The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada

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2002–2003

Canada

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June 30, 2003

The Honourable Wayne Easter
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Mr. Minister,

In accordance with the provision of section 192 of the *Corrections and Conditional Release Act*, it is my duty and privilege to submit to you the 30th Annual Report of the Correctional Investigator.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Canada

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CORRECTIONAL INVESTIGATOR'S OVERVIEW

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

Our focus in implementing this Mission Statement is compliance with the law. This applies not only to our statutory goal—to resolve the problems of inmates—but also to the fundamental legal mandate of the Correctional Service of Canada—providing safe, humane custody and facilitating timely, effective reintegration in society.

In many respects, not a great deal has changed with respect to our operations and their outcomes. Once again this year my Office has endeavoured to fulfil our mandate by investigating offender complaints in a thorough, timely and impartial manner. Once again we have attempted to provide informed and reasonable recommendations, where necessary, to address offender problems at the level of CSC's organization compatible with effective resolution. Once again we have been more successful at the operational level in obtaining resolution than we have at the Headquarters level.

One new development, however, is that we have attempted to remedy the situation regarding systemic issues by two means. First we have developed a promising approach, with the cooperation of the Commissioner of Corrections, to achieving agreement on the disposition of major ongoing disputes. Second, where this mechanism is not effective, we have decided to take the further steps necessary to bring closure to them.

Everyday Operations and Results

Our staff has been successful, again this year, in addressing a significant number of offender problems at the operational level. This year we have responded to 6988 inmates inquiries or complaints and carried out 3257 investigations of various degrees of complexity. We have conducted 2451 interviews with offenders during our total of 373 person/days of visits to institutions. CSC data reveals that 120 incidents resulting in serious injury or death occurred in 2002–2003. Pursuant to s.19 of the CCRA, we have reviewed all CSC reports of investigations into these incidents that have been referred to us. Additionally, we received information on 1127 incidents involving use of force against inmates, which we reviewed and, where necessary, have brought forward to regional and national CSC managers responsible for compliance and investigations.

An innovation this year has been our identification of four "areas of focus" as indicators of institutional performance on issues significantly affecting inmates. We have systemically acquired and reviewed data from institutions in these areas. Our objective has been to measure the effectiveness of institutions in areas that have been problematic and that fundamentally affect inmates' conditions of confinement and progress toward release. The areas of focus, identified as part of our annual planning cycle, are:

- Programming/conditional release/case preparation
- Administrative segregation
- Security classification/transfers
- Procedural fairness/redress/grievances

Our managers, Legal Counsel and Coordinators of Use of Force, Aboriginal and Women's Issues have met frequently with Correctional Service management and staff, as well as representatives from government and non-government agencies active in the field of criminal justice and human rights.

I take this opportunity to congratulate my staff on their exemplary performance of the difficult tasks that I have set for them. Their success in dealing with offender problems is a testament to the strong values, considerable skills and substantial patience that they have brought to the job.

Major Outstanding Issues

As we entered the current reporting year, as had occurred in previous years, we were faced with a number of Correctional Service responses to our recommendations (received by our Office on

September 4, 2002) that were excessively delayed, overly defensive and lacking in commitment to specific, timely action. This was disappointing, especially given my recommendation in the 2001–2002 Annual Report that the Service address specifically the substance of the issues raised. I advised the Commissioner of Corrections of these concerns on October 8, 2002 stating, in part:

"*A review of your Response clearly indicates that in most cases neither the substance of the issues or the specifics of the Recommendations have been reasonably addressed. The Issues detailed in my Annual Report are significant and our interest lies in ensuring that the problems of offenders are addressed in a reasonable and timely fashion. I remain of the opinion that if there is a collective will, these Issues can be so addressed.*"

I indicated to the Commissioner that I would be reviewing all outstanding issues in order to determine which matters to refer to the Minister in the absence of agreement with the Correctional Service. I invited the Commissioner to designate senior staff to discuss these matters with our Office.

The ensuing discussions indicated, however, that the issues were not about to be addressed in a reasonable and timely fashion. In my opinion the major problem lay, not at the level of the specific issues in dispute, but rather with respect to our overall operating relationship with CSC as this impacted on the success our ombudsman reporting process. Specifically, the lack of responsiveness of the Correctional Service to our findings and recommendations made it virtually impossible to focus upon, and bring resolution to, the content of our submissions. The ombuds approach anticipates that the answer will reflect the question.

Accordingly, on December 17, 2002, I wrote to the Solicitor General pursuant to s.180 of the Corrections and Conditional Release Act. I stated, in part:

"The Service's rejection of virtually all of our recommendations, and the absence of any substantive proposal for addressing the issues, represents a totally unreasonable embracing of the status quo. It further represents a failure to accept the significance of the areas of concern detailed or an acknowledgement of their past commitments to address these matters.

My concern is that without accountability on these matters, the Correctional Service will have license to continue to ignore both the substance of the issues raised and the specifics of the recommendations provided to address these matters."

The Solicitor General replied on February 6, 2003. I subsequently met with him to discuss the issues in greater depth and to outline our most recent efforts to bring closure to the most significant areas of concern.

I am pleased to report that the Commissioner of Corrections and I have agreed on the means to attempt this closure. We have been holding a series of meetings, attended by my Executive Director and the Senior Deputy Commissioner, whose purpose has been to address the outstanding Annual Report issues. We concurred from the outset that the outcome of the meetings should be to bring final resolution to matters wherever possible and:

- where we disagree, to set out the Service's rationale for its decision in terms related to our findings and recommendations;
- where we agree, to establish plans, with definite time-frames, measurable outcomes, sound evaluation frameworks to implement our agreements.

As might be expected the process has not resulted in immediate or complete resolution of all issues. No process of negotiation is perfect. Nevertheless, we have reached consensus on some topics and in other areas we have at least set out a plan with clear undertakings as to what the Service intends to do and when.

This approach has prompted me to adjust the format of my Report on outstanding major issues. I wish to provide relevant information so that readers can understand the issues and evaluate the success of our attempts at resolution. It may also help them to understand any further steps my Office may take should agreed-upon solutions, or at least preliminary steps toward solutions, not occur.

Accordingly, for each topic I will set out:

- the brief overview of the significance of each issue for offenders from a legal and policy perspective
- how each issue stood at the beginning of the reporting year—our position and that of the Service
- the specific results of our current discussions with the Service including, where applicable, the plans adopted to deal with the problems.

Where we achieved agreement on issues, I have indicated the basic terms of these. Where we did not achieve final consensus through the process, I have recommended a basis for doing so.

I believe that we and the Service have taken the first step toward an effective review of issues. This step involves focussing on what my Office has to say, addressing this in the response and fashioning a solution that meets the valid needs of offenders in a reasonable, practicable fashion.

My staff and I undertake to do whatever we can to bring success to this process so that we can move on to even more fundamental resolution of offender problems

Nevertheless, while the above process has achieved some progress and while I hope that this will also be reflected in the Service's response to this Report, I am conscious of the need to bring matters to conclusion and not simply to pass along topics to the next Annual Report. Although I am prepared yet again to attempt resolution of these matters on specific terms, I am not prepared to re-visit topics with no reasonable expectation of success

Accordingly, if persistent areas of concern are not dealt with as recommended or as otherwise addressed, I will immediately take the measures available to resolve the dispute. These will include, if necessary, Special Reports under s.193 of the Corrections and Conditional Release Act.

New Annual Report Features

This year's Annual Report includes a number of sections that supplement our core focus on major outstanding issues.

These are intended to provide a clearer description of our day-to-day functions and challenges. Our Annual Report findings and recommendations are but one outcome of the work that we do in order to resolve problems in our ongoing operations. Accordingly we have tried to provide a flavour of our working milieu.

In addition to individual cases, we must frequently address major CSC services and programmes arising from the Corrections and Conditional Release Act and the Regulations—complex topics that do not lend themselves to specific findings or recommendations, but are nevertheless fundamental to our mandate. With this in mind I have included a section that focuses on such a key function of the Correctional Service—Health Services, and on some of the anomalies that can result from implementing the legislative mandate of that Branch in a statutory milieu where custody and security concerns predominate.

I have also provided a section on the outlook for the coming year—issues that have not yet come to a head, but which might well have become very significant by the time this Report reaches Parliament.

Finally, I have included a proposal to bring resolution to a long-standing issue that arose initially in the Recommendations of the 1995 Arbour Inquiry into events at the Prison for Women—judicial intervention, external review and accountability in corrections. I hope that this will lead to a broadly-based discussion and to measures to address these fundamental concepts.

I look forward to the comments of all readers on this year's Report.

WHAT WE DO

Established under Part III of the *Corrections and Conditional Release Act*, my Office acts as an Ombudsman for federal offenders. We investigate and attempt to bring resolution to individual offender complaints. As well, we have a responsibility to review and make recommendations on the Correctional Service's policies and procedures associated with the areas of individual complaints to ensure that systemic areas of concern are identified and appropriately addressed.

We can initiate an inquiry on the basis of a complaint or on our own initiative. We have complete discretion in deciding whether to conduct an investigation and how that investigation will be carried out.

To carry out our functions we engage in a wide range of activities. A sampling of these functions appears as a "snapshot" on page 13.

The Office addresses the vast majority of the concerns raised in complaints by inmates at the institutional level through discussion and negotiation. In those cases where a resolution is not reached at the institution, the matter is referred to regional or national headquarters, depending upon the area of concern, with a specific recommendation for further review and corrective action.

Where I believe that a matter has not been adequately addressed and requires the attention of the Commissioner of Corrections, we will report our findings and recommendations to the Commissioner pursuant to s.177 to 179 of the CCRA. That report will indicate a full informational basis for our conclusions and recommendations.

If at this level the Commissioner, in my opinion, fails to address the matter in a reasonable and timely fashion, it will be referred to the Minister and eventually may be detailed within an Annual or Special Report.

In the course of an investigation, my staff has very significant authority to enter premises and to acquire information from files or individuals. This is tempered by strict legal rules limiting our ability to disclose information acquired. This confidentiality provides a vital assurance to persons who may wish to provide us with information. It is a hallmark of the independence of the ombudsman approach from other forms of investigation and adjudication.

We are, above all, an ombudsman agency. This involves a fundamental balancing of authority and functions which has long characterised the ombuds approach.

On the one hand our legislation arms us with operational tools and discretion to carry out thorough investigations on a broad range of offender problems.

On the other hand we may only *recommend* solutions to offender problems, albeit at all levels, from institutional staff and management, through Regional and National Headquarters staff and the Commissioner of Corrections, to the Solicitor General of Canada and, ultimately, by means of Annual or Special Reports, through the Minister to both Houses of Parliament.

As with other ombudsman agencies, this balancing gives rise to two features that underpin our effectiveness as compared to other investigative or adjudicative mechanisms:

1. Our enhanced and direct access to information permits us to bring quite timely closure to most matters, usually at the institutional level.

2. The focus on persuasion that flows from our power only to recommend means that:
   - we tend to address the most urgent and significant unresolved matters in our statutory reports; and
   - we must attempt to buttress our findings and recommendations with a thorough and, we hope, compelling review of information in support of these.

As an ombudsman agency, it will be the relevance and weight of the evidence that we provide and the clarity and strength of our conclusions that determine the outcome of our efforts.

A major focus in our work is fairness. Herein I refer, in part, to procedural fairness—ensuring appropriate offender input into the Service's considerations that may lead to adverse decisions. More important, though, I refer to *fairness in the common sense, flexible meaning of the word*. We want to see that CSC decisions take into account the needs and interests of all concerned. We believe that decisions and actions should not be coloured by pre-conceptions, "alliances", stereotypes or the simple failure to give a matter the attention it deserves. Beyond the complexities of law and policy, I believe that this reflects Parliament's purpose in creating the Office.

If everybody's conduct is measured by an informed, balanced, impartial standard, then it is more likely that disputes will be resolved in a way that respects the rules. If the persons applying the standard are impartial and independent, *and perceived as such*, then it is more likely that they will succeed in their mission.

SNAPSHOT

It is 9:30 Eastern Time

- One of our intake workers is on the phone with the wife of an inmate in a medium security institution. The lady was denied a visit yesterday in connection with an ion scan detection. The intake worker is explaining the woman's recourse and the information that CSC must provide her in this regard.
- Another intake worker is reviewing offender telephone messages received during the previous night. He is drafting a careful description of each message to pass on to the investigator's "in" basket. If the matter is an emergency he ensures that the investigator or, in that person's absence, the Duty Officer is immediately informed of the message.
- Our Director for Quebec and Atlantic Regions is attending a meeting of the National Advisory Committee at the Special Handling Unit.
- Our Duty Officer is speaking to the Chief of Health Services at an Atlantic Region facility about an inmate who called 15 minutes ago concerning access to prescription medication for pain. The Health Service Chief explains that the inmate was listed for sick parade but missed the morning call-up for medication. The Health Services Chief undertakes to provide him with a pass to come in before 10 and to confirm the inmate's attendance by email to the Duty Officer.
- One of our Quebec Investigators is putting the final touches on a semi-annual report on areas of focus for a maximum-security institution. He is "folding in" an opinion from Counsel on an issue of administrative fairness in segregation reviews.
- Our Use of Force coordinator is reviewing a video of a movement of an inmate to segregation, using the Institutional Emergency Response Team.
- At a Prairies Region medium security institution, one of our Investigators and our Aboriginal Issues Coordinator are planning interviews with inmates and staff for their second of four days at the institution and the adjoining minimum security facility. They expect to be there again tonight until after eight o'clock.
- Our Director of Investigations for Ontario and western Regions is on the phone with an Assistant Deputy Commissioner. He has some questions about a lockdown that took place after an incident in the yard of a maximum-security institution and the convening of a CSC Investigation on the matter.
- Our Coordinator of Corporate Services is reviewing a new Treasury Board policy on corporate planning in preparation for next week's OCI staff planning session.
- One of our Ontario Region investigators is proofing a draft de-briefing letter to the Warden prior to discussion with her Director. She has identified three systemic issues and 13 individual inmate cases that have lead to inquiries, findings and recommendations.
- Our Coordinator for Federally Sentenced Women issues is at a Regional Women's Institution preparing for a de-briefing meeting with the Warden on the issues that have arisen during her visit.
- Our Legal Counsel is reviewing a new Federal Court Order striking down a Regulation about urinalysis. He will draft a short summary and provide directions for staff on how CSC should be implementing the ruling
- The Executive Director and the Correctional Investigator are preparing for this afternoon's meeting with the Commissioner of Corrections and the Senior Deputy Commissioner on three outstanding Annual Report Issues—Inmate Pay, Case Preparation and Access to Programming.
- Our British Columbia investigator is on a plane over Lake Superior. He has 8 days of institutional visits ahead of him.

MAJOR OUTSTANDING ISSUES

ABORIGINAL OFFENDERS

Based own our review of Correctional Service data and offender complaints, it is incontestable that the disproportionate barriers to safe, timely release of aboriginal offenders constitute a continuing crisis and an embarrassment—even more so in the case of aboriginal women.

We have long advocated measures designed to bring a focus to these problems, to ensure an Aboriginal presence and perspective at the Senior Management table and cause an independent and informed review of the Service's policy and procedures as they relate to discriminatory barriers to timely reintegration.

Stemming from the focus on addressing aboriginal issues in the 2000 Speech from the Throne, the Correctional Service Executive Committee had indicated that specific measures needed to be taken to address the disadvantages of aboriginal offenders. The Commissioner indicated at that time that the Service had "to ensure initiatives created lead to results".

2001–2002 Recommendations

That the Service produce, on a quarterly basis, a Report on Aboriginal offenders focused on:

- Transfers
- Segregation
- Discipline
- Temporary Absences / Work Releases
- Detention Referrals
- Delayed Parole Reviews
- Suspension and Revocation of Conditional Release

That the quarterly Report on Aboriginal offenders, inclusive of an analysis of the information recorded, be a standing agenda item of the Service's Senior Management Committees.

Given the continuing disadvantaged position of Aboriginal offenders, that:

- a Senior Manager, specifically responsible and accountable for Aboriginal programming and liaison with Aboriginal communities, be appointed as a permanent voting member of existing Senior Management Committees of the Correctional Service at the institutional, regional and national levels; and
- the Correctional Service's current policies and operational procedures be immediately reviewed to ensure that discriminatory barriers to reintegration are identified and addressed. This review should be independent of the Correctional Service of Canada and be undertaken with the full support and involvement of Aboriginal organizations.

CSC Response

Addressing issues pertaining to the preparation of Aboriginal offenders for safe and timely release is a high priority for CSC. CSC's Report on Plans and Priorities (2002–2003) identifies its commitment to support the Government priority to reduce incarceration rates of Aboriginal peoples as identified in the Speech from the Throne (January 2002).

Although Aboriginal peoples represent only 2.8% of the Canadian population, they make up 17% of the federally incarcerated offender population. Sixty-eight percent of Aboriginal offenders are incarcerated compared to 58% of non-Aboriginal offenders. As well as having a high incarceration rate, Aboriginal peoples are less successful at meeting the requirements of preparatory reintegration mechanisms, when compared to non-Aboriginal offender population.

For example, on average, Aboriginal offenders serve 52% of their sentence before successfully accessing conditional release, while the proportion for non-Aboriginal offenders is 47%.

Research indicates that although Aboriginal offenders tend to have slightly shorter sentences, as a group, they are likely to be sentenced for serious offences, have had extensive involvement with the criminal justice system as youths/adults. As well, Aboriginal offenders present very diverse cultural needs as they come from various First Nations, Métis and Inuit peoples. They range from traditional to non-traditional in orientation and many choose urban over reserve life. As a result, correctional

interventions with Aboriginal offenders present additional challenges.

In his Report, the CI cites a ten-year-old study indicating systemic discrimination across the organization. Since then, CSC has invested heavily in culturally specific interventions. Nevertheless decisions to release must be based on risk assessments to protect public safety. We must continue to monitor our practices to improve our results.

It must be noted that some improvements have been made:

- *while 68% of Aboriginal offenders are currently incarcerated, this figure is down from 73% in the 1997/1998 fiscal year.*

CSC has reviewed information on Aboriginal offenders at Executive Committee meetings. Related information is available to everyone through the Corporate Reporting system, which is updated weekly.

Consistent with broader Government directions vis-à-vis the treatment of Aboriginal peoples within the criminal justice system, CSC is also identifying gaps in its Program delivery. This year, CSC will strengthen national and regional Aboriginal Advisory Committees to include a broad representation from various Aboriginal groups and geographic regions. The committees will provide additional focus and advise on approaches to improve CSC capacity to better prepare offenders for safe release to the community.

With regard to the recommendation to establish a more senior position dedicated to Aboriginal issues, CSC sees the safe reintegration of Aboriginal offenders as a shared responsibility across all levels of management within CSC and the offenders themselves as they take on the responsibility for their actions and the leadership of the community. Indeed, CSC has been fortunate to benefit from the attention and efforts of many Aboriginal leaders who have agreed to tackle the challenge of safety within their communities.

Developments in 2002–2003

We found this reply to be vague and unresponsive to our specific recommendations. There was a characteristic reference to broad intentions that belied the fact that considerable delays had occurred in implementing programs and policy, due in great part to staffing issues within the Service's Aboriginal Issues Branch.

The response to our recommendation for a senior manager with voting authority at Executive Committee meetings did not address the need for central and consistent operational accountability.

There was no response at all to our recommendation on an independent review of discriminatory barriers to reintegration.

Our further discussions with the Service culminated in meetings with the Commissioner and the Senior Deputy Commissioner on March 21 and April 4, 2003.

Based on these meetings the Service undertook to:

- produce, beginning in June 2003, quarterly reports on key factors affecting comparative reintegration rates of Aboriginal offenders in the correctional system;
- review these reports twice a year at CSC's Executive Committee;
- review the governance structure for Aboriginal issues by June 2003 to determine if changes in reporting relationships are required;
- review and update action plans on aboriginal initiatives by May 5, 2003; and
- provide information on meetings between the Service and aboriginal organizations, especially with respect to the validity of assessment tools used to classify Aboriginal offenders for placement purposes.

As of this writing we continue to believe that there must be managers in place at all levels of CSC with direct authority to effect measures to improve the programmes and community support necessary to remedying the current disadvantages of Aboriginal offenders. This would include a senior manager who would at least report directly to the Senior Deputy Commissioner in this area in order to access the research, audit and budgetary tools necessary to obtain results. We hope that the Service's review of its governance structure will result in these changes

On the issue of review of obstacles to aboriginal offenders, the Service recently clarified that it will be conducting an evaluation of its assessment tools to determine if these are culturally biased and therefore not relevant to Aboriginal offenders. If the evaluation reveals that the tools are appropriate, then CSC will proceed to a review of the barriers that exist to effective reintegration of aboriginal offenders.

Dialogue with the community and specific evaluations of assessment tools will be helpful in addressing the disadvantages suffered by Aboriginal offenders but they will not provide the broad review that is needed as a starting point.

The mechanism for independent review of the situation of Aboriginals that was recommended by the House of Commons Sub-Committee on Review of the CCRA was the Auditor General. Currently it appears unlikely that the Auditor General will be able to conduct such a review in the foreseeable future. Accordingly, we believe another respected independent expert should be identified and tasked with conducted a review of systemic discrimination against Aboriginals.

While we acknowledge the potential benefits of the Service's undertakings of this year, I am not convinced at this time that their efforts will bring either the required focus or the independence of review needed to begin addressing the current discriminatory situation.

