

OFFICE OF THE CORRECTIONAL INVESTIGATOR
DEPARTMENTAL PERFORMANCE REPORT

**For the
period ending
March 31, 2004**

Anne A. McLellan
Solicitor General of Canada

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Section I: Correctional Investigator's Message

The Office of the Correctional Investigator is mandated as an Ombudsman for federal offenders. An effective oversight agency for correctional operations is accepted by Canadians as an essential element of an open and accountable criminal justice process. The strategic outcome expected by Canadians is a Federal correctional system that is fair, safe, humane and equitable. The focus of OCI operations is directed towards the promotion of that outcome.

The independent oversight of corrections encompasses more than the investigation of complaint and the filing of reports. The Office's effectiveness centres on its ability to maintain a responsive investigative process and the impact of its findings and recommendations on fostering positive change. On both counts, significant progress has been achieved.

We have implemented our Corporate Strategic Plan adopted in January 2002. The OCI's priorities, organizational matrix and operations have been realigned to ensure our mandate is carried out with optimal efficiency and effectiveness. Also realized through this change process has been a significant improvement in our agency's capacity to respond to emerging issues and its readiness to explore new strategic directions.

The OCI's governance is anchored by a well-structured Management Accountability Framework and directed by the highest ethical standards of public service.

Accordingly, the OCI will remain dedicated to achieving excellence vis-à-vis its strategic outcome and to report on its performance in a concise and understandable ways to elected officials and to Canadians. We will be guided in all we do by a clear set of values, which respect and reinforce Canadian institutions of democracy. The OCI will further demonstrate discipline and prudence in all fiscal matters, by engaging in sound risk management, rigorous stewardship, clear accountabilities and responsible spending.

The Office of the Correctional Investigator is committed to being a responsible and well managed federal agency, offering citizen focused services. We will continue to work in collaboration with other government and non government agencies to assist in ensuring that Canadians maintain confidence in their criminal justice system.

Howard Sapers
Correctional Investigator

Section II: Management Representation Statement

Management Representation Statement

I submit, for tabling in Parliament, the 2003-2004 departmental performance report (DPR) for the Office of the Correctional Investigator

This report has been prepared based on the reporting principles and other requirements in the *2003-04 Departmental Performance Reports Preparation Guide* and represents, to the best of my knowledge, a comprehensive, balanced, and transparent picture of the organization's performance for fiscal year 2003-04.

Name: _____

Title: _____

Date: _____

Section III: Societal and Operational Contexts

Corrections is a difficult and at times thankless business, yet it is a key element of the Canadian criminal justice system. The mandate of the Correctional Service is to manage the sentence of the court consistent with the rule of law, respectful of individual and collective human rights while giving primacy to the protection of the public. Canadians expect a correctional system that provides safe, humane custody which supports the offenders' successful reintegration into society.

The primary function of the Correctional Investigator, as an Ombudsman for federal offenders, is to independently investigate and facilitate resolution of individual offender complaints. The Office as well has a responsibility to review and make recommendations on Correctional Service policies and procedures associate with areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed. The presence of independent oversight promotes correctional practices which respect the rule of law and strengthens the public's confidence in their correctional system.

We approach this function, as do many oversight agencies, with limited resources and an incessant demand for our services.

The Office again last year managed nearly seven thousand offender complaints. The investigative staff spent more than four hundred working days in federal penitentiaries, interviewed in excess of twenty five hundred offenders and met regularly with inmate organizations at every institution in the country. As well, a multitude of systemic areas of concern were reviewed on an ongoing basis with senior correctional officials at the institutional, regional and national levels of the Service.

Beyond the issues associated with the demanding workload are the unique characteristics of the correctional environment and the public we serve. There is an extreme level of mistrust between the keepers and the kept. The areas of concern raised on complaint often have an immediate and ongoing impact and in many instances involve rights, liberty or personal safety issues. The disadvantaged elements of our society, minorities, those with mental health problems and the poor, are significantly over represented in our penitentiaries. There is limited public understanding of the correctional process and as a group, federal offenders curry little public support. In addition, the Correctional Service does not have a noted history of openness and accountability.

