offender had a good understanding of his offence despite the fact that the assessing psychologist had indicated the opposite.

(62) There was no evidence that the institutional parole officer in preparing ULAYUK’s case in 2003, ensured that the Documentation Checklist had been updated or made a reasonable attempt to obtain the Psychiatric or Psychological Assessments completed at the offender’s trial as required by SOP *Pre-release Decision* SOP 700-07, 2002, or the offender’s file from the Clarke Institute of Psychiatry as required by the CCRA.

(63) The Assessment for Decision completed on 2003-02-21 by the institutional parole officer concerning ULAYUK’s eligibility for release, generally covered the areas required by CSC’s *Pre-release Decision* SOP 700-07. The BOI noted some exceptions to this and found the quality of the analysis lacking.

(64) The offender's failure at the [REDACTED] was not noted in the Assessment for Decision submitted to the NPB regarding the offender's application for Day Parole, nor was this information included in the CPPR, contrary to *SOP 700-05 Progress Monitoring, 2002*.

(65) The institutional parole officer generally focused on program participation rather than the treatment gains from the programs as a rationale for supporting the offender's release. [REDACTED]
[REDACTED]
[REDACTED]

(66) The Community Strategy prepared 2003-02-21 for ULAYUK's application for Day Parole was in compliance with *SOP 700-03 Assessments Completed by the Community, 2003*.

(67) In examining the overall quality of the information provided to the NPB, as required by its mandate, the BOI noted that in the Assessment for Decision the parole officer essentially reviewed ULAYUK's progress while in [REDACTED] Institution over a period of two years and assessed his risk from that limited perspective. Although this may have been the normal practice, the BOI believes that it would have been more helpful to the NPB for the parole officer to also take into account and highlight the significant aspects of this case, that are relevant to risk, from the commencement of his sentence. This would include the unusually strong comments of the sentencing judge, [REDACTED] [REDACTED] the limitations of the sexual offender treatment ULAYUK received and the unresolved contradictions in the different Psychological and Psychiatric Assessments. In saying this, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

(68) There was limited time provided for review of the case prior to the hearing and pressure to conduct the hearing in a short timeframe. This resulted in reliance mainly on the most recent reports from Correctional Service of Canada and limited the independent critical analysis by the NPB Members of the information provided in the file and at the hearing.

(69) NPB Members did not fully understand the index offence was motivated by necrophilia [REDACTED]

(70) The written decision summarized the reports from Correctional Service of Canada but did not clearly describe the analysis of the risk factors and did not reference all the critical information available.

(71) The hearing was focused on healing and the future and less on risk assessment. National Parole Board has since revised its policy on Cultural Hearings.

(72) Given the unusual nature of the offence and the contradictory information about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviancy, before making the release decision.

(73) The case preparation report prepared 2003-08 -12 conformed to Correctional Service policy regarding the pre-release decision process.

(74) The BOI considers that Parole Officer PETTET thoroughly supervised the offender and intervened after each incident.

(75) The BOI found that suspension could have been considered in August 2003 based on the concerns expressed in the parole officer's Assessment for Decision, [REDACTED] in light of the index offence and his lack of transparency with staff, see CSC policy (*Interim Standard Operating Practice Post-Release decision making 700-10-2003, section entitled Breach of Conditions/Increase in the Level of risk*). However, the BOI found that the decision not to do so was a reasonable exercise of discretion and judgment on the part of those supervising him.

(76) The Assessment for Decision dated 2004-03-04 covered all areas required by CSC policy.

(77) No updated Community Assessment (as required by SOP Assessments completed by the Community 700-3 paragraph 24) appeared on file but Parole Officer LEBLANC did note some information on the co-worker in the Assessment for Decision report dated 2004-03-04.

(78) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(79) Although ongoing concern was expressed [REDACTED] [REDACTED] the assessment of the Case Management Team was that the level of risk was still manageable.

(80) The members of the BOI questioned whether it was reasonable to expect that an offender serving a Life sentence for a violent offence of this nature, who required

such a high level of support and supervision, was an appropriate candidate for Full Parole.

(81) In examining the overall quality of the information provided to the NPB, as required by its mandate, the BOI noted that in the Assessment for Decision, the parole officer essentially reviewed ULAYUK's progress while on parole in Yellowknife over a period of one year and assessed his risk from that limited perspective. Although this may have been the normal practice, the BOI believes that it would have been more helpful to the NPB for the parole officer to also take into account and highlight the significant aspects of this case, that are relevant to risk, from the commencement of his sentence. This would include the unusually strong comments of the sentencing judge, [REDACTED] the limitations of the sexual offender treatment ULAYUK received and the unresolved contradictions in the different Psychological and Psychiatric Assessments. In saying this, the BOI recognizes that the NPB Members have the ultimate responsibility for reviewing the material in the file and independently satisfying themselves that risk is manageable.

(82) There was limited independent critical analysis by the NPB Members of the information on the file and at the hearing. The focus generally was on the most recent phase of the sentence. A contributing factor was the inadequate time provided to the NPB Members to review the multi-volume file in advance of the hearing and to conduct the hearing and write the decision, with no staff support.

(83) The NPB accepted ULAYUK's self-reported information [REDACTED] without verifying its accuracy. While there is no policy requiring that all information from an offender be verified, the BOI feels it would have been an obvious practice to do so in the circumstances of this case.

(84) The Reasons for Decision documenting the grant of Full Parole did not clearly describe the analysis of the risk factors the NPB Members had considered and did not reference all the critical information available.

(85) The NPB Members accepted the requirement in the Correctional Treatment Plan that ULAYUK report all relationships with women to his parole officer. There is no indication that the NPB Members analyzed how realistic it was that such a requirement could be effectively enforced on Full Parole, [REDACTED]

(86) Given the unusual nature of the offence and the contradictory information about the degree of risk, the NPB Members could have requested an assessment by an independent, external, psychologist or psychiatrist with specific expertise in sexual deviance, before granting Full Parole. This would have been an exceptional request in the Prairie Region.

(87) The supervision of ULAYUK in the community during his Full Parole to Yellowknife generally met the supervision policies with the exceptions noted below.

(88) During this period, ULAYUK appeared to the Case Management Team to be open and honest and coping reasonably well. The BOI found that this impression was shared by others including the Salvation Army staff.

(89) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(90) The BOI found that during the month of September 2004, with the accumulation of stressful events, [REDACTED] Suspension of his parole due to all of these circumstances could have been justified, however, the BOI found that the decision not to do so was a reasonable exercise of discretion and judgment on the part of those supervising him.

(91) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(92) [REDACTED]
[REDACTED]
[REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]
• [REDACTED]

(93) The BOI found that, in the above circumstances, it was particularly not appropriate to transfer the supervision of ULAYUK to Parole Officer PARGETER because of her role in the revocation of his previous Day Parole. (The BOI also found it is not an uncommon practice in Correctional Service of Canada to re-assign the same case to a parole officer on a subsequent release following revocation.)

(94) The BOI found that Parole Officer PARGETER was generally aware of the circumstances surrounding ULAYUK, having participated at numerous case conferences where his case was discussed. In addition, Parole Officer LEBLANC advised the BOI that he and Parole Officer PARGETER met and discussed each case they were transferring.

(95) Parole Officer PARGETER agreed to take on the supervision of all community cases pursuant to the re-organization plan, including ULAYUK's case.

(96) The re-organization plan was flexible enough to allow the "institutional" parole officer or the acting area director to continue supervising some community cases where that was considered necessary and appropriate.

(97) Parole Officer PARGETER decided to visit ULAYUK at his home alone and could have scheduled her visit with him elsewhere. She did not request accompaniment, however, the BOI found that the practice and culture in CSC generally was such that it was not regular practice for parole officers to make such requests.

(98) The BOI found that a thorough analysis and an in-depth understanding of this case would have led to the conclusion that a parole officer, particularly a female, could be at undue risk doing an unaccompanied home visit with ULAYUK at this time. The Yellowknife parole staff did not fully appreciate ULAYUK's potential dangerousness, having assumed that issues such as serious sexual deviance had been satisfactorily addressed during his period of incarceration. The BOI found that the absence of such an in-depth understanding of this case was due to cumulative and systemic problems rather than the fault of any individuals in the Yellowknife Parole Office.

(99) Parole Officer PARGETER had no formal training in issues of personal safety. She received limited training on dealing with sex offenders.

(100) The BOI found that the Yellowknife Parole Office had an excellent relationship with the contract Psychologist, Bruce SMITH. The parole office staff regularly sought his advice regarding issues with ULAYUK and he participated in case conferences as a member of the Case Management Team when ULAYUK's case was discussed.

(101) Although SMITH [REDACTED] his experience and training relating to adult sex offenders, particularly during ULAYUK's first parole period, was more limited. He [REDACTED] told the BOI that he felt he could counsel ULAYUK since CSC psychologists had concluded that sexual deviancy was not a concern in this case.

(102) SMITH advised the BOI that upon ULAYUK's referral to him on his second release, he attempted to obtain a copy of the final report from the [REDACTED] Program. He was only able to get Dr. [REDACTED]'s intake assessment and a note that the program had been "successfully completed". [REDACTED]

[REDACTED] SMITH regularly informed ULAYUK's parole officer of any concerns or issues that ULAYUK had disclosed to him.

(103) SMITH regularly met in counselling sessions with ULAYUK. [REDACTED]

[REDACTED]

[REDACTED]

(104) During the second period of parole, in addition to individual psychological counselling, ULAYUK participated in the Sex Offender Maintenance Program co-facilitated by SMITH. However, the BOI noted that he only attended about 8 SOMP sessions in total. He was enrolled in the monthly (rather than the bi-weekly) group because most of the other participants were also Inuit. [REDACTED]

[REDACTED]

(105) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In saying this, the BOI has taken into account the considerable extent to which parole officers systemically appear to rely on the capability of psychologists to identify and know how to deal with any special risks.

(106) The BOI questions the adequacy of individual psychological counselling, as part of an after care program, if it does not address the sexual component of the offence. This would appear to be inconsistent with the requirements of the *CD 840 Psychological Services, section 4* which states that all psychological services shall focus on the needs of the offender, specifically the behavior that contributed to criminal activity. In this instance the motivation for the index offence, as acknowledged by the offender, was necrophilia. The BOI recognizes that the issues SMITH did address [REDACTED] [REDACTED] are related to the risk of relapse to sexually offending behaviour.

(107) The staff members of the Yellowknife Parole Office are dedicated, professional individuals who used their best judgement under crisis conditions on 2004-10-06. The BOI is satisfied that, at all times during this crisis, they acted with the best interests of their friend and colleague Parole Officer PARGETER in mind. Given all the circumstances, it is unlikely that others facing a similar situation would have acted more diligently. Nevertheless, in looking towards the future for lessons to be learned, the BOI made the following additional findings.

(108) No training in community crisis management had been provided to any staff of the Yellowknife Parole Office, nor had any of them had previous experience in managing hostage-taking situations or missing persons. The Yellowknife Parole Office had no plan in place about what steps to take when a member of their staff went missing.

(109) The staff began attempting to locate Parole Officer PARGETER by calling her cell phone within one half hour from the time she was due to return to the office. Given that the indicated return times for parole officers was not rigidly adhered to and monitored, the BOI considers that this action was reasonable.

(110) Between 12:00 hrs and 13:00 hrs, the staff left the office to attend a pre-arranged lunch that Parole Officer PARGETER would have considered important to attend. [REDACTED]

[REDACTED] The staff continued to make calls to the cell phone with no success. [REDACTED]

[REDACTED]

[REDACTED] The BOI noted that the acting area director called ULAYUK's home and the Yellowknife Correctional Center upon returning to the office.

(111) From the information that the BOI has learned from the police, it is clear than any additional attempts by the staff to locate Parole Officer PARGETER would not have prevented this tragedy.

(112) At 13:30 hrs, some misinformation obtained from community sources about Parole Officer PARGETER's personal schedule that day resulted in confusion for the Yellowknife parole staff about her possible whereabouts. In the circumstances, the BOI considers that understandable. When apprised of the error at 14:20 hrs, Acting Area Director DAY and Parole Officer LEBLANC took immediate action to investigate her situation.

(113) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(114) Acting Area Director DAY took the proper step of notifying the RCMP at ULAYUK's apartment and by providing police with the required information.

(115) According to police records, Acting Area Director DAY was advised by the police of Parole Officer PARGETER's death shortly after 17:03 hrs. He completed providing a statement to the police at 17:30 hrs and returned to the parole office and advised staff at 18:00 hrs. [REDACTED]
[REDACTED]

(116) [REDACTED]
[REDACTED]
[REDACTED]

However, considering the time period involved from when he first learned of the death and his subsequent actions assisting the police immediately thereafter, the

BOI believes that neither Acting Area Director DAY or any other staff member of the parole office could have done anything differently that would have resulted in earlier notification [REDACTED]

(117) The present CSC policy concerning the management of a crisis in the community is not effective or realistic for small offices. The Yellowknife Parole Office had only three officer-level employees, one of whom was missing. Acting Area Director DAY and Parole Officer LEBLANC were alone in covering the numerous functions outlined in the policy (5 positions plus an advisory body). DAY's responsibility as the Crisis Manager was further complicated by the fact he had to communicate with district, regional and local officials, according to the policy. At the same time he was actively providing timely and accurate information to the RCMP investigating the situation.

(118) The BOI found that the CSC, as an organization, gave inadequate attention to issues of community staff personal safety.

(119) The BOI found that there are some CSC policies that deal directly or indirectly with issues of community staff safety, but they are scattered through a number of different documents and are not easily identifiable. There is no comprehensive CSC community staff safety policy that deals with important staff safety issues that were examined by the BOI in this case, including:

- Parole officer accompaniment during home visits;
- Responding to the emergency situation when a staff member is missing;
- Considerations when transferring an offender's case from one parole officer to another;
- Factors to be taken into account when deciding whether a parole officer who was instrumental in a revocation should continue supervising an offender after he/she returns to the community.

(120) The BOI found that a parole officer in the Yellowknife Parole Office could ask for accompaniment to do a home visit with an offender and that such a request would certainly be granted . The BOI learned that a few times in the past that had been done in Yellowknife. However, the BOI found that it would have been unusual for a parole officer to make such a request. The BOI believes that the following factors contribute to this:

- Lack of training around personal safety and awareness issues provided to parole officers generally;
- The absence of a clear CSC policy in this area;
- The relative rarity of incidents in Canada involving serious acts of violence against community parole officers;
- The lack of staffing in parole offices;
- The general culture and tradition among CSC community staff to do unaccompanied home visits.

(121) The BOI found that there was a system in place in Yellowknife whereby parole officers were required to sign out when they left for meetings during the day and indicate when they expected to be back. However, this system did not include a specific plan of action for dealing with situations when a parole officer does not return to the office when expected.

(122) The BOI found that formal training offered by the CSC to all community staff on personal safety and awareness is inadequate. The BOI found that the 10-day Parole Officer Orientation Training Program that Parole Officer PARGETER took in 2001 had no component on personal safety. The BOI considers the current 13-day program contains insufficient content on this subject.

(123) The BOI noted that the acting area director presented a training video entitled “Personal Safety in Community Corrections” to the Yellowknife staff on 2003-04-04. At that time, Parole Officer PARGETER was on leave and the video was not shown to her upon her return. The BOI believes that minimal personal safety training that Parole Officer PARGETER would have received from seeing this video would not have prevented this tragedy.

(124) CSC policy is to provide Occupational Safety and Health (OSH) and Canada Labour Code training as a three-day training for OSH Committee members and representatives. Managers are expected to attend the first day of this training. Katherine KOSKI was the OSH representative in the Yellowknife Parole Office. The BOI found that as of 2004-10-06, KOSKI had not received this training. However, she received and distributed e-mails regarding OSH issues to the office. Egan DAY and Andrea MARKOWSKI had both participated in the first day session for managers.

(125) The BOI found that the number of parole officer positions in the Yellowknife Parole Office (area manager and two parole officers) was insufficient to properly take into account all staff personal safety considerations. The BOI found that this staff complement did not adequately reflect the following:

- The special needs of a small office impacted by events such as staff leaves.
- The reality that a large proportion of the federal offenders in the Northwest Territories have been convicted of sex offences and offences involving serious violence. Such offenders require more intensive and time consuming supervision.

(126) The BOI found that, given the overall workload, the parole officers in Yellowknife did not have as much time as would be necessarily to thoroughly

familiarize themselves with a file such as ULAYUK's (17 volumes) before taking on his supervision.

(127) The BOI found that ULAYUK's file was not "red flagged" in a way that the potential high risk in this case could more readily be identified by the community staff who were responsible for supervising him. [REDACTED]

[REDACTED] The unwieldy nature of the files in themselves also made it more difficult for the community staff to assess his risk. The BOI recognizes that there is an inherent contradiction between flagging a case as potential high risk and granting Full Parole.

(128) During its visit to the Yellowknife Parole Office in November 2004, the BOI found the absence of virtually any basic staff security features in the office. The CSC Facility Safety Standards for community parole offices that were developed in 1982 had not been implemented in the Yellowknife office. The BOI was advised that staff requests for certain improvements in the past had not been acted on. (The BOI notes that changes have recently been implemented.)

(129) The BOI noted that the one cell phone in the office had to be shared by the staff. The BOI found this to be insufficient and would have expected that each parole officer would be provided his/her own phone as a minimum.

(130) The BOI found that there was inadequate liaison between the Yellowknife Parole Office and the local RCMP detachment surrounding the sharing of information that could be relevant to the safety of community staff.

(131) The language and cultural issue was noted throughout ULAYUK's file. His difficulty with the English language was observed early in his incarceration and it was noted this hampered his completion of, and benefit from, correctional

programs. None of the institutions he was housed in had specific programs, or Inuit liaison officers, for Inuktitut speaking offenders.

(132) ULAYUK was involved with Aboriginal liaison officers, First Nations Elders, and Aboriginal healing programs, but there were no similar Inuit services. The BOI was advised that First Nations services are not consistent with Inuit Culture.

(133) At various times in his incarceration, some risk assessment tools were not used as they had not been validated for Inuit offenders.

(134) [REDACTED]

(135) The National Parole Board released ULAYUK on Day Parole on two occasions, both following Elder-assisted hearings at which the Elder was First Nations rather than Inuit and the cultural ceremony was not Inuit. At the first Day Parole hearing there was specific reference to the perceived need to return ULAYUK closer to his home in the North and there were questions at the hearing about the possibility of a Section 84 release. Both Day Parole releases were made to Yellowknife, although ULAYUK is from the Eastern Arctic, not the Northwest Territories. The BOI questions the assumption that paroling ULAYUK to Yellowknife would place him in an environment closer to his roots. The BOI found that for Inuit, coming from very small and remote communities in Nunavut, Yellowknife is as foreign as any large Southern city.