As I have indicated in the past the area of concern goes well beyond the over representation of Aboriginals in federal penitentiaries. The focus is on what happens to Aboriginal offenders while in the care and custody of the Service. As of March 31, 2003 4,1% of non-Aboriginal offenders were on some form of conditional release yet only 29% of Aboriginal federal offenders were serving their sentences in the community. The picture for Aboriginal women presents an even greater discrepancy. While 60% of non-Aboriginal women are in the community only 40% of the Aboriginal women are on conditional release.

Given the continuation of discriminatory barriers to timely release for Aboriginal offenders, I reiterate my recommendations of 1999 that:

- **a Senior Manager, specifically responsible and accountable for Aboriginal programming and liaison with Aboriginal communities, be appointed as a permanent voting member of existing Senior Management Committees of the Correctional Service at the institutional, regional and national levels; and**
- **the Correctional Service's current policies and operational procedures be immediately reviewed to ensure that discriminatory barriers to reintegration are identified and addressed. This review should be independent of the Correctional Service of Canada and be undertaken with the full support and involvement of Aboriginal organizations.**

WOMEN OFFENDERS

My comments in last year's Report remain relevant:

"The current state of Women's Corrections at the federal level must be viewed within the context of the 'vision for change' provided more than a decade ago by the Correctional Service's Task Force on Federally Sentenced Women *(*Creating Choices*, 1990). The central theme of* 'Creating Choices' *was, 'that women's correctional needs are profoundly different from men's, and that to do justice to the aims and purposes of a sentence imposed on women, the correctional system must be gender sensitive' (Justice Arbour, 1996).*

The 1995 Arbour Commission of Inquiry into Events at the Prison for Women provided both an impetus and a forum for the Correctional Service to commit to a set of operational principles for the future management of Women's Corrections. Justice Arbour's Report of April

1996, in addition to passing extensive comment on the Correctional Service's "disturbing lack of commitment to the ideals of justice", provided a series of specific recommendations designed to ensure that future correctional practices would meet the needs of women offenders.

The initial response to the Arbour Report was positive. The Solicitor General in June of 1996 accepted the Report's central premise; "that there must be respect for the rule of law by the Correctional Service in the way it carries out its responsibilities". The Minister announced that a Deputy Commissioner of Women's Corrections would be appointed and the "recommendations for related organizational and program changes" would be implemented. A number of the Report's recommendations were identified at the time as "requiring further detailed study to determine the most effective means of achieving the objective that underlies the recommendation". These recommendations were to "be dealt with as part of a final response plan".

2001–2002 Recommendations

The Arbour Commission of Inquiry was a very public and very inclusive process. The Report was a landmark for corrections in this country. Its findings and recommendations focussed our attention not only on the potential for Women's Corrections but as well on the requirement for openness, fairness and accountability in correctional operations.

The movement of women from the men's penitentiaries to the Regional Facilities will present the Service with a number of immediate and long-term challenges. To meet these challenges, there is a need for a refocusing on both the potential for Women's Corrections and the requirement for openness, fairness and accountability.

I recommend that this refocusing begin with:

- the completion of a "final response plan" by the Correctional Service on Justice Arbour's recommendations by October 2002;
- the distribution of the response plan to stakeholders (government and non-government) by November 2002;
- the initiation of a public consultation process by January 2003; and
- the issuing of a final report on the status of Justice Arbour's recommendations by April 2003.

CSC Response

Sections 4 (h) and 77 of the CCRA provide specific guidelines with respect to the care and custody of women offenders. There is ongoing consultation with key stakeholders on issues that will have an impact on women offenders.

CSC has responded to all of the recommendations in the Arbour Report that are within its jurisdiction.

Recommendations with respect to new legislative provisions on sentence administration were referred to the Department of Justice for consideration. There has been extensive discussion, consultation and reporting on action taken throughout the implementation process. Appropriate management structures are in place for the planning, execution, implementation and monitoring of recommendations targeting ongoing correctional issues.

Correctional outcomes for women offenders, for example re-offending rates of offenders under supervision, have remained fairly stable over the last 6 years. Data concerning interventions and correctional results are monitored by the Executive Committee.

Developments in 2002–2003

The Service's response on Women Offenders was at best unfocused and failed to address either the specifics of the issues raised or my recommendations.

I met with the Commissioner on April 7, 2003. We detailed our concerns as set out above and the Service made the following undertakings:

- to investigate the possibility of a public government response to the Arbour recommendations
- to determine the outcome of the Department of Justice's considerations of the Arbour recommendation with respect to legislative

mechanisms "to create sanctions for correctional interference with the integrity of the sentence".
- to determine how to update stakeholders on CSC responses to Madam Justice Arbour's recommendations

As of this writing we have received no response on these points.

Accordingly, I reiterate my previous recommendations pending a response.

SEXUAL HARASSMENT

An improved, effective means to address offender complaints of sexual harassment has been a clear need for some time.

A key recommendation of the Arbour Commission in 1996 was that "the sexual harassment policy of the Correctional Service be extended to inmates".

Our Office has consistently found that all of the features of the Correctional Service policy on sexual harassment of employees should be present in its policy regarding offenders. In July 2001 it appeared that the Service was prepared to implement just such a measure. Its draft policy contained many of the measures that we had advocated to ensure the independence, competence, thoroughness, confidentiality, sensitivity and effectiveness of this exceptional recourse.

2001–2002 Recommendations

That the Service immediately implement a policy on the Investigation of Allegations made by an Offender of Sexual Harassment which provides:
- that investigations are convened by the Deputy Commissioner of Women or if the complainant is male the Regional Deputy Commissioner;
- that a copy of all convening orders is forwarded to this Office;
- that all members of the Board of Investigation are trained in managing sexual harassment complaints;
- that at least one Board member is from outside the Correctional Service and that all Board members are independent of the facility where the complaint was filed;
- that complainants are consulted both during the investigation and prior to finalising the report in order to provide additional information and comment which will be recorded as part of the final report;
- that a copy of all finalised reports is provided to both complainants and this Office in a timely fashion; and
- that responsive follow-up action by the convening authority is initiated in a timely fashion.

CSC Response

No form of harassment against or by staff, offenders, visitors, contractors is tolerated by CSC.

The policy documents are in place. CSC has implemented Treasury Board Policy "Resolution of Harassment in the Workplace" to address harassment prevention and resolution for staff.

Appropriate redress and resolution mechanisms (e.g., Grievance system, Office of the Correctional Investigator and the Canadian Human Rights Commission) are also in place to investigate alleged incidences of sexual misconduct and other serious allegations against offenders by staff, contract workers and volunteers.

Individual cases of allegations of sexual harassment by staff towards offenders are brought to the immediate attention of the Commissioner or the Senior Deputy Commissioner. As we have in the past, we will rely on the CI to raise allegations of sexual harassment with Wardens and district directors. No cases of sexual harassment have been reported in the last two years.

Developments in 2002–2003

This response confirmed a substantial turn-about on the part of the Service. In 2001 it had published a draft Commissioner's Directive that would have effected virtually all of our recommendations. In

effect, the draft applied the protections of the policy for staff to offenders.

We expected that the draft would be finalised in the next fiscal year and that the matter would be resolved. In September 2002, however, policy was published that reneged on the principles set out in the draft and relegated offender complaints to consideration under a minimally altered grievance procedures. In our view, few of the elements that would have provided effectiveness or independence were retained in the grievance procedure approach.

The Final Report of the Cross-Gender Monitors, released in April 2001 is consistent with the Arbour Commission recommendations. The Report, which the Service commissioned to address issues of harassment of women offenders, strongly recommended the implementation of an effective redress system and commented extensively on the Service's responsibility to ensure that complaints of harassment were independently investigated by trained individuals in a thorough and timely fashion. The Service has not yet responded to the Report.

Finally, I note that, according to the Service's own data, there were a total of 21 grievances on sexual harassment/misconduct in 2001-2002 and 12 this fiscal year.

We have raised our serious concerns with the Service on a number of occasions, culminating at our March 31 meeting with the Commissioner and the Senior Deputy Commissioner.

The Correctional Service has taken the view that many of the elements of its policy on staff complaints are available in the grievance process, albeit not expressed as clearly as should be the case.

As of this writing we have not come to an agreement that would meet the interests of offenders and the Service on this matter. Nevertheless, we have acknowledged that it may be possible to create an investigative process under the general ambit of the Offender Complaints and Grievances system provided that these complaints are independently investigated by trained individuals in a thorough and timely fashion.

I recommend that the Correctional Service adopt in principle the same policy for harassment of offenders that it has adopted with respect to harassment of employees, subject only to such changes as are required by the fact that offenders are not employees or members of bargaining units.

I further recommend that this policy be promulgated by September 30, 2003, after due consultation of offenders and the Cross-Gender Monitors.

CASE PREPARATION AND ACCESS TO PROGRAMMING

A prime means of achieving safe, timely reintegration of inmates into the community is the provision, at junctures that effectively anticipate intended release dates, of needed programs.

As well, it is essential that analysis and recommendations be completed by case management staff soon enough that timely decision on release can be taken.

We have found that shortcomings in both these respects have resulted in delays, especially in the case of Aboriginal offenders.

We have repeatedly recommended that these shortcomings be targeted and remedied.

2002 Recommendations

1. that the Service initiate immediately a review of program access and timely conditional release focussed on:

- current program capacity, waiting lists and specific measures required to address any deficiencies;

- the specific reasons for delays of National Parole Board reviews and actions required to reduce the numbers;
- the reasons for the decline in unescorted temporary absences and work release programming and the specific measures required to increase participation in this programming; and
- the reasons for the continuing disadvantaged position of Aboriginal offenders in terms of timely conditional release and a specific plan of action to address this disadvantage.

2. that this review, inclusive of detailed action plans, be finalized by November 2002.

CSC Response

Preparing offenders for safe release to the community is the mandate of the CSC.

Analyses as proposed by the OCI are achieved through regular reviews at the operational level (institutions and parole offices) as well as through more systematic reviews at the Regional and National Headquarters. In addition, forums to discuss performance are set within the CSC and between CSC and the National Parole Board.

CSC has recognized a decline in the use of measures normally associated with the successful preparation of offenders for safe release, e.g. unescorted temporary absences, work releases and discretionary forms of parole. This trend signifies that offenders are not able to meet the test of demonstrating that he/she has reduced the potential of re-offending.

CSC has taken steps to review its operating infrastructure and is planning to implement correctional regimes for specific groups of offenders. Regimes are institutional routines that will more explicitly describe behavioural/attitudinal expectations towards offenders, in terms of therapeutic programming and social interactions. They will be aimed at teaching and assisting the offender to take responsibility and accountability for his/her actions, thus preparing for safe release to the community as law-abiding citizens. More detail is outlined in the CSC Report on Plans and Priorities.

It can be expected that more focus on intervention, geared towards selected groups of offenders showing similar characteristics, will lead to better preparation for safe release.

Developments in 2002–2003

We found that the Correctional Service's reply did not address the specifics of our recommendations—a focused review of programme access and timely release based on the enumerated elements, with clear action plans and measurable objectives. Rather it identified purported changes in the profile of the inmate population as a principal obstacle to early release and advocated a future approach, the Operational Regimes system, as the main solution to the issues.

We stated last year as evidence of our concerns that:

- 53.9% of the reviews for full parole, in the 4th quarter of last year, were delayed. In the 4th quarter of 1999–2000, 42.8% were delayed;
- 72% of Aboriginal offenders are incarcerated past their full parole eligibility date; 59% of non-Aboriginal offenders are incarcerated past their full parole eligibility date;
- Suspension Warrant of Conditional Release per 100 is 13 for non-Aboriginals and 26 for Aboriginals;
- 56% of non-Aboriginals and 35% of Aboriginals during the 4th quarter of 2001–2002 reached warrant expiry without a revocation of their conditional release;
- in the 4th quarter of 1999–2000, 1,034 unescorted temporary absences and 831 work releases were recorded; in the 4th quarter of 2001–2002, the numbers were 698 unescorted temporary absences and 417 work releases; and
- the number of Aboriginal unescorted temporary absences and work releases have gone from 215 in the 4th quarter of 1999–2000 to 130 in the 4th quarter of 2001–2002.

At the time of the Service's reply, the Regime system was in the very early stages of development and its impact on our findings and recommendations was unknown. Since then, development of the regime approach in institutions has been subject to changes of focus and delays. In any case, nothing in the Regime approach nor in any change in the profile of the inmate population precluded the measures which we recommended.

In the absence of more tangible responses, I recommend:

- **that the Correctional Service provide a report on its examination and conclusions with respect to the items specified in our previous recommendations by the end of October 2003; and**
- **that the Service provide an Action Plan by the end of December 2003 detailing the measures to be taken to address any deficiencies identified, including measurable criteria to adjudge success of the measures.**

INMATE INJURIES AND THE MONITORING OF INSTITUTIONAL VIOLENCE

The accurate and timely recording and analysis of information on institutional violence and inmate injuries, is essential to safe and humane custody.

For this reason we have repeatedly recommended improvements in the Correctional Service's capacity in these areas to ensure an appropriate level of senior management focus on these significant issues and that corrective action, where necessary, is initiated in a timely fashion.

2001–2002 Recommendations

Institutional Violence

that the Service take immediate steps to fulfil their previous commitments to the monitoring of institutional violence through:

- the implementation of an information system capable of capturing accurate and reflective data;
- the quarterly production of an analytic report on institutional violence; and
- the review of these reports by the Service's Executive Committee.

Inmate Injuries

that the Service implement a national policy on the Reporting, Recording and Review of Offender Injuries to ensure:

- the timely and accurate recording of injuries and the circumstances leading to those injuries;
- the quarterly analysis and reporting of information collected on inmate injuries; and
- the review of the quarterly reports by the Service's Executive Committee.

CSC Response

The prevention and control of violence is—as it must be—an on-going concern for correctional systems world-wide. CSC monitors and examines each incident of violence in an effort to improve measures to prevent and reduce future incidents.

CSC has recognized that current reporting mechanisms need to be improved in order to capture all the incidents related to disruptive behaviour within institutions. CSC has re-designed its reports which will be implemented by October 2002. Data quality will be closely monitored during the implementation phase

Injuries of offenders are certainly a concern of CSC. Institutional Occupational Safety Health Committees review inmate accidents as part of their mandate. To further reduce the potential for inmate and staff injuries, for the past six months, only Institutional Emergency Response Teams (IERT) or trained Cell Extraction Team members have been conducting cell extractions.

Developments in 2002–2003

We found that the response did not address the substance of the recommendations:

- the need for a comprehensive tool and procedure for the identification and review of inmate injuries and institutional violence;
- the production of quarterly analytic reports on institutional violence and inmate injuries;
- the review of these reports by the Executive Committee.

In November and December 2002 members of my staff met with CSC officials to attempt to clarify and remedy the marked discrepancies that we had observed in information on the seriousness of injuries recorded by the Service. We asked that we be forwarded investigations, as required by s.19 of the Corrections and Conditional Release Act, of a number of cases of "serious bodily injury" that the Service apparently had not sent us. As well, we sought to establish a quarterly reporting of data review by CSC's Executive Committee (EXCOM).

Through the meetings and our subsequent correspondence with the Senior Deputy Commissioner, the parties were able to agree on the need to collaborate to insure the accuracy of data and the timely referral of investigative reports on inmate death or serious injury to our Office as required by s.19 of the CCRA. Nonetheless:

- gaps still existed in the cases that were forwarded to us;
- confusion persisted on the accurate identification of seriousness of injuries;
- the analysis and use of quarterly reports by EXCOM had not been clarified; and
- there remained a need for a comprehensive mechanism to identify and report on relevant data on violence and injuries to appropriate managers.

Subsequent to my meeting with the Commissioner on this topic, the Senior Deputy Commissioner forwarded to our Office a data record which was intended to clarify the figures on which senior management conducts analyses of inmate injuries. The data on the record related to death, self-inflicted injuries, minor assaults and suicides disclosed serious discrepancies when compared to other CSC information sources. We have suggested another meeting to address these discrepancies. Pending the results of this meeting, and other discussions:

I recommend that my previous recommendations with respect to institutional violence and inmate injuries be addressed by the Correctional Service and specifically:

- **that a system of quarterly reporting on violence and inmate injuries to EXCOM be implemented by the end of June 2003;**
- **that the Correctional Service mandate a special review of the accuracy of the data that it is able to retrieve by the end of October 2003;**
- **that the Service adopt a system that will identify injuries based upon the seriousness of their physical or emotional harm to the inmates involved, and not with respect to the seriousness of the circumstances in which the injuries occur; and**
- **that the Correctional Service establish a plan to ensure, by the end of June 2003, that all incidents of major inmate injury are investigated in a thorough and timely fashion.**

INVESTIGATIONS

Safe and humane custody depends in great part on thorough, objective and timely investigation of incidents that harm or threaten the safety of both staff and inmates. Accurate information gleaned from the investigation of such incidents, if reviewed according to consistent and useful standards, can be applied by Correctional Service managers to anticipate and prevent further harm.

We have found that the Service has lacked comprehensive tools and procedures, accurate data and clear definitions necessary to enable managers

to fulfil this function. As well, the timeliness of investigations has been a long-standing area of concern.

In the specific case of investigations of "serious bodily harm" which must be referred to our Office, under S. 19 of the Corrections and Conditional Release Act we have found that problems of definition have resulted in some cases not being brought to our attention or reasonably investigated.

2001–2002 Recommendations

- that the policy on Investigations include specific timeframes for the completion of Investigative Reports and the verification of Action Plans.
- that the Service monitor compliance with these timeframes and report on a quarterly basis the results to the Service's Executive Committee.
- that all Investigative Reports into inmate death or serious bodily injury be reviewed nationally with a summary report on the recommendations and corrective actions taken, produced quarterly;
- that guidelines for the determination of serious bodily injury be incorporated into the Service's policy on Investigations; and
- that all Investigative Reports into inmate deaths and serious bodily injury be provided to this Office within ten weeks of the convening of the Investigation.

CSC Response

CSC is committed to conducting timely, fair, independent, reliable and thorough investigations into incidents.

CSC is adjusting its policy framework to improve the review of incidents. Proposals from the OCI have largely been included in the adjustment.

Implementation is scheduled for October 2002.

Developments in 2002–2003

The Service promulgated in September 2002 a revised Commissioner's Directive on investigations. The policy did seem to indicate the Service's intention to review incidents in a more coordinated and timely fashion but did not address our recommendations for:

- quarterly reports on compliance with policy timeframes;
- national review of all investigations into inmate death and bodily harm, summarized in quarterly reports;
- incorporation into policy of guidelines for determining serious bodily harm; and
- providing our Office reports on inmate death and serious harm within ten weeks of the convening of the investigations.

At meetings in November and December 2002, CSC agreed to a number of undertakings:

- to complete quarterly reports on investigations of serious bodily harm or death and to share these with us;
- to ensure that CSC Investigations Branch and this Office are advised of any serious bodily injury;
- to incorporate guidelines to clarify the definition of serious bodily injury into the revised CSC Health Services Manual; and
- to provide investigative reports pursuant to s. 19 of the CCRA (inmate death and serious bodily injury) to this Office within three months of the incident.

While these undertakings represented progress, a number of the specifics of our recommendations remained un-addressed. Moreover, as of this writing, we have not received the above noted quarterly reports or consistent notification of incidents resulting in serious bodily injury.

I therefore recommend that the Correctional Service provide the information which it has undertaken to provide and otherwise perform the measures that I recommended in my last annual Report by the end of October 2003.

SPECIAL HANDLING UNIT

The Special Handling Unit ("the SHU") represents the most restrictive level of general institutional custody within the penitentiary system. We have often questioned the need for one designated institution to house offenders who are found to be very dangerous. Our view has been that such cases could be more effectively managed in maximum-security institutions.

Our position has been reinforced by the apparent inability of the SHU to provide programming suited to the needs of its residents, in particular mental health needs, and to motivate inmates to actually participate in programs in significant numbers. Absent these elements the real function of the SHU is simply to house dangerous inmates rather than to address the danger that they represent.

2001–2002 Recommendations

that the Service's current review of the SHU policy focus on:

- the effectiveness of the SHU in meeting its current stated objective;
- the level of program participation and the relevance of current programming to the identified needs of the SHU population;
- the resource requirements necessary to meet the programming needs of the existing population;
- the appointment of an independent co-chair to sit with the Senior Deputy Commissioner as the decision-maker on SHU cases; and
- the implementation of a monthly independent review process for offenders housed in segregation awaiting transfer to the SHU.

that this SHU policy review, which was initiated in May of 2001, be finalized by July 2002.

CSC Response

The Special Handling Unit (SHU) provides an environment to incarcerate inmates who cannot associate with other inmates because of propensity for acting-out violently.

CSC takes this opportunity to note that, in fiscal year 2001–2002, the population of the SHU decreased. No inmates were released to the community directly from the SHU, as a result of reaching their Warrant Expiry Date and/or Statutory Release dates. All cases were assessed and then reviewed by the National Advisory Committee (NAC). Seventy-eight percent of the decisions to transfer an inmate from the SHU to other institutions were acted on within one month.