These factors present a challenge to the traditional Ombudsman approach of facilitating a resolution to issues. Within the correctional environment the formal internal avenues of redress are viewed by offenders with suspicion and informal resolution, absent of third party intervention, is seldom achieved. A good number of complaints are time sensitive and do not lend themselves to a thorough investigative process with formal findings and recommendations, they require immediate intervention and response. The diversity of the inmate population requires a specific focus, for example, on areas of concern related

to Aboriginal and women offenders. The public reporting on unresolved areas of concern designed to focus attention on injustices or unfair practices, given the public's perception of the offender population, does not always have the intended result.

The key to meeting these challenges, in combination with a highly skilled and dedicated workforce, lie in ensuring that we are both accessible and responsive to the offender population. The implementation of our Corporate Strategic Plan, as detailed in the 2002-2003 Departmental Performance Report (DPR), has resulted in a number of significant operational adjustments.

The Office has provided increased training and developed more focused reference materials for our intake staff so that offender complaints which can be dealt with through the provision of information, assistance or referral are addressed in a timely manner. A twenty-four hour a day toll free number has been introduced for emergency complaints. We have increased the frequency of our institutional visits and formalized our meetings with offender organizations, such as Inmate Committees, Native Brotherhoods and Sisterhoods, Black Inmate Associations and Lifer Groups.

Our debriefing process at the conclusion of institution visits with Wardens has been restructured to ensure that those areas of concern which can be resolved are dealt with in a timely fashion. We have as well identified specific "areas of focus" which investigators review with institutional managers during each visit. These areas are a combination of issues frequently raised on complaint and issues associated with rights or liberty concerns such as segregation, the internal grievance process and involuntary transfers.

The Office has established two positions with specific responsibility for coordinating Aboriginal and Women offender issues. These Coordinator positions in addition to their review of individual and systemic complaints, have maintained an ongoing liaison with both government and non government agencies active in the areas of Aboriginal and Women's human rights and criminal justice issues. These relationships are important in ensuring that the Office's position on these matters is both well informed and broadly based.

A number of other initiatives in direct support of our investigative process have been undertaken. The Coordinator, Use of Force in conjunction with managing a process that review up to a thousand incidents annually has developed a consultation procedure with the Service's regional and national managers to promote greater consistency in the analysis of use of force incidents. We have initiated at the national level a more focused process to ensure that the position of the Office on those issues directly impacting on inmate rights and entitlements are given consideration by the Service during the course of their policy development and review. The Office has further strengthened its consultation and reporting structures at both the regional and national levels to ensure that unresolved and ongoing areas of inmate concern are referred to the Service's senior management in a timely fashion and followed-up in a manner that promotes effective resolution.

Section IV: Agency Performance

4.1 Performance Summary – Priorities in 2003-2004 RPP

In its 2003-2004 Report on Plans and Priorities (RPP), the OCI identified three priorities. These are consistent with our Logic Model (see section 4.6 below) and in all three; the OCI has achieved and in some regards, exceeded the intended outcomes. These priorities are presented below, along with a summary of our performance. We refer our readers to section 4.8 below for more information.

1. Increase accessibility through institutional visits and direct contacts with offender population

The Office's investigative staff spent 409 days in federal penitentiaries and conducted 2,517 interviews with offenders. These numbers are up from last year when we spent 373 days at institutions and interviewed 2,451 offenders. In addition during 2003-2004 we increased the frequency of our meetings with inmate organizations.

The increase in our accessibility to the Offender population further increased our direct contact with CSC decision-makers at the institutional level which in turn insured that both individual and systemic areas of concern were addressed in a more timely fashion.