(136) There was limited understanding of the dynamics of a remote Inuit community and inadequate consultation with the hamlet of Igloodik. There was no in-depth exploration of how realistic it was that ULAYUK could be reintegrated into his home community, although the long range plan was to return there. Banishment practices no longer exist in Inuit communities, but the community of

Igloolik continued to have strong reservations about ULAYUK which were not fully documented in the CSC or NPB files.

(137) CSC has developed a High Intensity Sex Offender Treatment Program called “Tupiq”, which is Inuit specific and offered in Inuktitut. It is available only at Fenbrook Institution. It has recently (May 2004) been evaluated. Although it is still considered to be a “work in progress” given the limited number of offenders who have been through the program, the evaluation report made several suggestions. These included more outreach to other institutions where there are Inuit offenders, enhancing the role of Inuit healers, stabilizing the funding and more fully involving community links during and after the program.

(138) CSC has also recently developed the “Kajusiniq Inuit Action Plan” addressing programs, community outreach, training and institutional placement. This is a unique plan exclusively for Inuit offenders. Many issues have been identified but some have direct significance for this BOI. They are:

- There is a lack of understanding of the reality of life in the North;
- There is a need for Inuit Elders;
- CSC staff and NPB Members need cultural awareness training about the Inuit and an understanding of the importance of body language and facial expressions for Inuit people;
- There is a need for Inuit NPB Members;
- Programs need to be culturally appropriate for Inuit offenders and be taught in a manner suitable to the offender’s learning style;
- There must be recognition that Inuit culture is separate and distinct from First Nations culture;
- Releases pursuant to Sections 81/84 of the CCRA need to be more utilized.

RECOMMENDATIONS**1) COMMUNITY STAFF SAFETY**

((1)) The BOI considers that the Joint CSC-USGE Advisory Committee on Community Safety, established following the murder of LOUISE PARGETER, is an excellent vehicle for identifying the safety needs of staff. It is essential that this committee be permitted to finish its work and that the recommendations flowing from it be seriously considered for implementation by CSC. The committee should be given permanent status and, following the completion of its current work, it should meet no less than once a year to identify any new issues and to monitor the implementation of its recommendations. The BOI considers it important that all of the committee's recommendations be brought directly to the attention of the Commissioner and the Executive Committee Members.

((2)) The BOI recommends that the Advisory Committee adopt a broad approach on issues of community safety. In order to be fully informed about existing high quality safety practices generally, the committee should consult, on relevant issues, with external safety experts, including those from industry.

((3)) CSC should develop and provide to all community offices procedures for managing incidents in the community which involve the safety of a parole officer or others, which would address:

- An emergency response plan including contact with police;**
- Accountability of local and district/regional managers;**
- Timely notification to the employee's family of the situation;**
- Critical incident debriefing.**

((4)) The BOI agrees with the current CSC plan to develop a comprehensive Community Safety Policy. The BOI recommends that the issues addressed in this policy include the following:

- **Safety considerations when transferring an offender's case from one parole officer to another;**
- **Factors to be taken into account when deciding whether a parole officer who was instrumental in a revocation should continue supervising an offender after he returns to the community;**
- **Whether home visits should always be pre-arranged;**
- **The use of technology relating to personal safety such as distress alarms;**
- **Parole officer accompaniment during home visits (see Rec. 6).**

((5)) The BOI recommends that every parole office have regular local Safety Committee meetings and develop a Safety Plan for the office. The BOI believes that a mandatory feature of every office plan should be a system whereby parole officers are required to sign out when they leave for meetings during the day and indicate where they are going and a time when they expect to be back. It should also include a plan of action for dealing with emergency situations. Specifically, it should address the following:

- **The actions to be taken when a parole officer does not return to the office when expected;**
- **Communications with the family members of the staff person involved.**

((6)) The BOI recommends that the following policy be adopted by CSC regarding parole officer accompaniment during home visits:

The general rule, or presumption, shall be that all home visits by a parole officer (or meetings with an offender in an isolated area) must be accompanied, regardless of the nature of the index offence. Exceptions may be made to this general rule only where the parole officer and his/her

supervisor have reviewed the unique risks inherent in a home visit and are both satisfied that there is no concern about the parole officer's safety.

It may be helpful for the CSC to formulate guidelines about the type of situations where it would be appropriate that an exception to the general rule be considered. For example, this could include visits with offenders who have no history of violence in their background.

The accompaniment may be by another parole officer, a police officer, a security guard, a CRC or CCC staff member, community worker, a trained volunteer, etc.

All parole offices must be adequately staffed in order that this policy may be fully implemented, and no exception should be made to the general rule regarding accompaniment based on the lack of staffing.

((7)) The BOI recommends that section 57 of the Standard Operating Practice 700-06 on Community Supervision be amended. It provides that *“The majority (more than 50%) of contacts with the offender are to take place in the community (the offender’s home or place of work). Any exceptions to this standard must be approved, based on case factors, in advance by the parole officer’s supervisor.”* This section has been subject to different interpretations in the regions. However, the BOI’s concern is that, as a result of this section, parole officers may feel compelled to do home visits in all cases. “Community contacts” should, therefore, be given a broader definition and not restricted to the offender’s home or place of work. Furthermore, while the BOI fully agrees with the encouragement of community and collateral contacts, it believes that rigid adherence to a “more than 50% rule” detracts from focusing on the quality of supervision. Good quality supervision should focus on assessing the offender’s home life, employment situation, use of leisure time, etc through a variety of collateral contacts.

((8)) The BOI considers it essential that all parole officers be provided with adequate communications technology to be able to reach their office and police emergency services from any location where they may be during the course of their work.

((9)) The BOI recommends that close liaison be established and maintained between parole offices and local police forces. Written protocols setting out the terms of cooperation between the agencies should be developed locally and communicated to all police and parole officers in that jurisdiction. The police should be regularly encouraged to share any appropriate information they may have about individual offenders that is relevant to assessment of their risk.

((10)) The BOI recommends that adequate funding be provided in order to ensure that modern substance detection procedures including urinalysis are readily available for use by parole officers and CRC staff in the community. The BOI recommends that CSC community parole officers be instructed to use substance detection procedures provided to them, as a risk management and assessment tool and consistent with the provisions of the CCRA. Adequate funding must be ensured by each level of the organization.

((11)) During its visit to the Yellowknife Parole Office in November 2004, the BOI noted the absence of virtually any basic security features. The BOI recommends that all community parole offices be designed and equipped in accordance with modern and appropriate Facility Safety Standards that are consistent with the special duties performed by the staff in those offices. Parole offices that currently do not comply with such standards must be renovated without delay.

((12)) The BOI noted that the Facility Safety Standards for community parole offices that were developed in 1982 have not been implemented in some offices. These standards should be re-examined and updated with input by the Joint CSC-

USGE Advisory Committee on Community Safety and in consultation with external experts.

((13)) The BOI recommends that following the updating of the Facility Safety Standards, a comprehensive security review be conducted of every parole office to assess its compliance with those standards. This review should involve input from the local staff. Any identified non-compliance with the standards must be corrected without undue delay.

((14)) The BOI recommends that a “flag” be entered on the Offender Management System to identify offenders who have exhibited assaultive, threatening or other potentially dangerous behaviour towards staff or others such as visitors or volunteers, in the institutions, or towards others in similar roles in the community.

((15)) The BOI agrees with the current CSC plan to provide a mandatory three-day course to community staff on Safety and Personal Awareness. The BOI recommends that the content of this course be reviewed with police officials and other external safety experts in order to ensure that it reflects best practices. The course should be made available to all community staff including parole officers, managers, administrative staff, CRC staff and volunteers. A refresher course should be provided at regular intervals. New staff should be required to take this course before they start meeting alone with offenders.

((16)) The BOI recommends that the current Initial Parole Officer Training Program be reviewed and reorganized. Currently, institutional and community parole officers are given the same generic program despite the significant differences in their responsibilities. The BOI recommends that consideration be given to conducting the program in two parts. The first part would be for all parole officers while the second part would separately deal with each group of parole officers and address the special responsibilities of their positions.

((17)) The BOI recognizes that the development of high quality clinical skills in parole supervision and risk assessment must be an on-going process that does not end with the completion of formal training. The BOI believes that parole officers can benefit substantially from the regular exchange of ideas and experiences from others in the field. To promote such on-going learning process, the BOI recommends the establishment of Regional “Professional” or “Clinical” Committees for CSC community staff. The BOI notes that parole officers in the Province of Quebec find such committees helpful and that they were recommended in the Wozniac Report.

((18)) The Correctional Service of Canada should ensure that, prior to the release of an offender to the community, the parole officer who will be responsible for the supervision be given adequate time to thoroughly review and familiarize himself/herself with the offender’s files, paying particular attention to any safety concerns related to supervision in the community. In some cases, notably Life sentences or long sentences, this will require significantly more time.

((19)) The BOI recommends that the parole officer Workload Formula be reviewed by the CSC and changes made to reflect a number of realities including the following:

- D. The special needs of small offices that can be seriously impacted by events such as staff leaves.**
- E. The need for additional time for intensive supervision of some offenders.**
- F. The need to take into account the reality that different parts of the country have different offender profiles. For example, the BOI was told that a disproportionately high number of the offenders in the Northwest Territories have been convicted of sex offences and offences involving serious violence. Such offenders require more intensive and time consuming supervision.**

((20)) The BOI recommends that whenever possible Correctional Service of Canada community supervisors do not transfer an offender's case from one officer to another when the offender is in a crisis situation, except when the transfer will contribute to a reduction to the level of risk to the community and/or the supervising parole officer.

2) CORRECTIONAL SERVICE OF CANADA

((21)) All Correctional Service staff, who have responsibility for assessment, release recommendations, and supervision in the community should receive specialized training to identify indicators related to potential violent sexual behaviours. This includes managers who co-sign reports in the institution and the community.

((22)) Following the revocation of parole and the return of an offender to an institution there should be a new intake assessment done and the correctional plan re-evaluated.

((23)) CSC should review the clinical support offered to institutional parole officers and modify the existing review process for Assessments for Decision prepared for offenders serving long sentences. This will aid in ensuring a comprehensive review and analysis of the risk factors is completed and documented.

((24)) CSC should separate the institutional role of assessment for release from the case management role of intervention and counselling.

((25)) CSC's case management files for long-term offenders (in this case 17 volumes) should be consolidated or reorganized to eliminate lengthy repetitive reports and administrative documents, to reduce the volume of information and allow the parole officer and decision-makers to complete an efficient and focused file review. The BOI recommends that the re-organization of the files include the following:

- **The CSC should develop a chronology document particularly in the case of offenders serving long sentences. The document would highlight the major events and decision points in the offender's file and would resemble a BOI chronology report. A similar recommendation has been made for the NPB.**
- **A comprehensive description of the offence and the offender's background should be set out upon admission to the institution. This document should be a stand alone document that can be referred to but not repeated in subsequent reports.**

((26)) CSC should enhance the training, mentoring and clinical supervision of parole officers to develop the ability to synthesize and analyse complex information held on offenders serving long sentences.

((27)) CSC should require an annual review of the documentation held on the file of offenders serving long sentences and ensure that any outstanding documents are obtained. If the information is unavailable, the reasons why should be clearly documented.

((28)) The content requirements for Assessments for Decision should be reviewed by CSC. The BOI recommends the Assessments for Decision include the following:

- **Information regarding the index offence. (The Assessment for Decision should refer to the stand alone document setting out the offence and background of the offender.);**
- **Judges comments;**
- **A summary of the psychological and psychiatric information in the file and an assessment indicating any divergent professional opinions and their rationale;**

- **The offenders' specific treatment gains rather than program participation while in the institution and community should be described. An analysis of any high risk behaviours or patterns observed during his sentence including any previous failures on release.**

((29)) Correctional programs should be redefined to focus on competencies and observed changes to behaviour, rather than just completion. Maintenance programs should be viewed as part of the continuum of programming. Methods should be developed to incorporate program information into the overall assessment of risk as a measure of changed behaviour.

((30)) CSC should enhance its intelligence capacity to identify and analyze patterns of potential violent sexual behaviour patterns both in the institution and community. The resulting information should be provided to parole officers with the responsibility for the case.

((31)) CSC should develop a management model for small community offices. Resourcing should allow for adequate expertise, supervision and support of parole officers related to risk management. It should also balance the manager's responsibility for administrative issues such as staff safety and training.

((32)) The CSC has issued a bulletin entitled Management of Violations of Conditions, Increased Risk in the Community 2005-03-01 regarding the assessment of risk in the community. The BOI recommends that this direction be further refined to direct staff that when evaluating high risk behaviours, particularly of sex offenders, ongoing behaviour patterns in the institution as well as on previous releases in the community should be considered.

((33)) CSC should examine the unique issues related to Lifers and long-term offenders and develop a strategy for supervision and responses to breaches.

3) PSYCHOLOGY / PSYCHIATRY AND SEX OFFENDER PROGRAMS

((34)) The BOI has reviewed all of the recommendations made by Dr. Stephen HUCKER and Dr. Ralph SERIN in their reports and fully agrees with them. The BOI recommends that these suggestions be implemented by CSC and NPB.

((35)) The BOI recommends that external/internal reviews or audits be conducted periodically to ensure that the programs described in official program descriptions at the [REDACTED] are in fact being provided as described and in accordance with contemporary professional standards.

((36)) The BOI recommends that there be an internal and external review of the [REDACTED] Sex Offender Assessment and Treatment Program at the [REDACTED].

((37)) The training and credentials of risk assessors employed by CSC need to be reviewed to ensure that they have sufficient experience with the types of offenders (in particular, sex offenders) they are invited to evaluate.

((38)) The training and credentials of psychologists who provide counselling to sex offenders in the institutions and in the community, need to be reviewed to ensure that they have sufficient experience and knowledge in dealing with sex offenders.

((39)) CSC should review the responsibilities of contractual psychologists (in the institution and in the community) to ensure that their contract specifically indicates that they are responsible at all times to ensure that the counselling provided to offenders (specifically sex offenders) addresses the specific motivation for the index offence as specified in the *CD 840 Psychological Service*.

((40)) The roles and functions, training and experience of psychiatrists associated with sex offender programs offered by CSC should be re-evaluated, using appropriately experienced external consultants if necessary.

((41)) Risk assessors should be provided with all CSC files when preparing their assessments, and sufficient time (and associated and appropriate funding) must be provided to ensure that these files are adequately reviewed.

((42)) CSC should develop and implement a standardized psychological assessment protocol which would require all psychologists to address specific issues such as sexual fantasies. It would also include self-reference questions to ensure consistency throughout the case (for example has the offence cycle been addressed and is there a discordant opinion).

((43)) The BOI recommends that when an offender is admitted to a sex offender assessment and treatment program, a thorough review of all background information be conducted by experienced staff who have been trained and are familiar with the pathological phenomena involved. The offender's consent to release all external assessments including relevant hospital reports should be requested. Every effort should be made to obtain any information that could be of assistance in the offender's treatment and assessment.

((44)) An offender's refusal to consent to the disclosure of information that could be of assistance in his/her treatment and assessment should be noted and taken into account in any subsequent risk assessments. Risk assessments should also make reference to any relevant information that was not available for any other reason and address the significance of the missing information.

((45)) The BOI recommends that the CSC conduct further extensive research on the most effective methods for the diagnosis and treatment of paraphilias, including sexual sadism and necrophilia. The research should include drug treatment. Knowledge gained from this research should be widely distributed to professionals throughout the correctional system. The research should include drug treatment and conditions under which offenders with such disorders could possibly be safely managed in the community.

4) NATIONAL PAROLE BOARD

((46)) NPB should return to a more structured format to document NPB decisions. Risk assessment has become more complex and NPB decision policies are detailed. Increased focus should be required on those factors which are more strongly indicative of risk, in a format which channels the NPB Members to address specific areas. For example this could include reference to previous violations of conditional release or observed changes in behaviour as a result of programs. This format may also assist NPB Members to structure and focus their study of the case prior to making a decision.

((47)) Risk assessment and analysis must focus on measurable, observable changes in behaviour as a result of programs and treatment, or over time, not just attendance at a program. NPB needs to clearly define what “successful” completion of programs and treatment means, and measures of change should be developed to indicate meaningful progress. (See Dr. SERIN’s report.) A similar recommendation has been made for CSC.

((48)) Risk assessment must more clearly focus on events in the entire case. In Life sentences and for offenders serving long sentences it is possible to lose sight of the index offence, the reasons for the sentence and the underlying motivation and problem behaviour of the offender as years pass, particularly when the offender is

“a good inmate”. There should be a more focussed and documented review of the events and patterns in the entire case, not just program participation or adaptations in the last few years. This should be a requirement in all Life sentences.

((49)) Where a revocation of a conditional release has occurred, NPB decision policies should require additional justification and rationale for any subsequent positive release decisions. Revocation of a conditional release, or escape, is recognized as a risk factor. This is included in current NPB policy as something to be considered generally as part of risk assessment, however, there should be a formal requirement to clearly justify the grant of a subsequent release following a revocation.

((50)) Regardless of ethnicity, religion, or cultural background of an offender, the primary focus of NPB decision-making must be on risk to re-offend. The BOI commends NPB for recognizing the impact of culture on its decision-making. Sensitivity to culture is described in current NPB policy by incorporating it into the hearing process. However, where culture is considered in the analysis of an individual case, it should be more explicitly linked to risk and be part of the entire assessment. Attempts to address systemic racism, cultural inequities, healing and restorative justice should be a consideration only after it has been determined that risk in an individual case is manageable in the community. The hearing process, including specific cultural ceremonies and incorporating the use of cultural Advisors, should add to, but not drive, risk assessment.

((51)) NPB should provide further information and training to NPB Members and staff in order for them to understand the historic and cultural differences between Inuit and Southern First Nations people. NPB is beginning to introduce a hearing model specifically for Inuit offenders. This will help to correct the systemic problem of assuming Inuit traditions are the same as Southern First Nations. Inuit culture does not share the spiritual tradition of First Nations, the role of the Elder, the

significance of the Circle, or the experience of residential schools. Imposing the traditions of Plains Indians on Inuit offenders as part of the hearing process is not appropriate and should be further addressed. A more complete knowledge of Inuit culture and life experience could also lead to better assessment of the appropriateness of releasing an Inuit offender to an urban community.