CSC recognizes the ongoing requirement to ensure these violent and difficult cases are managed within the law and in a manner that prepares them for safe and successful return to a maximum-security institution at the most opportune time. To assist these inmates, a specific SHU Intervention Strategy is being developed. It focuses on motivating these inmates to participate in the development of a Correctional Plan that will lead to a transfer to a maximum-security facility. These personalized interventions will be based on inmates' profiles, their participation and cooperation levels and the degree of change being achieved. Resource requirements will be considered as part of the work associated with the development and implementation of the SHU Intervention Strategy mentioned above.

The SHU currently offers programs in Relational Skills, Violence Prevention, Substance Abuse, Sex Offender Programming and individual motivation to correctional treatment. In addition, inmates are active in individual psychological therapy, school, alcoholics anonymous, aboriginal information sessions with elders, chaplaincy services and meetings with their parole officers.

CSC has amended the policy to include an external member on the National Advisory Committee.

Developments in 2002–2003

The response did not address our recommendations on the focus of the review or the resource requirements of a more effective approach. Moreover, the response did not reflect the real situation regarding the participation of a community representatives in SHU decision-making—that the Committee on

which this person sat simply advised the Senior Deputy Commissioner, the actual decision-maker. Finally, the response did not indicate whether timely reviews of inmates in segregation awaiting SHU placement were being conducted.

Since the Service's response, however, I am pleased to report that there have been positive developments.

The Service has established a procedure to require Regional reviews of the continued viability of SHU placement for inmates in segregation for more than six months awaiting transfer to the SHU. We would have preferred that this review take place more frequently and that the decision be taken by a manager at the National Headquarters level. Moreover we continue to advocate that outside input to the review be provided. Nevertheless we are prepared to monitor the effectiveness of the approach for the time being.

The Service has also determined that consideration by the Senior Deputy Commissioner of decisions on SHU placements and release should take place in concert with the National SHU Advisory Committee. This body includes the community representative that the Service has introduced. As such, we believe that the requirement for outside participation in decisions has been met—albeit not necessarily on a permanent basis and not in a manner consistent with the recommendations of the House of Commons CCRA Review Sub-Committee.

I am encouraged by the current operation of the National SHU Advisory Committee and the direction provided by the Senior Deputy Commissioner. We continue to have concerns related to the programming, resource levels in support of programming and access to mental health facilities. These matters will be further reviewed with the SHU Advisory Committee and the Senior Deputy Commissioner.

DOUBLE BUNKING

The Correctional Service has long recognized the importance of single cell occupancy in federal institutions. Problems of personal safety, institutional security and effective supervision necessarily arise from double occupancy.

Nevertheless the practice of double bunking has persisted for many years, due in part to limitations on physical space and insufficient staffing and in part, in our view, to an unwilling-ness to prioritize the problem from a management perspective.

The negative effects of double bunking are particularly acute in segregation and other non-general population areas where movement is severely restricted and inmates are confined to their cells for extended periods of time.

2001–2002 Recommendations

- that the Commissioner issue direction immediately prohibiting the practice in segregation units; and
- that the Service finalize plans to eliminate double bunking in all non-general population units by September of 2002.

CSC Response

The Service is making every effort to eliminate double occupancy where possible, with due regard to our mandate of public safety while exercising responsible stewardship of public funds.

CSC has made progress in eliminating double bunking in administrative segregation. Direction has been issued through policy that only in an emergency situation, the Institutional Head may make necessary exceptions to the normal accommodation policy. Plans are documented in CSC's Report on Plans and Priorities to address double-bunking in regular institutional regimes.

Developments in 2002–2003

We found that the respond failed to address our recommendation with respect to specialized units

besides segregation areas—such as reception and assessment units, where double bunking remains a major area of concern.

We as well noted in the course of our review of this matter that the Service did not have readily available current information on the level of double bunking in non-general population units.

I recommend with respect to double bunking:

- **that the Service finalize plans for the elimination of double bunking in all non-general population units by September 2003;**
- **that the Service establish a reliable data base on the level of double bunking within its institutions; and**
- **that the Service establish policy requiring any double bunking, in non-general population units, other than in emergency circumstances of less than 48 hours, to be approved in writing by the Commissioner.**

USE OF FORCE

Once again this year the Service reports in excess of 1000 uses of force. Once again we emphasize the importance of submitting such actions to careful and objective review and analysis in order to ensure compliance with law and policy and the effective identification of systemic areas of concern.

As has been the case since 1997 all use of force videos and supporting documents are reviewed by this Office and CSC National Headquarters. CSC policy changes introduced in 2001 required a more rigorous review at the regional and national levels. Although use of force interventions have measurably improved we continue to find non-compliance with policy in the areas of:

- authorization and use of gas;
- decontamination procedures following the use of gas;
- post incident health care interventions;
- strip search and privacy procedures;
- use of force in support of mental health interventions;
- authorization and use of restraint equipment; and
- the recording and follow-up on inmate statements of inappropriate or excessive use of force.

I continue to find that the Service's current information system on use of force incidents lacks information on:

- policy violations;
- circumstances leading to use of force;
- follow-up on allegations of excessive use of force; and
- numbers of staff and inmate injuries incurred.

As such the Service's existing Use of Force Reports, while presenting raw data on the number of incidents and type of force used, provide limited information and analysis to assist the Service in either reducing the number of incidents or addressing systemic areas of concern raised by these incidents.

2001–2002 Recommendations

that the Commissioner issue specific direction with regard to Use of Force to ensure:

- that information on injuries, policy violations and the circumstances that lead to the incident is collected;
- that a report, inclusive of this information, is provided on a quarterly basis to management committees at the regional and national levels for the purpose of identifying and addressing areas of concern;
- that the written results of the reviews undertaken by Women and Health Services sectors are provided in a timely fashion;
- that the follow-up by national managers is consistent and timely; and

- that investigations into inappropriate or excessive force are convened at the regional level and include a community board member.

CSC Response

In the interest of public, staff and offender safety, CSC is committed to ensuring that employees have the tools to do ongoing risk assessments of situations that arise. CSC introduced a Situation Management Model which articulates a risk assessment process and identifies combinations of factors that warrant different responses to ensure public, staff and offender safety.

The inappropriate application of use of force techniques is now a rare occurrence.

CSC agrees however with the CI that even better mechanisms are required to monitor and evaluate all incidents of use of force. CSC does collect and analyze information on such incidents. For example, information contained in the security module of the Offender Management System and the 'Use of Force' incident report review is analyzed by management at the institutional, regional and national levels on a case-by-case basis. CSC uses this analysis to improve its processes and continuously monitor the completeness of the data being collected.

The Security Branch, Health Services Branch and the Women Offender Sector review use of force incidents to ensure compliance and that follow-up by managers is consistent and timely. Necessary action pertaining to any violation is acted on. Timeliness of reviews by Health Services has been improving through training of additional staff to perform reviews.

Developments in 2002–2003

We found that the response did not address our specific recommendations on the need for comprehensive identification, reporting and management review of use of force information, especially in the areas of injuries and policy violations. As well the Service failed to address our recommendation that investigations into inappropriate or excessive force be convened at least at the Regional level and always include investigators from outside the Service.

Subsequent discussions with the Service indicated their intention to provide training to Health Service staff and Federally Sentenced Women staff in order to participate more effectively in use of force reviews. They also announced projected improvements in informatics tools that they said would improve their ability to monitor use of force incidents.

While significant progress has been made on the quality and consistency of the regional and national reviews of individual use of force incidents, the areas of concern identified by this Office for the most part remain works in progress.

I therefore recommend that the Correctional Service provide responses, including action plans to implement the measures referenced in my previous recommendations by October 31, 2003.

ALLEGATIONS OF STAFF MISCONDUCT

Section 93 of the CCRA requires a redress process for inmates that is timely, effective and can be used without fear of reprisal. It is essential to safe and humane custody not only that this be so but that inmates perceive it to be so.

To this I would add that an effective and utilized redress system is a necessary source of information for management purposes.

Nowhere are these considerations more important than in the case of inmate allegations that staff have committed acts that are contrary to law or to professional conduct policy.

Our Office long ago recommended that a special procedure be established to deal with these complaints—one that will permit confidential, prompt and independent review. Our view is that the normal grievance procedure is not perceived as sufficiently timely or protective of inmate complainants. Nor is it perceived by the inmate population as independent.

2001–2002 Recommendations

That a consolidated policy on the Investigation of Allegations of Staff Misconduct be developed to ensure that the process is transparent, fair and timely.

CSC Response

CSC agrees with the need for a consistent, distinct process to ensure that inmate complaints of staff misconduct are investigated in a timely, thorough and fair manner.

CSC does provide inmates with numerous mechanisms to register complaints against staff. Investigation procedures and time limits to report are already contained within a number of CSC policies. Therefore, CSC does not agree that additional policies on this issue are required.

Developments in 2002–2003

We continue to regard this redress mechanism as fundamental to the principles of the Corrections and Conditional Release Act while remaining conscious of the need not to unnecessarily duplicate and complicate existing redress mechanisms. Indeed we underlined this view in our January discussions with CSC staff on amendments to the offender complaints and grievance procedure.

I therefore recommend that the inmate grievance process be revised to provide, in the case of complaints involving staff misconduct:

- **that inmates be permitted to address complaints directly to the Institutional Head (or his supervisor if the complaint is against him) in a manner concealing the nature of the complaint;**
- **that the institutional head personally review the complaint to determine if it is frivolous or otherwise an abuse of the process and to determine if further information is necessary before proceeding to an investigation;**
- **that, where the complaint is considered potentially well-founded, the institutional head authorise the investigation of the complaint by a panel composed of staff from another institution and of an independent community person;**
- **that the results of the investigation be reported to the Institutional Head with copy to the Regional Deputy Commissioner for review and timely response to any recommendations arising from the investigation; and**
- **that complainants be provided timely and ongoing access to legal counsel and be entitled, at any juncture, to refer the matter to the Police.**

INVOLUNTARY TRANSFER AND CONSENT TO MENTAL HEALTH INTERVENTIONS

Correctional Service policy, supported, in our view, by the law, requires informed consent not only for actual therapeutic interventions but also for mental health assessments. Moreover, some provincial legislation requires special circumstances to exist before a patient may even be admitted to a mental health facility without the patient's consent.

CSC maintains that in order to meet its obligation to assess an offender's risk, it may subject an offender to an assessment based on passive observation and on a review of the offender's file. To this end, where an offender does not consent to a full mental health assessment, the Service asserts its right to involuntary transfer inmates to maximum-security mental health facilities, even if this represents an increase in the restrictiveness of custody.

This compromises the principles of informed consent and the least restrictive custody provisions of the CCRA. In our view, "passive assessment" could be accomplished in the institution from which the inmate is being transferred by the mental health professionals at that institution.

Prior to my last Report the Service indicated that a review of relevant policies was underway with a view to amending them to make it clear that inmate consent to risk assessments is not required where the assessments:

1. do not require the offender's active participation; and
2. are not being done for the purpose of imposing treatment.

2001–2002 Recommendations

That, pending a review of the proposed policy amendments, the policy of involuntarily transferring inmates to psychiatric facilities for the purpose of risk assessment be rescinded.

CSC Response

Risk assessment is an integral part of the case management process, essential to ensuring public safety. It is CSC's obligation to ensure that assessments are complete and relevant to the decision at hand.

In the interest of public safety, CSC's position is that risk assessments will be done even where offenders do not give their consent. This is consistent with meeting our obligations under the CCRA to provide decision-makers (whether CSC or NPB) with all relevant information.

Developments in 2002–2003

We reiterated our view that it is not necessary to transfer an inmate to a mental health facility in order to conduct a "passive" assessment. The Service responded that it "may be necessary" to do this.

We acknowledge that there could be circumstances where expertise is not available to conduct a passive assessment at an inmate's "home institution". We believe such exceptional circumstances would be rare. We believe that the Service has a heightened obligation to examine all reasonable alternatives, including alternative means of assessment, before proceeding to such an extreme measure. In this regard we believe that the Service should take special care to ensure that the inmate is informed of all relevant information on all possible options so that s/he can provide input to any decision taken.

The Service has indicated that its practice is not to effect such transfers and that it is willing to apprise our Office if ever such a transfer is being considered. Based on this undertaking, and on the above principles (wherein there is no fundamental disagreement) I am prepared to let the matter stand, reserving my option to intervene if we find that inappropriate actions are being taken.

STRIP SEARCH POLICY

Safe and humane custody and indeed compliance with fundamental freedoms set out in the Charter of Rights and Freedoms require that very intrusive procedures be carried out under very specific safeguards. This is obviously the case with strip searches of inmates and visitors and all the more so where use of force is considered in order to effect a search.

In 1999 our Office raised two cases where we believed that law and policy had been breached in effecting strip searches—one involving use of force and one involving an emergency search of all inmates in an institution. A detailing of these issues was provided in the case summaries section of my 1999–2000 Annual Report. In response to our recommendation that these incidents be reviewed by an impartial third party, the Commissioner created a Task Force with representation from our Office.

As I understood it at the time, the mandate of the Task Force was "to learn more about how strip searches are conducted across the Service" so as to identify areas of non-compliance with law and policy.

As of our last Annual Report a report had not yet been finalized.

2001–2002 Recommendation

that the Service's Task Force Report on Strip Searches be immediately released inclusive of action plans to address identified areas of concern.

CSC Response

The Service agreed that it was necessary to review the use of strip searches as a deterrent to the introduction and concealment of contraband. The Security Branch and the OCI conducted a review of the situations where strip searches occur. It was found that strip searches are indeed necessary. The OCI indicated that their concerns with regard to strip searches related to use of force are being addressed through the use of force reviews. The Report will be available in Fall 2002.

Developments in 2002–2003

The Service's response was a misrepresentation of our position with respect to strip searches and failed to address the specifics of the mandate given to the Task Force in December 2000. A detailing of our concerns has been appended to the Service's draft Report on Strip Searches.

The draft Report and Action Plan was shared with our Office in November 2002. After expressing our concerns with the content of the draft, my staff and CSC staff met again and the Service undertook to respond to the concerns that we had identified with the draft Report. Specifically:

1. It did not consider specific cases where force had been utilised in effecting strip searches, including the cases that we had submitted in raising the subject two years ago.
2. Inmates and visitors, two groups most directly affected by strip searches, were not consulted by the Working Group.
3. Section 53 of the Corrections and Conditional Release Act, which sets out criteria for emergency strip searches of all inmates in a unit or in a penitentiary, was not considered.
4. Grievances with respect to strip searches were not identified or analysed.
5. On-going breaches of policy regarding strip searches during use of force incidents have not been reviewed.
6. No time frame or plan for including information on all the elements of strip searches has been incorporated into the Service's data bank (the Offender Management System).
7. Training arising from the study has been limited to institutional managers and not provided to staff who might actually conduct searches.
8. Training materials, including a booklet on searches and a video, are not complete.

I recommend:

- **that the Correctional Service address the deficiencies that we have identified with respect to the draft Report on Strip Searches; and**
- **that the Service:**
  - **a. ensure that their policies on strip searches respond to the concerns that we identified with respect to the two incidents that we raised in 1999;**
    or
  - **b. submit these two cases to adjudication by an expert third party, as we originally recommended.**

INMATE FINANCIAL RESOURCES

As I have repeatedly indicated, adequate levels of inmate pay are important for two primary reasons:

1. to combat the effects of the illicit underground economy that prevails in institutions where inmate funds are overly scarce; and
2. to provide offenders with sufficient means on release to support their successful reintegration to the community.

To address these issues our Office has repeatedly recommended that inmate allowance levels, which have not been increased in a decade and a half, be adjusted to provide adequate funds for internal purchases and release preparation.

In January 1998 the Service introduced the Millennium telephone system to address security concerns. This system increased the cost of even local calls for offenders by as much as $1.75 per call. No measures have been taken by the Service in five years to bring the cost of calls in line with those in the community. Moreover there has been no assessment of the benefit of the Millennium system as a security mechanism.

2001–2002 Recommendations

Inmate Pay

that the Service's review of the Inmate Pay policy focus on:

- the adequacy of the current pay levels and the impact on the illicit underground penitentiary economy; and
- the adequacy of funds currently available to offenders on their release to the community.

Millennium Telephone System

that the Service provide an immediate compensation to the inmate population to bring the cost of telephone communications in line with community standards.

that, if the Service is unwilling to provide a subsidy to offset the unreasonable cost of this security system to the inmate population, that immediate consideration be given to whether it is necessary to continue with the Millennium Telephone System.

CSC Response

To address the complexities of the current pay system, CSC is examining all policies related to inmate monies, pay and the management of these funds. The study will address issues raised by the CI, as well as those raised by the public. Stakeholders, including the OCI will be consulted.

In an attempt to control the cost of telephone calls, while addressing security issues, CSC asked for proposals for a new telephone system. Once the appeals of the tendering process are dealt with, the Service will proceed quickly with the implementation phase. CSC will not consider the provision of subsidies to inmates at this time—however, in cases of emergency such as serious family illness or death or for other special circumstances, CSC may authorize the use of Government telephone network lines by inmates.

Developments in 2002–2003

As to inmate pay in general, we found the response was vague as to timing and as to the specific offender problems that were the basis for our recommendation.

Nevertheless we did participate in the first round of discussions on modifications to policy on offender finances, which occurred in November 2002. The discussions were indeed very broadly based and incorporated ideas such as how allowances and access to funds could be used as incentives under the "Operational Regimes" approach.

We reiterated our specific recommendations and asked that they be considered in development of the policy. As of this writing, we have received no response.

While we recognize that a review of the nature and uses of inmate allowances in the interest of good corrections is appropriate, we are not convinced that our recommendations conflict with such a review or that they need necessarily await action on the broader policy before being implemented.

Accordingly, **I recommend that the Correctional Service specifically address the issues that I specified in my previous recommendations and report on these, with proposed measures to effect necessary changes, by the end of October 2003.**

With respect to the Millennium telephone system the Service continues to delay implementation of improvements to the system that would involve reasonable fees for inmates and their families.

The expressed reason for this delay is that litigation persists with respect to the contracting out of system improvements. This is unreasonable, in my view. It perpetuates significant financial problems that affect two vital aspects of offender reintegration—community (especially family) contact and ability to accumulate funds for use on release to the community. The cost of protracted litigation is being borne by inmates and their families.

Surely the Service should recognize its obligations in these respects without further delay.

With respect to the validity of the Millennium system as a security devise, we continue to have concerns as to whether the system indeed provides the benefits that it was initially implemented to address—protection of the public against unlawful or abusive use of telephones by inmates. We have never been provided cogent data on the original problem that lead to implementation of the system, nor on whether the system, as costly as it is, has addressed that problem.

Accordingly, I reiterate my previous recommendations on this topic and I specifically recommend that the Service conduct an audit of the effectiveness of the Millennium system as a security device.

TRANSFERS

Appropriate decisions on transfers:

- ensure that inmates will be housed at the least restrictive level consistent with safety of staff, offenders and the public; and
- promote progress toward safe and effective reintegration to the community.

These are fundamental goals of the *Corrections and Conditional Release Act*.

The thoroughness, timeliness, fairness and legal compliance of the transfer process has been a major subject of offender complaints inclusive of delays in the assessment process that takes place when offenders are admitted to penitentiary.

In 2000–2001 the Service had undertaken to review the process but had not yet begun its audit at the time of the 2001–2002 Annual Report.

2001–2002 Recommendations

that the Commissioner:

- immediately initiate an audit on the quality of the transfer data (which for the past three years has been characterized by the Service as "in question") to determine its current validity;

- develop a framework for the assessment of the transfer process which specifically addresses the previously noted areas of concern;
- provide that framework to this Office by the end of July 2002; and
- finalize the assessment of the transfer process, inclusive of specific action plans by November of 2002.

CSC Response

The Service is committed to ensuring that its transfer process leading to inmate transfer decisions is thorough, objective and timely and the process be reasonably monitored to ensure compliance with the administrative fairness provisions detailed in the legislation.

An audit of the Transfer Process has been included in CSC's Annual Audit Plan for fiscal year 2002–2003. The audit is currently underway. The objectives and criteria for this audit reflect the OCI's concerns and were provided to the OCI as requested.

Developments in 2002–2003

We received preliminary information on the findings of the Audit on February 21, 2003 and received the final draft on May 18, 2003.

While the Audit on transfers did not address two important focuses of our concerns:

- why offenders are being housed at higher security levels than required by their security classification; and
- the quality of the data used for monitoring the transfer process, the Service has developed an action plan on a series of recommendations provided by the audit.

As well, the Service has indicated that they are developing a Management Control Framework for use by all institutions to assess legal compliance regarding transfer procedures and decisions on an ongoing basis.

At this stage, rather than repeat specific elements of our past concerns, it seems appropriate to provide the Service the opportunity to put its plans into effect. We have requested a copy of the action plans developed at the various institutions in response to the Audit's findings.

We will continue to work with the Service to ensure that its transfer process provides thorough, objective and timely decisions, consistent with the fairness provisions of the legislation and policy on transfers.

INMATE GRIEVANCE PROCEDURES

The CCRA mandates "a procedure for fairly and expeditiously resolving offenders' grievances...".

For our Office this necessarily implies a system that will foster confidence in thorough, impartial review. Moreover, it means that the process must be used not only to respond to individual problems but also to take managerial measures to remedy the problems disclosed by the grievance process as a matter of policy and practice.