2. Create specialist positions to address issues of Women and Aboriginal offenders:

The two specialists' positions Coordinator of Women Offender issues and Coordinator of Aboriginal Issues were created within our organizational structure and have been staffed on a permanent basis.

Their impact on our agency's performance has been immediate and wide-ranging. We have been able to establish and maintain an investigative process for Women and Aboriginal offenders that is thorough, objective, timely, culture and gender-sensitive. Our Coordinators' approach has been through direct contact with individual offenders and offender groups, to provide advice and direction on the Service's policies and procedures. The outcome has been that offenders deal more effectively with CSC when problems arise.

Moreover, the provision by OCI Coordinators of evidence based advice and direction on areas of offender concern further raised the Service's awareness of the diverse and urgent needs of both Women and Aboriginal offenders.

In response, CSC has made progress in addressing some of the OCI's long standing concerns and recommendations, notably the relocation of some maximum security women's offenders from "men's institutions" to new secure units within FSW facilities and a more focused approach on Aboriginal issues, at the regional and national levels.

Finally, Coordinators have enabled the OCI to develop and sustain much more productive linkages with its governmental and NGO partners concerned with Aboriginal and Women's criminal justice issues. A noteworthy example was the extensive consultation undertaken with the Canadian Human Rights Commission in the preparation of its special report entitled "Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women". A copy of our response to the commission's consultation paper is available on our web site.

3. Increase the ability to review and follow-up on both investigations as per section 19 of the *Corrections and Conditional Release Act* and Use of Force videotapes, as per the recommendations of the *Arbour Commission*:

The OCI has now completely eliminated the backlog of Use of Force and S.19 investigation files. It is now able to process the above, as they are received from the Correctional Service of Canada (CSC), in a more timely fashion.

During this reporting period, our reviews and subsequent discussions with CSC management have led to significantly greater compliance with the guidelines on the Use of Force interventions. In addition a number of significant changes to these guidelines have been introduced by the Service, specifically with respect to force used against inmates suffering from mental health problems.

Towards the end of the fiscal year, the Service adopted various policy changes to its investigative process that had long been recommended by the OCI, to improve the quality and the timeliness of its reporting of S.19 investigations. The focus of the OCI's efforts will now shift towards the effective implementation of these measures.

4.2 Mandate

The Office of the Correctional Investigator was established in 1973 pursuant to Part II of the *Inquiries Act*. With the proclamation in November 1992 of Part III of the *Corrections and Conditional Release Act*, this is now the enabling legislation. The mandate of the Correctional Investigator, as defined by this legislation, is to function as an Ombudsman for federal offenders. The Correctional Investigator is independent of the Correctional Service of Canada and may initiate an investigation on receipt of a complaint by or on behalf of an offender, at the request of the Minister or on his own initiative. The Correctional Investigator is required by legislation to report annually through the Solicitor General to both Houses of Parliament.

4.3 Mission Statement

The Office of the Correctional Investigator is committed to maintaining an accessible independent avenue of redress for offender complaints and to provide timely recommendations to the Commissioner of the Correctional Service of Canada and the Solicitor General which address the areas of concern raised on complaint.