((52)) NPB should improve support for NPB Members in preparing cases for a decision. While additional resources have recently been provided to NPB to allow more time for NPB Members to review files, there are other organizational steps which could be taken to improve the efficiency of file review for risk assessment. It is recognized that NPB must still rely on hard copy paper files to a large extent until the electronic system is substantially improved. Recommended changes include:

- Providing a chronology on every file of the significant events and decision points in the case. This would reinforce focus on the case as a whole instead of on recent events. This is particularly applicable to Life sentenced cases and longer sentences where there are multi-volume files. This has also been recommended for CSC;**
- Reorganizing the current hard copy files. They are physically cumbersome to read and handle, have numerous copies of the same documents, and are cluttered with non-risk related administrative documents interspersed with important reports. For example, procedural safeguard checklists, draft decisions once completed and other administrative items could be kept in a separate appendix file;**
- Replacing the current file folders with something more user friendly and designed for easier access to documents. Therefore, the file which NPB Members review for decision would be more physically manageable and it would be easy to locate documents related to risk assessment.**

((53)) NPB must improve the quality of hearing tapes. Digital recording must be implemented as a standard practice. Transcripts of past hearings may be useful when NPB Members are preparing for subsequent hearings, or to verify information provided at hearings, and these should be prepared when required. The current hearing tapes are not useful in this regard.

((54)) The Prairie Region of NPB should review the scheduling of hearings and case preparation time for NPB Members. National Parole Board has a resource formula which provides guidelines for the number of hearings per day, the amount of preparation time provided, and takes into consideration the amount of time required for travel to institutions. The formula has been revised in the last year and additional resources obtained to address the very heavy workloads for NPB Members. Additionally, management in the Prairie Region should review the practice of assigning NPB Members for a full week of hearings at a time, including travel. The number of cases assigned for a decision without a hearing (“paper cases”) should also be reviewed as these are exceeding the standard workload expected of NPB Members.

((55)) NPB Members should be provided with increased risk assessment training specifically focussed on violent sex offenders. Such training should include emphasis on the need to review the entire case, not just recent developments, especially for long-term offenders, and must focus on the index offence and previous violations of conditional release. NPB policy should also reinforce that good institutional behaviour is not an indicator of success on release.

((56)) NPB should establish procedures for Critical Incident Stress Management and ensure the procedures are communicated, actively offered and accessed in the NPB as needed.

5) OTHER RECOMMENDATIONS

Inuit Offenders

((57)) CSC and NPB should expand training to staff and NPB Members related to Inuit culture and history, as distinct from First Nations.

((58)) CSC and NPB should develop an appropriate statistical risk assessment tool specifically for Inuit offenders.

((59)) CSC should continue development and implementation of the Kajusiniiq Action Plan in consultation with NPB and conduct a study on Inuit offenders including examination of the following areas:

- **The need for a special institution for Inuit offenders;**
- **Strategies for reintegration with their community;**
- **Most effective treatment approaches.**

Recommendations and Analysis Regarding Information Gathering by the CSC

((60)) The BOI recommends that SOP 700-02 be amended to clearly extend the CSC requirement to obtain any psychiatric, psychological, or other assessments filed with a court pre-trial.

((61)) The BOI recommends that the necessary policies and practices be put in place in order to ensure that requests by CSC officials for an offender's consent to release hospital records, that are considered to be important for the administration of his sentence, be continued throughout his sentence. Any refusal by the offender to release relevant information should be clearly noted in any risk assessment and at program termination, and the significance of the fact that such information is unavailable should be addressed.

((62)) The BOI recommends that SOP 700-02 be amended to make it clear that trial transcripts may be obtain in cases where they are considered essential for the administration of the sentence, in addition to those cases where they are required pursuant to section 10(c)(iii).

((63)) Constant education is required for the police, judges, and Crown Attorneys about the importance of providing all relevant information about offenders and offences to the CSC. The CSC and the NPB should be actively involved in educational programs for these officials, at all levels, and including at continuing-education conferences, and new member orientation courses. Cases such as ULAYUK's could be used to illustrate the point.

((64)) Protocols should be formalized between the CSC/NPB and the police and prosecuting authorities. This should be done at all levels, including at the Federal, Provincial, and Territorial ministerial level, as well as the regional and local levels.

((65)) Specific action should be taken by the CSC in cases where Section 743.2 of the Criminal Code has not been complied with. Such action could include the following:

- **Communicating with the individual judges concerned and requesting the information;**
- **Bringing problems of non-compliance to the attention of Senior, Regional, or Chief Judges;**
- **Bringing applications in Superior Courts to compel compliance with Section 743.2 of the Criminal Code;**
- **Submitting complaints to regulating bodies.**

((66)) The CSC/NPB should request Federal, Provincial, and Territorial legislators to consider appropriate new laws, similar to section 743.2 of the Criminal Code, that would also require police and prosecutors to provide CSC with information relevant to administering sentences.

((67)) The CSC/NPB should bring to the attention of the Minister of Justice of Canada the findings and recommendations of this BOI that deal with information sharing.

((68)) CSC should examine the practices of all intake units to determine whether the type of information, as was identified by the BOI, to be missing in ULAYUK's case, would currently be obtained for new homicide and sexual offence cases entering the system.

((69)) CSC should take steps to ensure that the type of information, as was identified by the BOI, to be missing in ULAYUK's case, is obtained retroactively for homicide and sexual offence cases currently in the system.

Future Boards of Investigation

((70)) CSC and NPB should improve the Board of Investigation process by:

- **Ensuring staff and NPB Members are thoroughly prepared for interviews and recognize the importance of the process;**
- **Providing notice in advance to staff and NPB Members about the areas to be explored by the BOI;**
- **Providing timely access to the case file;**
- **Providing explanations and clarification of the process and intent of S.13 notices;**

- **More widely distributing recommendations and summaries of BOI reports throughout CSC and NPB to be used as a learning tool;**
- **Providing appropriate ongoing administrative support to the BOI.**

Monitoring and implementation of recommendations

((71)) The BOI recommends that after 12 month from receiving this report, an independent body or person be appointed to review the extent to which the recommendations set out in this report have been implemented by the CSC and the NPB.

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PRIVATE & CONFIDENTIAL

March 20, 2005

Mr. Andrejs Berzins
Chair, Board of Investigation
Incident Investigations Branch
Correctional Service of Canada
5th Floor
340 Laurier Avenue West
Ottawa, Ontario
K1A 0P9

Dear Mr. Berzins:

Re: Investigation into the Release and Supervision of An Offender on Full Parole Charged With First Degree Murder Of a Parole Officer on October 7, 2004 in Yellowknife, Northwest Territories

In accordance with my terms of reference, and within my area of expertise, this is my report with respect to the above.

I was asked to examine all the relevant information pertaining to the offender which is contained in the Correctional Service Canada (CSC) and National Parole Board (NPB) files, Centre for Addiction and Mental Health files (specifically from the Clarke Institute from September 11, 1989 to November 18, 1989), court transcripts and assessments, police reports, and other relevant materials provided by the Board of Investigation. I also discussed various matters pertaining to the Board's inquiries with you at various points and had telephone discussions with Dr. Ralph Serin who is also a consultant to the Board of Investigation.

It should be noted that I was deliberately not provided with any information concerning the offender's recent alleged offence.

TERMS OF REFERENCE

To offer my opinion, within my area of expertise, on the following issues:

- The assessment and treatment of this offender received while under CSC's jurisdiction;
- Any issues relating to the quality of information made available to the National Parole Board regarding the risk the offender presented;
- On the suitability, application, and interpretation of the risk assessment tools used to evaluate the offender;
- What other approaches, if any, would have been appropriate in dealing with this offender;
- Any recommendations I may have stemming from my review.

The Index Offense - August 11, 1988

The offender was aged 20 at the time and had been friends with the victim, a 23-year-old woman, for a number of years. He had been drinking home brewed liquor during the evening of the homicide. In the early morning hours he went to the home of the victim and watched TV with her. He got the idea to have sex with her after he had killed her, an idea that he had previously. He stabbed the woman seven times and then strangled her with a cord and dragged her body to a nearby shed.

The accused gave evidence at his trial that it was his intention to have sex with her in the shed but did not do so. He contemplated suicide before confessing the crime to his brother.

At the trial a Psychologist, Dr. **LONG**, and Psychiatrist, Dr. **ARNDT**, gave evidence for the defense. The psychologist gave a diagnosis of borderline personality. The psychiatrist agreed with that diagnosis and added the possibility that the accused also suffered from temporal lobe epilepsy.

A psychiatrist testifying for the prosecution, Dr. **GLANCY**, gave a diagnosis of necrophilia based on the accused own report that he had experienced sexually arousing fantasies of having sex with a dead person and did not find sufficient evidence to justify a diagnosis of borderline personality.

The accused was found guilty of Second-Degree Murder at his first trial in 1990. On appeal his conviction was set aside and a new trial was ordered. In 1992 he pleaded guilty to the reduced charge of Manslaughter and a Life sentence was imposed with parole eligibility set at seven years.

Information Obtained Following Conviction & Sentence

There was a great deal of information available about the offender at the time of his incarceration in 1990.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A Community Assessment dated 1993-10-06 makes it clear that some critical information was available to CSC staff at that time in the form of court documents, including the offender's own evidence at his trial. This, together with "psychiatric information" and the nature of the offense itself, seem to have alerted the Salvation Army CRC in Yellowknife that they were not equipped to deal with the offender

[REDACTED]

[REDACTED] Also noteworthy in this assessment is the quotation from the sentencing judge that in his experience "very few cases over the last thirty years I could remember to have been potentially as dangerous..." The report ends with the remark that the case requires "extensive psychiatric assessment and treatment" and notes that the "serious concerns that were

expressed at his trial continue to exist and have not been remotely addressed by the subject.”

The Criminal Profile completed in 1992 does not mention sexual deviation under criminogenic factors but does mention the offender’s substance abuse and impulse control problems and his limited command of English. It states that court transcripts were currently unavailable (in apparent contradiction of the Community Assessments noted above) and refers to a psychological assessment being requested.

The Progress Summary 1993-09-28 indicates [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] the
psychiatrist’s opinion that is it very likely that he will commit another violent offence.
[REDACTED]
[REDACTED] An attempt was made to
obtain reports from this psychiatrist, [REDACTED]
[REDACTED]
[REDACTED] However, the above remarks were clearly documented on his CSC file.

The Progress Summary of 1993-09-28 remarks on the offender’s inability to see himself as a sex offender and at that time his refusal to attend [REDACTED] for the program there. The report ends by pointing out that, among other things *“in-depth treatment for his sexual deviancy is viewed to be an absolute necessity.”*

The Progress Summary of October 1993 notes that the offender [REDACTED]
[REDACTED] had now converted to Christianity. This document refers to Dr.

GLANCY's opinion given at trial regarding a diagnosis of necrophilia, the opinion of institutional Psychologist D. **HUNTER** that the offender needed treatment at [REDACTED]. He was considered to be a high risk to re-offend. [REDACTED]

The National Parole Board observed in November that year, based on Mr. **HUNTER**'s report that the motivation of the offender's offense appeared sexual, he appeared to have no understanding of his offense, and his risk of re-offense remained high. He is referred to as "a dangerous untreated sex offender. Killed his victim to have sex with her but didn't, so he claims not to be a sex offender."

Psychologist Dr. **COUTURE** saw him on 1995-03-17 and recommended sex offender treatment [REDACTED]

The 1995 Admission to [REDACTED]

The offender was eventually admitted to the [REDACTED] Unit, [REDACTED] on 1995-06-15.

The Program description dated 1995-03-21 outlines a multi-modular treatment approach consisting of approximately 20 hours of group therapy as well as individual contacts provided by a staff of 12.5 nurses, 1 social worker, 1 psychologist and 1 psychiatrist. The orientation is described at the beginning of the outline as "psycho-social" and later as having a "cognitive-behavioural" theoretical basis.

[REDACTED]

As far as the written records indicate, there was no multidisciplinary case conference to discuss either the diagnosis or the treatment plan after the period of initial assessment or at the end of the patient's time on [REDACTED] Unit.

In Clinical Progress notes at [REDACTED] it is mentioned by Psychologist Kelly **CHESSIE** that the offender "began to disclose about past assessment with Clarke Institute" suggesting perhaps that this was unknown to [REDACTED] staff hitherto. However, no action seems to have been taken to obtain the records.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Unit Psychologist Dr [REDACTED] saw the offender during the admission. His report dated 1995-07-26 indicates that it was based on a file review and interviews with subject. The program description clearly indicates that the mandatory assessment for all patients included penile plethysmography and psychological testing (including administration of the PCL-R – the Psychopathy Checklist-Revised) as well as

extensive interviewing. However, there is no mention that sexual preference testing was conducted on the offender or that the PCL-R was administered.

Dr. [REDACTED] in his report, discounted the previously made diagnosis of necrophilia, apparently on the basis that the offender had not shown evidence of it during the assessment – “no indication that necrophilia is an ongoing sexual interest in this case.” However, it is difficult to see how this opinion could have been so categorical in the absence of a careful examination of the material on which the diagnosis was originally based, particularly considering the strong comments already made in the files and noted above. [REDACTED]
[REDACTED]

In his verbal testimony before the Board of Inquiry Dr. [REDACTED] indicated that he did not see this case as more unusual than any other murder as he “saw no ongoing pattern”. Though he had recommended that “sexual behaviour should be explored” during the offender’s stay at [REDACTED] and although he was part of the treatment team he could not indicate how this was done. Moreover, as already noted, he was identified in the Final Discharge Summary as the Unit Psychologist throughout the period the offender was in the program and would therefore have been expected to have been involved in the provision of key components of it, or to have supervised others in doing so. Given that he was the “contact person” for referrals, and his opinion was clearly deferred to by other psychologists subsequently, one also has the clear impression that he had the role of overseeing the program as well.

Dr. [REDACTED] was the Staff Psychiatrist on the [REDACTED] Unit at the time. It appears he saw the offender only once. Based on the lack of comprehensiveness in the documented history it can only be assumed that he spent little time with him. The personal history is very limited. There was no attempt to deal with sexual history in the kind of detail that one would expect in a forensic psychiatric assessment and, in particular, one involving a crime such as this. It records an absence of psychiatric history

when the available CSC records indicated that the offender had spent several months in Toronto at the Clarke Institute and other pre-trial psychiatric assessments had been conducted as well. This suggests that no attempt was made to review any available collateral materials and this assessment consisted essentially of an assessment of the offender's current mental status. The psychiatrist moreover took at face value the offender's statements about the offense.

In his verbal comments to the Board of Inquiry Dr. [REDACTED] stated that he did not remember the offender and could only go by his written report. He indicated he likely only saw him once, at the time of discharge. He indicated that phallometric testing was the purview of psychology staff and he saw no reason for neurological testing (had he reviewed the pretrial reports or court documents he would have been aware of the disputed diagnosis of temporal lobe epilepsy. In fact, a full neuro-psychiatric investigation had already been carried out at the Clarke Institute, including neurological consultation, EEGs and CT scan, again, had the psychiatrist obtained the records). He could not explain why reports were not obtained from the Clarke Institute. He indicated there was no evidence of necrophilia or sadism during the [REDACTED] program though what such evidence might have consisted or why he would have expected it to be manifest under those circumstances is not explained. [REDACTED]

[REDACTED] Though he correctly stated that the official criteria for the diagnosis of necrophilia were subtly different in 1995 to those currently accepted, the circumstances of the homicide themselves should have alerted a forensic psychiatrist, as they did to Dr. [REDACTED] that there was likely serious underlying sexual pathology in the offender.

Dr. [REDACTED] provided a report for the use of the National Parole Board. In the report itself it is stated that it is based on several interviews with the offender during his stay at [REDACTED] during 1995. However, during his interview with the Board of Investigation Dr. [REDACTED] indicated he conducted only one interview at the beginning of his stay and was not involved further. This would be the usual strategy for those

employed to conduct risk assessments for the use of the National Parole Board. He appears to have read the sentencing transcript and reviewed other file materials. The content of his report indicates that he conducted a comprehensive forensic psychiatric interview. Dr. [REDACTED] notes in his concluding comments on the case that “the extent of any psychosexual pathology is unclear however given the nature of the offense this should be fully explored”. He elaborated to the Board of Investigation that he felt the offender was not forthcoming and that the program might further elucidate this aspect.

[REDACTED]

[REDACTED] He records that the offender underwent a pre-trial psychiatric assessment at the former Clarke Institute, noting the diagnosis of necrophilia, but did not state explicitly that the records should be obtained nor did he himself get the patient to sign a release. He told the Board of Investigation he did not know why they were not obtained. Given his recommendation for an intensive program and that risk assessment be deferred until this had been completed it is reasonable to conclude that he felt this would be undertaken during that program.

Given that necrophilia is a rarity it is surprising that the offender’s case appears to have generated so little curiosity in a professional group purportedly specializing in and supposedly having expertise in sexual disorders. The failure to obtain previous test materials and the records from an in-depth prior assessment at a facility with a reputation in the area of research and treatment of sex offenders is hard to understand. Moreover, the nature of the index offense itself should have implied more [REDACTED]

[REDACTED] This naïve explanation suggests a lack of understanding of the dynamics of more typical homicides, let alone those with underlying sexual psychopathology.

Documents prepared before the offender’s trial including reports by Drs. **LONG** and **ARNDT** and the report of Dr. **GLANCY** based on the inpatient assessment completed at the former Clarke Institute were not obtained by anyone in CSC. This is

particularly of concern [REDACTED]
[REDACTED]

[REDACTED] As such a request for medical records from other hospitals where a patient has received care would be the accepted practice to ascertain the previous diagnosis and treatment, etc.

The offender was an inpatient at the Clarke Institute from 1989-09-11 to 1989-11-20. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NOTE: Necrophilia, simply a sexual attraction to corpses, may in some cases be a manifestation of sadism in which the individual is preferentially sexually aroused by inflicting pain, suffering or humiliation on others. Such cases have sometimes been referred to as examples of “necro-sadism” in which the person with which the offender seeks *post-mortem* sexual contact is killed.

Had the Clarke records been obtained, staff at [REDACTED] might (one would hope) have paused to reconsider their dismissal of a diagnosis of a sexual deviation.

November 1995 and June 1999

[REDACTED]

[REDACTED]

The Progress Summary for May 1998 mentions an incident at [REDACTED] Institution [REDACTED] [REDACTED] was hence returned to [REDACTED]

Ms. Llana **PHILLIPS**' psychological report dated June 1997 is contains information that is of grave concern. [REDACTED]

[REDACTED]

The above information was incorporated into the risk assessment conducted by Psychologist E. **OLADELE** in 1998-06-03. Not only does this report show evidence of the writer's having reviewed Ms. **PHILLIPS**' documented concerns, he also appears to have discussed them with the offender. The report also shows that he reviewed the sentencing transcript in which the psychological and psychiatric opinions that were offered at trial are discussed.

While Mr. **OLADELE** might have used other risk assessment instruments that are more widely used in Canadian forensic and correctional work, such as the PCL-R, VRAG and STATIC-99, his incorporation of current clinical concerns into his overall assessment was clearly appropriate. Also the recommendation that the inmate be encouraged to deal further with his deviant sexual fantasies, stress and anger control problems therapeutically was entirely relevant and appropriate to the case.