2001–2002 Recommendations

that:

- the Service initiate action immediately, at all levels of the procedure, to clear up the backlog of outstanding grievances and establish procedures to ensure that grievances are addressed in a timely fashion;
- the Service issue clear policy direction to ensure, on a quarterly basis, that a thorough analysis of grievance data is undertaken by the Health Care, Aboriginal and Women Offender sectors;
- the Service's Audit Report, which was to be finalized in June of 2001, be immediately provided in its draft form to Inmate Committees for their comments;
- the Service release the review of the grievance process undertaken by the Aboriginal Issues Branch; and
- the Service re-visit its rejection of Justice Arbour's recommendations concerning senior management

accountability and external review within the grievance procedure.

CSC Response

CSC takes its legal obligation to provide a procedure for fairly and expeditiously resolving offender complaints seriously.

We agree that action must be taken. CSC is looking at more original ways to respond to the increased number of complaints by offenders. For example, CSC is exploring options to better manage multiple grievors as they submit approximately 40% of all complaints and grievances. Revisions to the inmate grievance procedure will be implemented in January 2003.

There have been efforts at the national and regional levels to address overdue grievances. Unfortunately, this fiscal year, there has been an unexpected and unprecedented increase in the volume of grievances. The third level received 25% more grievances in 2001–2002 than the previous year, while at the regional level, the increase was almost 40%.

Quarterly data reports on inmate grievances are currently produced by CSC.

The Service's Audit Report on the grievance system was finalized in June 2002. All Wardens have been instructed to provide a copy of the audit report to their respective inmate committees.

CSC is satisfied that senior management involvement in the review and determination of all grievances provides an opportunity for a final objective and fair review of those cases where offenders do not accept institutional responses.

Developments in 2002–2003

We found the response failed to address the specifics of our recommendations. Its assessment of the effectiveness of senior management involvement in grievance reviews was not grounded in measurable outcomes and made no reference either to accountability or to Madam Justice Arbour's recommendation for external review.

Subsequent discussions have centered primarily on the issue of delays. The Service indicated;

- that delays at the Regional and National Headquarters level have continued, with some improvements where concentrated efforts have been made to relieve backlogs; and
- that a number of operational measures have been established which appear promising including use of mediation techniques, development of a Knowledge Management tool and policies to better manage multiple grievors.

On January 24, 2003 we met with Service staff to discuss the draft audit of the inmate complaints and grievance system and made a number of suggestions:

- to render the system more timely;
- to provide procedural fairness with respect to all information considered in the process;
- to ensure more thorough and informed investigation and analysis of grievances;
- to enhance access to alternative dispute resolution at the institutional level;
- to provide independent dispute resolution for grievances on fundamental rights issues or on topics with Service-wide impact;
- to ensure that grievances and their outcomes are a tool for management decision-making at all levels of the Service; and
- to establish special procedures to deal with sensitive complaints regarding health services, staff misconduct and harassment.

As of this writing we await the Service's response to the specific suggestions that we raised. Accordingly, in the absence of evidence of significant change, I reiterate the points that we have made in previous years and make further recommendations on more recent topics of discussion.

I recommend that:

- **by October 31, 2003, the Correctional Service finalize an Action Plan with realistic, measurable objectives and standards for evaluation with respect to eliminating backlogs in grievance responses on a permanent basis and that they immediately implement this plan with a view to successful completion by the end of fiscal year 2003–2004;**

- **the Service issue clear policy direction to ensure, on a quarterly basis, that a thorough analysis of grievance data is undertaken by the Health Care, Aboriginal and Women Offender sectors and that this reporting be in effect by the end of September 2003;**
- **the Service re-visit its rejection of Madam Justice Arbour's recommendations concerning senior management accountability and external review within the grievance procedure.**

With specific regard to Madam Justice Arbour's recommendation, I further recommend that the Service, in consultation with my Office and relevant community stakeholders, establish a pilot project for independent review of third level grievances that are of national significance or that involve fundamental issues of personal liberty, security or legal compliance.

Finally, I recommend that the Service respond to my Office's suggestions on changes to the offender complaints and grievance procedure by the end of June 2003.

YOUNG AND ELDERLY OFFENDERS

It is our continuing view that, in line with international law, minors should be legislatively barred from placement in penitentiaries.

Penitentiaries are simply an inappropriate environment for minors, and indeed for young adults, especially those who are twenty years old or younger. The penitentiary experience of these offenders has consistently borne this out. We see disproportionately high numbers of young people who reach Statutory Release without effective reintegration plans and many of them having spent significant time in segregation or other forms of isolation. In our view, the Correctional Service has failed to appropriately identify the needs of young inmates or to provide them with programming appropriate to their needs.

Elderly offenders represent a large and growing special needs group. Contrary to the case of young offenders, the needs of older offenders were well identified in the findings and recommendations of an internal report by the Correctional Service in 2000. Unfortunately there has been little progress in implementing the recommendations of this report.

Our concerns were echoed by the House of Commons Sub-Committee on Review of the Corrections and Conditional Release Act, which identified both these groups as worthy of special focus, a finding approved in the Government's initial response and include in legislative amendment that have been tabled.

2001–2002 Recommendations

- that the Service immediately finalize their action plans and initiate implementation of the recommendations from the Report of the Elderly Offenders Division;
- that the Correctional Service and the Solicitor General urge amendments to young offender legislation that would prohibit the placement of minors in federal penitentiaries; and
- that the Correctional Service create housing, programming and case management policy and procedures to meet the specific needs of young offenders under their care.

CSC Response

CSC is committed to addressing the needs of all offenders. As the offender population ages, issues such as accommodation (institutional and community), health care, correctional program placement and employment/vocational training become more pronounced. Recommendations from the Report are being considered within CSC's plans and priorities process.

The Service recognizes the prerogative of the courts, through current legislation, to direct the federal incarceration of young offenders. CSC will continue to meets its legal obligations with respect to those young offenders who receive federal sentences. As of June 14, 2002, there were 2 offenders under 18 in CSC institutions and 1 under supervision in the community. Young offenders who are sentenced to a federal term of incarceration are assessed in a manner that takes into account their security and programming needs. The offender's age is explicitly taken into account in these assessments, and therefore in decisions on their placement, programming and case management needs.

Developments in 2002–2003

We found that the Service's response to did not address the specifics of our recommendations calling for concrete action plans that would lead to concrete programmes and policies.

Elderly and young offenders were the topic of my first meeting with the Commissioner of Corrections on Annual Report issues, on February 21, 2003.

At the meeting the Commissioner expressed the view that community based facilities were the best vehicle for addressing elderly offender needs. She indicated that the Service was engaged in discussions with the National Parole Board regarding release options for selected offenders that might require legislative change.

I support this approach and asked for further elaboration on the timeframes and options being explored in this respect.

The meeting with the Commissioner also clarified the Service's position that it did not intend to develop a comprehensive strategy with respect to older or younger offenders. Rather the Service was to conduct a comprehensive study of its capacity to deliver programmes to offenders in institutions and in the community and to examine how key characteristics, including age, affect the availability of programmes.

While again supporting this approach, we underlined the challenges with respect to older offenders that had been presented by the internal report and by a recent Health Needs Assessment.

At the same meeting the Commissioner specifically undertook to provide updated information on one topic related to elderly offenders—the creation of an adequate number of wheelchair accessible units in institutions across the country. This was a target that the Service set several years ago.

The Commissioner wrote to me in April, indicating that most objectives had been realized but some would be attained later this year.

More recently the Senior Deputy Commissioner wrote to our Executive Director and detailed Service commitments with respect to this accommodation issue as well as palliative care, reintegration options and programme development for reintegration. I found the level of specifics contained in these plans very encouraging.

Accordingly we will await word from the Service on completion of their plans. I will update the matter from our perspective in October of this year.

Regarding young offenders we underlined the continuing reality of the problems that they encounter in penitentiary—conflicts with other offenders, increased adherence to gangs, long periods of segregation and very tardy release to the community.

As a preliminary step, CSC held a meeting in June 2003, attended by a range of stakeholders, including officials from federal and provincial jurisdictions, specialists in youth corrections and legal experts in younger offender matters. The purpose of the meeting was to begin to focus on younger offender concerns and to identify practical solutions with respect to appropriate placements and programming. I believe that the meeting effectively canvassed many issues with respect to

the manner in which the federal corrections system addresses the needs of youthful offenders under the principles on the protection of youth that are provided by the Youth Criminal Justice Act, which came into force on April 1, 2003.

The Service has undertaken to make use of the proceedings to inform its subsequent approach to implementation of the new Act, potentially including, but not limited to:

- ensuring that Service policies reflect the protection of youth required under the Act
- reviewing the relevance of case management procedures as these apply to youthful offenders; and
- ensuring that the privacy of youthful offenders is respected.

As a first step in this review the Service will be meeting with representatives of the Department of Justice and our Office to consider the terms of the Youth Criminal Justice Act and how CSC will ensure compliance with applicable provisions.

We consider these very useful first steps and hope that they will lead to the improvements that we continue to recommend.

On the matter of the Service's representations at Court hearings on placement under the Youth Criminal Justice Act, we underlined our view that penitentiaries are not appropriate for these offenders. While the Service reiterated its unwillingness to take that blanket position, it is noteworthy that they appeared to be adopting a clearer position on the disadvantages of penitentiary placement. Currently there are approximately 400 younger offenders, aged 20 years or less, housed in federal penitentiaries.

The Service has agreed to identify and analyse data that will indicate whether youthful inmates are disadvantaged, compared to other inmates, with respect to important factors related to their experience in the federal system—such as access to release, successful completion of programmes and periods spent in segregation. We have offered our advice and assistance in this process and look forward to receiving the results of this effort in the very near future.

Again, this represents a useful first step — a good baseline for further measures.

We are hopeful that this matter will be resolved in the coming year.

In the meantime, we recommend:

- **that the Service make use of the information arising from its June meeting, and of consultation with inmates and other community stake holders, to submit to the Executive Committee, by the end of September 2003, an action plan for coordination with other jurisdictions of placements, housing and programming of younger offenders;**
- **that this action plan provide measurable outcomes and time frames and an appropriate evaluation framework;**
- **that the action plan be based on a review of CSC policies and operations to ensure compliance with the Youth Criminal Justice Act; and**
- **that the Service revise the information that it provides to the Courts under the Youth Criminal Justice Act to indicate the observed negative effects on young inmates of penitentiary sentences.**

CLASSIFICATION OF OFFENDERS SERVING LIFE SENTENCES

This topic has been the source of fundamental dispute between my Office and the Correctional Service ever since the policy was devised in February 2001. With the support of a number of community stakeholders, we have consistently advocated the repeal of this policy. It is contrary to law and counterproductive to effective corrections. The policy provides that offenders serving life sentences will spend at least the first two years of their sentence at a maximum-security institution.

The policy arbitrarily applies a high point value to the Custody Rating Scale evaluation of incoming offenders convicted of offences involving life sentences. Contrary to other items that are set out in this actuarial tool, there is no historical relevance to the point value imposed. It was inserted simply to ensure maximum-security placement for "lifers". This is contrary to the Corrections and Conditional Act and Regulations, which require that each offender be placed at a level of security according to a wide range of criteria.

Placement under the new policy may be overridden only in undefined exceptional circumstances by the Assistant Commissioner Correctional Operations and Programmes. In fact almost no decisions have been overridden, even where there existed, in our view, compelling reasons to reconsider.

Recommendations in 2001–2002

I recommend again that the two-year policy be rescinded in favour of a system that provides an evaluation on the need for maximum security placement that is balanced against all other factors that must be considered in determining the level of security necessary.

I further recommend that the Service ensure the existence of a fair, thorough and timely redress procedure on decisions taken under the existing policy.

CSC Response

CSC is not rescinding the policy. There are processes in place to offer redress on decisions, and to deal with exceptions.

Developments in 2002–2003

Despite our continuing finding that the policy violates the law, and despite the Correctional Service's failure to respond in a manner that addresses the clear meaning of the legislation, I see no reason to believe that the Service will rescind the policy unless required to do so by the Courts. Litigation is currently in progress on the matter so I will forego further direct efforts, reserving our entitlement to participate in any legal proceedings as I deem fit in furtherance of our mandate.

On the issue of a timely reconsideration of cases subject to the "two-year rule" we have been engaged in discussions with the Service on two topics:

- Ensuring timely and consistent review of initial classification decisions;
- Providing meaningful criteria on which to consider overrides.

To date we have made some progress but have not yet achieved consensus.

Regarding the process, our view is that the issue of whether maximum-security placement should be overridden should be decided by the senior manager who is best placed to review the policy's implementation on consistent terms.

On the basis of this discussion I recommend

- **that any decision by an institutional head either to subject an inmate to the rule or to recommend override of the rule, be immediately forwarded to the Assistant Commissioner Correctional Operations and Programs (ACCOP) for his review;**

- **that the inmate be provided the complete reasons for the initial decision and the opportunity to make representations to the ACCOP;**
- **that the ACCOP provide a decision on whether to subject the inmate to the rule within 30 days of receipt of the documents on the initial decision; and**
- **that the inmate be entitled to grieve the ACCOP's decision to the Commissioner as a priority third level grievance.**

With respect to criteria for taking override decisions we have noted a number of issues that lead to unequal consequences for offenders or that disclose significant problems related to maximum-security placement.

First, certain offenders will be admitted to federal custody already having served time in a maximum-security provincial custody. The policy discriminates against these offenders by, in effect, requiring them to remain longer in maximum security than other offenders who move more quickly to the federal system.

Second, the policy does not address the circumstances of women inmates. The secure units that are opening at regional facilities to house women who are currently in maximum security units in men's institutions are intended to promote early integration into the general population of the institution. This is a fundamental consideration in women's programming. Serving an automatic two-year period in these units thus runs counter to their very purpose.

Third, there are many individual circumstances that render placement in maximum-security institutions inappropriate. In the period immediately preceding the implementation of the policy fully fifty percent of new inmates serving life sentences were placed in medium security. It is essential that there be a re-focusing on factors that should preclude maximum security placement—in a format to which inmates can have reference should they make representations about adverse placement decisions.

We hope that the Service will take measures at least to incorporate these considerations into the implementation of what remains a seriously flawed policy.

FOCUS ON HEALTH SERVICES

I believe that an Annual Report can go beyond the central function of attempting to resolve major areas of dispute. The Report may also describe activities of the Office that do not lend themselves to specific findings or recommendations but which may still provide an understanding of some problems of offenders and of our challenges in addressing these.

To this end I have decided to pilot a new type of account—one that focuses on one "correctional service" and examines, in context, issues that affect its success and that influence our ability to address relevant problems.

A perfect topic for this first effort is Health Services. Few branches address more basic and tangible individual offender needs while concurrently seeking to foster the wellbeing and safety of inmates, their families, staff and the public. Few functions are grounded in such fundamental, and frequently competing, legal, policy and operational considerations.

Care and Custody in the Health Services Context

Our staff interacts frequently with CSC health service staff. These are committed professionals who are attempting to do an important job in difficult circumstances. As a result we can often resolve problems that relate to the everyday provision of care quite effectively.

It is more at the level of policy and of "resourcing" of health services that we and health services staff encounter obstacles. These do not always involve disputes between our Office and Health Services. Often the issues involve the contradictions inherent in operating care-providing services in a security-oriented environment.

I think that examining some of these contradictions will provide a useful perspective on this important sector. It may help to get beyond the surface issues of retribution and rehabilitation that characterise discussions of prisons and to clarify some of the rather complex legal issues and genuine human problems that confront offenders, corrections staff and my staff on a regular basis.

Health Services in Canadian penitentiaries are provided by Correctional Service staff or by professionals under contract to CSC. CSC operates hospitals, including mental health hospitals across the country, normally on the grounds of penitentiaries. Programs are directly funded by the Government of Canada (inmates, like members of the armed forces, are not covered by Medicare under the Canada Health Act). Each federal institution has a health service centre.

Competing purposes arise from the work situation of health service staff.

With respect to diagnosis and treatment, the Service has a duty under the CCRA:

- to provide every inmate with "essential health care" and "reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and safe reintegration into the community";
- to implement care according to accepted professional standards;
- to perform services only with the patient's informed consent (unless s/he is deemed incapable of providing consent under applicable laws); and
- to consider the inmate's health care needs when making decisions affecting custody or release.

An added element is that CSC health service professionals and CSC hospitals are subject to provincial legislation and professional codes that govern standards of diagnosis and care and the operation of health care centres.

On the other hand, with respect to security, health service staff are employees or agents of CSC. Their services must be provided in a context where strict legislative requirements are imposed regarding custody and supervision of offenders and where relations between staff and offenders do not always provide an environment conducive to effective treatment.

I have chosen three topics that I believe exemplify the convergence of the two roles. I will examine some of the solutions that have been proposed and the obstacles to attaining them and I will provide my own view.

Confidentiality of Medical Information

The health professions in all jurisdictions require their members to safeguard this principle. Confidentiality is required not only because of the very personal nature of the treatment relationship but because there is a vital need to ensure that patients can provide relevant information to caregivers without fear of disclosure. In this sense, the principle encourages patients to seek out the care that they need.

In penitentiaries treatment, and the preservation of confidentiality, assume particular importance given the disproportionate occurrence of serious physical and mental conditions. These can affect not only offenders' ability to lead healthy, productive lives and to successfully reintegrate to the community but also the very safety of offenders, staff and ultimately the public.

Moreover, trust is at a premium in prison and inmates may be very reluctant to provide information if they have even a slight suspicion that it might be revealed to others.

Opposed to these considerations is the statutory requirement for disclosure of information where this is necessary for assessment of risk and protection of others. The Corrections and Conditional Release Act imposes clear duties on staff to protect offenders, staff and others and to provide to persons involved with the release and supervision of offenders all information relevant to these functions.

So where does the balance lie? Where an inmate confides information to a nurse- for example on an infectious disease or an obsession—do health service staff promote the treatment relationship by retaining confidentiality or do they address potential harm to others by disclosing the information?

For more than two years the Service has been grappling with policy on this matter. Our Office has provided considerable input to the policy development process.

Emerging themes appear to be:

1. A distinction should be made between information acquired for diagnosis and treatment purposes and information acquired in order to assess risk (for purposes of supervisory or release decisions). In the former case information should not be disclosed outside of the health services team. In the latter case, disclosure may be appropriate in order to address release, community supervision and other security-related concerns.

2. Despite the above, where it is reasonably believed that others may be seriously harmed if confidentiality is maintained, disclosure should take place even with respect to treatment information.

Even these basic principles have not yet been fully "signed off" by the Service as a whole. There may be legal or policy arguments for taking a more liberal or a more conservative approach to confidentiality.

Moreover, the principles themselves raise further questions of definition, degree, fairness and management, for example:

- Where is the line between "treatment" and "risk assessment"?
- How does one establish, at the time an offender is about to provide information, whether this will be considered treatment or risk assessment information?
- What should be the status of treatment information that is relevant to risk if it is acquired improperly or by chance?
- How serious and immediate must the potential harm be to justify disclosure?
- Who should make disclosure decisions?
- Where should health information be stored and how should it be protected?
- What role and influence should the patient have in decision about disclosure?

- What should the patient be told about potential disclosure before being asked to provide health information to staff in the first instance?

Our Office has taken the position:

- that health information for risk assessment should be disclosed only where the inmate, before providing the information, has been clearly advised of what will be disclosed and for what specific purposes. Any other use would be prohibited;
- that any other health information provided should simply not be disclosed without the patient's consent;
- that decisions on disclosure should be made by trained health services staff;
- that the offender in question should be permitted to make representations prior to any disclosure decision; and
- that the exceptions to the above would occur where there was a danger of immediate harm to identifiable persons if the information were not disclosed (the test adopted by the Supreme Court of Canada).

My basic rationale for taking so protective a position, besides believing that it is warranted by law, is that the greatest danger at the end of the day is a the existence of a large number of untreated offenders—untreated because they refuse to confide in health professionals for fear of revelations.

As of this writing, CSC Health Services appear to be clear in their position that health information acquired for diagnosis and treatment purposes should be preserved within the Health Services team and not disclosed except in the most urgent of circumstances—where disclosure is necessary to protect others from harm. This is consistent with well-established case law on the issue.

With respect to information acquired for risk assessment purposes, Health Services believes that disclosure to appropriate decision-makers may be permitted, provided that the offender's authorization to disclose was obtained before the offender was asked to provide any information in the first instance.

It appears that the above approach is more feasible in the case of information about physical conditions (e.g. infectious diseases), where professional norms and legal interpretations are relatively established and consistent. It is with respect to information on mental conditions that many of the issues described above arise.

I hope that the discussion of suitable policy will continue in the coming year. I hope that resolution will result at least on a process for insuring that disclosure decisions are taken carefully and only after providing offenders a reasonable opportunity to make representations on such decisions.

Infectious Diseases

I will not reiterate the disturbing statistics that underlie this topic. Suffice to say that the infectious diseases, especially HIV-AIDS and Hepatitis C, represent a significant problem in penitentiaries, far greater than in the general Canadian population, and all the more so among women inmates.

Since the 1996 report of the Expert Committee on AIDS and Prisons (ECAP), Health Services has implemented some, but not all of the Report's recommendations—making progress, albeit recently, in providing methadone therapy and in beginning to implement Action Plans to guide institutional measures to address infectious diseases.

Three of the ECAP recommendations have not been implemented, however, and these, not surprisingly, relate to the conflicting purposes that I have described above.

ECAP recommended:

- that research be done to identify measures including access to sterile injection equipment that will reduce risks associated with surreptitious use of contaminated injection equipment by inmates;
- that tattooing and piercing be made legal and available to inmates, provided by professionals or by inmates trained in safe procedures; and
- that confidentiality of information on infectious disease status of inmates be ensured and that voluntary testing of inmates be promoted.