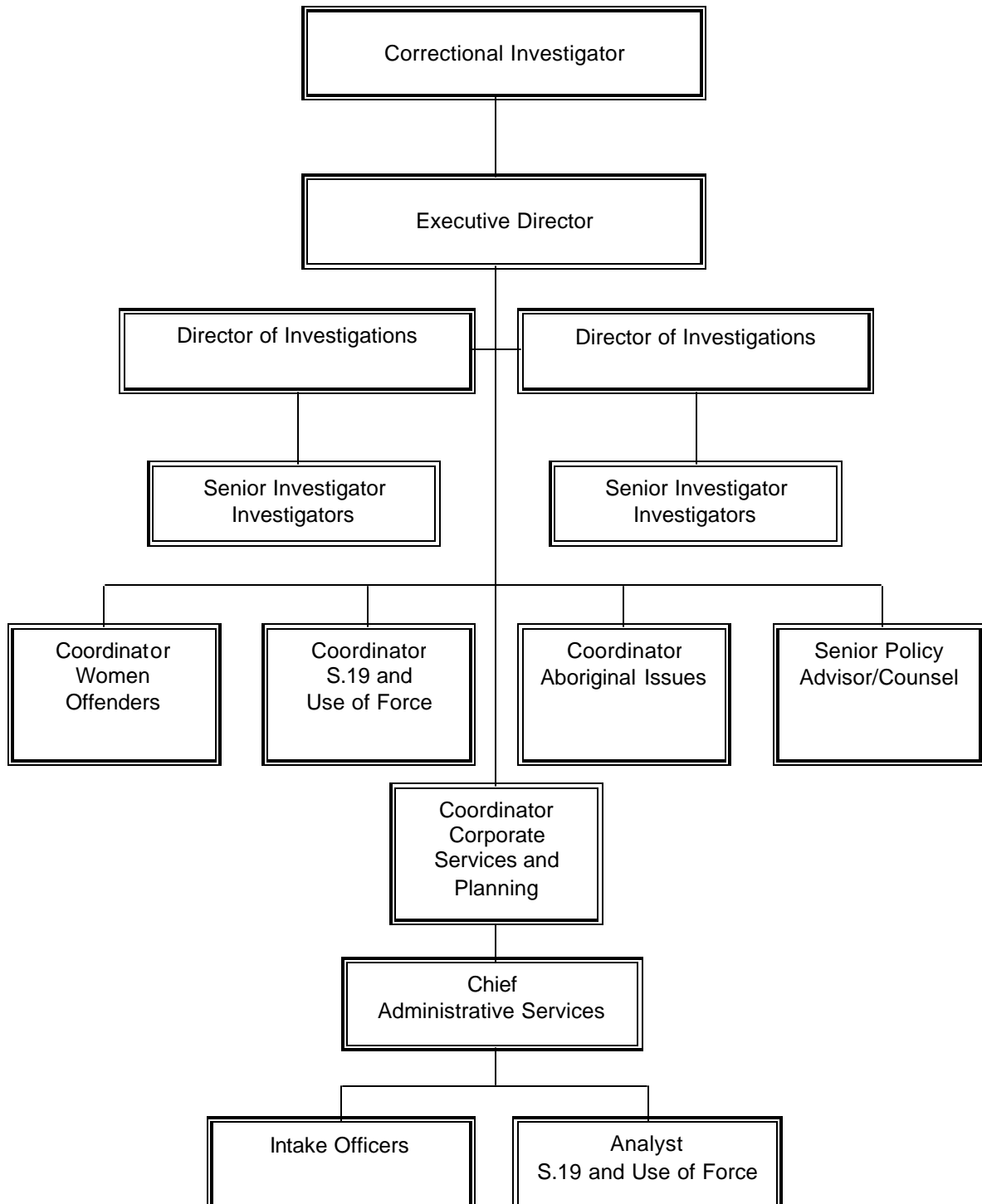
4.4 Business Line and Resources

The Office of the Correctional Investigator (OCI) has one Business Line which, as detailed in Section 167 of the *Corrections and Conditional Release Act (CCRA)*, is to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner of Corrections or any person under the control and management of, or performing service for or on behalf of the Commissioner of Corrections that affects offenders either individually or as a group.

Section 19 of the CCRA requires that the Office reviews all investigations performed by the Correctional Service of Canada following the death or serious bodily injury to an inmate. The OCI is also committed to a similar review function with respect to Use of Force interventions, in keeping with the recommendations of the Arbour Commission of Inquiry.

The Office of the Correctional Investigator is headed by the Correctional Investigator who reports to Parliament through the Solicitor General. The Agency's resources provide for 22 full-time equivalents, of which fifteen are directly involved, as intake officers, coordinators or directors, in the day to day addressing of inmate complaints. The total resources are 3,044,000 for the fiscal year 2003-2004.