The risk assessment of [REDACTED] Ph.D. August 1999 on the other hand incorporates most of the risk assessment instruments currently widely employed by forensic and correctional professionals. However, the report shows no evidence that the files had in fact been very carefully perused as essential clinical information was glossed over and not incorporated into the opinion. Thus it is incorrect that the offender's institutional records are "generally positive" prior to this time, particularly if relevant potential risk factors are considered. While the **OLADELE** report is mentioned there is no acknowledgement of the importance of information contained in it or of reports from Llana **PHILLIPS** [REDACTED]. Despite these vital pieces of clinical information Dr. [REDACTED] report seems to take the assessment from [REDACTED] and in particular the earlier psychological report by Dr. [REDACTED] as the final word that sexual deviancy was not an issue in the case.

In his verbal testimony before the Board of Investigation he conceded his lack of experience with sex offenders and that he deferred to Dr. [REDACTED] as the expert in that area. He was unable to explain his failure to take into account the information from Ms. **PHILLIPS** or Mr. **OLADELE**.

Dr. [REDACTED] report also mentions that prior to his sentencing on the index offense the offender was "diagnosed with Borderline Personality Disorder by Dr. **LONG**" though whether he had read Dr. **LONG**'s report in its entirety or simply a reference to his diagnosis in some other document is not explicit.

The 1999 Admission to [REDACTED]

In June 1999 the offender was referred for a 30 day admission to the [REDACTED] [REDACTED] by the Warden of [REDACTED] Institution for “an in depth psychiatric as well as psychological assessment” [REDACTED]

[REDACTED] The Warden made explicit the concerns that needed to be addressed in the assessment, namely, “1. assessment of risk – is his public safety still considered low? 2. Is he in his crime cycle again? 3. Has he ‘internalized’ the programs he has taken? 4. Are his thought processes appropriate? 5. Is there a deviant thought process?”

Psychiatrist Dr. [REDACTED] saw the offender on [REDACTED] Unit at [REDACTED] in October 1999. The written document suggests a perfunctory history was taken. This would certainly not constitute the in-depth psychiatric assessment that the referring source had in mind. There is no review of the offender’s sexual history in particular, which would be indicated given the nature of the index offense. There is no review of any risk issues or concerns that had arisen during incarceration, including those that had precipitated the admission at that time. There is no mention of the patient’s past history of admission and treatment at the Clarke Institute during his remand there in 1989. [REDACTED]

In his verbal testimony before the Board of Investigation Dr. [REDACTED] indicated that he was only assessing the offender for the presence of current mental illness and not conducting a risk assessment. There is no detailed discussion in his report of what the offender’s having “successfully completed his program on [REDACTED] Unit” meant. In his testimony to the Board of Investigation Dr. [REDACTED] stated he did not know in fact what programs the offender participated in while at [REDACTED]

The Final Report by Program Officer, [REDACTED] RPN, from [REDACTED] Unit Individualized Care Program at [REDACTED] is dated August 1999. [REDACTED]

[REDACTED] Reference was made to the psychological report by Dr. [REDACTED] that “there was nothing that would raise significant concern about placing **Eli** in a minimum secure environment.”

[REDACTED]

However, his behaviour while he was at [REDACTED] was not entirely stable as one finds, on reviewing the notes from that admission to [REDACTED] Unit, reference on 1999-07-21

[REDACTED]

As far as the written record indicates, once again there is no evidence that there was a multi-disciplinary case conference to discuss the offender before he was discharged and the final report written.

Day Parole 2000 – Parole Revocation 2001

The Criminal Profile updated on 2000-02-09 is essentially identical to that done in 1992 and includes the statement that court transcripts were not available. This suggests that the profile was not revised. It certainly does not read as if any of the significant

information gathered over the intervening eighteen years had been incorporated into this document, other than to correct the date of the offender's appeal.

On 2000-06-21 the offender was granted Day Parole to Yellowknife. The National Parole Board had perhaps been re-assured by the most recent report from [REDACTED] as the decision indicates that he has been assessed as being low risk to re-offend sexually and had completed the [REDACTED] Sex offender Program [REDACTED]

[REDACTED] Clearly the National Parole Board did not have available any of the material referred to above.

The offender refused to attend the Sex Offender Maintenance Program and Substance Abuse Program as required for his correctional plan. He accepted individual counselling however and later attended the Substance Abuse Program. [REDACTED]

[REDACTED] His Psychologist, Bruce **SMITH**, however, was under the impression that those with the expertise to evaluate the matter had felt that the issue of necrophilia and sexual deviation were no longer a concern and focused his treatment on impulse control and substance abuse.

In contrast to this, his Correctional Plan Progress Report of May 1 2000 noted that "the violent nature of the index offense [REDACTED] presupposes the existence of serious emotional problems." It added however that the "various psychological reports on file fail to provide a consistent characterization of the offender's emotional make up." Despite stable institutional behaviour "for the most part" [REDACTED] caused concern causing the report's author to suggest that "this case will require close monitoring well into the proposed period of release." [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

He was suspended again on 2001-06-11 following two incidents involving his girlfriend. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (It should be noted that the parole supervisor and author of the Assessment for Decision was later to become his second murder victim.) As a result of this recommendation his parole was revoked.

The Psychological Assessment Report of Bruce **SMITH** May 2001 written three weeks before suspension, indicates the offender's frustration with his parole supervisors but otherwise his good motivation. [REDACTED]
[REDACTED]
[REDACTED]

From 2001 Day Parole Revocation to Day Parole Granted 2003

The offender was placed at [REDACTED] Institution where, despite the documentation referred to above, the sexual nature of the offense appears not to have been recognized and there is no specific program for sex offenders.

[REDACTED] Ph.D. whose report of February 2002 considers risk in relation to community release assessed him. Formal and appropriate risk assessment instruments were used, although none were specifically designed to assess risk of re-offense in sex offenders. An assistant also administered other psychological tests. [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] However, the report claims that “file information does not identify a persistent history of unusual or deviant sexual experiences or behaviours (other than his index offense)” and refers to the assessment at [REDACTED] as having not identified “pattern of sexual deviance or fantasy.” There is awareness of the diagnosis of necrophilia having been made at trial but no reference to anyone having obtained the many reports referred to. There is no mention of the alarming reports from Ms. Llana **PHILLIPS** contacts or Mr. **OLEDALE**’s report.

The Board of Investigation interviewed Dr. [REDACTED] on two occasions and he indicated he was probably aware of Ms. **PHILLIPS**’ report but could not explain why he did not refer to it. It appears that for some reason he dismissed the contents of Mr. **OLADELE**’s report out of hand.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The offender was granted Day Parole again to Yellowknife on 2003-04-07. Dr. [REDACTED] assessment that he was in the low range of future risk for violence was accepted with no reference to any other considerations.

Day Parole 2003-2004

The Assessment for Decision of August 2003 noted that in May 2003 there were problems with him [REDACTED]

[REDACTED]

and was counseled about it by his Case Management Team. [REDACTED]

[REDACTED]
[REDACTED] He had difficulty understanding the inappropriateness of this behaviour and how he had increased his risk.

Reports from Psychologist Mr. SMITH in February 2004 indicate that the offender was in the Maintenance Component of National Sex Offender Treatment (SOMP). [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The National Parole Board granted the offender Full Parole [REDACTED]
[REDACTED]

Full Parole 2004

The offender was required to continue with the Sex Offender Maintenance Program with his psychologist and to attend Alcoholics Anonymous meetings.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Otherwise he appeared to be functioning well, [REDACTED]

[REDACTED]
[REDACTED]

On 2004-10-14 his Full Parole was revoked due to his murder of his parole officer.

CONCLUSIONS

Upon arrival in the penitentiary system it was clear that the offender had serious problems and these were well recognized by CSC personnel. The National Parole Board was also very much aware of the offender's serious potential for future violence. The recommendation for a thorough mental health assessment at the [REDACTED] [REDACTED] was an obvious one. Unfortunately the result of the assessment and treatment was far from what would have reasonably been expected.

The psychiatric assessment provided for the National Parole Board by Dr. [REDACTED] was based on a reasonably comprehensive interview and file review. It dealt with relevant issues and deferred to further assessment in a formal sex offender program where he believed some of the issues that he felt were still unclear would be clarified.

Apparently nursing staff primarily ran the [REDACTED] Program with little involvement from the other professional staff, especially the psychiatrist and psychologist, despite the official program description.

Dr. [REDACTED] interview, based on his written record of it, must be considered inadequate considering the serious offense with which the offender was charged and lack of questioning on relevant aspects such as a comprehensive sexual history. It appears the interview occurred at the end of the offender's stay when the assessment was largely irrelevant to the process in any case.

Dr. [REDACTED] the Unit Psychologist's, assessment must be considered particularly deficient. While aware that previous assessors had made a diagnosis of a serious and rare sexual anomaly there was no clear reason given for discounting either that diagnosis or the broader category of sexual deviation, without considering the background information. There was no laboratory testing of sexual preference or other testing carried out that is outlined in the official program description as part of the expected assessment. This opinion subsequently left many with the impression that the issue of sexual deviation had been laid to rest by "the experts".

Records of the nursing interventions are scanty but at least refer to a program aimed at identifying the offender's crime cycle and a relapse prevention strategy and this was appropriate. [REDACTED]
[REDACTED]

This statement, like that of the psychologist discounting the presence of any sexual deviation, influenced subsequent decision-makers to an extraordinary degree thereafter.

The failure to request the trial transcripts and records of previous mental health assessments contributed to the lack of full understanding of the case. With the patient's consent, it is standard clinical practice to request records from a facility where the patient has previously received care.

Subsequent to the 1995 assessment revelations by the offender to the Psychologist, Ms. **PHILLIPS**, should have justified a re-referral to [REDACTED] and a full re-assessment of the problem. In fact, it seems little was done with Ms. **PHILLIPS** alarming report which was minimized or ignored repeatedly by most professional assessors thereafter. Even when the offender was re-admitted to [REDACTED] in 1999 with very specific questions from the referring institution, and with a clear history and pattern of similar behaviour in the records, [REDACTED] staff failed to discern the significance.

Again, the psychiatric assessment, this time by Dr. [REDACTED] was extremely superficial. The psychological assessment by Dr. [REDACTED] while incorporating standard risk assessment instruments ignored critical clinical information contained in reports by Ms. **PHILLIPS** and Mr. **OLADELE** and leaned instead on the earlier and inadequate [REDACTED] [REDACTED] psychological assessment as having excluded the presence of sexual deviance. The current case is a clear example of how an inflexible adherence to actuarial measures at the expense of obvious clinical information can lead to an incorrect risk assessment.

Later psychological assessment by Dr. [REDACTED] also used standardized actuarial risk assessment instruments but none specifically designed to assess future risk in sex offenders. Once again he completely ignored critical information contained in reports by Ms. **PHILLIPS** and Mr. **OLADELE** dismissing the latter's report without due consideration.

There was clearly a lack of adequate awareness of risk factors and failure to perceive a pattern that was already well documented. In some cases it appears that undue reliance was placed on a single earlier report that was given undue weight because of perceived, but undeserved, status. In others the information was not sought or it was for some reason ignored. Moreover, there was information that should have been available from the beginning of the offender's sentence that would likely have altered the perception of the case from the outset. In some cases it seems that the assessor lacked experience with serious sex offenders to be able to offer an opinion sufficiently expert for the Board's purposes. In other cases it may be that the assessors had insufficient time to peruse the file material with as much care as was required.

RECOMMENDATIONS

1. *Psychiatric and psychological reports submitted at an offender's trial, together with a transcript of the sentencing judge's comments, should be available on the offender's CSC file;*
2. *When an inmate is admitted to [REDACTED] every attempt should be made to obtain any previous psychiatric records;*
3. *External/internal reviews or audits should be conducted periodically to ensure that the programs described in official program descriptions at the [REDACTED] are in fact being provided as described and in accordance with contemporary professional standards;*
4. *The [REDACTED] Unit program specifically should be subject to an immediate external/internal review;*
5. *The training and credentials of risk assessors employed by CSC need to be reviewed to ensure that they have sufficient experience with the types of offenders (in particular, sex offenders) they are invited to evaluate;*
6. *Risk assessors should be provided with all CSC files when preparing their assessments and sufficient time (and associated and appropriate funding) must be provided to ensure that these files are adequately reviewed.*
7. *The roles and functions, training and experience of psychiatrists associated with sex offender programs offered by CSC should be re-evaluated, using appropriately experienced external consultants if necessary*

8. *Training should be provided by the Correctional Service of Canada and the National Parole Board to ensure that its staff/members are fully familiar with the range of sexual psychopathology that may be manifest in criminal offences.*

Yours sincerely,

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K1A 0P9

Dear Mr. Berzins:

Re: Responses from [REDACTED]

Thank you for your email of 23rd. April and the attached responses from the above professionals in response to extracts from my report in connection with your Board of Inquiry into the **ULAYUK** matter. There are only a few points that I feel the need to make any further comment on by way of this addendum and they are as follows.

I appreciate that [REDACTED] role was in reality probably quite circumscribed despite his identification as part of the treatment team. However, I would also say that, as the content makes clear, he does more than write a discharge summary; he makes recommendations for **ULAYUK**'s release etc. I think therefore that my earlier points are therefore still valid. However, I should point out that I did not attribute any specific or individual responsibility to [REDACTED] for failing to obtain previous records or for the issues itemized #s 3-6 in his response.

[REDACTED] correctly points out that phallometric testing is not infallible (indeed it is quite controversial and cannot of course be forced on an inmate). However, he later added that in fact the procedure was carried out. He also remarks that the PCL-R is "not a valid predictor of sexual recidivism". This is rather misleading, as pages 154-157 of the technical manual to the 2nd edition of the PCL-R makes clear. However, as **ULAYUK** has subsequently been given non-psychopathic scores in any case the matter is not worth debating here but the issue was raised initially because the programme description at the time indicated that the instrument was administered as part of its comprehensive assessment package. While I agree that there are inter-rater reliability problems with the diagnosis of paraphilias I do not see how this fact is really relevant here.

[REDACTED]

I do not doubt at all that [REDACTED] like all of us who conduct risk assessments, took his work seriously. I know from personal experience that the task of reviewing the

sometimes voluminous CSC files is typically daunting, sometimes overwhelming – I’ve often been there, so I know. All I have to go by in this case is what I read in the file. Thus, given the importance of the information contained in the reports by Ms. Phillips and Mr. Oledale, I still find it extraordinary that [REDACTED] did not mention them explicitly in his report. I do not feel it is being unfair to mention this.

[REDACTED] mentions in support of his position that others reported that **ULAYUK** showed no abnormal sexual fantasies. However, as alluded to above, such reports need to be viewed skeptically given that sexually deviant individuals are very prone to conceal such fantasies.

[REDACTED] ultimately falls back on the position that empirical research has largely supported the use of statistical or actuarial instruments for assessing risk. I do not dispute this; I use them myself extensively. Clinical factors do however influence our management of risk.

[REDACTED]

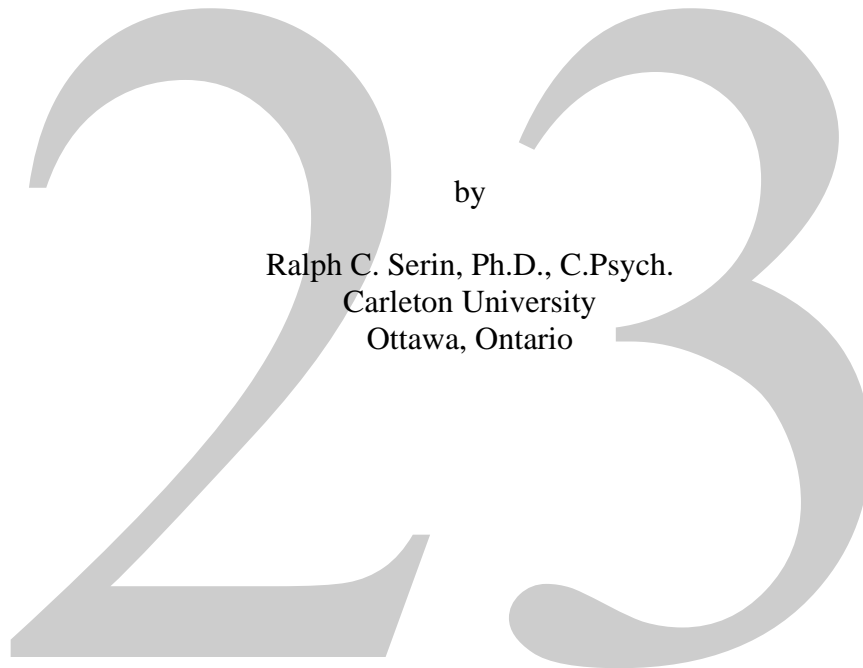
[REDACTED]

Obviously, the second homicide by this inmate has caused a great deal of soul-searching by all who have had professional contact with him in the past. My observations have been intended to assist all of us who work with offenders and conduct risk assessments to minimize the occurrence of such tragedies. As [REDACTED] articulated, this is “always a fear” as risk assessment, despite the technical advances, remains an imprecise activity.

Yours sincerely

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**Report to the Board of Investigation
(ULAYUK)**



by

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Carleton University
Ottawa, Ontario

Prepared under contract, February 28, 2005.

**Report to the Board of Investigation
(ULAYUK)**

Executive Summary

Issues

At times of serious community failures, particularly when new violent crimes are committed by offenders who were granted discretionary release, numerous considerations arise but perhaps could be summarized by two important objectives.

1. First is the question of foreseeability. That is, should the incident (or deterioration leading up to the incident) have been foreseeable from the available information?
2. Second, are there recommendations regarding changes to existing procedures that might have likely altered the sequence of events and outcome?

Context

Consistent with these objectives, from my perspective, based on discussions with the BOI and a review of the considerable file materials (trial information and pre-trial psychiatric assessments; case management reports; program reports; psychiatric and psychological reports; medical reports from the [REDACTED] and National Parole Board decisions) some key information was not given appropriate weight and there are lessons to be learned. It is clear this is a complex and tragic case, but overall I believe the majority of staff diligently performed their duties, albeit at times with apparent naiveté. Often, however, there was insufficient integration of details and this appears to have obfuscated important analysis of the case that should have resulted in different conclusions and alternative or enhanced strategies regarding risk assessment and management.

Conclusions

1. While the exact outcome was not necessarily foreseeable, there were numerous critical pieces of information that with greater weight would have suggested the case should have been managed differently. Notably, although certain pre-sentence reports and specialized assessments were not available, in my opinion the requisite information was available.
2. Specifically, I do not believe this case ended as it did because crucial information was missing (i.e., phallometric data, results from a different risk scale).
3. Finally, clear lessons can be learned regarding psychological standards of practice regarding risk assessments and programming, CSC and NPB's dealing with discordant information, and community supervision of long-term offenders.