The last point is clearly a major element of the issues that I discussed in the previous section—issues which have been addressed but have not been completely finalised.

Progress on the other two recommendations has been slower.

The Service has consistently declined to implement the concept of needle exchanges and only recently undertook to develop a framework for a pilot project on tattooing for submission to the Commissioner.

At issue here are fundamental approaches to the problem of substance abuse and its effects—treatment versus prohibition.

There is reliable information from other jurisdictions that harm reduction measures such as clean needle exchanges and safe tattooing, which address the health needs of the users, have a helpful effect on disease transmission and encourage participation in treatment.

Nevertheless, CSC staff often express fears about the use of sharp objects as weapons and there is public concern over measures that condone illegal or anti-social behaviour, especially at public expense.

In a very real way the issue becomes "What is the role of a prison?"

Our view is that it is not the role of a prison to perpetuate dangerous practices or to limit access to treatment that could benefit not only the inmate, but also the person s/he could harm if s/he is left untreated or given access to tools that carry disease.

Viewed from this perspective, I believe that the balance clearly favours of the implementation of harm reduction measures.

Danger to inmates or staff can be addressed by control of the implementation of the harm reduction measures. Herein, I do not underestimate the need for planning, care and supervision, but I believe that there exist very helpful "best practices" from other settings where inmates have access to dangerous items (e.g. in kitchens). In any case, since inmates already have access to illicit needles or tattooing gear, the issue arises of the extent to which dangers would be increased by a regime whose object is to provide controlled and safe access to harmful devices.

As to the illegality of harm reduction, I believe that ECAP was aware of the law when it made its recommendations. Nevertheless the Committee concluded that a situation approaching a crisis existed and that, in those circumstances, the fundamental principle of security of the person must be weighed against the adverse effects of condoning activities that are sanctioned by the criminal law—activities which are occurring in any case. I share ECAP's conclusions.

Certainly the Service should be supported in its efforts to control the entry of illegal substances into penitentiaries. An essential aspect of a treatment-based health service strategy, however, is that treatment can co-exist with valid security measures. This is patently the case in this matter.

The Use of Isolation in Mental Health Care

It is an accepted practice in mental health treatment to occasionally isolate patients from others, and from various patient activities, programme-related or social. This can occur where it is perceived that interaction with others may give involve risk or where deprivation of privileges is useful to promote participation in treatment or appropriate behaviours (behaviour modification).

Resort to isolation is regulated by provincial laws and professional norms. In essence these provide:

- that the use of isolation must be authorised by a physician;
- that the entitlement to isolate a patient exists only as long as s/he consents to the treatment programme, or to this aspect of it;
- that, exceptionally, a patient may be involuntarily isolated if s/he is incapable of providing informed consent or if there is an urgent need to protect that person from harm to self or others; and

- that, in such cases, patients may have access to assistance from patient advocates or legal counsel and time-limited redress procedures must be made available.

CSC mental health facilities are governed by the same rules. The complication is that they operate within penitentiaries and are also governed by federal rules—including the laws governing segregation. These provide that inmates may be removed from association with other inmates against their will only where this is necessary for reason of personal safety or institutional security, or where the inmate has been convicted of a serious disciplinary offence. Moreover, in non-disciplinary cases, these rules provide for automatic review of segregation and for early reintegration to the general population wherever possible. As well, segregated inmates are normally entitled to the same personal effects and services as inmates in general population.

Consider some of the complications arising from these circumstances:

- To the extent that a patient does not wish to be isolated, does consent to treatment end and must any further isolation be considered segregation?
- Within a treatment program, if a staff member isolates a patient because, in fact, s/he wishes to control the patient or to protect the patient or others, is this really segregation?
- If the inmate knows that by not consenting to isolation s/he may be removed from the treatment program and returned to the parent institution, how does this affect whether s/he is really provided informed consent without duress?
- Beyond simply being able to refuse treatment, what redress mechanism should be provided where an inmate disagrees with a decision to isolate or with some condition of the isolation?

The Service has indicated that they will soon provide a policy on this matter.

I am optimistic that their approach will be to ensure that, during treatment, the initial and continual need for isolation will be consistently reviewed and the patient will be given effective, timely opportunities to complain about any problems. Beyond this, the simple rule should be that isolation without consent, or without the patient being certified unable to provide consent, is segregation—and must be treated as such.

Conclusions

I appreciate the Service's challenge in rationalizing the apparent competing interests of security and treatment.

While I believe that security and treatment—like custody and rehabilitation-can often be mutually accommodated, I know that there will be circumstances where, forced to wear the two hats of keeper and care giver the Service will arrive at seemingly irreconcilable positions.

This raises larger questions—Could the solution be to structurally separate the staffing, management and provision of health care from the Service's other functions?—for example, to place health care under the jurisdiction of Health Canada or to create an independent operating agency for health services? Is the solution to provide clear categories to distinguish matters under the exclusive control of health services from those regulated by other staff? Or should the Service simply try to create and apply policy and practice to anticipate conflicts of purposes.

Irrespective of the option, I believe that the principle of the patient's rights to privacy and to informed consent to participation in treatment must be paramount.

Once again, we thank Health Services staff for their generally open and cooperative relationship with our staff, an attitude that has been exemplified by the positive discussions that we have had with Headquarters Health Service representatives.

ON THE HORIZON

There are a number of areas currently under discussion with the Service which are not detailed in the Major Outstanding Issues section of the Report. Although our review of these matters has not at this time resulted in specific findings and recommendations, I believe, given their significance to the offender population, that they need to be noted.

Administrative Segregation

Segregation units remain at, or near, full capacity and the number of long-term segregation cases remains unnecessarily high. It will be necessary to find new solutions, and to consider how to more effectively implement the law and policy on administrative segregation, in order to address this problem.

A long-discussed aspect of administrative segregation is the issue of independent review of placements. As I have indicated elsewhere in this Report, there is considerable expert support for this approach. The Service has just completed its trial of an "enhanced" system, involving participation in reviews by community members. The opportunity now arises to review the pilot projects and engage in a broadly based consultation on the Parliamentary Sub-Committee recommendations on independent adjudication of segregation decisions.

Infectious Diseases

With respect to the incidence and spread of HIV/AIDS and Hepatitis C in our institutions, I believe that an immediate decision is called for on the implementation of harm reduction measures such as access to clean tattooing equipment and needle exchanges. While the correctional environment presents challenges in this area there is a need for a coherent drug strategy which ensures that the health and safety of both staff and offenders is reasonably addressed.

Mental Health Treatment

The Service is currently engaged in a review of its Regional mental health facilities. This is a timely and important study given the impact of mental health problems on the care, custody and rehabilitation of offenders.

The Service is consulting us with respect to this review and I consider our input on the areas of concern associated with mental health treatment a high priority.

Evaluation of Security Information

This year the Service finally promulgated Directives on preventive security standards and guidelines. The implementation of the new policies provides us and the Service with an opportunity to examine an important function arising from the basic principles set out in the policies—the identification, evaluation and use of security information in decisions that impact offenders' level of custody and release opportunities.

ION Scanners

Issues have been raised with respect to the operation of these instruments, which detect the presence of substances on the skin or clothing of individuals, and the accuracy of the results of ION examinations. As well, there has been discussion of the role that ION scan results should play in decisions with respect to the granting of visits in institutions.

In October 2003 a formal mediation of this issue—the effectiveness of the equipment, the level of its use and its proper role in taking decisions on visits—will take place. Participants will include relevant Service staff, staff from our Office, inmate representatives and community legal experts.

Inmate Computers

In June of this year the Service decided to prohibit the purchase of computers by inmates. Given the impact of this decision on the offender population we have contacted the Service to initiate a review of this policy change and the alternatives available.

Access to Justice

Inmates' access to counsel is a growing problem. Restrictions on Legal Aid and its funding in various Provincial and Territorial jurisdictions have had the effect of reducing the scope of matters on which inmates can consult and retain counsel as well as

reducing the numbers of lawyers who are able/willing to take on inmate cases.

Access to counsel is an important entitlement for any citizen. Moreover, it is extremely important in the correctional context, where complex and important questions frequently arise. The CCRA and Regulations set out a number of provisions guaranteeing access to counsel, such as when inmates are segregated or are charged with a serious disciplinary offence. As well, the legislation provides guarantees of confidential inmate communication with lawyers. Absent the ability to actually acquire legal representation, these are hollow rights.

We believe that there is a need for a broad consultation of partners in the criminal justice system, including community and offender representatives, to see if mechanisms can be established to address the problem.

Maximum Security Institutions

In May of this year the Service instituted a review of maximum-security facilities by a team of senior managers. The purpose of this exercise, as I understand it, is to try to develop interventions that could be effected by staff, in a context of respect for human rights, that will assist inmates in following their correctional plans toward eventual release.

Maximum security institutions have been a longtime concern for my Office. Given their emphasis on control of offender movements and activities, they tend to inhibit effective progress toward reintegration and often operate in a manner that runs counter to the CCRA principle of applying the least restrictive custody consistent with the needs of inmates.

Accordingly, we look forward to the results of the review and the ensuing discussion on its impact on these institutions.

A PROPOSAL FOR RESOLUTION

JUDICIAL INTERVENTION, EXTERNAL REVIEW AND ACCOUNTABILITY IN CORRECTIONS

Madam Justice Arbour, in her 1996 Report on the Events at the Prison for Women, commented on the Correctional Service's failure to respect the fundamental human rights of offenders:

"I have dealt in some detail with the role played by the Correctional Investigator in this case. It is clear to me that his statutory mandate should continue to be supported and facilitated. Of all the outside observers of the Correctional Service, the Correctional Investigator is in a unique position both to assist in the resolution of individual problems, and to comment publicly on the systemic shortcomings of the Service. Of all the internal and external mechanisms or agencies designed to make the Correctional Service open and accountable, the Office of the Correctional Investigator is by far the most efficient and the best equipped to discharge that function. It is only because of the Correctional Investigator's inability to compel compliance by the Service with his conclusions, and because of the demonstrated unwillingness of the Service to do so willingly in many instances, that I recommend greater access by prisoners to the courts for the effective enforcement of their rights and the vindication of the Rule of Law."

The Arbour Report concluded that *"there was little hope that the Rule of Law will implant itself within the correctional culture without assistance and control from Parliament and the courts."* The Report provided a series of recommendations designed to inject judicial guidance and external decision making into the correctional process.

Over the intervening seven years a number of reports from a variety of sources, including persons commissioned by CSC to offer expert advice, have produced a further series of recommendations on the issues of external review and accountability. The intent of these recommendations, to borrow a phrase from Professor Michael Jackson's recent book "Justice Behind the Walls–Human Rights in Canadian Prisons" was *"to draw the operations of the Correctional Service of Canada into the gravitational pull of a culture that respects legal and constitutional rights".*

To date the Service has resisted that pull and, for the most part, maintains its own orbit.

While the Service, in recent years, has made efforts to enhance its own internal mechanisms for promoting human rights and legal entitlements it continues to show an absence of willingness to be scrutinized by others.

This absence of will has been evident in the Service's response to a wide range of initiatives:

- the Arbour Commission's call for a judicial remedy against correctional interference with the integrity of a sentence;
- this Office's recommendation for an administrative tribunal to resolve disputes on issues impacting on offender rights;
- Mr. Max Yalden's, former Chief Commissioner of the Canadian Human Rights commission, recommendation that unresolved issues, between this Office and CSC concerning human rights obligations be submitted to adjudication;
- the Arbour Commission's recommendations concerning independent decision making on certain inmate grievances and segregation placements;
- the recommendations of the Parliamentary Sub-Committee, Mr. Yalden, and the Service's Task Force on Administrative Segregation concerning independent adjudication of segregation cases; and
- the recommendation of the Service's Cross; Gender Monitors that an "independent body" conduct investigations of offender sexual harassment complaints.

Accountability involves both an internal and an external facet. The accountable organization must do more than optimize its focus on fundamental values and its ability to address these within its own structure and decision-making processes. It must also be open to independent oversight in order to assure persons affected by its decisions, and the larger community, that any failures of the internal processes will be reviewed and corrected before significant harm is done to the values in question, and to the perceived integrity of the organization. This is even more the case within the correctional environment where rights and liberties are often at stake.

The issues surrounding judicial intervention, external review and accountability have not to date been reasonably addressed. Therefore I propose that the discussion on those issues take place in the coming fiscal year and I offer my Office's complete cooperation in making it effective.

To this end, my Office will produce, by the end of October 2003, a Discussion Paper outlining the issues as we see them and our proposed options for resolution. We will provide wide distribution of this Paper and will invite the Service and other participants in the criminal justice process, including government agencies, community partners and offender representatives, to present their own written views on the subject. Once these have been shared, I propose that the Service and my Office convene a broadly-based conference early in 2004 to attempt to identify measures to bring closure to the issue.

I look forward to this process and invite the Service, and other stakeholders to provide comments on how it should unfold.

SUMMARY OF RECOMMENDATIONS

Aboriginal Offenders

that the Service produce, on a quarterly basis, a Report on Aboriginal offenders focused on:

- Transfers
- Segregation
- Discipline
- Temporary Absences / Work Releases
- Detention Referrals
- Delayed Parole Reviews
- Suspension and Revocation of Conditional Release

that the quarterly Report on Aboriginal offenders, inclusive of an analysis of the information recorded, be a standing agenda item of the Service's Senior Management Committees.

Given the continuation of discriminatory barriers to timely release for Aboriginal offenders, I reiterate my recommendations of 1999:

- that a Senior Manager, specifically responsible and accountable for Aboriginal programming and liaison with Aboriginal communities, be appointed as a permanent voting member of existing Senior Management Committees of the Correctional Service at the institutional, regional and national levels; and
- that the Correctional Service's current policies and operational procedures be immediately reviewed to ensure that discriminatory barriers to reintegration are identified and addressed. This review should be independent of the Correctional Service of Canada and be undertaken with the full support and involvement of Aboriginal organizations.

Women Offenders

The Arbour Commission of Inquiry was a very public and very inclusive process. The Report was a landmark for corrections in this country. Its findings and recommendations focussed our attention not only on the potential for Women's Corrections but as well on the requirement for openness, fairness and accountability in correctional operations.

The movement of women from the men's penitentiaries to the Regional Facilities will present the Service with a number of immediate and long-term challenges. To meet these challenges, there is a need for a refocusing on both the potential for Women's Corrections and the requirement for openness, fairness and accountability.

I recommend that this refocusing begin with:

- the completion of a "final response plan" by the Correctional Service on Justice Arbour's recommendations by October 30, 2003;
- the distribution of the response plan to stakeholders (government and non-government) by November 30, 2003;
- the initiation of a public consultation process by January 2004; and
- the issuing of a final report on the status of Justice Arbour's recommendations by April 2004.

Sexual Harassment

I recommend that the Correctional Service adopt in principle the same policy for harassment of offenders that it has adopted with respect to harassment of employees, subject only to such changes as are required by the fact that offenders are not employees or members of bargaining units.

I further recommend that this policy be promulgated by September 30 2003, after due consultation of offenders and the Cross-Gender Monitors.

Case Preparation and Access to Programming

I recommend:

- that the Correctional Service provide a report on its examination and conclusions with respect to the items specified in our 2001–2002 recommendations, as set out below, by the end of October 2003; and
- that the Service provide an Action Plan by the end of December 2003 detailing the measures to be taken to address any deficiencies identified,

including measurable criteria to adjudge success of the measures.

(2001–2002 Recommendations)

that the Service initiate immediately a review of program access and timely conditional release focussed on:

- current program capacity, waiting lists and specific measures required to address any deficiencies;
- the specific reasons for delays of National Parole Board reviews and actions required to reduce the numbers;
- the reasons for the decline in unescorted temporary absences and work release programming and the specific measures required to increase participation in this programming; and
- the reasons for the continuing disadvantaged position of Aboriginal offenders in terms of timely conditional release and a specific plan of action to address this disadvantage.

Institutional Violence and the Monitoring of Inmate Injuries

I recommend :

- that a system of quarterly reporting on violence and inmate injuries to EXCOM be implemented by the end of June 2003;
- that the Correctional Service mandate a special review of the accuracy of the data that it is able to retrieve by the end of October 2003;
- that the Service adopt a system that will identify injuries based upon the seriousness of their physical or emotional harm to the inmates involved, and not with respect to the seriousness of the circumstances in which the injuries occur; and
- that the Correctional Service establish a plan to ensure, by the end of June 2003, that all incidents of major inmate injury are investigated in a thorough and timely fashion.

Investigations

CSC has agreed to a number of undertakings:

- to complete quarterly reports on investigations of serious bodily harm or death and to share these with us.
- to ensure that CSC Investigations Branch and this Office are advised of any serious bodily injury
- to incorporate guidelines to clarify the definition of serious bodily injury into the revised CSC Health Services Manual;
- to provide investigative reports pursuant to s.19 of the CCRA (inmate death and serious bodily injury) to this Office within three months of the incident;
- that the policy on Investigations include specific timeframes for the completion of Investigative Reports and the verification of Action Plans; and
- that all Investigative Reports into inmate death or serious bodily injury be reviewed nationally with a summary report on the recommendations and corrective actions taken, produced quarterly.

I recommend that, by the end of October 2003, the Correctional Service provide the information which it has undertaken to provide and otherwise perform the measures that I recommended in my last annual Report, including:

- that the policy on Investigations include specific timeframes for the completion of Investigative Reports and the verification of Action Plans;
- that the Service monitor compliance with these timeframes; and
- that all Investigative Reports into inmate death or serious bodily injury be reviewed nationally with a summary report on the recommendations and corrective actions taken, produced quarterly.

Double Bunking

I recommend:

- that the Service finalize plans for the elimination of double bunking in all non-general population units by September 2003;
- that the Service establish a reliable data base on the level of double bunking within its institutions; and
- that the Service establish policy requiring that any double bunking, in non-general population units, other than in emergency circumstances of less than 48 hours, be approved in writing by the Commissioner.

Use of Force

I recommend that the Correctional Service provide responses, including action plans to implement the measures referenced in my previous recommendations by October 31, 2003.

(2001–2002 Recommendations)

that the Commissioner issue specific direction with regard to Use of Force to ensure that:

- information on injuries, policy violations and the circumstances that lead to the incident is collected;
- a report, inclusive of this information, is provided on a quarterly basis to management committees at the regional and national levels for the purpose of identifying and addressing areas of concern;
- the written results of the reviews undertaken by Women and Health Services sectors are provided in a timely fashion;
- the follow-up by national managers is consistent and timely; and
- investigations into inappropriate or excessive force are convened at the regional level and include a community board member.

Allegations of Staff Misconduct

I recommend that the inmate grievance process be revised to provide, in the case of complaints involving staff misconduct:

- that inmates be permitted to address complaints directly to the Institutional Head (or his supervisor if the complaint is against him) in a manner concealing the nature of the complaint;
- that the institutional head personally review the complaint to determine if it is frivolous or otherwise an abuse of the process and to determine if further information is necessary before proceeding to an investigation;
- that, where the complaint is considered potentially well-founded, the institutional head authorise the investigation of the complaint by a panel composed of staff from another institution and of an independent community person;
- that the results of the investigation be reported to the Institutional Head with copy to the Regional Deputy Commissioner for review and timely response to any recommendations arising from the investigation; and
- that complainants be provided timely and ongoing access to legal counsel and be entitled, at any juncture, to refer the matter to the Police.

Strip Search Policy

I recommend:

- that the Correctional Service address the deficiencies that we have identified with respect to the draft Report on Strip Searches;
- that the Service:
  a. ensure that their policies on strip searches respond to the concerns that we identified with respect to the two incidents that we raised in 1999;
     or
  b. submit these two disputes to adjudication by an expert third party, as we originally recommended.

Inmate Financial Resources

1. General

I recommend that the Correctional Service specifically address the issues that I specified in my previous recommendations and report on these, with proposed measures to effect necessary changes, by the end of October 2003.

(2001–2002 Recommendations)

that the Service's review of the Inmate Pay policy focus on:

- the adequacy of the current pay levels and the impact on the illicit underground penitentiary economy; and
- the adequacy of funds currently available to offenders on their release to the community.

2. Millennium Telephone System

I reiterate my recommendations of last year:

- that the Service provide an immediate backdated subsidy to the inmate population to bring the cost of telephone communications in line with community standards; and

- that, if the Service is unwilling to provide a subsidy to offset the unreasonable cost of this security system to the inmate population, that immediate consideration be given to whether it is necessary to continue with the Millennium Telephone System.

I specifically recommend:
- that the Service conduct an audit of the effectiveness of the Millennium system as a security device.

Inmate Grievance Procedures

I recommend:
- that by October 31, 2003, the Correctional Service finalize an Action Plan with realistic, measurable objectives and standards for evaluation with respect to eliminating backlogs in grievance responses on a permanent basis and that they immediately implement this plan with a view to successful completion by the end of fiscal year 2003–2004;
- that the Service issue clear policy direction to ensure, on a quarterly basis, that a thorough analysis of grievance data be undertaken by the Health Care, Aboriginal and Women Offender sectors and that this reporting be in effect by the end of June 2003; and
- that the Service re-visit its rejection of Madam Justice Arbour's recommendations concerning senior management accountability and external review within the grievance procedure.