4.5 Organization Chart

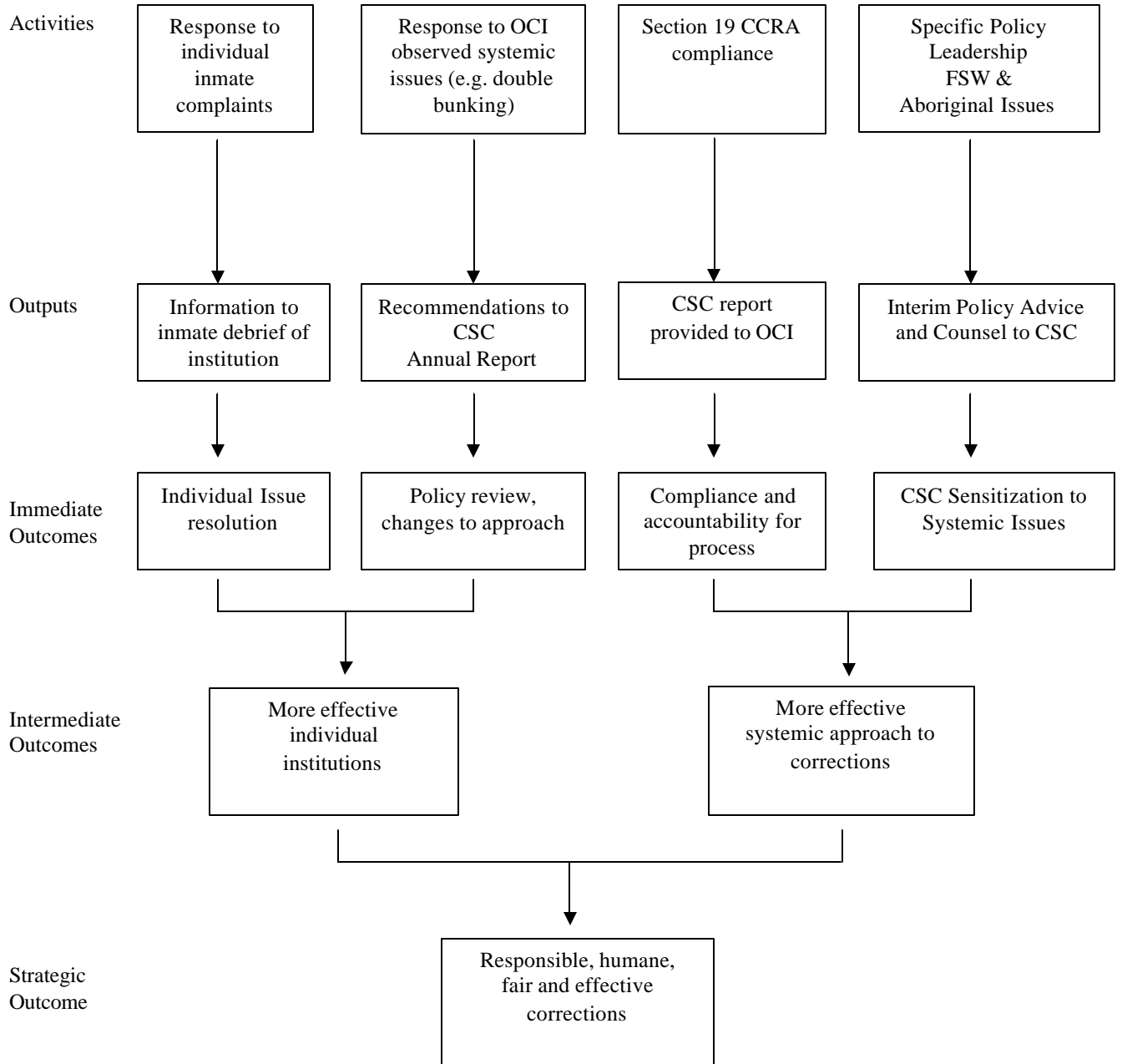


4.6 OCI Logic Model

The Logic Model presented below sets out just how the OCI views how it delivers the services necessary to support its mandate and deliver on its commitment to the strategic outcome of responsible, humane, fair and effective corrections.