1. Materials considered in preparation for completion of my report.

The following reports were provided for my review:

- trial information
- pre-trial psychiatric assessments
- case management reports
- program reports
- psychiatric and psychological reports
- medical reports from the Regional Psychiatric Centre
- National Parole Board decisions

In addition, the BOI provided with very helpful summary information. They compiled a chronology of events and decisions which cogently and concisely describes the case (such a chronology should be considered as a recommended practice to assist staff and decision-makers in sorting through very thick files and volumes of information). Finally, they provided an overview of interviews they completed with several of the psychologists and psychiatrists who completed reports on **ULAYUK**.

Further, I conducted literature searches on topics such as sexual sadism, long-term offenders, risk assessment, and sex offenders to ensure I was familiar with relevant published research. I also reviewed manuals for several of the risk assessment scales reported in the reports on file.

2. Psychological assessments

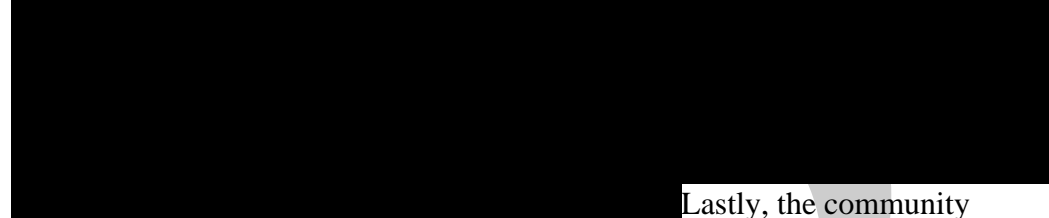
a. Range (assessment, treatment, supervision)

There are a plethora of psychological assessments and reports on file, sometimes yielding discrepant opinions. While it appears that all reports were weighted equally there are important exceptions that had an important impact on the sequence of events and the management of this case. For instance the post-treatment report from [REDACTED] markedly shifted the direction of the case and was often cited as evidence that **ULAYUK** had addressed any concerns regarding sexual deviance. In contrast, the report by Llana **PHILLIPS** [REDACTED] This raises an interesting question if equal weighting should be the preferred practice. That is, should a report from a brief counselling session have equal weight to that from a 4 month intensive treatment program? I believe the ruling principle should be to always accept the conservative opinion and when discordant, address the issues it raises. In this specific case, the report by **PHILLIPS** required staff to satisfactorily address why sexual sadism and/or necrophilia (regardless of whether these terms reflect diagnostic criteria or just describe behavioural predilections)

was not a concern. Conclusions regarding **ULAYUK** not being a concern in these areas warranted evidence beyond clinical opinion, particularly given the repeated history of the inmate's problematic interactions with women throughout his incarceration and community supervision. This is essentially a risk aversion strategy and I believe it is defensible in a correctional context.

b. Content

From my review of the reports the content was appropriate. That is, risk assessment reports focused on criminogenic needs and antecedents. Psychologists used structured risk assessment approaches (risk assessment instruments such as the Static 99 and Level of Service Inventory; and structured professional judgments such as the Violence Risk Scale and the HCR-20). Further, they identified risk situations, i.e., substance use, that would increase potential for failure. Treatment reports typically commented on progress within the program, although specific indices of gain were absent but this applies to most correctional programs and is an area that warrants attention. Reports from individual counselling sessions were more varied, highlighting **ULAYUK**'s response to specific situations, mainly relating to anger issues.



Lastly, the community psychological reports described **ULAYUK**'s sessions particularly in terms of coping and anger control but at times seemed disconnected with the evidence he was a sex offender.

c. Use of scales

Recent evidence regarding the superiority of statistical instruments in predicting offender recidivism warrants their inclusion where appropriate norms are available. The enterprise of risk assessment is more than the completion of a numerical scale and has led to structured assessment protocols such as the HCR-20. Nonetheless, unique cases such as **ULAYUK** highlight and remind us that statistical scales and structured protocols inform us about risk assessment but they are not substitutes for risk appraisals. I know of no published risk scale that has demonstrated validity in predicting homicide, sexual sadism, or necrophilia. This means that the index offence is critical to the risk assessment and that the dynamics of the initial murder must be addressed as part of the risk assessment.

It is important to realize that the majority of risk scales are not self-report and therefore do not require the offender's active participation. Nonetheless, the majority do include file reviews and interviews. The extent to which file

information is incomplete and the offender does not speak English (although certainly translators can be used) may influence the accuracy of the final determination of risk. There are, however, published reports comparing the completion of certain risk scales (i.e., PCL-r) with and without interviews implying comparable scores.

From my review only 1 psychological assessment used a sex offender-specific risk scale, the Static 99 (in 1999). Ironically, the most prescient assessment utilized scales of dubious application (the Michigan Assaultiveness scale, the Violence Risk Prediction Scale and the General Statistical Information on Recidivism scale) due to questionable norms and /or the offender's ethnicity. Certainly, in the early stages of **ULAYUK**'s sentences there were few instruments available but the Violence Risk Appraisal Guide was published in 1993 and the Psychopathy Checklist in 1991. Both were used by psychologists later in the inmate's sentence when conducting risk assessments.

When the BOI reviewed with me the scoring of several scales they were concerned regarding reliability based on their understanding of the case. Indeed, considerable discussion occurred over certain items such as "insight" and "personality disorder". In the absence of having the benefit of a clinical interview and not knowing the specific information the psychologists considered, it would be problematic to start second-guessing initial ratings. What is clear is that the scoring of risk scales requires training, skillful application, and relevant information (corroborated and not only self-report) in order to meet the reliability estimates published in test manuals. With the proliferation of risk scales over the past 5 years CSC may need to re-visit the issue of specialized risk assessment training.

d. Case-specific issues

1) Scoring of scales

Without relying on file information to re-score several of the risk scales in **ULAYUK**'s case several issues warrant comment. Several reports describe the inmate as personality disordered (borderline or antisocial). This is an item on the HCR-20 and in some reports the offender was scored 0 meaning this did not apply. The argument was that **ULAYUK** was not presenting symptoms/behaviours of the disorder at that time. Nonetheless, the scoring manual is clear in that this is a lifetime diagnosis, not current symptomatology. Similarly, the Level of Service Inventory was completed approximately in 1998 and 2002 apart during which time **ULAYUK** remained incarcerated. A comparison of the two ratings yields markedly different scores. The LSI has 54 items scored 0 or 1. In 1998 **ULAYUK**'s total score was 22 (low/moderate risk group with an estimated failure rate of 31%) and in 2002 it was 7 (low risk group with an estimated failure rate of 12%). Some items on the LSI are dynamic, (i.e., changeable) and there is some latitude in terms of things like employment in the institution being considered.

Nonetheless, that there could be such a difference between raters under these circumstances is worrisome. Both these examples emphasize the issue of training and oversight. The latter could be peer-reviewed or hierarchical through a clinical supervisor. It is not my intention to encroach on professional standards, but these examples raise the need for an accountability model.

2) Failure to address uniqueness of scales

As noted earlier, some psychologists clearly searched for potential scales to augment their assessments. This is to be lauded but there needs to be some national integration of such activity. Otherwise psychologists are left to their own devices to seek out possible instruments, particularly for certain offender groups where the SIR-R1 does not apply. Furthermore, decision-makers are not social scientists and cannot be expected to be informed consumers of an increasing menu of risk instruments. Finally, the inclusion of multiple scales, may give the misleading impression of greater accuracy. This is because many of the risk scales are highly related and the use of multiples scales does not increase predictive accuracy. This is in contrast to assessments that use multiple methods (i.e., self-reports, file information, phallometrics, risk scales, community assessments, behavioural ratings) and which may increase accuracy. Such a process would be considered the ideal in conducting risk appraisals. Finally, it is unrealistic to expect there is a scale that can predict sexual homicides which means that if an offender scores low on a risk scale that fails to address the outcome of interest, this should not be interpreted to mean the offender is a good release candidate. Furthermore, as events unfold (i.e., [REDACTED] non-compliance with supervision requirements) they become more salient in risk assessment as they are more proximal than static predictors and case-specific.

3) Inappropriate weighting of certain information

As noted previously, this is a perplexing case with respect to the differential weighting of reports. While not an exhaustive listing, the following examples will illustrate my point. I mentioned two psychological reports earlier but there are other examples.

- Throughout **ULAYUK**'s sentence certain case management reports described the offender's behaviour [REDACTED] and his refusal to take sex offender program in the community were essentially met with acquiescence.
- He consistently was described as a good inmate and having good institutional behaviour, yet this is patently incorrect [REDACTED]

- Various staff never treated **ULAYUK** as a sex offender because that had been dealt with at [REDACTED] (as if it were not a long-term aftercare issue).
- [REDACTED]
- The offender's explanations were, more often than not, accepted at face value, [REDACTED]

4) Staff inexperience and naiveté

This is a very unusual case. Recognizing that I am not a sex offender treatment expert, yet in 30 years of correctional practice involving thousands of offenders I have never encountered such a case. It would seem the rarity of the case would have prompted staff to be particularly judicious in their management and decision-making.

Upon carefully reviewing information from the BOI it appears that many staff had only recently begun work in corrections when they involved with **ULAYUK**. This is a very unusual case, with important dynamics that repeated over time but the offender presented as disarming. One explanation for the manner in which certain information was not given due weighting is that of naiveté. This raises questions about initial training, mentoring, caseload allocation and the development and availability of subject matter experts for case consultation.

e. Systemic issues

In addition to some specific conclusions regarding this particular case (i.e., the foreseeability issue), there are systemic issues regarding procedures that warrant review.

i. Need for standardized assessment protocol

During the past decade efforts have been underway to provide direction and standardization in terms of psychological assessments. Forensic Psychology is a resource that was published by CSC. National risk assessment training occurred (3 days for most staff) in 1994. Most recently, Psychological Services has developed guidelines regarding assessments, although I have not seen them. These are important contributions and should apply to institutional and community psychological services. A standardized assessment protocol would ensure common areas would be systematically addressed. [REDACTED]

Equally, *all* psychologists would have

addressed the dynamics of the index offence *and* functional analyses would have [REDACTED] [REDACTED] illustrated these issues remained a concern despite his completion of numerous programs. While these would unlikely have elicited more candid information from **ULAYUK**, it would have reinforced a critical aspect of the case.

A standardized assessment protocol involves more than risk instrument selection. In this particular case psychologists were somewhat hampered given **ULAYUK**'s poor English early in his sentence and the absence of adequate norms for many risk scales, notably the CSC standard, the SIR-R1.

In addition to some discussion about scale selection, Psychological Services should consider the development of self-reference questions for psychologists to utilize in completing risk assessments. These would focus the assessment and ensure critical domains were considered. Further, report protocols have been suggested in the past and may be worth revisiting. Presently, when something is absent [REDACTED] [REDACTED] it is unclear if this means it is not an issue or was not considered. Again, self-reference questions may assist in this regard. Examples of such questions include: 1) Has the offence cycle been identified? 2) Are there behavioural indices of change? 3) Is there discordant information/opinions? If so, what is the rationale for my recommendation and has this discrepancy been addressed?

Further, some discussion regarding the specificity of psychological assessments and their value-added contribution to case management might be timely. In this particular case, mental health professionals could have potentially contributed to a greater understanding of the dynamics of the case. Notably, during his community supervision psychology was actively involved collaboratively with the parole supervisor in managing **ULAYUK**.

- ii. Need to revisit referral criteria for parole assessments to permit improved resource allocation

During interviews some psychologists indicated their assessment included a file review and 2 hour interview. This is quite appropriate and common, but for complex cases and those with considerable file information, this may be difficult. Clearly the psychologists assigned the necessary time to conduct the assessment thoroughly. However, with approximately 25% of the offender population serving life sentences and 78% having violent (Category 1) crimes, it may be that a review of current referral criteria that

were developed more than a decade ago might be beneficial in terms of resource allocation.

iii. Need to request external reports

Pre-trial assessment reports from the Clarke Institute were referred numerous times but never requested. Indeed there is no indication that **ULAYUK** was ever asked to sign a release form. Also, I am unsure if the [REDACTED] as an accredited hospital could have requested the files without the offender's consent. I do not believe having these reports should have changed the direction of the case but the files from the Clarke Institute are important because: 1) it is a pre-eminent facility with internationally recognized expertise in sex offenders, 2) [REDACTED]

iv. Need for method to deal with discordant opinions (OMS template)

From a systems perspective there needs to be a method to both highlight and address discordant opinions. Upon some reflection, perhaps the most straightforward is to build a text box in OMS that requires each author of a report to address this issue. In **ULAYUK**'s case examples where this would apply include: 1) the [REDACTED] report indicates **ULAYUK** has no continuing sexual deviance issues [REDACTED] 2) Reports describe the offender as doing well on community supervision, yet he [REDACTED] refused treatment that was considered relevant to manage his risk in the community. 3) One assessment describes the offender as low risk, another high risk.

3. Parole decisions

It is important to note that by its very nature it is expected that different Board hearings with different NPB Members might arrive at different decisions. This does not mean that one decision is correct and another incorrect. What is important is that a person reviewing a particular decision can identify a clear and defensible decision rationale. The Board cannot control all the circumstances when an offender is released, they can only respond with new decisions (or conditions) as the situation changes over time. Upon reviewing the Board decisions some general themes arose which may be fruitful to consider in some detail.

- 1) Reversal of decisions without apparent change in case (without compelling rationale).

Somewhat disconcerting was the apparent reversal of decision (by different NPB Members) within several months, from Day Parole denied to Day Parole granted. As noted above, this is not an unreasonable situation but what is required in such situations is an articulated rationale. In this manner the second decision would be grounded by the first decision and NPB Members could comment on why their opinion was different. It is possible the introduction of new information or the weighting of information differently would account for different decisions, but this is not possible to discern without a rationale. By policy, Reasons for Decisions are intended to yield such a rationale but a review of the decisions suggests that additional training and/or guidelines may be helpful.

- 2) Special conditions

ULAYUK refused to participate in identified programming (Sex Offender Maintenance Program) during his first release. Interestingly a contract was developed between the Case Management Team and the offender. These issues should have been addressed prior to release and I have concerns about the offender apparently dictating the terms of the community release. The Board did however attempt to utilize special conditions to address evolving risk issues while **ULAYUK** was in the community. A larger question, the tolerance for lapses and the role of special conditions, especially for long-term offenders should be considered in the context of the changing offender profile.

- 3) Failure to address issues raised *after* [REDACTED]

Following **ULAYUK**'s completion of the [REDACTED] program behavioural indications of concerns [REDACTED] warranted the offender's return to a specialized treatment program. This never happened and **ULAYUK**'s return in 1999 to [REDACTED] was dealt with as a mental health issue. Notably the Warden at the sending institution explicitly raised questions regarding the offense cycle and risk and these were never addressed in the discharge report, leading one to believe they were not considered.

- 4) Case-specific issues

- i. It appeared number of programs completed was equated with gain

ULAYUK completed many program, albeit a good number when he didn't speak English and others when he later admitted his motivation was limited. At times release decisions appear related to the number of programs taken. [REDACTED]

[REDACTED]

- ii. The substantive issue in the case [REDACTED] was never satisfactorily addressed

Without having access to the audiotapes of the panel hearings that may refute this opinion, it appears the substantive issue [REDACTED] was never satisfactorily addressed.

[REDACTED]

5) Systemic issues

- i. Board might benefit from piloting a decision model to ensure standardization (still permitting autonomy in decision-making)

At the onset I must declare a bias as I am presently pursuing research regarding standardization and models for parole decision-making. Nonetheless, I believe with the turnover in NPB Members, the workload volume, and evidence of markedly different decisions resulting from reviews of similar information, this issue should be addressed. Without intending to influence the final decision, such a model could assist in the completion of decision rationales and would make the Board more accountable regarding *how* they arrived at their decision.

- ii. Some discussion about the interplay between LTOs and “starting the process of release” is warranted. ETAs and transfer to minimum security are often viewed as an indication the offender is ready for eventual release.

LTOs and Lifers account for approximately 25% of incarcerated federal offenders. Moreover, with some exceptions, the majority of these offenders have exemplary institutional records. This means the major concern (i.e., the offence), is very distal to the decision. Once an LTO starts the release process the consequences of sanctions (i.e., parole revocation) is significant – it could keep the offender incarcerated for 2 or more years. Some discussion regarding tolerance for lapses and appropriate sanctions would provide insights and guidelines to parole officers and NPB Members.

4. Offender programming

1) Completion of programs when unable to speak English

It is curious that **ULAYUK** was referred to programs if his English was insufficient for him to participate. This is counterproductive in that some may mistakenly believe he could derive benefit but it uses a valuable treatment space. In a related theme some of the counselling sessions describe the review of complex and abstract cognitive constructs yet the offender had been repeatedly described as concrete in his thinking. Treatment must be matched to the offenders' language and intellectual requirements.

2) Definition of completion

ULAYUK completed many programs throughout his sentence. With the advent of program accreditation there has been increased rigour in terms of program participation. Further, I believe efforts have been underway in NHQ Correctional Programs to develop standardized indices of participation similar to the excellent ones used in institutional employment evaluations. These efforts are important and should continue. Essentially it is my view that program should refocus from an emphasis on completion to that of competency. Clearly completion is important as program dropout is related to increased rates of recidivism, but competency reflects skills acquisition a equally important construct to consider in determining the extent to which a particular offender may have benefited from a specific program.

3) Case-specific issues

- i. Documentation and scope of [REDACTED] was limited

[REDACTED] is an accredited, high intensity program [REDACTED] For these reasons the documentation and scope of the treatment and reports was less than I would have expected. Furthermore, for years thereafter it appears staff abdicated the requirement to consider issues of sexuality with the offender, believing this had been addressed at the [REDACTED] A rationale for why necrophilia was not a problem was not articulated (I realize there is no "test" for this condition and therefore by extension its absence). [REDACTED]

- ii. Some of the content from treatment sessions appeared overly abstract for this offender

As noted earlier some of the working notes from psychologists and nurses reflected fairly complex constructs. Many notes were very thorough, [REDACTED]

- iii. Continued evidence of lapses (failure to accept negative decisions) was accommodated by staff because offender was “trying”

From my review of the file it appeared **ULAYUK** frequently encountered difficulties [REDACTED] and these preceded and persisted throughout his incarceration. The majority of staff appeared to accommodate these transgressions [REDACTED]. Even **ULAYUK**'s failure to be honest with staff while on parole failed to yield suspension. Instead, a behavioural contract was developed. From a functional analysis perspective, these transgressions were reflective of ongoing and unresolved issues.