With specific regard to Madam Justice Arbour's recommendation, I further recommend that the Service, in consultation with my Office and relevant community stakeholders, establish a pilot project for independent review of third level grievances that are of national significance or that involve fundamental issues of personal liberty, security or legal compliance.

Finally, I recommend that the Service respond to my Office's suggestions on changes to the offender complaints and grievance procedure by the end of September 2003.

Youthful Offenders

I recommend:
- that the Service make use of the information arising from its June meeting, and of consultation with inmates and other community stake holders, to submit to the Executive Committee, by the end of September 2003, an action plan for coordination with other jurisdictions of placements, housing and programming of younger offenders;
- that this action plan provide measurable outcomes and time frames and an appropriate evaluation framework;
- that the action plan be based on a review of CSC policies and operations to ensure compliance with the *Youth Criminal Justice Act*; and
- that the Service revise the information that it provides to the Courts under the *Youth Criminal Justice Act* to indicate the observed negative effects on young inmates of penitentiary sentences.

Classification of Offenders Serving Life Sentences

I find that the policy is contrary to law and recommend that it be rescinded.

I further recommend:
- that any decision by an institutional head either to subject an inmate to the rule or to recommend override of the rule, be immediately forwarded to the Assistant Commissioner Correctional Operations and Programs for his review;
- that the inmate be provided the complete reasons for the initial decision and the opportunity to make representations to the ACCOP;
- that the ACCOP provide a decision on whether to subject the inmate to the rule within 30 days of receipt of the documents on the initial decision; and
- that the inmate be entitled to grieve the ACCOP's decision to the Commissioner as a priority third level grievance.

STATISTICS

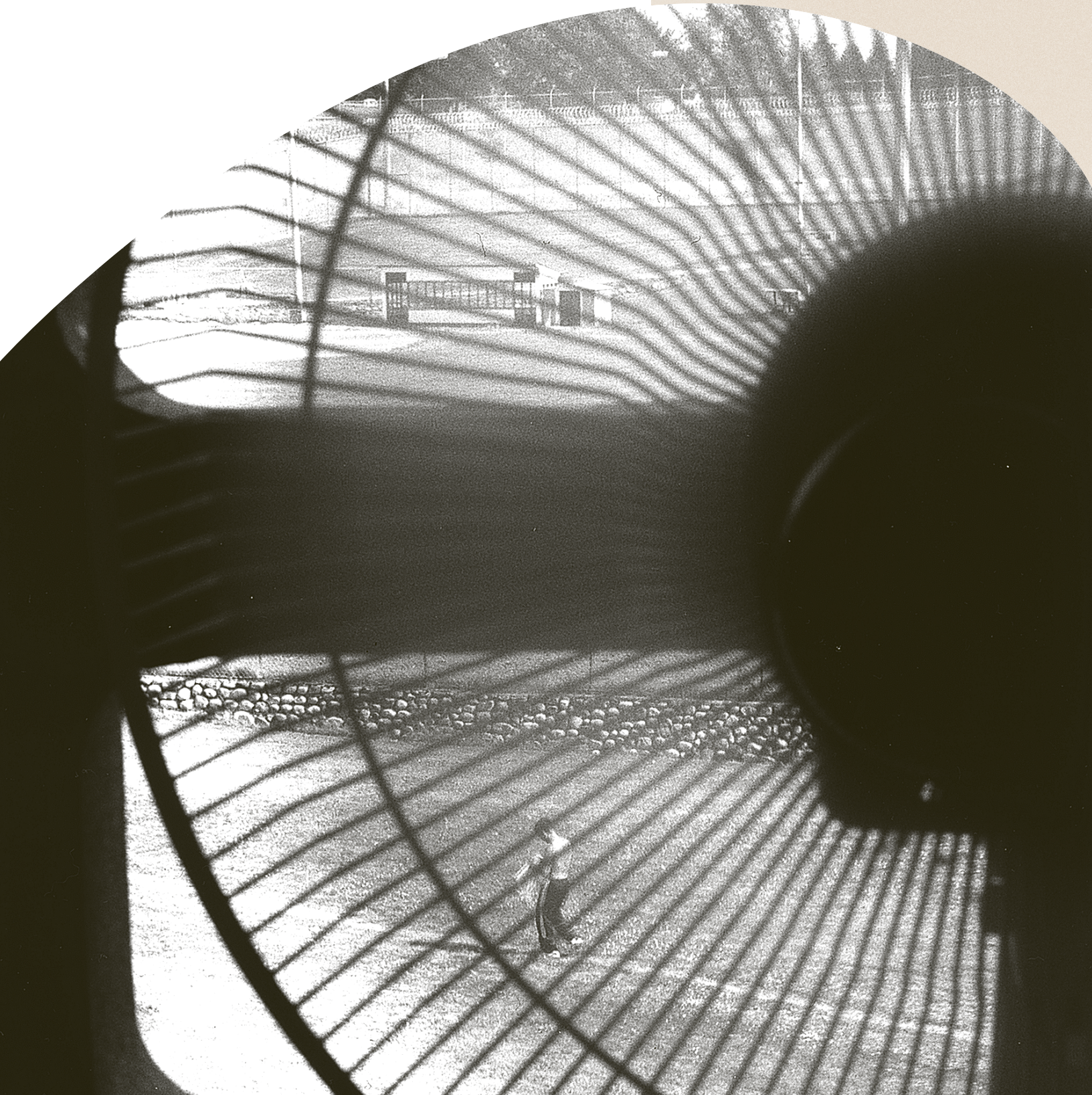

TABLE A
CONTACTS [1] BY CATEGORY

CATEGORY	CASE TYPE I/R [2]	INV [3]	TOTAL
Administrative Segregation			
Conditions	27	42	69
Placement/Review	166	158	324
Total	**193**	**200**	**393**
Case Preparation			
Conditional Release	82	79	161
Post Suspension	11	11	22
Temporary Absenc	10	24	34
Transfer	41	52	93
Total	**144**	**166**	**310**
Cell Effects	**229**	**200**	**429**
Cell Placement	**54**	**49**	**103**
Claims Against the Crown			
Decisions	19	24	43
Processing	34	35	69
Total	**53**	**59**	**112**
Community Programs/Supervision	**25**	**19**	**44**
Conditions of Confinement	**181**	**123**	**304**
Correspondence	**61**	**37**	**98**
Death or Serious Injury	**3**	**4**	**7**
Decisions (General) - Implementation	**19**	**10**	**29**
Diet			
Medical	7	17	24
Religious	11	10	21
Total	**18**	**27**	**45**
Discipline			
ICP Decisions	6	9	15
Minor Court Decisions…	8	5	13
Procedures	32	20	52
Total	**46**	**34**	**80**
Discrimination	**14**	**10**	**24**
Employment	**85**	**60**	**145**
File Information			
Access - Disclosure	64	40	104
Correction	147	64	211
Total	**211**	**104**	**315**

TABLE A (cont'd)
CONTACTS [1] BY CATEGORY

CATEGORY	CASE TYPE I/R [2]	INV [3]	TOTAL
Matters			
Access	32	49	81
Pay	52	50	102
Total	**84**	**99**	**183**
Food Services	**30**	**20**	**50**
Grievance Procedure	**142**	**147**	**289**
Health and Safety - Worksite	**6**	**3**	**9**
Ion Scan	**9**	**9**	**18**
Health Care			
Access	194	361	555
Decisions	90	200	290
Total	**284**	**561**	**845**
Mental Health			
Access	4	20	24
Programs	3	7	10
Total	**7**	**27**	**34**
Methadone	**7**	**11**	**18**
Official Languages	**3**	**8**	**11**
Operation/Decisions of the OCI	**25**	**10**	**35**
Penitentiary Placement	**90**	**27**	**117**
Programs			
Access	75	102	177
Quality/Content	10	3	13
Total	**85**	**105**	**190**
Release Procedures	**52**	**25**	**77**
Request for Info	**151**		**151**
Safety/Security of Offender(s)	**66**	**109**	**175**
Search and Seizure	**40**	**39**	**79**
Security Classification	**90**	**66**	**156**
Sentence Administration - Calculation	**24**	**16**	**40**
Staff Responsiveness	**260**	**117**	**377**
Telephone	**59**	**93**	**152**
Temporary Absence Decision	**45**	**72**	**117**

TABLE A (cont'd)
CONTACTS [1] BY CATEGORY

CATEGORY	CASE TYPE I/R [2]	INV [3]	TOTAL
Transfer			
Decision – Denials	111	99	210
Implementation	79	87	166
Involuntary	168	112	280
Total	**358**	**298**	**656**
Urinalysis	**15**	**10**	**25**
Use of Force	**14**	**28**	**42**
Visits			
General	140	166	306
Private Family Visits	60	89	149
Total	**200**	**255**	**455**
Outside Terms of Reference			
Conviction/Sentence – Current Offence	**14**	-	**14**
Immigration/Deportation	**5**	-	**5**
Legal Counsel – Quality	**5**	-	**5**
Outside Court – Access	**22**	-	**22**
Parole Decisions	**182**	-	**182**
Police Actions	**10**	-	**10**
Provincial Matter	**11**	-	**11**
GRAND TOTAL	**3731**	**3257**	**6988**

(1) See Glossary.
(2) I/R: Immediate Response - see Glossary.
(3) INV: Investigation - see Glossary.

GLOSSARY

Contact: Any transaction regarding an issue between the OCI and an offender or a party acting on behalf of an offender. Contacts may be made by telephone, facsimile, letter, and during interviews held by the OCI's investigative staff at federal correctional facilities.

Immediate Response: A contact where the information or assistance sought by the offender can generally be provided immediately by the OCI's investigative staff.

Investigation: A contact where an inquiry is made to the Correctional Service and/or documentation is reviewed/analyzed by the OCI's investigative staff before the information or assistance sought by the offender is provided.

Investigations vary considerably in terms of their scope, complexity, duration and resources required. While some issues may be addressed relatively quickly, others require a comprehensive review of documentation, numerous interviews and extensive correspondence with the various levels of management at the Correctional Service of Canada prior to being finalized.

TABLE B
CONTACTS BY INSTITUTION

Region/Institution	Number of contacts	Number of interviews	Number of days spent in institution
Women's Facilities			
Edmonton Women's Facility	65	31	5
Regional Reception Centre (Québec)	28	8	3
Grand Valley	88	23	5
Isabel McNeill House	2	0	0
Joliette	34	11	4
Okimaw Ohci Healing Lodge	10	4	2
Nova	34	18	3
Regional Psychiatric Centre (Prairies)	19	7	2
Saskatchewan Penitentiary	28	9	5
Springhill	49	22	6
Total	**357**	**133**	**35**
ATLANTIC			
Atlantic	159	95	16
Dorchester	286	112	13
Springhill	106	34	7
Westmorland	18	4	3
Region Total	**569**	**245**	**39**
ONTARIO			
Bath	108	33	6
Beaver Creek	35	14	3
Collins Bay	123	57	8
Fenbrook	190	65	10
Frontenac	69	35	4
Joyceville	199	52	7
Kingston Penitentiary	392	101	14
Millhaven	271	79	15
Pittsburgh	20	10	1
Regional Treatment Centre	34	4	2
Warkworth	373	53	9
Region Total	**1,814**	**503**	**79**
PACIFIC			
Elbow Lake	13	5	2
Ferndale	47	17	3
Kent	273	58	6
Matsqui	115	23	6
Mission	71	28	4
Mountain	225	66	8

TABLE B (cont'd)
CONTACTS BY INSTITUTION

Region/Institution	Number of contacts	Number of interviews	Number of days spent in institution
Regional Health Centre			
William Head	69	19	6
Region Total	70	23	3
	883	239	38
PRAIRIE			
Bowden	173	66	12
Drumheller	160	68	10
Edmonton	482	123	17
Grande Cache	108	19	2
Pê Sâkâstêw Centre	19	10	3
Regional Psychiatric Centre	87	24	3
Riverbend	14	8	1
Rockwood	23	4	2
Saskatchewan Penitentiary	294	48	8
Stony Mountain…	192	69	12
Region Total	**1,552**	**439**	**70**
QUEBEC			
Archambault	187	66	9
Cowansville	159	95	14
Donnacona	160	93	13
Drummondville	184	89	10
Federal Training Centre	114	36	6
La Macaza	143	141	10
Leclerc	146	80	9
Montée St-François	48	25	4
Port Cartier	268	109	18
Regional Reception Centre/SHU Québec	150	139	16
Ste-Anne des Plaines	30	19	3
Region Total	**1,589**	**892**	**112**
	6,764	**2,451**	**373**
GRAND TOTAL			

TABLE C
COMPLAINTS AND INMATE POPULATION – BY REGION

Region	Total number of contacts (*)	Inmate population (**)
Atlantic	674	1,192
Quebec	1,731	3,123
Ontario	1,963	3,398
Prairies	1,698	3,032
Pacific	911	1,845
TOTAL	**6,977**	**12,590**

(*) Excludes 11 contacts from provincial institutions.
(**) As of March 2003, according to the Correctional Service of Canada's Offender Management System.

TABLE D
DISPOSITION OF CONTACTS BY CASE TYPE

CASE TYPE	Disposition	Number of complaints
Immediate Response	Information given	2,111
	Outside mandate	249
	Referral	1,165
	Withdrawn	206
Total		**3,731**
Investigation	Information given	1,769
	Not supported	288
	Pending	86
	Referral	608
	Resolution facilitated	391
	Unable to resolve	43
	Withdrawn	72
Total		**3,257**
GRAND TOTAL		**6,988**

TABLE E
AREAS OF CONCERN MOST FREQUENTLY IDENTIFIED BY OFFENDERS

TOTAL OFFENDER POPULATION	
Health Care	845
Transfer	656
Visits and Private Family Visits	455
Cell Effects	429
Administrative Segregation	393
Staff Responsiveness	377
File Information (Access, Correction and Disclosure)	315
Case Preparation	310
Conditions of Confinement	304
Grievance Procedure	289
ABORIGINAL OFFENDERS	
Transfer	110
Health Care	96
Visits and Private Family Visits	76
Staff Responsiveness	57
Administrative Segregation	57
Case Preparation	56
Conditions of Confinement	53
Cell Effects	53
File Information (Access, Correction and Disclosure)	47
Programs/Services	42
WOMEN OFFENDERS	
Health Care	67
Transfer	34
Cell Effects	34
Case Preparation	31
Visits and Private Family Visits	25
Staff Responsiveness	22
Conditions of Confinement	21
File Information (Access, Correction and Disclosure)	20
Temporary Absence - Decision	18
Parole Decisions	16

RESPONSE FROM THE CORRECTIONAL SERVICE OF CANADA TO THE 30TH ANNUAL REPORT OF THE CORRECTIONAL INVESTIGATOR

2002–2003

2003-10-01

INTRODUCTION

The purpose of the Correctional Service of Canada (CSC) within the broader justice system is set out in the *Corrections and Conditional Release Act* (CCRA). CSC contributes to the maintenance of a just, peaceful and safe society by:

- "carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and
- assisting in the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community."

CSC is also guided by numerous other Acts, regulations, policies, and international conventions (approximately 60) in the delivery of its service.

The profile of offenders admitted to federal penitentiaries is presenting deeper challenges. Indeed, there is an increased prevalence of severe substance abuse and mental health problems and a growing number of offenders involved in organized crime or with previous youth or adult court convictions. Therefore, more focussed tools and strategies are required to prepare offenders for their eventual safe re-entry to the community.

Gradual and controlled release of offenders to the community, when it is safe to do so and with proper supervision and support, is effective in ensuring the safety of our communities. Criminological research repeatedly demonstrates that Canada's approach, outlined in the CCRA, works. This approach of focussing on contributing to safe communities is founded in Canadian values of rule of law and respect for human dignity. It is based on the belief that people can change.

Valid and reliable assessment tools allow CSC to identify needs and risk and develop and deliver research-based programs and treatments to reduce the likelihood of offenders re-committing crimes following release. Offenders come from communities and the majority will one day return to the community. CSC's interventions assist the offenders to become law-abiding citizens.

Also essential to offender safe reintegration are citizens who are engaged in supportive activities and communities that offer programs and services to offenders, whether under supervision or after sentence completion.

To achieve effective and positive solutions to the challenges CSC faces, it requires the engagement of Canadians and key partners, such as the Correctional Investigator, in the development of criminal justice policy through the implementation and operation of its initiatives. Over the past year, I have met with key officials of the Office of the Correctional Investigator to discuss issues of mutual concern and to develop joint resolutions where possible. These senior level meetings have been productive and reflect the desire of both CSC and the Correctional Investigator (CI) to ensure that the issues raised by offenders are resolved.

The CI provides good advice and recommendations and as you will note through our Response, most of the CI's recommendations have been accepted in full or in principle and we have proposed viable alternatives where necessary.

The following presents the recommendations raised by the CI and CSC's response to each of those issues.

ABORIGINAL OFFENDERS

CI Recommendations

1. **That the Service produce, on a quarterly basis, a Report on Aboriginal offenders focused on:**
   - **Transfers**
   - **Segregation**
   - **Discipline**
   - **Temporary Absences / Work Releases**
   - **Detention Referrals**
   - **Delayed Parole Reviews**
   - **Suspension and Revocation of Conditional Release**

2. **That the quarterly Report on Aboriginal offenders, inclusive of an analysis of the information recorded, be a standing agenda item of the Service's Senior Management Committees.**

Given the continuation of discriminatory barriers to timely release for Aboriginal offenders, I reiterate my recommendations of 1999 that:

3. **A Senior Manager, specifically responsible and accountable for Aboriginal programming and liaison with Aboriginal communities, be appointed as a permanent voting member of existing Senior Management Committees of the Correctional Service at the institutional, regional and national levels.**

4. **The Correctional Service's current policies and operational procedures be immediately reviewed to ensure that discriminatory barriers to reintegration are identified and addressed. This review should be independent of the Correctional Service of Canada and be undertaken with the full support and involvement of Aboriginal organizations.**

CSC Response

Context

The Aboriginal population presents specific challenges with respect to providing effective corrections. Aboriginal people make up only 2% of the Canadian adult population, while account for 15% of all federal offenders in institutions and in communities. Fifty percent (50%) of Aboriginal offenders are from First Nations, 34% are North American Indians, 14% are Métis, and 2% are Inuit. As a group, Aboriginal offenders are more likely to be incarcerated for a violent offence, have much higher needs (relating to employment and education, for example) and have had more extensive involvement with the criminal justice system as youths. An extremely high percentage of Aboriginal offenders report early drug and/or alcohol use (80%), physical abuse (45%), parental absence or neglect (41%), and poverty (35%) in their family backgrounds. Moreover, Aboriginal offenders suffer from a higher incidence of health problems.

Although CSC cannot directly affect the overall rate of incarceration, it has a role to play in reducing re-incarceration and partnering with communities in the development of innovative, community-based approaches for offender healing and reintegration. Over the last few years, there has been limited progress in reducing rates of re-incarceration of Aboriginal offenders despite CSC's collaborative approaches with communities and advisors in the development, implementation and evaluation of offender programming. The Commissioner's National Aboriginal Advisory Committee (NAAC) was revitalized with new membership, and plays an important role in assisting CSC with the vision for Aboriginal Corrections. CSC is working in partnership with Aboriginal communities, their leaders and other criminal justice partners to reduce the over-representation of Aboriginal offenders in the

justice system. These initiatives are essential for effective corrections and for maintaining public safety.

CSC's 2003–2004 Report on Plans and Priorities has once again highlighted the importance of effective corrections for Aboriginal Offenders. Priorities include the following:

- improve potential for rehabilitation through more integrated and targeted interventions and programming;
- implement restorative justice approaches that foster conflict resolution and the healing of offenders, victims, their families and their communities; and
- enhance the role of Aboriginal communities in providing effective alternatives to incarceration, such as healing lodges, and community supervision.

In respect of the CI recommendations, CSC has undertaken the following action:

1. CSC agrees with the recommendation to produce a quarterly Report on Aboriginal Offenders. Accordingly, CSC is producing its first quarterly report that addresses the indicators raised by the CI. The first report will be completed by September 30, 2003.
2. CSC's Executive Committee formally reviews the progress on Aboriginal Initiatives twice a year.
3. Effective in the spring of 2003, the CSC Senior Deputy Commissioner (SDC) is accountable for all Aboriginal-related matters. The SDC brings Aboriginal-related issues to the attention of senior management of CSC for timely review and appropriate action.
4. CSC is moving toward a "knowledge management" approach that allows provision of just-in-time access to information to support knowledge-based decision-making. By March 31, 2004, CSC will integrate all issues and practices on those policies specific to Aboriginal offenders, focusing on those where barriers have been identified. The NAAC and the National Advisory Working Group will continue to be the principle fora for reviewing, advising and providing guidance for activities and related policy changes on Aboriginal issues. Given the above, and the numerous interventions in development for Aboriginal offenders, CSC does not see the need to conduct an independent review.

WOMEN OFFENDERS

CI Recommendations

The Arbour Commission of Inquiry was a very public and very inclusive process. The Report was a landmark for corrections in this country. Its findings and recommendations focussed our attention not only on the potential for Women's Corrections but as well on the requirement for openness, fairness and accountability in correctional operations.