The logic model identifies the linkages between the activities of the OCI program and the achievement of its outcomes. It clarifies the activities that make up its program and the sequence of outcomes expected to result from these activities.

OCI Logic Model



4.7 Spending Profile by Activity

Of legitimate concern to elected officials and Canadians is how the OCI has allocated resources. Set out below are the spending profiles, consistent with the major activities identified in the OCI Logic Model.

The core business of the OCI is responding to individual inmate complaints arising from incarceration and anticipating and addressing more systemic issues that arise (e.g. Aboriginal, Federally Sentenced Women, Section 19 and Use of Force). These two activities comprise the core services provided by the OCI and this is recognized in the spending profile below.

Spending Profile by Activity for fiscal years 2002-2003 to 2003-2004

Total Authorities	2002-2003	2003-2004
Salary	1,945	1,890
O&M	904	795

Individual Inmate Complaint Resolution (i.e. visits, correspondence)

Actual Spending	2002-2003	2003-2004
Salary	800	830
O&M	560	271
Total	1,360	1,101

OCI Systemic Issues (e.g. Administrative Segregation, Double Bunking)

Actual Spending	2002-2003	2003-2004
Salary	240	445
O&M	80	130
Total	320	575 ¹

Mandated Issues (Section 19, CCRA Compliance, Use of Force)

Actual Spending	2002-2003	2003-2004
Salary	290	150
O&M	47	20
Total	337	170 ²

Corporate Services (Intake Process, Admin. Services)

Actual Spending	2002-2003	2003-2004
Salary	375	290
O&M	120	70
Total	495	360

Specific Policy Leadership (Aboriginal, Federally Sentenced Women)

Actual Spending	2002-2003	2003-2004
Salary	175	175
O&M	45	50
Total	220	225

Actual Spending	2002-2003	2003-2004
Salary	1,880	1,890
O&M	852	541
Total	344	359
Grand Total	3,076	2,790

¹ Variance(+) reflects greater than anticipated reallocation of resources to systemic issues

² Variance(-) in expenditures reflects elimination of backlog and decrease in the number of Use of Force cases (see section 4.1 above for more information)

4.8 Overview of Agency Performance

The primary function of the Correctional Investigator is to independently investigate and attempt to bring resolution to individual offender complaints. The Office, as well has a responsibility to review and make recommendations on the Service's policies and procedures associated with the areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed.

This year's annual report, which will be available on our website (www.oci-bec.gc.ca) as soon as it is tabled in Parliament contains observations and specific recommendations in areas such as transfers, double bunking, institutional violence, young offenders, infectious diseases, Women and Aboriginal Offenders. In doing so, the Office aims to assure the Canadian public that significant areas of concern, related to Corrections, are being addressed.

All complaints received by the Office are reviewed and initial inquiries made to the extent necessary to gain a clear understanding of the issue in question. After this initial review, in those cases where it is determined that the area of complaint is outside our mandate, the complainant is advised of the appropriate avenue of redress and assisted when necessary in accessing that avenue.

For those cases that are within our mandate, various options are explored to assist the complainant in identifying a solution to his concerns. In some instances all that may be required is an explanation of the Service's policies and procedures associated with the area of complaint. In other cases, the offender is referred directly to CSC staff or to an internal redress mechanism, such as the inmate grievance procedure.

There are however a significant number of more challenging issues raised on complaint in which resolution is only achieved through numerous inquiries or a lengthy and complex investigation by the OCI. A detailing of the complaints received and their disposition can be found in the "statistics" section of our Annual Report.