4) Systemic issues

- i. Refocus programs to fundamental competencies rather than broad array of programming options

The current model for correctional programming utilizes assessments of risk and need conducted at intake to develop a correctional treatment plan. This plan organizes the number and nature of programs that must be completed by an offender to manage his risk within the institution and upon release. The focus then is on following the correctional plan and completing programs. This is important, but since correctional programs are skills-based (CSC, 2005), then a more germane criterion than completion may be competencies. Similar to education, the issue is not whether a student completed the course but whether they demonstrated the requisite knowledge and skills when examined (either through oral or written evaluation). Some earlier work in CSC has begun to outline what some of these offender competencies may be and why they are important to understanding offender change.

- ii. Improved integration of programming and aftercare (not relying on psychological counselling that may or may not match programming priorities)

An important component of correctional programming is aftercare, referred to in CSC as maintenance. Some published research has indicated

treatment effects attenuate post-release in the absence of aftercare. Accordingly, maintenance programs should be viewed as central to a continuum of correctional programming. Fortunately CSC has developed a standardized community maintenance program although I am unfamiliar with the timetable for implementation. In this case, aftercare was provided mainly by individual psychological counselling. In order for it to maintain treatment effects it must obviously target similar areas and cover materials in a complementary manner. For example someone who has completed cognitive behavioural programming for substance abuse may find inconsistencies if their aftercare plan is limited to Alcoholics Anonymous.

iii. Need for structured & standardized method of incorporating program information into risk re-appraisals

My experience in reviewing correctional files in several jurisdictions is that reports are routinely written in a manner that says “*Mr. XXXXX has completed a certain program and his risk is reduced*”. Without being overly technical, it is unclear to me how risk is reduced through program completion when: 1) the majority of risk scales reflect fairly static items, 2) the specific program gains are not represented in the risk scale items. A more accurate phrasing might be “that risk is manageable given Mr. XXXXX’s successful completion of program Y”. This assumes also that completion is based on competencies not simply finishing the requisite number of sessions.

We know from various research publications that correctional programs in the CSC and programs generally that reflect the principles of accreditation yield lower rates of recidivism for successful participants relative to similar offenders who do not complete the program. Translating data from groups of offenders to an individual case is challenging. Only one jurisdiction that I am aware of has attempted to systematically incorporate or revise risk appraisals as a function of program participation. The United Kingdom compares recidivism rates of offenders who complete programs according to their pre-treatment risk profile with the group rates for a standardized risk scale. This yields a difference between estimated rate of failure (from the scale) and actual (from follow-up research in program evaluations). This difference provides a measure of the likely reduction of recidivism for offenders, sorted by pre-treatment risk levels. It should be noted that the reductions are quite modest. Nonetheless, this area is an important challenge for corrections and any progress CSC might make in this regard in future research would be a substantial contribution to corrections worldwide.

5. Systems issues

- 1) Need violence risk scale developed from Offender Intake Assessment that can be applied to women and Aboriginal offenders

Presently CSC does not have a specific risk scale for the prediction of violent recidivism. The SIR-R1 was developed and shows greater predictive accuracy in accounting for general recidivism. While there has been several publications regarding the application of the SIR-R1 to Aboriginal offenders, policy dictates it not be used. This means staff use structured clinical decisions (low, moderate, high risk) for estimating risk for significant minority of federal offenders and these estimates apply only to general recidivism.

The Offender Intake Assessment is a standardized set of self-reference questions that considers criminal risk and need. This automated system is grounded in appropriate correctional theory and has received high international acclaim, prompting many other correctional agencies to import it for their usage. It was implemented in 1995 and a decade later it is being revised based on significant field consultation and empirical research. Further, recidivism data are currently available for a significant number of offenders who have moved through the system (to my knowledge the number is greater than 2,500 and includes women and Aboriginal offenders). Given this situation, CSC Research Branch is positioned to develop and valid a violence risk scale that could apply to essentially all offenders, regardless of gender or ethnicity. While this may not have changed the outcome of this particular case (because I do not think the issue was risk assessment – see later), it would have better anchored the case according to violence potential.

- 2) Need to provide mechanism for staff to have access to knowledgeable experts for case consultation

Earlier I raised the issue of training, mentoring and professional oversight. I would recommend CSC consider the development of a repository of subject matter experts that staff could access. While it may be a relatively straightforward task for staff in Montreal, Toronto or Vancouver to contact forensic experts, it would be advantageous to develop and pilot a mechanism to make this more routinely available. E-mail makes this particularly manageable, although obviously guidelines and compensation would need to be discussed.

- 3) NPB would benefit from having in-house subject matter expertise for NPB Members in the areas of risk appraisal, special populations, offender desistance

It should be clear that keeping abreast of research relating to risk assessment, correctional programming, decision-making, special populations (sex offenders, violent offenders, spousal assaulters, mentally disordered offenders), and offender desistance is no small feat. NPB is at considerable disadvantage by relying solely on CSC or external academics to remain contemporary. First, the priorities for CSC and the Board will be somewhat different given the operational realities. Second, academics may not successfully translate published research to practice and make it easily understood by NPB Members. I know the Board has utilized externally resources quite successfully in their training and general meetings but I believed this could be enhanced if they had in-house expertise to complement current resources.

- 4) Need to highlight functional analyses in criminal behaviour over the duration of sentence to inform programming and supervision strategies

One aspect that is unique to Lifers is that the process of incarceration limits the situations whereby successful unsuccessful adjustment can be discerned. First the index offense is taking a life and few offenders commit future murders while incarcerated (or upon release). Second, the dynamics are often idiosyncratic in terms of motivations, interpersonal relationships, disinhibitors (substance use, anger, impulsivity) and stressors. It is unlikely they will be duplicated in an institutional setting. Lastly, when staff is making release decisions, the crime is often 8 years old or longer, further complicating analyses of proximal risk. Functional analysis is a strategy of looking at patterns of behaviour over time to determine if there are markers of continued problems.

[REDACTED] Suggestions by the BOI for a chronology would fit here, but the focus would be on the dynamics of the case.

- 5) Need some discussion regarding heterogeneity in LTOs and link this to supervision procedures

Lifers and LTOs are clearly not homogeneous and this must be specifically addressed. It may be helpful for CSC to develop a profile of the lifer population in terms of risk/need, age, age at arrest, number of years served, etc. In my training with both CSC and NPB staff often has this view of Lifers as individuals who have killed a partner in an isolated, spontaneous incident. Clearly such a group exists and likely display good institutional adjustment and are low risk to re-offend. **ULAYUK** was not such a case.

6. Supervision

- 1) Particularly for LTOs there is a need to develop a strategy for supervision and responses to breaches

For this population the threshold or tolerance for breaches must be very carefully considered. When an offender fails to meet prescribed conditions it seems the requirements should be increased. By that I mean simply placing the offender in temporary detention and then re-releasing them to the community with the same conditions seems insufficient. The lesson is that it was not such a serious breach and they can avoid serious consequences (extended return to prison). I would recommend that with the increase in LTOs and Lifers, a strategy should be developed to address the unique supervision requirements of these offenders.

- 2) The [REDACTED] issues that were evident (but largely ignored) during his incarceration continued and resulted in a termination.

Given **ULAYUK**'s history and the dynamics of the index offence, his performance on the initial Day Parole was very disconcerting. [REDACTED]

[REDACTED] The termination resulted in a contract that in fact reflected appropriate special conditions that should have been imposed by the Board. The second release showed little improvement and this was noted in case management reports.

- 3) There appear to be safety issues that need to be considered and related to empirical evidence regarding recidivism trajectories for different types of offenders

Parole officers are aware of the phases of successful release (this was highlighted quite cogently in several parole officer reports). Tragically, this case underscored the need to be vigilant about safety issues. Since the incident CSC has revised its frequency of contact guidelines and ratio of offender/staff, consistent with empirical evidence.

7. Summary of risk scales

In reviewing the available documentation I do not believe the current incident resulted from selecting the wrong risk scales or the inaccurate completion of those risk scales selected (although some anomalies were noted). In short, this was not an issue of "missing" the results of a particular risk scale. At the same time CSC and NPB must wary of the rote application of risk scales or

the over-reliance of risk instruments. In my opinion, these tools complement good correctional practice, but alone they do not constitute a standard of care.

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Appendix A

Description of the major risk scales used in psychological reports

This description and commentary is intended to provide a general overview of the main risk scales that are utilized in the psychological report reviewed for this Board of Investigation. In this regard it simply provides a summary, not a comparison amongst scales, nor an evaluation of a particular scale. Specific details regarding aspects of these scales and their use in CSC can be found in the report commissioned by the National Parole Board of Canada and authored by Dr. Adelle Forth, *Risk Assessment Tools: A Guide*, Forth, 2003). The specific items for these scales are presented in Appendix B. Notably, recent publications highlight the ongoing debate regarding the guidelines for using risk scales (Zinger, 2004) and the relative merits of a particular scale (Gendreau, Goggin & Smith, 2002; Hemphill & Hare, 2004). Further, *Dangerous and Long-Term Offenders: An Assessment Guide* (Eaves, Douglas, Webster, Ogloff, & Hart, 2000) is a valuable resource and is available from the Mental Health, Law and Policy Institute at Simon Fraser University, mhlpi@sfu.ca. Finally, the interested reader is referred to a website by Stephen Hucker and Chris Webster, who provide a good overview of risk assessment scales and issues (<http://www.violence-risk.com>).

Hare Psychopathy Checklist-Revised (PCL-R)

Hare, 1991

During the late 1970's a team of researchers from the University of British Columbia developed an interview-based measure of criminal psychopathy. This measure, referred to as the Hare Psychopathy Checklist-Revised (PCL-R; Hare, 1991) was derived largely from the works of an American Psychiatrist, Hervey Cleckley. Based on his experiences with a number of psychopathic outpatients, Cleckley (1976) provided a comprehensive clinical description of the characteristics typically associated with the psychopath. Hare and his colleagues identified Cleckley's conceptual framework as a possible means of developing a reliable and valid measure of psychopathy. Thus, the development of the PCL-R does not merit its classification as an actuarial risk prediction instrument.

After a decade of research involving 1192 incarcerated offenders and 440 forensic psychiatric patients from American and Canadian samples, the PCL-R was eventually published in manual format by Multi-Health Systems (Hare, 1991). The manual contains extensive information pertaining to historical development, scoring guidelines, reliability, and validity. The PCL-R consists of 20 items that measure both personality and behavioral characteristics of the disorder¹. Factor analysis of the PCL-R has yielded two stable factors (Hare et al., 1990). Factor 1 measures the interpersonal and affective traits considered to be fundamental to the construct of psychopathy. These traits include

¹ The original 22 item PCL was modified in 1985. In the process two items were deleted, more detailed scoring information was provided, and previously encountered scoring inconsistencies were corrected. Hare (1991) reports that the PCL and its revision, the PCL-R are highly correlated ($r = .88$).

superficiality, manipulativeness, pathological lying, remorselessness, shallow affect, lack of empathy, and grandiose sense of self-worth. As a result, this factor is often referred to as the personality dimension of the PCL-R. Factor 2, known as the behavioural dimension, describes a chronically unstable, antisocial, and socially deviant lifestyle. Items encompassed by Factor 2 include impulsivity, criminal versatility, irresponsibility, parasitic lifestyle, lack of realistic goals, juvenile delinquency, revocation of conditional release, and early behaviour problems. Moreover, Hare (1991) has shown that the factors are moderately correlated ($r = .50$). Each item is scored on a 3-point scale: 0 indicates that the symptom definitely does not apply to the individual; 1 indicates that the item applies only in some circumstances; and 2 indicates that the item definitely applies. Each individual item score is summated to arrive at a total scoring ranging between 0 and 40. Hare (1991) recommends that 30 be used a diagnostic cut off. The PCL-R is scored on the basis of a semi-structured interview and collateral information obtained from such sources as official records and psychological assessments (Hare, 1991).

In 2003 the second edition of the PCL-R was published and the technical manual provides greater evidence of its predictive validity plus extended norms for offender populations. Additional factor analytic research is also provided suggesting alternative solutions. As well clear guidelines for use and administration, as well as training are provided. Recently certification has also been discussed by Dr. Hare.

The PCL-R is perhaps one of the most extensively researched instruments in corrections. Since its development it has been used in examining its predictive and postdictive capabilities involving: 1) 15 studies of over 5400 male offenders; 2) 5 samples of over 1200 forensic psychiatric patients; 3) 6 samples of over 1200 female offenders. Published research with young offenders and sex offenders is also available. (See Hare 2003 for a complete listing of supportive research). Moreover a significant proportion of the male offenders sampled came from the Canadian federal correctional system. To date, it is arguable that the PCL-R is the most reliable and valid measure of psychopathy. It has successfully reduced the number of false positives associated previous measures such as DSM IV's Antisocial Personality Disorder diagnosis. Similarly, it has also helped reduce the number of false negatives that are generally yielded through self-report methods.

However, several limitations have also been cited. Salekin et al., (1996) have not only criticized the PCL-R for being atheoretical but they have also voiced concern regarding the paucity of empirical evidence demonstrating Factor 1's predictive validity. Additionally, the authors have expressed concern over the lack of concordance among researchers and clinicians alike in the acceptance of an appropriate diagnostic cutoff. While Hare (1991) recommends using a cutoff of 30 for diagnostic purposes, previous researchers have used a variety of cutoff scores ranging from 25 to 33. A related issue concerns the standard error of measurement associated with the PCL-R. Psychological tests used to measure human behaviour will also be inaccurate to some degree. This inaccuracy is quantified by an index known as the standard error of measurement (SEM). As a result, 95% of the time, an individual's true PCL-R score will lie either +6.5 units above or below the observed score. Consequently, an individual score of 30 actually

translates into a score ranging somewhere between 23.5 and 36.5. Unfortunately, this margin of error is rarely considered by decision-makers. In addition, Rogers (1995) has also noted that there are more than 15,000 possible variations of psychopathy scores equal to or greater than 30. Consequently, individuals scoring 30 or more should be perceived as a heterogeneous rather than homogenous group.

Salekin et al., (1996) have also raised concerns regarding concerning the PCL-R's generalizability to female and minority groups, in terms of recidivism prediction. However, there is some evidence illustrating that on average, Black and Aboriginal offenders score within 1 or 2 points of their White counterparts (Hare, 1991; Kosson et al., 1990; Peterson, 1984; Wong, 1984). In regards to women offenders, no published studies have examined the predictive validity of the PCL-R. However, two unpublished doctoral dissertations have reported a positive relationship between PCL-R scores and criminal history variables (Loucks, 1995; Strachan, 1993).

From a psychometric perspective, the PCL-R is a highly reliable and valid measure. However, from an operational perspective the PCL-R is problematic due to the level of expertise required for administration and scoring, time restrictions, and potential labeling effects². The PCL-R is clearly predictive of violent recidivism, although other measures may either surpass or at the very least, equal accuracy estimates as the PCL-R. Further, anecdotal evidence suggests that the PCL-R has been used to screen out potential candidates for correctional programs. Clearly, such practices are in direct violation of the CSC's Mission statement. In sum, it is recommended that trained psychologists and psychiatrists use the PCL-R to help make recommendations about future likelihood of violent recidivism.

HCR:20 Scheme

HCR-20; Webster, Douglas, Eaves, & Hart, 1997

The Historical Clinical Risk Scheme (HCR-20; Webster, Douglas, Eaves, & Hart, 1997) is a twenty item research check list designed to predict future violence in situations where a known history of violence has been established and where there is conclusive evidence of mental illness or personality disorder. The twenty predictor variables were chosen from empirical findings in the literature (Harris, Rice, & Quinsey, 1993; Monahan, 1981) as well as from clinical expertise derived from practicing forensic psychiatrists and forensic mental health workers. The primary goal of the HCR-20 is to integrate empirical findings and clinical knowledge regarding the prediction of violence in a comprehensive and systematic manner. The authors project that the scheme will be employed by forensic psychiatrists as well as correctional and parole decision-makers.

The ten historical variables, adapted from Monahan (1981) and Harris et al. (1993) are considered static or unchangeable. They include previous violence, age at first

² Despite the unlimited source of anecdotal accounts raising concerns about the deleterious effects of the psychopathic label, not one published study has examined the issue.

known violent offence, relationship stability, employment stability, alcohol or drug abuse, mental disorder, psychopathy, early maladjustment at home or school, personality disorder, and prior release or detention failure.

The five clinical variables: insight, attitude, symptoms, emotional stability, and treatability are dynamic or changeable in nature. As well, they represent current rather than past functioning and were selected on the basis of clinical experience, established position in the literature, conceptual potential, testability, and refinability (Webster et al., 1995).

The five risk variables: feasibility, access, support and supervision, compliance, and stress measure how well or poorly an individual is likely to adapt to his/her community risk management plan in terms of physical, social, and vocational support.

Each predictor variable is scored on a three point scale: 0, 1, 2 where 0 indicates the individual lacks the quality, condition, or characteristic, 1 indicates that there is some evidence that the person has the quality or trait in question, and 2 indicates that the evidence is sufficiently strong to warrant the highest score. Thus, total scores on the HCR-20 range from 0 to 40 with higher scores representing higher degrees of risk for future violence. Each predictor variable is weighted equally with historically variables providing equal weight (10 variables) as the clinical and risk variables combined (10 variables).

The HCR-20 is an emerging structured professional judgment approach that has been used in postdictive and predictive studies with approximately 1200 offenders from 12 samples across multiple countries. The accuracy indices appear promising and comparable albeit slightly less than other instruments. Importantly it appears theoretically sound and reviews a broad array of content domains. It remains to be determined, however, whether three point scales have sufficient variability in terms of assessing relevant change in dynamic factors. Initial concerns regarding the lack of detailed scoring instructions have been addressed through the publication of a Companion Manual.

An advantage of structured professional judgment approaches is that they consider theoretically and empirically relevant domains and provide scoring guidelines for users. The HCR20 appears well-suited to offender and mental health samples and shows acceptable predictive accuracy regarding violent recidivism. In contrast to statistical scales, structured professional judgments sample a broader array of domains and could be considered more case-centered, allowing for unique aspects of a particular offender.

Level of Service Inventory-Revised (LSI-R)

Andrews & Bonta, 1995

In the late 1970's, Don Andrews spearheaded a team of probation officers, correctional managers, and researchers in the development of a systematic and objective rating scheme designed to aid probation supervision practices. This endeavor eventually culminated in the preliminary draft version of the Level of Supervision (LSI; Andrews, 1982) now known as the Level of Service Inventory-Revised (LSI-R; Andrews & Bonta, 1995). The LSI-R is a published Multi-Health Systems risk-needs assessment scheme used extensively in the Canadian provincial system (as well as in many states in the US and abroad), and to some extent within the federal system. The LSI-R can be used for identifying treatment targets and monitoring offender risk during supervision and/or treatment services, for making probation supervision decisions and halfway house placement decisions, for deciding appropriate security level classification within institutions and for assessing the likelihood of recidivism.