1. **The movement of women from the men's penitentiaries to the Regional Facilities will present the Service with a number of immediate and long-term challenges. To meet these challenges, there is a need for a refocusing on both the potential for Women's Corrections and the requirement for openness, fairness and accountability.**
2. **I recommend that this refocusing begin with my recommendations of last year:**
   - **The completion of a "final response plan" by the Correctional Service on Justice Arbour's recommendations by October 2002;**
   - **The distribution of the response plan to stakeholders (government and non-government) by November 2002;**

- **The initiation of a public consultation process by January 2003; and**
- **The issuing of a final report on the status of Justice Arbour's recommendations by April 2003.**

CSC Response

CSC recognizes the need to manage women's and men's corrections with openness, fairness and accountability. The Auditor General released a report in April 2003 on the *Reintegration of Women*. She noted that over the last 12 years, CSC has accomplished a great deal in changing how women offenders are incarcerated and rehabilitated.

1. CSC has and continues to work within the *Creating Choices (The Report Of The Task Force On Federally Sentenced Women)* vision which was accepted by the Government of Canada in 1990 and sets out the comprehensive strategy for the management of federally sentenced women offenders. Notwithstanding the challenges posed by the repatriation of all women to the regional institutions, CSC will continue to improve the management of women offenders. For example, 3 of the 4 Secure Units are now open and 2 of the 3 women's units within men's institutions are closed. The third unit is due to close by the end of November , 2003. CSC will continue to focus on: operationalizing the multi-level facilities; ensuring the ongoing stability in this new environment; and, the timely and safe reintegration into the community. CSC consults with stakeholders on issues pertaining to women offenders in order to continue improving and refining interventions and to develop supportive partnerships. For example, bi-annual stakeholder meetings are held to address issues and share information on women's corrections.

2. CSC believes it has responded to the many issues raised in the *1996 report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston*. CSC took decisive action on all 87 recommendations/sub-recommendations, with a few exceptions. These recommendations were implemented as written, or accepted in principle. Four (4) recommendations/sub-recommendations were referred to Justice Canada for review. CSC considers the Arbour Report an important record of correctional practices that must be continuously monitored.

SEXUAL HARASSMENT

CI Recommendations

1. **I recommend that the Correctional Service adopt in principle the same policy for harassment of offenders that it has adopted with respect to harassment of employees, subject only to such changes as are required by the fact that offenders are not employees or members of bargaining units.**

2. **I further recommend that this policy be promulgated by September 30, 2003, after due consultation of offenders and the Cross-Gender Monitor.**

CSC Response

1. CSC takes very seriously any complaints that are brought to the attention of management with regard to harassment and discriminatory behaviour. As such, a Policy Bulletin on Harassment which clarifies CSC's policies and redress procedures pertaining to harassment, was issued March 13, 2003. A further Policy Clarification was issued June 9, 2003, regarding the investigation of allegations of harassment made by offenders. This Clarification incorporates the procedural safeguards outlined in the Treasury Board Policy, notably that a trained

CSC investigator from outside the institution or parole office from which the complaint originated will conduct the investigation. In addition, a copy of the draft-vetted report will be forwarded to the complainant and the respondent for review and comment and will be included in the final report. The Clarification contains many suggestions provided by the CI during the consultation on the draft policy in 2001. CSC will be conducting training to reinforce the processes involved in handling offender harassment complaints (including allegations of staff misconduct) by the end of this fiscal year.

A monitoring system will be developed to ensure that the response to these complaints are in compliance with policy and the Office of the CI will be advised accordingly.

2. CSC does not believe that further policy is required as the Policy Bulletin on Harassment, the Policy Clarification on Investigating Harassment Complaints Filed by Offenders and the Offender Grievance Manual provide the necessary procedures and safeguards for addressing all harassment complaints filed by offenders. CSC will continue to monitor, with the CI, throughout the year.

CASE PREPARATION AND ACCESS TO PROGRAMMING

CI Recommendations

I recommend that the Correctional Service:

1. **Provide a report on its examination and conclusions with respect to the items specified in our previous recommendations by the end of October 2003 (see below 1 a-d).**

2. **Provide an Action Plan by the end of December 2003 detailing the measures to be taken to address any deficiencies identified, including measurable criteria to adjudge success of the measures.**

(2001–2002 Recommendations)

1. **That the Service initiate immediately a review of program access and timely conditional release focussed on:**
   a. **Current program capacity, waiting lists and specific measures required to address any deficiencies;**
   b. **The specific reasons for delays of National Parole Board reviews and actions required to reduce the numbers;**
   c. **The reasons for the decline in unescorted temporary absences and work release programming and the specific measures required to increase participation in this programming; and**
   d. **The reasons for the continuing disadvantaged position of Aboriginal offenders in terms of timely conditional release and a specific plan of action to address this disadvantage.**

CSC Response

CSC establishes its programming priorities based on offenders' risk to public safety. Program capacity and participation rates have been increasing, particularly for offenders under supervision in the community. The Auditor General, in her 2003 report on the *Reintegration of Male Offenders*, recognized that progress has been made. Research has shown that offenders who successfully complete programs have a lower re-conviction rate, in particular with regard to violent re-convictions. The changing offender profile requires continuous development and revision of such programs. This involves research, evaluation and accreditation, all of which take time. In addition, shorter sentences have resulted in the need for greater community capacity to deliver and follow up on programs begun in the institutions. CSC is working with its community and criminal justice system partners to build more and stronger partnerships.

In response to the CI's recommendations, CSC is doing the following:

1a. With regard to program capacity, CSC is undertaking two activities: Each operational site is reviewing its inventory of correctional programs to confirm and retain only those programs that are offered at that site. As well, the accuracy of referrals to correctional programs are being reviewed on a case-by-case basis. These reviews are critical to the identification and prioritization of offender needs as well as CSC's capacity to deliver correctional programs to offenders and to forecast program requirements. Both activities will be completed by September 2003.

1b., 1c. & 2. Pursuant to the CCRA, Section 123(2), offenders may waive or postpone their parole reviews. Reasons can include the fact that an offender feels that the National Parole Board (NPB) is unlikely to grant release; the offender has a court case or an appeal pending; or CSC is unable to provide the required programs in time to prepare the offender for release. Waiver of Full Parole can delay such a review for up to two years, while postponement results in a delay of up to three months. Postponement rates have remained relatively stable, while waiver rates have increased slightly in the last two years. Representatives from CSC, the NPB and the CI are completing a joint review on the issue of timely NPB reviews. The review is focusing on the reasons for the waivers and postponements and potential solutions. A final report and action plan is due in November 2003.

1d. CSC recognizes the special challenges faced by Aboriginal offenders. As mentioned previously, many are waiving conditional release (Day Parole and Full Parole) and a greater percentage are being released on Statutory Release as opposed to earlier release dates. Accordingly, CSC is taking the following initiatives: Ten (10) Aboriginal Community Development positions have been filled and these personnel are reviewing cases for the use of Section 84 of the *Corrections and Conditional Release Act* in release planning; Pathways Healing Units have been created to provide more intensive support and healing at maximum and medium security institutions; Family Violence and Addictions Programs are at different stages of development; and, assessment tools are being reviewed to ensure proper security placement of offenders. Preliminary results are indicating that the Pathways units are increasing the transfer of Aboriginal inmates to lower security institutions or ranges; offenders are more stable and have fewer charges, and are more likely to be directed to a healing lodge as part of their correctional plan. As well, as previously mentioned, policy and practices are being reviewed to ensure that they are responsive to the unique needs of Aboriginal offenders. CSC will continue to monitor and report to the CI on progress.

INMATE INJURIES AND THE MONITORING OF INSTITUTIONAL VIOLENCE

CI Recommendations

I recommend:

1. **that a system of quarterly reporting on violence and inmate injuries to EXCOM be implemented by the end of June 2003;**

2. **that the Correctional Service mandate a special review of the accuracy of the data that it is able to retrieve by the end of October 2003;**

3. **that the Service adopt a system that will identify injuries based upon the seriousness of their physical or emotional harm to the inmates involved, and not with respect to the seriousness of the circumstances in which the injuries occur; and**

4. **that the Correctional Service establish a plan to ensure, by the end of June 2003, that all incidents of major inmate injury are investigated in a thorough and timely fashion.**

CSC Response

CSC is concerned with institutional violence and is committed to improving its mechanisms for capturing that information including inmate injuries in order to prevent and reduce future incidents. For example, CSC has developed a Climate Indicator and Profile System, which will provide key information to CSC managers on the social and operational environment of each institution (i.e. incident tracking). This will allow each Institutional Head to have greater information more readily available to take action as required. CSC is examining the development of a module of injury variables for inclusion in this system which would be available on an ongoing basis to managers and the OCI.

1. & 3. CSC's incident reporting system provides information on the nature of the incident and the resulting injuries that occur as a result of that incident. CSC will be improving its incident reporting system to ensure that the data consistently capture all "major" injuries and their seriousness. In addition to the monthly institutional security incident reports that are produced and provided to all senior managers, as well as the Office of the CI, an annual report is also produced which highlights trends over the year. The monthly review of these data allows senior management to be informed and to take action as required. Furthermore, Institutional Occupational Safety and Health Committees review inmate accidents as part of their mandate which are not included in the institutional security incident reports.

2. In conjunction with the amendments being made to improve the consistency of reporting, CSC will by October 2003, put in place a quality control system to monitor data accuracy. Also, as a result of the amendments being made to the current Offender Management System, Incident Reporting and Use of Force modules will be developed and implementation is planned for August 2004. These modules, once implemented, will allow CSC to consistently and reliably report on inmate injuries, as well as institutional violence. Furthermore, a Data Quality Management Committee has been established to identify the root causes of data quality issues and resolve them. CSC will continue to consult with the Office of the CI on this issue.

4. CSC does investigate incidents of major injury through fact-finding investigations, local or national investigations. Appropriate actions are taken following any investigation. Also, measures mentioned above to improve data will assure that investigations are convened in a timely manner.

INVESTIGATIONS

CI Recommendations

CSC has agreed to a number of undertakings:

1. **To complete quarterly reports on investigations of serious bodily harm or death and to share these with us.**

2. **To ensure that CSC Investigations Branch and this Office are advised of any serious bodily injury.**

3. **To incorporate guidelines to clarify the definition of serious bodily injury into the revised CSC Health Services Manual.**

4. **To provide investigative reports pursuant to s.19 of the CCRA (inmate death and serious bodily injury) to this Office within three months of the incident.**

5. **That the policy on Investigations include specific timeframes for the completion of Investigative Reports and the verification of Action Plans.**

6. **That all Investigative Reports into inmate death or serious bodily injury be reviewed nationally with a summary report on the recommendations and corrective actions taken, produced quarterly.**

I recommend that, by the end of October 2003, the Correctional Service provide the information which it has undertaken to provide and otherwise perform the measures that I recommended in my last annual Report, including:

- **That the policy on Investigations include specific timeframes for the completion of Investigative Reports and the verification of Action Plans (see No. 5 above).**

7. **That the Service monitor compliance with these timeframes.**
   - **That all Investigative Reports into inmate death or serious bodily injury be reviewed nationally with a summary report on the recommendations and corrective actions taken, produced quarterly (see no. 6 above).**

CSC Response

Investigations are conducted into incidents that affect the security and/or safety of the public, staff or to offenders. Policy now requires CSC to take remedial action and ensure lessons learned from the review and analysis of incident reports are integrated into organizational practices.

1. CSC has agreed and has begun to provide the CI with quarterly reports on investigations of serious bodily injuries or deaths.

2. The CSC Security Branch has agreed to advise the CSC Investigations Branch and the Office of the CI of any serious bodily injuries.

3. The guidelines used to determine serious bodily injury will be incorporated into CSC's revised Health Services Manual. The Manual will be completed by March 2004. The exercise of professional judgement remains a clinical responsibility.

4. CSC agrees to provide the CI with a copy of Section 19 investigations when they are completed (26 weeks). If there are unanticipated delays, the CI will be informed of the anticipated date a report would be available.

5. & 7. CSC has revised its internal investigation policy to ensure more consistency and better monitoring and quality control of reports. In addition, all investigations will be conducted at the national or local levels, and serious incidents will be investigated nationally. This will help strengthen its practices, and ensure appropriate and timely responses to incidents.

6. CSC agrees to provide quarterly and annual reports on section 19 investigations (death or serious bodily injuries). These reports demonstrate the level of CSC compliance with policy as well as provide an overview of the types of incidents that occurred in its institutions. The CI receives a copy of these reports.

SPECIAL HANDLING UNIT

CI Comments

Developments in 2002-2003

The response did not address our recommendations on the focus of the review or the resource requirements of a more effective approach. Moreover, the response did not reflect the real situation regarding the participation of a community representatives in SHU decision-making—that the Committee on which this person sat simply advised the Senior Deputy Commissioner, the actual decision-maker. Finally, the response did not indicate whether timely reviews of inmates in segregation awaiting SHU placement were being conducted.

Since the Service's response, however, I am pleased to report that there have been positive developments.

The Service has established a procedure to require Regional reviews of the continued viability of SHU placement for inmates in segregation for more than six months awaiting transfer to the SHU. We would have preferred that this review take place more frequently and that the decision be taken by a manager at the National Headquarters level. Moreover we continue to advocate that outside input to the review be provided. Nevertheless we are prepared to monitor the effectiveness of the approach for the time being.

The Service has also determined that consideration by the Senior Deputy Commissioner of decisions on SHU placements and release should take place in concert with the National SHU Advisory Committee. This body includes the community representative that the Service has introduced. As such, we believe that the requirement for outside participation in decisions has been met—albeit not necessarily on a permanent basis and not in a manner consistent with the recommendations of the CCRA Review Sub-Committee.

I am encouraged by the current operation of the National SHU Advisory Committee and the direction provided by the Senior Deputy Commissioner. We continue to have concerns related to the programming, resource levels in support of programming and access to mental health facilities. These matters will be further reviewed with the SHU Advisory Committee and the Senior Deputy Commissioner.

CSC Response

CSC will continue to work closely with the CI on this matter.

DOUBLE BUNKING

CI Recommendations

I recommend :

1. **that the Service finalize plans for the elimination of double bunking in all non-general population units by September 2003;**

2. **that the Service establish a reliable data base on the level of double bunking within its institutions; and**

3. **that the Service establish policy requiring that any double bunking, in non-general population units, other than in emergency circumstances of less than 48 hours, be approved in writing by the Commissioner.**

CSC Response

CSC's policy identifies single accommodation as the most correctionally appropriate method of housing offenders and is continuing to make every effort to eliminate double bunking through balancing population pressures, program requirements and planning for reintegration. For example, the number of double-bunked offenders is influenced by numerous factors: population pressures by region or by security level; increase or decrease of availability of cells or beds; program requirements; proximity of the institution to the family of the offender; and, an increase or decrease in the rate of release.

1. Double bunking in non-general population units such as reception/assessment, mental health and administrative segregation are closely monitored. Double bunking in segregation is only allowed when critical incidents require the use of a segregation unit beyond its capacity. Regional Deputy Commissioners have been instructed to ensure alternatives are found in the shortest possible time and must report on the incident, the use of segregation and the alternatives that were implemented to the Commissioner. Double bunking in reception/assessment units can occur from time to time because of the lack of bed space at a receiving institution. There is no double bunking in psychiatric care or mental health care (except where authorized as part of a treatment program).

2. CSC has completed a quality control of its double bunking information and will review the data on an ongoing basis. The level of double bunking fell steadily from January 2000 until October 2001, when it reached a low of 8.66%. Since then and up until July 7, 2002, the level gradually increased to 10.9%. The level has since decreased and the most recent "snapshot" taken in April 2003, shows a level of double bunking of 9.7%.

3. CSC remains satisfied with its current policy which states that "In an emergency situation, the Institutional Head may make necessary exceptions to the normal accommodation policy. The rationale and expected duration of such actions shall be provided to the respective Regional Deputy Commissioner and reported to the Commissioner". This policy allows CSC to meet its mandate to provide reasonable, safe, secure and humane accommodation.

Since the Spring of 2001, Regions have been required to report semi-annually on their progress in eliminating double bunking to the extent possible and to request exemptions to the policy in cases where they anticipate that they will require the use of double bunking on an ongoing basis. Exemptions can only be granted by the Commissioner and are only for a six-month period.

USE OF FORCE

CI Recommendations

I recommend that the Correctional Service provide responses, including action plans to implement the measures referenced to in my previous recommendations by October 31, 2003.

(2001–-2002 Recommendations)

that the Commissioner issue specific direction with regard to Use of Force to ensure that:

1. **Information on injuries, policy violations and the circumstances that lead to the incident is collected.**

2. **A report, inclusive of this information, is provided on a quarterly basis to management committees at the regional and national levels for the purpose of identifying and addressing areas of concern.**

3. **The written results of the reviews undertaken by Women and Health Services sectors are provided in a timely fashion.**

4. **The follow-up by national managers is consistent and timely.**

5. **Investigations into inappropriate or excessive force are convened at the regional level and include a community board member.**

CSC Response

CSC actively monitors the use of force in its institutions to ensure it is appropriate and consistent with CSC policy and the law.

1. CSC does collect and review extensively (by local authorities, regional authorities and National Headquarters) information on use of force incidents. Use of force information includes injuries, policy violations and the circumstances that lead to the incident. The CI receives all relevant documentation involving use of force incidents.

2. CSC agrees to produce a report on compliance issues on a quarterly basis. Through discussions with the CI, a new Use of Force checklist has been developed and given that an automated system will not be available until the Offender Management System Renewal (OMSR) is completed (due by August 2004), information from this new form will be tabulated manually to extract data. A report for the first quarter of 2003–/2004 is due to be completed by the fall of 2003.

In addition, the new Use of Force module that will be implemented by the OMSR, will allow for the processing of Use of Force incident reports, at the institutional, regional and national levels, to be conducted in a more comprehensive, consistent and timely manner as they will be automated with data extraction capability.

3. The Security Branch, the Women Offender Sector and the Health Services Branch continue to strive to review use of force incidents within the appropriate timeframes.

4. CSC takes any incident involving the use of force very seriously. Follow-up action when necessary, is addressed on a case-by-case basis with both regions and institutions.

5. CSC does not agree that investigations on use of force be convened at the regional level and include a community board member because depending on the seriousness of the inappropriate or excessive force, investigations may be convened at the local level. All national investigations (including those that may have been convened following a use of force incident) have a community board member. Furthermore, as of May 12, 2003, the national and local investigations processes have been centralized to ensure consistency with national guidelines.

ALLEGATIONS OF STAFF MISCONDUCT

CI Recommendations

1. I recommend that the inmate grievance process be revised to provide, in the case of complaints involving staff misconduct:

a. that inmates be permitted to address complaints directly to the Institutional Head (or his supervisor if the complaint is against him) in a manner concealing the nature of the complaint;

b. that the institutional head personally review the complaint to determine if it is frivolous or otherwise an abuse of the process and to determine if further information is necessary before proceeding to an investigation;

c. that, where the complaint is considered potentially well-founded, the institutional head authorise the investigation of the complaint by a panel composed of staff from another institution and of an independent community person;

d. that the results of the investigation be reported to the Institutional Head with copy to the Regional Deputy Commissioner for review and timely response to any recommendations arising from the investigation; and

e. that complainants be provided timely and ongoing access to legal counsel and be entitled, at any juncture, to refer the matter to the Police.

CSC Response

CSC employees are often faced with practical and ethical decisions. As such, CSC has developed principles that guide staff in situations where the right course of action may not always be clear.

1. CSC agrees with the CI and in November 2002, the Offender Grievance Manual was revised to indicate that offender allegations of harassment and sexual harassment/misconduct, are to be deemed high priority and coded as sensitive. The definition includes allegations of staff misconduct.

CSC has taken the following actions:

a. Staff have been reminded through a Policy Clarification that such complaints are considered urgent, must be placed in a sealed envelope and brought immediately to the attention of the Institutional Head (IH) or Parole District Director (DD).

b. The IH or DD reviews the complaint to determine if an investigation should be convened.

c. An investigation may be convened at any stage of the grievance process. If warranted, the investigation will be conducted by a trained CSC investigator from outside the institution or parole office from which the complaint originated. If the complaint is against the IH or DD, the complaint will proceed directly to the next level. The Grievance Manual is being revised and will reinforce that while informal resolution is encouraged, procedural fairness and the appearance of that fairness are also essential.
d. The results of the investigation will be provided to the authority who convened the investigation. Appropriate corrective and/or disciplinary action will be taken when necessary.
e. Offenders currently have access to legal counsel and can refer matters to the police at any point.

INVOLUNTARY TRANSFER AND CONSENT TO MENTAL HEALTH INTERVENTIONS

CI Comments

Developments in 2002–2003

We reiterated our view that it is not necessary to transfer an inmate to a mental health facility in order to conduct a "passive" assessment. The Service responded that it "may be necessary" to do this.

We acknowledge that there could be circumstances where expertise is not available to conduct a passive assessment at an inmate's "home institution". We believe such exceptional circumstances would be rare. We believe that the Service has a heightened obligation to examine all reasonable alternatives, including alternative means of assessment, before proceeding to such an extreme measure. In this regard we believe that the Service should take special care to ensure that the inmate is informed of all relevant information on all possible options so that s/he can provide input to any decision taken.

The Service has indicated that its practice is not to effect such transfers and that it is willing to apprise our Office if ever such a transfer is being considered. Based on this undertaking, and on the above principles (wherein there is no fundamental disagreement) I am prepared to let the matter stand, reserving my option to intervene if we find that inappropriate actions are being taken.

CSC Response

CSC agrees with the CI.