In addition to responding to individual complaints, the Office meets regularly with inmate committees and other offender organizations. We make announced visits bi-annually at each institution during which time the investigator will meet with any inmate or group of inmates upon request.

From 1 April 2003 to 31 March 2004, the Office received 6,892 complaints from or on behalf of offenders compared to 6,988 and 7,993 complaints in 2002-2003 and 2001-2002 respectively. The office's investigative staff spent 409 days at federal institutions, compared to 373 days and 344 during the previous two fiscal years, and conducted 2,517 interviews, compared to 2,451 and 2,838 during the previous two reporting periods.

Above and beyond the cyclical nature of demand for our services, the downward trend in the number of complaints from individual offenders can largely be attributed to the OCI's shift to a more systemic approach towards dispute resolution and the restructuring of our

debriefing process at the institutional level to ensure that individual complaints are dealt with in a more timely fashion.

Reflective of this shift are actions taken at the regional and national levels by the Coordinators of Women and Aboriginal issues (see section 4.1 above). Also indicative is the increase in the number of meetings, 400 as opposed to 350 and 300 in the previous two fiscal years, that the OCI has held with various offender organizations within federal institutions.

In order to comply with the recommendations of the Arbour Commission³, the Office reviewed 863 Institutional Emergency Response Team (IERT) videotapes and other documentation, related to Use of Force Incidents, compared with 1,127 in the previous fiscal year and 1,037 in the 2001-2002.

Throughout the current reporting year, the OCI observed, consistent with its Logic Model, that its recommendations contributed to improvements in CSC's policies, procedures and practices with regard to the use of force. This in part is reflected in the reduction in the number of use of force incidents.

Among these improvements, were the amendments to guidelines regarding the use of force and specifically, against offenders suffering from mental health problems. Also worthy of mention is the overall improvement in the degree of compliance with existing guidelines; and improvement brought about by the better training provided by CSC in part in response to the OCI's identifying consistent non compliant issues in use of force incidents.

For the benefit of our readers who may be less familiar with the field of corrections, the objective pursued by the OCI's recommendations is to ensure that the use of force against inmates is not abusive or excessive and that it is well documented, when it must occur, so that the entire process is open and transparent. This objective is not only consistent with the strategic outcome outlined in our Logic Model (see section 4.6 above), but also with the values and legitimate expectations of Canadians regarding the fair and humane treatment of inmates.

During the course of the current reporting period, the OCI has also reviewed 119 Correctional Service of Canada (CSC) investigation reports into inmate death or serious bodily injury.

While the CSC has adopted a number of corrective measures (see section 4.1 above), the OCI will continue to actively monitor both the quality and timeliness of these investigations. These concerns are directly related to those that the OCI has and continues to express regarding institutional violence and its negative impact on the correctional treatment offered by the Service to incarcerated Canadians. The OCI has recommended CSC improve its data gathering and analysis regarding institutional

³ The Honorable Louise Arbour, Commission of Inquiry into Certain Events at the Prison for Women, 1996

violence and to implement viable and effective strategies to reduce both its occurrence and its impact on the quality of institutional life.

The ultimate objective pursued by the OCI in this area is, in keeping with the outcomes outlined in its Logic Model, to ensure that any shortcoming in the safe and secure custodial environment Canadians legitimately expect their penitentiaries to be, is promptly investigated and effectively rectified.

In the course of its review and investigative efforts, the OCI has, in accordance with its Logic Model (see section 4.6 above), engaged in an ongoing review and consultation process with the Service's senior management regarding the recommendations in our 2002-2003 Annual Report.