The LSI-R consists of 54 individual items that measure the following risk/need domains: criminal history, education/employment, financial, family/marital, accommodation, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitudes/orientation. Based on file information and a semi-structured interview each item is assigned a score of 0 or 1 where 1 represents the presence of a risk or need factor. Individual items are then summated to arrive at a total LSI-R score where higher scores reflect a higher level of overall risk, need, and supervision level. Although individual items are not statistically weighted in a true actuarial sense, content areas vary in terms of the contribution they make to the overall LSI-R score. For example, criminal history consists of 10 individual items, thus accounting for 18.5% of the total LSI-R score (10 items divided by 54 items). In contrast, the leisure/recreation domain is measured solely by two items, thus accounting for only 3.7% of the total LSI-R score (2 items divided by 54 items). The authors provide cut off scores that empirically have produced the lowest error rate. Different cut off rates have been provided for probationers for supervision (i.e. low, moderate, intensive) and for institutional classification. Most recently, cut-offs for female offender classification are also provided, based on provincial data.

The original construction sample is comprised of 956 males from the Ottawa-Carleton Detention Centre, the Hamilton-Wentworth Detention Centre, and the Toronto jail. The 1414 normative female sample came from one representative medium security institution for adult females operated by the Ontario Ministry of Correctional Services. Originally, the pool of potential LSI items was derived from the recidivism literature, the professional opinions of probation officers, and a broad social learning perspective on criminal behaviour. However, the final LSI instrument is comprised only static and dynamic risk factors empirically demonstrated to be related to recidivism among provincially sentenced offenders.

Currently, the LSI-R is perhaps one of the most reliable and valid measure that assesses both risk and needs (Andrews & Bonta, 1995). Moreover, Gendreau et al.,'s (2002) analysis clearly demonstrated the predictive efficacy of the LSI-R. Its primary strength lies in its ability to assess both static and dynamic risk. As well, the LSI-R has been validated on a large sample of both male and female offenders. However, the LSI-R is not without limitations. The majority of research involving the LSI-R has been conducted with provincial samples, although empirical studies are emerging in the federal system (Simourd & Loza, 1994) and for sexual offenders (Simourd & Malcolm, 1998). Moreover, the feasibility of utilizing the LSI-R as a measure of pre-release risk may prove problematic for federal offenders who have been incarcerated for lengthy periods of time. As well, the initial pool of items from which the LSI was derived come from work in the late 1970's (Andrews, 1982). It is possible that in the last 25 years there are new content domains worth examining (i.e. coping). Similarly, the manual provides no guidelines for addressing missing values nor does it provide the standard error of measurement associated with the LSI. As well, the manual at times lacks clarity in terms of whether an items should be scored statically (prior to arrest) or dynamic (now, in the institution). Perhaps the biggest problem associated with the LSI-R concerns its tendency to blend static and dynamic risk factors (Quinsey, Coleman & Jones, 1997). Lastly, while the LSI-R is intended to measure change for certain variables that are inherently dynamic there does not appear to be a scoring mechanism for change. For example, an offender can only benefit from educational upgrading if he/she upgrades in a regular academic or technical high school program. Upgrading achieved while incarcerated generally does not count. This strategy seems somewhat counter productive to the intended spirit of the LSI-R.

In conclusion, the LSI-R is a well-validated risk-need measure that has been used extensively for more than a decade in correctional settings. It is important to note that the Offender Intake Assessment (OIA) currently in use in CSC is modeled after a highly regarded risk/need assessment instrument, the Wisconsin. Presently, OIA is used to inform correctional planning and offender classification and to provide population profiles for strategic planning. OIA, however, could be utilized as a statistical risk appraisal, that incorporates both static and dynamic factors (so could reflect change). Were this done, the LSI-R might be considered redundant but under the present format the OIA data are not organized in a manner that specifically provides a risk appraisal comparable to the LSI-R.

RRASOR (Rapid Risk Assessment of Sex Offender Recidivism)

Hanson, 1997

Three factors led to the development of the RRASOR: 1) Hanson and Bussière's (1996) recent review has suggested that sexual recidivism can be predicted by a different set of factors than those that predict general or non-sexual violent recidivism. They found that although general criminological variables, such as age and prior offenses, showed some relationship with sexual offense recidivism, the strongest predictors of sexual offense recidivism were variables related to sexual deviance (e.g., prior sexual

offenses, deviant sexual interests and activities). They also found that sexual recidivism was related to specific victim characteristics (e.g., male victims, unrelated victims). Given that many of the exceptional legal procedures are concerned only with the risk of sexual re-offending, separate procedures should be used to evaluate an offender's risk for sexual and for non-sexual recidivism.; 2) Evidence that risk scales designed for general offenders have not been effective in predicting sexual recidivism. Bonta and Hanson (1995b), for example, found that among a group of 315 federally sentenced sexual offenders, the SIR scale (Bonta, Harman, Hann & Cormier, 1996) correlated .34 with non-sexual violent recidivism, .41 with general (any) recidivism, but only .09 with sexual recidivism.; 3) Other specialized risk scales like the VRAG were resource-intensive and the authors felt there was a need for a brief, efficient actuarial tool that could be used to assess the risk for sexual offense recidivism.

Hanson's (1997) research was intended to fill this gap using data from eight different sexual offender follow-up studies. Seven of these studies were used to develop a risk scale that was then cross-validated on an independent data set. The scale development strategy was guided by the dual concerns of empirical validity and ease of administration. First, a sample of easily scored risk predictors was drawn from Hanson and Bussière (1996). Next, the intercorrelations of these variables were computed for each of the seven data sets. These correlations were then averaged into a single correlation matrix. The best predictors of sexual offense recidivism were then selected using stepwise regression on this averaged correlation matrix. The best predictors were then translated into an easily scored risk scale, and the predictive validity was then tested on an independent sample. The procedure was not intended to maximize prediction for each sample; instead, the aim was to develop an easily administered scale that was likely to be valid for a range of settings.

The obvious weakness of the RRASOR is that it does not directly consider deviant sexual preferences. Deviant sexual preferences were among the strongest recidivism predictors in Hanson and Bussière's (1996) meta-analysis. For those offenders with a long history of sexual offending, specialized assessments of deviant sexual preferences are unlikely to provide much new information; however, it is possible that specialized sexual preference assessments may be informative for those without an established pattern of sexual crime. Nonetheless, it is important to note that deviant sexual preference, when measured phallometrically is a strong predictor of sexual recidivism, especially in combination with psychopathy.

Other areas not covered were the offenders' cooperation with treatment and community supervision. Offenders who failed to complete treatment are at higher recidivism risk than those who complete treatment (Hanson & Moron-Bourgon, 2004) and there is some evidence that those offenders who fail to cooperate with community supervision are also at increased risk (Hanson & Harris, 1997). Whether these factors contribute unique variance to risk assessments has yet to be determined.

The scale contains four items that are easily scored from administrative records: prior sexual offenses, age less than 25, extra familial victims and male victims. This brief

actuarial risk scale predicted sexual offense recidivism with sufficient accuracy to justify its use as a screening measure. It is easily scored from administrative records and could have considerable utility in contexts that require routine assessments of sexual offender risk levels. Although its predictive accuracy was as good or better than other available measures, it does not provide a comprehensive evaluation and is not recommended to be used in isolation.

Static 99

Hanson & Thornton, 1999 and 2002

The Static-99 is a brief actuarial instrument designed to estimate the probability of sexual recidivism among convicted adult male sex offenders. The Static-99 was created by adding together items from the RRASOR and the SACJ-min (Grubin, 1998). The validation samples for the Static-99 included sexual offenders being treated or assessed at maximum security psychiatric facilities in Quebec and Ontario, provincial child molesters, and incarcerated sexual offenders in England.

The Static-99 consists of 10 static items and is designed to measure the long-term potential for sexual recidivism. The Static-99 is intended as a measure of long-term risk for sexual violence. However, since it only includes static variables, it does not provide information about treatment targets or monitoring change, and has no option for taking into account case-specific factors.

Developed subsequently to the RRASOR, the original 10-item STATIC-99 was designed to assess the long-term potential for sexual recidivism among adult male sex offenders. The Static-2002 consists of 13 static items and is designed to measure the long-term potential for sexual and violent recidivism. The validation samples for the Static-2002 included sexual offenders being treated or assessed at maximum security psychiatric facilities in Quebec, Alberta, Washington, and California, Ontario provincial child molesters, sex offenders on probation in Manitoba, incarcerated sexual offenders in England, and federal sexual offenders. So far the Static99 and its newest iteration, the Static 2002, have been used predominately within the correctional system. Scoring revisions for a 2003 version are now published on the website (www.psepc-sppcc.gc.ca). Data collection and research is ongoing but the initial evidence is encouraging.

Statistical Information on Recidivism Scale-Revised (SIR-R1)

Correctional Service of Canada, 1997

In 1975, the National Parole Board (NPB) of Canada initiated a large-scale research project designed to determine which factors were most strongly related to full parole decisions. The primary objective was to create a statistically derived instrument that could predict general recidivism. Ultimately, it was hoped that such a tool would enhance the visibility and equity of parole decision making in Canada. In 1975, this initiative was spearheaded by Joan Nuffield, who at the time was employed by the

Research Division of the Ministry Secretariat, Solicitor General of Canada. After a series of thoughtful statistical analyses involving 2,475 Parole Board decisions made between 1970 and 1972 Nuffield (1982) crafted Canada's first actuarial model designed to improve the prediction of general recidivism. Although some have referred to Nuffield's actuarial model as the Nuffield Scale or the Risk Prediction Scale, it was officially named the General Statistical Information on Recidivism Scale (GSIR; Nuffield, 1982). In 1988, the NPB and the CSC formally adopted the GSIR as a component of pre-release decision policies.

CSC's current offender population is considerably different from the population that was originally used to construct the GSIR. For example, Nuffield's original *construction sample* contained very few sex offenders, less than 6%. However, today, approximately 23% of CSC's offender population is sex offenders. As a result, the CSC's Research Branch modified the GSIR to reflect this population shift. The retooled version of the GSIR is simply known as the Statistical Information on Recidivism Scale-Revised (SIR-R1).

The SIR-R1 is comprised of 15 static risk factors that measure current offence information, previous criminal history and social/demographic factors. More specifically, the items tap factors such as age at admission, escape history, aggregate sentence length, previous convictions for break and enter, assault history, and marital status³ Nuffield (1982) originally developed the GSIR from an unspecified number of readily available criminal history and socio-demographic variables. The resultant 15 items were statistically selected using multiple regression analysis and predictive attribute analysis on the basis that they were most strongly and uniquely correlated with general recidivism⁴. A statistical procedure known as the weighted Burgess summation method was then applied to account for the differential strength of the various correlations found between the individual items and recidivism. Thus, items that were more strongly related to outcome were assigned a larger numerical weight than more weakly correlated items. Further, the numerical weight could be positive or negative depending upon whether the item value was related to parole success, in which case a positive numeric weight was assigned, or parole failure, in which case a negative numeric weight would result. Item values that were not related to either parole success or failure were assigned a value of 0.

This process produced a possible dispersion of scores ranging from +6 to -30 with more negative scores being associated with greater probability of general recidivism. Nuffield (1982) then collapsed the scores into five risk categories ranging from very good risk (4 out of 5 offenders will not commit an indictable offence after release) to poor risk (1 out of 3 offenders will not commit an indictable offence after release). This was simply done by dividing the range of scores into five equally distributed categories.

³ The SIR was modified only slightly. The modifications involved changing item 13 from "had only 1 previous conviction for any violent sexual offence" to "had two or more previous convictions for any violent sexual offence". Item 5 was also changed from "had been convicted of escape or attempted escape on one or more previous occasions" to "has escaped or attempted to escape on 1 or more occasions [includes current offence]".

⁴ General recidivism was defined as re-arrest for any indictable offence.

Parole officers are instructed to use all available file information when scoring the SIR. Moreover, given that very little research has examined the predictive validity of the SIR with women, Aboriginal, or provincial offenders, the Standard Operating Procedures specifically indicates that these groups be excluded from the assignment of a SIR score. For all other offenders the individual item scores are then automatically summated resulting in a total score.

The SIR has been extensively researched and clearly illustrates that it is a strong predictor of general recidivism. Moreover, its original statistical development and recent modifications are grounded in sound statistical theory and research methodology. Nonetheless, the SIR-R1 has been criticized for its inability to predict violent recidivism and its lack of generalizability to Aboriginal and women offenders (Bonta, Pang, and Wallace-Capretta, 1995; Cormier, 1997; Nuffield, 1982). However, more there is evidence to suggest these criticisms could be amended.

In a re-analysis of the SIR data using more reliable statistical procedures, Rice and Harris (1995) report that the SIR does indeed improve predictions of violence above chance levels. Similarly, recent research by the Research Branch indicates that a recalibrated SIR-R1 predicts violent recidivism comparably to general recidivism (Nafekh & Motiuk, 2002). This same line of research also looks promising for Aboriginal and Women offenders. Indeed the predictive accuracy for these groups significantly exceeds chance, yet the conclusion has been not to use the recalibrated SIR-RI for policy reasons.

It is instructive to consider the potential consequences of not routinely applying the existing SIR-R1 scale to Aboriginal offenders. Bonta, Lipinski and Martin (1992) reported that while there was a strong positive relationship between SIR scores and parole grants for non-Aboriginals, the relationship was near random for Aboriginal offenders. Thus, unexpectedly, in an attempt to recognize the unique rights of Aboriginals, the Service may be inadvertently contributing to potential problems. By disallowing the rating of SIR-R1 scores, Aboriginal offenders are not assigned an actuarial estimate of risk. Consequently, correctional and parole decision makers are afforded even more discretion in decision making. As previous research has demonstrated, over reliance on professional judgment significantly increases the false positive rate (incorrectly identifying an offender as a failure upon release), which in turn, may reduce the number of Aboriginal offenders granted parole. Unfortunately, similar research involving women has not been conducted. Thus, it is unknown as to whether or not a parallel situation exists for Women offenders.

Violence Risk Assessment Guide (VRAG)

Harris, Rice, & Quinsey, 1993

Several years of research demonstrating the limitations associated with clinical

predictions of violence coupled with legal requirements exacting clinician predictions of future dangerousness spurred the Oak Ridge Research Division, Penetanguishene Mental Health Center to develop an improved means of predicting violence (Harris, Rice, & Quinsey, 1993). To this end, Harris et al., (1993) published a paper describing the development and predictive validity of an actuarial instrument designed to predict violent recidivism among mentally disordered offenders. This instrument, known as the Violence Risk Assessment Guide (VRAG) was constructed from a sample of 618 men who had been admitted to Oak Ridge, a maximum security psychiatric facility located in Penetanguishene, Ontario between 1965 and 1980. Not only does Oak Ridge provide fitness to stand trial and criminal responsibility assessments but the facility also houses a number of mentally disordered offenders who have either been found unfit to stand trial or not criminally responsible by reason of mental disorder. Further, Oak Ridge also houses mentally disordered offenders who have been transferred from jails, provincial/federal institutions, and in some cases, non-forensic psychiatric hospitals.

Slightly more than half of the original Oak Ridge construction sample had been found not guilty by reason of insanity (NGRI) and subsequently detained for treatment. The remainder was sent to Oak Ridge for a pre-trial psychiatric evaluation during the same period but was not kept beyond the one to two month evaluation period. Both groups were matched on criminal history, age, and timing of the index offence. Moreover, the construction sample was comprised of serious violent offenders a proportion of who were diagnosed schizophrenic (23%) or personality disordered (36%). Offenders who had only committed nonviolent crimes were excluded from the construction sample.

Using detailed file information, the Oak Ridge Research Division coded over 50 variables identified as theoretically or empirically relevant in the violence prediction literature (i.e. Monahan, 1981; Quinsey, 1984). A series of thoughtful stepwise discriminant analyses reduced the final variable set to 12 variables that in combination, yielded the highest correlations with violent and non-violent recidivism. The 12 items tap a variety of static risk factors including demographic, childhood, criminal history, and victim information variables. Each item was subsequently weighted using the Burgess method described previously in relation to the SIR-R1. Total scores on the VRAG range from -27 to +35 with higher scoring reflecting a greater probability of violent recidivism. Moreover, VRAG scores are further divided into 9 equally sized bins each with a corresponding probability failure estimate. For example, individuals scoring below -22 have an 8% chance of failing violently within 10 years of release whereas individuals scoring between +14 and +20 have a 64% chance of failing violently within 10 years of release.

To date, the VRAG is the most sophisticated actuarial risk scale for predicting violence among mentally disordered offenders. Its strengths lie in its rigorous statistical development, demonstrated predictive validity, and practical utility among mentally disordered offenders with serious violent offence histories. Its most significant limitation is the paucity of methodologically rigorous research demonstrating its ability to predict violent recidivism within correctional samples. Similarly, like the PCL-R the VRAG is

problematic due to the level of expertise required for administration and scoring and time restrictions.

The most compelling support for the VRAG is derived largely from the original validation study (Harris et al., 1993) and a more recent cross-validation study (Rice & Harris, 1997). Both studies were comprised of offenders who had either been assessed or treated at a maximum security forensic psychiatric facility. However, new evidence from CSC offender samples has begun to emerge (Belanger & Earls, 1996; Kroner & Mills, 1997; Loza & Dhaliwal, 1997). More specifically, these studies have demonstrated the VRAG's concurrent validity in terms of its relationship to other risk measures as well as its predictive validity in terms of sexual recidivism and institutional misconducts. However, there is still no research using the VRAG among Aboriginal or women offenders. Further, VRAG critics argue that the VRAG construction sample is uniquely different from the CSC general population and therefore it is unethical to use such a tool without empirical support (Price, 1997).

In response to the criticisms, VRAG supporters have presented several cogent arguments in favor of the application of the VRAG to correctional populations (Harris et al., 1993; Quinsey, 1998). For example, they have argued that although the construction sample was comprised of individuals from a forensic psychiatric facility, only half of these individuals were truly mentally disordered given that the remainder was either judged competent to stand trial or legally sane. Additionally, VRAG supporters have argued that the VRAG is applicable to CSC populations given that the violent recidivism base rate for the VRAG construction sample is comparable to CSC's and that the individual VRAG items (i.e. the PCL-R) have all demonstrated previous predictive validity among correctional samples (Quinsey, 1998). Moreover, recent findings from a comprehensive meta-analysis support the view that the predictors of violent recidivism are similar for both mentally disordered and non-disordered offenders (Bonta, Hanson, & Law, 1998). As well, the contention that the VRAG construction sample was somehow uniquely different from CSC's violent offender population has yet to be demonstrated empirically.