This process, while not bridging the gap between ourselves and the Service on some significant issues associated with Health Care, Women and Aboriginal offenders, has resulted in substantial changes on a number of longstanding areas of concern. Policy and operational changes have occurred in the areas of Investigation, Use of Force and Allegation of Harassment and Staff Misconduct. The Service had as well undertaken to continue its review and evaluation of issues associated with Younger Offenders, the Inmate Grievance Process, Inmate Injuries and Institutional Violence. In addition, two mediated consultations occurred related to the Service's policies and procedures related to Inmate Access to Computers and Visitors Screening. These consultations have opened an encouraging avenue of redress for offender concerns involving not only the Correctional Service and this Office but as well inmate representatives and interested third parties. A detailing of all of these activities is available in our 2003-2004 Annual Report along with the Service's responses to our recommendations (www.oci-bec.gc.ca).

The Office's activities, outputs and outcomes are consistent with its Logic Model and legislative mandate. While exercising due regard for efficiency, effectiveness and the prudent stewardship of public resources, the Office has enhanced its contribution to the safe, fair, humane and equitable treatment of offenders under federal responsibility.

The Office also contributes to the safety of all communities by helping to ensure that federal offenders who are released have not only been dealt with fairly and humanly, but have also been provided access to with appropriate assistance in their bid to become law abiding citizens.

Annex A

Financial Performance Overview

Annex A: Financial Performance Overview

Financial Table 1

Summary of Voted Appropriations

Financial Requirements by Authority (thousands)				
Vote		Planned <u>Spending</u>	2003-2004 Total <u>Authorities</u>	<u>Actual</u>
	Office of the Correctional Investigator			
(30)	Operating expenditures	2,563	2,685	2,431
	Capital expenditures	-	-	-
	Grants and Contributions	-	-	-
	Correctional Investigator – Salary and motor car allowance	-	-	-
(5)	Contribution to employee benefits plan	359	359	359
	Total Agency	2,922	3,044	2,790

Financial Table 2

Comparison of Total Planned Spending to Actual Spending

Business Line	2003-2004		
	Planned Spending	Total Authorities	Actual Spending
FTEs	27	27	22
Operating	2,922	3,044	2,790
Capital	-	-	-
Grants and Contributions	-	-	-
Total Gross Expenditures	<u>2,922</u>	<u>3,044</u>	<u>2,790</u>
Less:	-	-	-
Respendable Revenues	-	-	-
Total Net Expenditures	2,922	3,044	2,790
Other Revenues and Expenditures	-	-	-
Non-respendable Revenues	-	-	-
Cost of services provided by other departments	256	256	256
Net Cost of the Program	3,178	3,300	3,046

Financial Table 3

Historical Comparison of Total Planned Spending to Actual Spending

Business Line	2003-2004				
	Actual 2001-2002	Actual 2002-2003	Planned Spending	Total Authorities	Actual
Office of the Correctional Investigator	2,739	3,073	2,922	3,044	2,790
Total	2,739	3,076	2,922	3,044	2,790

Annex B
Other Information

Annex B: Other Information

i) Contacts for Further Information

Name	Title	Address	Tel. No.	Fax No.
Howard Sapers	Correctional Investigator	P.O. Box 3421 Station "D" Ottawa, Ontario K1P 6L4	(613) 990-2689	(613) 990-9091
Ed McIsaac	Executive Director	P.O. Box 3421 Station "D" Ottawa, Ontario K1P 6L4	(613) 990-2691	(613) 990-9091

ii) **Agency Website:** www.oci-bec.gc.ca

iii) **Agency E-Mail Address:** org@oci-bec.gc.ca

iv) **Legislation and Associated Regulations Administered**

Corrections and Conditional Release Act, Part III. (R.S.C., 1992, Ch. 20).

v) **Statutory Annual Reports and Other Agency Reports.**

Available on our website:

Annual Report of the Correctional Investigator

Correctional Investigator's Response to the Canadian Human Rights Commission's Consultation Paper to the Special Report on the Situation of Federally Sentenced Women (May 2003)

Consultation Paper: Shifting the Orbit: Human Rights, Independent Review and Accountability in the Canadian Corrections System (June 2004)