In sum, there is sufficient evidence to justify using the VRAG when **all** of the following circumstances are met:

- when decision makers have been amply trained to administer and score the VRAG; *and*
- when the offender in question fits the 'profile' of the typical offender from the construction sample. That is, when the offender has a current or previous history of violence, a history of mental illness, and has previously been admitted to a psychiatric facility similar to that of Oak Ridge; *and*
- when it is believed that the VRAG can provide valued-added information above and beyond the SIR. Thus, the VRAG should only be used in the context of predicting violent rather than general recidivism.

Further, pending additional research, the VRAG should not be applied:

- to women offenders; *or*

- to Aboriginal offenders; *or*
- to offenders with no previous or current history of violent behavior; *or*
- to mentally disordered offenders with no previous or current history of violence

It is recommended that the following guidelines be adhered to until further empirical evidence is available based on federally incarcerated offenders. Further, if the VRAG is used as recommended, it will demonstrate predictive accuracy that is at a very minimum, either equal to, or more likely, better than predictions based purely on clinical judgment (Grove & Meehl, 1996).

Violence Risk Scale, (VRS)

Wong & Gordon, 2000

The VRS is a structured professional judgment designed to assess the risk of violent recidivism in incarcerated offenders. The evaluator conducts a systematic risk assessment referring to a list of risk factors, each of which have specific coding criteria, that have a demonstrated relationship with violent recidivism in adult offenders based on existing theory, as well as professional and empirical literature.

The VRS consists of 26 items. Six are Static risk factors and 20 are Dynamic risk factors. The VRS is designed to evaluate change in risk factors as a result of intervention. The six static factors are primarily measures of past criminal behaviour or family background. The 20 Dynamic factors measure lifestyle, attitudes, personality characteristics, and social support network. In 2000, the VRS was modified to incorporate the effects of treatment. The rater evaluates whether or not the individual has made any treatment changes based progression from one stage to the next on the Stages of Change Model (Prochaska, DeClemente, & Norcross, 1992). The stages used are: precontemplation, in which the individual has no awareness of the problems; contemplation, in which the individual is aware of the problem but no behavioural change has been made; preparation, in which the individual has made observable behavioural changes; action, in which relevant behavioural changes are observed over an extended period of time; and maintenance, in which relevant behavioural changes are consistent, stable and generalized to high-risk situations.

Although a new approach, a manual is available that reports good interrater reliabilities and strong associations with recidivism in a 2 and 4 year follow-up study. It has been adopted for standardized use in CSC's high intensity sex offender and violent offender programs. Data collection and research is ongoing.

Summary

A variety of specialized risk scales are utilized in psychological assessments in this case. Some are strictly statistical scales (RRASO, SIR-R1, VRAG), some are rating scales (PCL-R, LSI-R) and at least a couple of psychologists used the HCR-20, a structured professional judgment approach. Specific items for each scale are listed in Appendix B. Overall it should be clear that any of the scales would anchor recommendations regarding release risk and they share similar items and domains. Further, many of the scales are highly related meaning that multiple scales may not increase accuracy of risk prediction.

Risk scales are neither a panacea, nor a substitute for decision-making. Of particular relevance is the selection of these scales and how the user addresses convergence/divergence among scales, or, as in this particular case, different scores on the same scale over time.

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Appendix B

Risk Instrument Items

Psychopathy Checklist Revised (PCL-R)

PCL-R items	Factor
1. Glibness/superficial charm	1
2. Grandiose sense of self-worth	1
3. Need for stimulation	2
4. Pathological lying	1
5. Conning/manipulative	1
6. Lack of remorse of guilt	1
7. Shallow affect	1
8. Callous/lack of empathy	1
9. Parasitic lifestyle	2
10. Poor behavioral controls	2
11. Promiscuous sexual behavior	Neither
12. Early behavior problems	2
13. Lack of realistic goals	2
14. Impulsivity	2
15. Irresponsibility	2
16. Failure to accept responsibility for own actions	1
17. Many short-term marital relationships	Neither
18. Juvenile delinquency	2
19. Revocation of conditional release	2
20. Criminal Versatility	Neither

HCR-20: Assessing Risk for Violence-Version 2

Historical Items		Code (0,1,2)
H1	Previous Violence	
H2	Young Age at First Violent Incident	
H3	Relationship Instability	
H4	Employment Problems	
H5	Substance Use Problems	
H6	Major Mental Illness	
H7	Psychopathy	
H8	Early Maladjustment	
H9	Personality Disorder	
H10	Prior Supervision Failure	
Historical Item Total:		/ 20
Clinical Items		Code (0,1,2)
C1	Lack of Insight	
C2	Negative Attitudes	
C3	Active Symptoms of Major Mental Illness	
C4	Impulsivity	
C5	Unresponsive to Treatment	
Clinical Item Total:		/ 10
Risk Management Items		Code (0,1,2)
	<input type="checkbox"/> In <input type="checkbox"/> Out	
R1	Plans Lack Feasibility	
R2	Exposure to Destabilizers	
R3	Lack of Personal Support	
R4	Noncompliance with Remediation Attempts	
R5	Stress	
Risk Management Item Total:		/ 10
HCR-20 Total:		/ 40
Final Risk Judgment:		<input type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High

The Level of Service Inventory- Revised (LSI-R)

Criminal History

No	Yes	1. Any prior adult convictions? Number: _____
No	Yes	2. Two or more prior convictions?
No	Yes	3. Three or more prior convictions?
No	Yes	4. Three or more present offenses? Number: _____
No	Yes	5. Arrested under age 16?
No	Yes	6. Ever incarcerated upon conviction?
No	Yes	7. Escape history from a correctional facility?
No	Yes	8. Ever punished for institutional misconduct? Number: _____
No	Yes	9. Charge laid or probation/parole suspended during prior community supervision?
No	Yes	10. Official record of assault/violence?

Education/Employment

When in labor market:

No	Yes	11. Currently unemployed?
No	Yes	12. Frequently unemployed?
No	Yes	13. Never employed for a full year?
No	Yes	14. Ever fired?

School or when in school:

No	Yes	15. Currently unemployed?
No	Yes	16. Frequently unemployed?
No	Yes	17. Never employed for a full year?
No	Yes	18. Participation/performance
No	Yes	19. Peer interactions
No	Yes	20. Authority interactions

Financial

No	Yes	21. Problems?
No	Yes	22. Reliance upon social assistance

Family/Marital

2	1	0	23. Dissatisfaction with marital or equivalent situation	
3	2	1	0	24. Non-rewarding, parental
3	2	1	0	25. Non-rewarding, other relatives
No	Yes	26. Criminal-Family/Spouse		

Accommodation

3	2	1	0	27. Unsatisfactory
No	Yes	28. 3 or more address changes last year		
No	Yes	29. High crime neighborhood		

Leisure/Recreation

No	Yes	30. Unsatisfactory		
3	2	1	0	31. 3 or more address changes last year

Table con't

Companions

No	Yes	32. A social isolate
No	Yes	33. Some criminal acquaintances
No	Yes	34. Some criminal friends
No	Yes	35. Absence of anti-criminal acquaintances
No	Yes	36. Absence of anti-criminal friends

Alcohol/Drug Problem

No	Yes	37. Alcohol problem, ever		
No	Yes	38. Drug problem, ever		
3	2	1	0	39. Alcohol problem, currently
3	2	1	0	40. Drug problem, currently
No	Yes	41. Law violations		
No	Yes	42. Marital/Family		
No	Yes	43. School/Work		
No	Yes	44. Medical		
No	Yes	45. Other indicators: Specify: _____		

Emotional/Personal

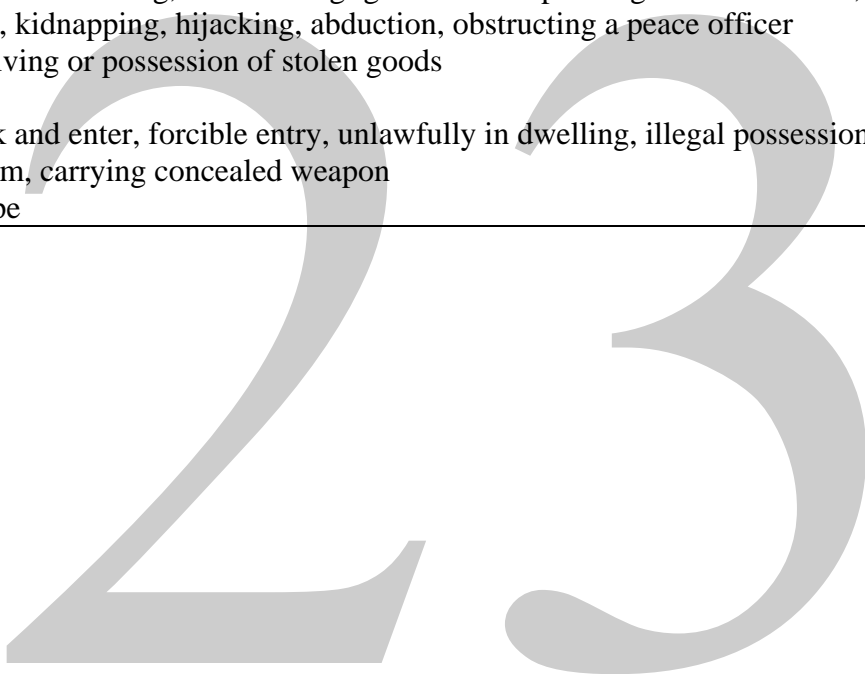
No	Yes	46. Moderate interference
No	Yes	47. Severe interference, active psychosis
No	Yes	48. Mental health treatment, past
No	Yes	49. Mental health treatment, present
No	Yes	50. Psychological Assessment indicated Area: _____

Attitudes/Orientation

3	2	1	0	51. Supportive of crime
3	2	1	0	52. Unfavorable toward convention
No	Yes	53. Poor, toward sentence		
No	Yes	54. Poor, toward supervision		

Statistical Information on Recidivism Scale (SIR-R1)

Item Description	Scoring
Current Offense:	
Incest, sexual intercourse with the underage, seduction, gross indecency	+4
Homicide: any act resulting in death, except by automobile	+3
Narcotics offenses (Food & Drug Act/Narcotic Control Acts)	+3
Unarmed robbery (armed robbery has 0 score)	+2
Dangerous driving, criminal negligence while operating a motor vehicle,	+2
arson, kidnapping, hijacking, abduction, obstructing a peace officer	
Receiving or possession of stolen goods	-1
Theft	-1
Break and enter, forcible entry, unlawfully in dwelling, illegal possession of	-2
firearm, carrying concealed weapon	
Escape	-4



Age at Admission	
40 or over	+2
20 or under	-2
Previous Incarceration	
Has never been in a penal institution before	+4
Has served a sentence in a penal institution on 3 or 4 previous occasions	-1
Has served a sentence in a penal institution on 5 or more previous occasions	-2
Revocation or forfeiture	
Has at any time been revoked or has forfeited day parole, full parole, or statutory release	-2
Act of escape	
Has escaped or attempted to escape on 1 or more occasions	-3
Security Classification	
Is in maximum security at time of parole hearing	-1
Age at first adult conviction	
Was 50 or over at time of first adult conviction	+7
Was between 41 and 49 (inclusive) at time of first adult conviction	+6
Was between 31 and 40 (inclusive) at time of first adult conviction	+3
Was between 23 and 30 (inclusive) at time of first adult conviction	+2
Was 18 or under of first adult conviction	-2
Previous convictions for assault	
Has 1 previous conviction	-2
Has 2 or more convictions for assault	-3
Marital status at most recent admission	
Was married or had common-law spouse	+1
Interval at risk since last offense	
If an offender has spent 24 months or more in the community between the current conviction or reincarceration, and his last prior conviction or last release	+2
If an offender has spend less than 6 months in the community between the current conviction or reincarceration and his last prior conviction or last release	-1
Number of dependents at most recent admission	
Had 3 or more dependents	+2
Current Total Aggregate Sentence	
Aggregate sentence is 5 years and up to 6 years	+3
Aggregate sentence is 6 years or more	+2

Previous Convictions for sexual offenses	-4
Has 2 or more previous convictions for any of rape, or attempted rape, or indecent assault, or sexual assault, or aggravated sexual assault	
Previous Convictions for break and enter	+2
Has no previous convictions for break and enter, or being unlawfully in dwelling house	-2
Has 1 or 2 previous convictions for break and enter, or being unlawfully in dwelling house	-3
Has 3 or 4 previous convictions for break and enter, or being unlawfully in dwelling house	-6
Has 5 or more previous convictions for break and enter, or being unlawfully in dwelling house	
Employment status at arrest	+1
Was employed at time of arrest for current offense(s)	

<p>Note: Items should be scored 0 if none of the stated values apply.</p>	<p>Success Rate for Groups of Offenders Scoring:</p> <p>+6 to +27: 4 out every 5 offenders will not commit an indictable offense after release</p> <p>+1 to +5: 2 out of every 3 offenders will not commit an indictable offense after release</p> <p>-4 to 0: 1 out of every 2 offenders will not commit an indictable offense after release</p> <p>-8 to -5: 2 out of every 5 offenders will not commit an indictable offense after release</p> <p>-30 to -9: 1 out of every 3 offenders will not commit an indictable offense after release</p>	<p>Total Score:</p> <p>_____</p>
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RRASOR

RRASOR items	Score
Prior sex offenses (not including index offenses)	
None	0
1 conviction, 1-2 charges	1
2-3 convictions; 3-5 charges	2
4 or more convictions; 6 or more charges	3
Age at release (current age)	
More than 25	0
Less than 25	1
Victim gender	
Only females	0
Any males	1
Relationship to victim	
Only related	0
Any non-related	1

Static 99 Items

Static 99 items	Score
Prior sex offenses (not including index offenses)	
None	0
1 conviction, 1-2 charges	1
2-3 convictions; 3-5 charges	2
4 or more convictions; 6 or more charges	3
Prior sentencing dates (excluding index)	
3 or less	0
4 or more	1
Index non-sexual violence	
No	0
Yes	1
Prior non-sexual violence	
No	0
Yes	1
Young (current age)	
Aged 25 or older	0
Aged 18-24.99	1
Any Male Victim	
No	0
Yes	1
Single (ever lived with lover for at least 2 years)	
Yes	0
No	1

Violence Risk Assessment Guide (VRAG)

Psychopathy Checklist (PCL-R) Score	
Scores 4 and under	-5
Scores of 5 through 9	-3
Scores of 10 through 14	-1
Scores of 15 through 24	0
Scores of 25 through 34	+4
Scores 35 and over	+12
Elementary School Maladjustment	
No problems	-1
Slight problems	+2
Moderate problems	+2
Severe problems	+5
DSM-III/IV Diagnosis of Personality Disorder	
No	-2
Yes	+3
Age at Index Offence	
Age of 39 or over	-5
Age of 34 through 38	-2
Age of 28 through 33	-1
Age of 27	0
Age of 26 and under	+2
Lived with Both Parents to Age 16 (except death of parent)	
Yes	-2
No	+3
Failure of Prior Conditional Release	
No	0
Yes	+3
Nonviolent offence score (Cormier-Lang Criminal History Score, CLCH)^a	
Score 0	-2
Score 1 or 2	0
Score 3 or over	+3
Marital Status	
Ever married (or equivalent)	-2
Never married	+1
DSM-III/IV Diagnosis of Schizophrenia	
Yes	-3
No	+1

Victim injury (index offence): most serious is scored	
Death	-2
Hospitalized	0
Treated and released	+1
None or slight	+2
History of alcohol Abuse [Score accordingly: 0 points = -1; 1 or 2 points = 0; 3 points = +1; 4 or 5 points = +2]	
Parental alcoholism (1)	-1
Teenage alcohol problem (1)	0
Adult alcohol problem (1)	+1
Alcohol involved in a prior offence (1)	+2
Alcohol involved in the index offence (1)	
Female Victim (for Index offence)	
Yes	-1
No	+1

Note. ^aDetailed scoring guidelines for the Cormier-Lang Criminal History Score are provided in the VRAG Manual.

VRS Items

Static Items

Current age
Age at first violence conviction
Number of juvenile convictions
Violence throughout lifespan
Prior release failures/escapes
Stability of family upbringing

Dynamic Items

Violent lifestyle
Criminal personality
Criminal attitudes
Work ethic
Criminal peers
Interpersonal aggression
Emotional control
Violence during incarceration
Weapon use
Insight into violence

Mental illness
Substance abuse
Stability of relationships
Community support
Released to high risk situations
Violence cycle
Impulsivity
Violent sexual behaviour
Compliance with community supervision
Security level of release institution

April 25, 2005

(E-mail from Dr. Serin to A. Berzins)

None of the responses prompt me to change any aspects of my report, yet several issues warrant comment.

██████████

In ██████████ defence, I agree the CCRA followed the inmate's admission to a federal prison, but this does not fully mitigate against the need to seek out relevant information (especially when it is referred to in various reports). ██████████ reference to the PCL-R as being an uncertain and weak predictor of sexual violence is incorrect. Correlations are lower, but still in the range of .18-.30 for sexual violence across 4-5 studies. Dr. Hucker's comment is that a facility as prestigious as the ██████ should have included contemporary assessment instruments, including the PCL-R. Interestingly, ██████ staff published one of the first papers that linked psychopathy to poor treatment performance, so even in this manner (i.e., treatment questions, not risk assessment) it would have been relevant.

The role of the treatment staff to delineate an understanding of the offence dynamics is acceptable, but the documentation in my view was limited in this regard.

The issue of necrophilia was raised in various reports, not just pre-sentence assessments. My memory is that the initial referral to ██████ raised this in the rationale for assessment for the ██████ program. That Dr. Glancy's report was unavailable or police reports is not the issue. ██████████

██████████ The debate noted by ██████
██████████ on paraphilias is accurate and important to use in context.

██████████

I sympathize with ██████████ concerns, but if the conditions for conducting contracted psychological assessments was so onerous, he has an ethical obligation to raise it with CSC or decline the contract. I think he is trying to assist the Board to appreciate the context of his assessment, and this is fair.

It appears ██████████ did attempt to address the concerns at ██████████ but given the inmate's history it should not be surprising he would deny them. Given conflicting evidence/opinions I would think a more cautious interpretation would have been pursued. Specifically, a time at medium security for the inmate to demonstrate there are no problems, rather than a return to minimum security. I should note the Warden at ██████████ made a hand written note specifically requesting 3-4 questions about ULYAUK's risk be addressed at ██████ These were not

apparently made available to the assessment team, nor was the issue that **ULAYUK** had been at [REDACTED] previously been a flag.

[REDACTED]

My major response is the apparently minimal role psychiatry played on the treatment team. For an accredited facility, the issue of an interdisciplinary team must have outlined greater procedural requirements than simply signing a report and briefly seeing the inmate? [REDACTED] objection appears to be this was how things were done. Dr. Hucker's concerns address a standard of care for forensic psychiatry.

Ralph Serin

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