CSC has had one involuntary transfer which occurred in October 2000. CSC's operational staff will advise National Headquarters and the CI when and if such a transfer is necessary.

STRIP SEARCH POLICY

CI Recommendations

I recommend:

1. **that the Correctional Service address the deficiencies that we have identified with respect to the draft Report on Strip Searches. Specifically:**
   a. **It did not consider specific cases where force had been utilised in effecting strip searches, including the cases that we had submitted in raising the subject two years ago;**
   b. **Inmates and visitors, two groups most directly affected by strip searches, were not consulted by the Working Group;**

c. Section 53 of the Corrections and Conditional Release Act, which sets out criteria for emergency strip searches of all inmates in a unit or in a penitentiary, was not considered;
d. Grievances with respect to strip searches were not identified or analysed;
e. On-going breaches of policy regarding strip searches during use of force incidents have not been reviewed;
f. No time frame or plan for including information on all the elements of strip searches has been incorporated into the Service's data bank (the Offender Management System);
g. Training arising from the study has been limited to institutional managers and not provided to staff who might actually conduct searches; and,
h. Training materials, including a booklet on searches and a video, are not complete.

2. that the Service:
a. ensure that their policies on strip searches respond to the concerns that we identified with respect to the two incidents that we raised in 1999;
or
b. submit these two cases to adjudication by an expert third party, as we originally recommended.

CSC Response

CSC's policy establishes and clearly defines the requirements and procedures to be followed for any and all searching of inmates and visitors. Searches must demonstrate due regard for privacy and for the dignity of the individual being searched. At the request of the CI, CSC established a Working Group to review the use of strip searches as a method of detecting and preventing attempts to conceal and/or introduce contraband. The Working Group included a member from the Office of the CI. The Report on Strip Searches has been finalized and an action plan is nearing completion.

1. CSC believes it has addressed the deficiencies identified with respect to the draft Report on Strip Searches. The following provides responses to the concerns raised:

a. Use of force incidents are reviewed at all levels of CSC. Though two incidents were cited as a rationale for creating the Working Group; it was never the intent to review solely those two cases as they were already being addressed through investigations.

b. Given the purpose of their review, the Working Group did not plan to consult with inmates and visitors.

c. CSC's Working Group considered all situations where strip searches are utilized, including Section 53, of the CCRA. The Final Report on Strip Searches was completed based on the extensive review of policy and practices.

d. With respect to strip search grievances, a review was conducted of all third level and second level grievances for fiscal year 2001–2002. Of the 44 grievances reviewed, 7 were resolved or upheld (in whole or in part) and corrective measures were taken in each instance including staff training, procedural adjustments or other actions deemed necessary and appropriate. Overall, there were no systemic or site specific trends that arose from this grievance review related to the strip searching policies and procedures or their application.

e. When there are any instances of policy breaches or procedural mistakes, CSC regards these very seriously and appropriate measures are pursued. With respect to use of force incidents, there is an extensive review procedure in place that is administered by the NHQ Security Branch. This process includes reviews by the Health Services Branch and the Women Offender Sector, where appropriate. The results of all reviews, are shared with the Office of the CI. When breaches of policy are discovered during the use of force

reviews, corrective action is taken at the appropriate level (nationally, regionally, and/or institutionally).

f. As part of the Offender Management System Renewal, a searching component will be developed to facilitate reporting and analysis of data related to non-routine searches, including strip searches, in accordance with the requirements for recording and reporting. As the renewal is currently under development, a specific timeframe for completion of this component is not available at this time.

g. Since April 1, 2000, CSC has provided training to approximately 10,415 institutional managers on searches and all staff that are involved in conducting searches have access to all relevant policy and procedural documents. Furthermore, in October 2002, CSC completed the permanent full-time staffing of a designated Search Coordinator position at each site, and they remain in place today.

h. For training materials, a video guide on searching is completed. The booklet on searching which will provide all CSC staff with a quick reference guide outlining all policies, procedures, expectations and requirements related to conducting every type of search (routine, non-routine, non-intrusive, frisk and strip of visitors, inmates, children, staff, areas, etc.) is due to be completed by December 15, 2003.

2a. CSC has addressed policy concerns raised by the CI. Revised policies on the searching of staff and visitors were promulgated in October 17, 2001 and recently amended on April 14, 2003. The policy on searching of inmates was revised and promulgated on October 17, 2001. There are currently "Guidelines for the Use of Non-Intrusive Search Tools" that are in develop-ment. They are due to be completed by November 2003. Additionally, the manual for Drug Dog Handlers is currently being drafted and will be issued following consultations. It is due by November 2003.

INMATE FINANCIAL RESOURCES

CI Recommendations

1. General

I recommend that the Correctional Service specifically address the issues that I specified in my previous recommendations and report on these, with proposed measures to effect necessary changes, by the end of October 2003.

(2001–2002 Recommendations)

I recommend that the Service's review of the Inmate Pay policy focus on:

1. **The adequacy of the current pay levels and the impact on the illicit underground penitentiary economy.**

2. **The adequacy of funds currently available to offenders on their release to the community.**

CSC Response

1. & 2. CSC is continuing with its review of this issue which is due to be completed by December 2003. The CI and other stakeholders will be consulted as part of this review.

2. Millennium Telephone system:

CI Recommendations

I reiterate my recommendations of last year:

1. **That the Service provide an immediate backdated subsidy to the inmate population to bring the cost of telephone communications in line with community standards.**

2. **That, if the Service is unwilling to provide a subsidy to offset the unreasonable cost of this security system to the inmate population,**

that immediate consideration be given to whether it is necessary to continue with the Millennium Telephone System.

I specifically recommend:

3. That the Service conduct an audit of the effectiveness of the Millennium system as a security device.

CSC Response

CSC is currently involved in litigation between possible telephone service providers.

1. The charges for the telephone service do not involve any inmate funds since all calls are currently on a collect call basis only. CSC recognizes the financial hardship that is imposed on inmates and their families due to the charges that are set by the various telephone service providers. It is not in CSC's mandate to provide subsidies to inmates for telephone calls.

2. & 3. CSC is satisfied with the effectiveness of the Millennium System as a security device and does not see the need to conduct an audit at this time. The validity and usefulness of such a system is through the detection and prevention of illegal activities. This is achieved by the system's ability to permit CSC to manage, control and supervise inmate telephone communications. It is rare that the system is misused. When misuse occurs, which may happen once or twice a year, it is quickly identified and corrected.

TRANSFERS

CI Comments

Developments in 2002–2003

We received preliminary information on the findings of the Audit on February 21, 2003 and received the final draft on May 18, 2003.

While the Audit on transfers did not address two important focuses of our concerns:

1. Why offenders are being housed at higher security levels than required by their security classification.

2. The quality of the data used for monitoring the transfer process, CSC has developed an action plan on a series of recommendations provided by the audit.

As well, CSC has indicated that they are developing a Management Control Framework for use by all institutions to assess legal compliance regarding transfer procedures and decisions on an ongoing basis.

At this stage, rather than repeat specific elements of our past concerns, it seems appropriate to provide CSC the opportunity to put its plans into effect. We have requested a copy of the action plans developed at the various institutions in response to the Audit's findings.

We will continue to work with CSC to ensure that its transfer process provides thorough, objective and timely decisions, consistent with the fairness provisions of the legislation and policy on transfers.

CSC Response

An audit on Transfers was completed and the Action Plans were approved in June 2003. As a result of the Audit, a Management Control Framework was created and will be implemented by the fall of 2003. CSC will continue to work with the CI on this issue.

INMATE GRIEVANCE PROCEDURES

CI Recommendations

I recommend that:

1. **by October 31, 2003, the Correctional Service finalize an Action Plan with realistic, measurable objectives and standards for evaluation with respect to eliminating backlogs in grievance responses on a permanent basis and that they immediately implement this plan with a view to successful completion by the end of fiscal year 2003–2004;**

2. **the Service issue clear policy direction to ensure, on a quarterly basis, that a thorough analysis of grievance data is undertaken by the Health Care, Aboriginal and Women Offender sectors and that this reporting be in effect by the end of June 2003;**

3. **the Service re-visit its rejection of Madam Justice Arbour's recommendations concerning senior management accountability and external review within the grievance procedure; and**

4. **with specific regard to Madam Justice Arbour's recommendation, I further recommend that the Service, in consultation with my Office and relevant community stakeholders, establish a pilot project for independent review of third level grievances that are of national significance or that involve fundamental issues of personal liberty, security or legal compliance.**

CSC Response

CSC has made improvements in the grievance process and intends to focus more closely on the issue of grievances at all levels of the organization. To this end, CSC will re-introduce Quarterly Bulletins beginning in September 2003 to better disseminate valuable information to operational managers. These bulletins will focus on significant cases and an analysis will be provided so that staff and offenders understand how situations should be resolved and prevented in the future.

1. CSC agrees that by October 31, 2003, an action plan will be finalized with respect to eliminating backlogs in grievance responses on a permanent basis. CSC anticipates the implementation of the action plan as soon as possible thereafter.

2. CSC agrees that the Aboriginal Initiatives Branch, the Health Services Branch and the Women Offender Sector, conduct an analysis of grievance data. Quarterly grievance data reports will be provided in the fall of 2003 for those areas mentioned above.

3. CSC remains satisfied with senior management's involvement with grievances from both an accountability and external review perspective.

4. Given CSC's additional efforts in these areas, it does not see the need for policy direction or an independent review of third level grievances at this time. CSC will continue to work closely with the CI on this issue.

YOUNG AND ELDERLY OFFENDERS

CI's Recommendations

We recommend:

1. **that the Service make use of the information arising from its June meeting, and of consultation with inmates and other community stakeholders, to submit to the Executive Committee, by the end of September 2003, an action plan for coordination with other jurisdictions of placements, housing and programming of younger offenders;**

2. **that this action plan provide measurable outcomes and time frames and an appropriate evaluation framework;**

3. **that the action plan be based on a review of CSC policies and operations to ensure compliance with the *Youth Criminal Justice Act*; and**

4. **That the Service revise the information that it provides to the Courts under the Youth Criminal Justice Act to indicate the observed negative effects on young inmates of penitentiary sentences.**

CSC Response

Young Offenders

The new *Youth Criminal Justice Act* took effect April 1, 2003. CSC recognizes that Young Offenders and Youthful Offenders have different needs from adult offenders. Although there are no age—specific criteria or any other special considerations afforded offenders under the age of 18 in the CCRA, CSC manages such offenders on a case-by—case basis, considering the offender's age, risk and needs. Furthermore, CSC recognizes its responsibility to provide young offenders safe, secure and humane control while they are in its care and custody.

1., 2. & 3. On the recommendation of the CI, CSC held a Learning Forum on June 23 & 24, 2003, with various federal and provincial experts who deal with youthful offenders. The following issues were discussed: Youthful Offenders: A special risk needs group?; The *Youth Criminal Justice Act* (*YCJA*); Reintegration Programs and Services for Youthful Offenders in Federal Corrections; Youthful Offenders in Secure Custody: Provincial/Territorial Reports and Youthful Offenders: An Academic Perspective.

It is CSC's intention to continue the discussions launched at this constructive forum. For example, a meeting will be arranged with the Department of Justice, the Office of the CI and other partners, to discuss the impacts of the *YCJA* legislation on CSC policies and procedures. As well, CSC will continue working with the provincial and territorial Heads of Corrections on this issue, including where warranted, CSC will make use of Federal/Provincial/Territorial Exchange of Service Agreement provisions.

Once discussions are completed, CSC will decide if a specific action plan is required to move this issue forward or if various independent activities will suffice. It is important to note, however, that CSC's mandate is restricted to the administration of sentences, therefore CSC does not agree with the recommendation that an action plan include the issue of placement. As well, as amendment of legislation is beyond CSC's purview, such proposals should be referred to the Solicitor General.

4. The information package for CSC staff to present to the courts, was recently updated to reflect the new *Youth Criminal Justice Act*. C. CSC representatives who testify at a placement hearing share their knowledge with respect to correctional programs, eligibility dates, federal facilities, etc. The role of CSC is to provide information and not an opinion on any specific case.

CLASSIFICATION OF OFFENDERS SERVING LIFE SENTENCES

Elderly Offenders

CSC appreciates that the CI has acknowledged the work that has occurred regarding the needs of older offenders in terms of palliative care, accommodation planning and program planning.

CI Recommendations

1. **I find that the policy is contrary to law and recommend that it be rescinded. I further recommend:**

2. **that any decision by an institutional head either to subject an inmate to the rule or to recommend override of the rule, be immediately forwarded to the Assistant Commissioner Correctional Operations and Programs (ACCOP) for his review;**

3. **that the inmate be provided the complete reasons for the initial decision and the opportunity to make representations to the ACCOP;**

4. **that the ACCOP provide a decision on whether to subject the inmate to the rule within 30 days of receipt of the documents on the initial decision; and**

5. **that the inmate be entitled to grieve the ACCOP's decision to the Commissioner as a priority third level grievance.**

CSC Response

The policy on the classification of offenders serving sentences for first and second degree murder was amended on February 23, 2001. All these offenders must serve a minimum of 2 years in a maximum security facility.

1. CSC is currently conducting an evaluation of the policy and once this is completed, a decision will be made as to whether any changes are required.

2. CSC will revise its grievance process to allow for all grievances of decisions made under this policy to proceed directly to the third level with input from the institutional and regional levels. Once at the third level, the Assistant Commissioner, Correctional Operations and Programs (ACCOP) will be consulted on the grievance.

3. CSC provides to the offender the reasons as well as the information considered in making the decision, in writing, within 5 working days of the date of his/her classification decision. The offender is advised, at the same time, of his or her right to seek redress using the offender grievance process.

4. The ACCOP must approve proposed overrides of the Custody Rating Scale (reduction from maximum to medium) for offenders serving a minimum life sentence for first or second degree murder. This will only occur in exceptional circumstances.

5. As the process will change (see No. 2), the third level grievance which is reviewed by the Commissioner's delegated authority, the Assistant Commissioner, Policy, Planning and Coordination, will examine the decision of the ACCOP, and will be considered the final decision.

FOCUS ON HEALTH SERVICES

CI Comments

I believe that an Annual Report can go beyond the central function of attempting to resolve major areas of dispute. The Report may also describe activities that do not lend themselves to specific findings or recommendations but which may still provide an understanding of some problems of offenders and of our challenges in addressing these.

To this end, I have decided to pilot a new type of account—one that focuses on one "correctional service" and examines, in context, issues that affect its success and that influence our ability to address relevant problems.

A perfect topic for this first effort is Health Services. Few branches address more basic and tangible individual offender needs while concurrently seeking to foster the well-being and safety of inmates, their families, staff and the public. Few functions are grounded in such fundamental, and frequently competing, legal, policy and operational considerations.

Issues can often involve the contradictions inherent in operating care-providing services in a security-oriented environment. Examining some of these contradictions will provide a useful perspective. It may help to get beyond the surface issues of retribution and rehabilitation that characterise discussions of prisons and to clarify some of the rather complex legal issues and genuine human problems that confront offenders, corrections staff and my staff on a regular basis.

With respect to diagnosis and treatment, the Service has a duty under the CCRA:

- to provide every inmate with "essential health care" and "reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and safe reintegration into the community";
- to implement care according to accepted professional standards;
- to perform services only with the patient's informed consent (unless s/he is deemed incapable of providing consent under applicable laws); and
- to consider the inmate's health care needs when making decisions affecting custody or release.

An added element is that CSC health service professionals and CSC hospitals are subject to provincial legislation and professional codes that govern standards of diagnosis and care and the operation of health care centres.

On the other hand, with respect to security, health service staff are employees or agents of CSC. Their services must be provided in a context where strict legislative requirements are imposed regarding custody and supervision of offenders and where relations between staff and offenders do not always provide an environment conducive to effective treatment.

I have chosen three topics that I believe exemplify the convergence of the two roles. I will examine some of the solutions that have been proposed and the obstacles to attaining them and I will provide my own view.

CONFIDENTIALITY OF MEDICAL INFORMATION

CI Comments

Basic principles guiding the maintenance of confidentiality are as follows:

1. A distinction should be made between information acquired for diagnosis and treatment purposes and information acquired in order to assess risk (for purposes of supervisory or release decisions). In the

former case information should not be disclosed outside of the health services team. In the latter case, disclosure may be appropriate in order to address release, community supervision and other security-related concerns.

2. **Despite the above, where it is reasonably believed that others may be seriously harmed if confidentiality is maintained, disclosure should take place even with respect to treatment information.**

CSC Response

Although CSC has been in discussions over the years with the CI on this issue, this is a new element that is being raised by the CI in his Report and there has been no specific case brought to our attention therefore, the following is provided for discussion purposes. Any information gathered, for treatment or for assessment purposes, in support of CSC's mandate, belongs to CSC and offenders are advised of this. While CSC agrees that there are a variety of types of medical information, it is all collected for CSC in furtherance of its mandate. Clinical professionals working for CSC, are governed by that mandate as well as codes of professional conduct developed by their governing bodies. Therefore, the clinician has an obligation to disclose fully the nature of the intervention at the beginning of any interaction with the offender, and to make it clear that information will be shared with relevant others, so that the offender is fully informed when giving consent to participate; the clinician is not to communicate any sensitive information to a third party when the third party does not have a need-to-know; and when there is a need-to-know, information is released by CSC to relevant parties in accordance with the *Privacy Act*.

As per national health care professional standards, the health care professional must disclose information obtained from the offender, as in the community, if:

- there is a risk to the safety of the offender himself/herself, or someone else;
- there is a credible threat to an identifiable third party; and
- there is a legal obligation to report (e.g., if the information relates to child abuse, or if the information is subpoenaed).

Also, the health professional has an obligation to disclose fully the nature of the intervention at the start, and to make clear the limits of confidentiality, so that the offender's consent to participate is fully informed.

In the CI's Report, he raised some good questions for discussion.

The CI report provides a position statement on some of these issues, as follows:

- **That health information for risk assessment should be disclosed only where the inmate, before providing the information, has been clearly advised of what will be disclosed and for what specific purposes. Any other use would be prohibited.**

In this situation, the offender does not have any right to confidentiality. Before a risk assessment begins, during the process of obtaining the offenders' consent to participate, a clinician should fully inform the offender of the nature of the intervention and make a record that the information was communicated.

- **That any other health information provided should simply not be disclosed without the patient's consent.**

Agreed, if the health information is not relevant to the risk assessment then it should not be disclosed.

- **That decisions on disclosure should be made by trained health services staff.**

The health professional who learns the information might need to be disclosed, is in the best position to make the decision.

- **That the offender in question should be permitted to make representations prior to any disclosure decision.**

In all cases, the offender will have already been advised (prior to consenting to participate) that *any* information obtained during the course of the assessment/intervention could be shared with relevant authorities. With respect to information obtained in the course of conducting risk assessments, it is common practice to allow the offender to review the report (to check for errors of fact) prior to its submission.

- **That the exceptions to the above would occur where there was a danger of immediate harm to identifiable persons if the information were not disclosed (the test adopted by the Supreme Court of Canada).**

A threat of danger of immediate harm to identifiable persons would certainly trigger disclosure of the information to relevant authorities.

INFECTIOUS DISEASES

CI Comments

Danger to inmates or staff can be addressed by control of the implementation of the harm reduction measures. The Service should be supported in its efforts to control the entry of illegal substances into penitentiaries. An essential element of a treatment-based health service strategy, however, is that treatment can co-exist with valid security measures.

CSC Response

CSC agrees that more work needs to be done in this important area and appreciates the CI's support for seeking the means to enhance delivery of these services.

Drugs are a problem for correctional organizations throughout the world and a contributing factor to criminal behaviour and the spread of infectious diseases. Their use has serious implications for the health and safety of CSC staff, offenders and the public.

CSC is tackling the problem of drug smuggling into the institutions through interdiction initiatives that include: non-intrusive searches of visitors using metal detectors, ion scanners, drug dogs; and searches of cells, buildings, grounds and offenders. CSC also disciplines those who use violence or threats of violence to access drugs from within or outside the institution.

CSC's approach to the broader substance abuse issue is comprehensive including interdiction, assessment, prevention, treatment and research. Random urinalysis testing is conducted monthly to help determine the presence of substance abuse in institutions, and identify individual offenders who use unlawful substances. All offenders undergo a comprehensive assessment to assist in treatment planning. CSC treatment programs include: low, intermediate and high intensity programs, with specialized programs for women and Aboriginal offenders; as well as, intensive support units for offenders committed to a drug-free lifestyle. The Addictions Research Centre is dedicated to exploring factors contributing to substance abuse and related issues and developing effective interventions.

CSC supports a harm reduction approach for the prevention of infectious diseases. A number of initiatives have already been implemented such as: provision of bleach and condoms, peer education counselling, Hepatitis A & B immunisation program, Reception Awareness Program and Core Substance Abuse Program.

THE USE OF ISOLATION IN MENTAL HEALTH CARE

CI Comments

Resort to isolation is regulated by provincial laws and professional norms. CSC mental health facilities are governed by the same rules. The complication is that these facilities operate within penitentiaries and are also governed by federal rules—including the laws governing segregation. The simple rule should be that

isolation without consent is segregation and must be treated as such.

CSC Response

CSC has developed principles regarding treatment-based isolation/seclusion and segregation, which will be incorporated into the Health Service's manual in the near future.

ON THE HORIZON

CI Comments

There are a number of areas currently under discussion with the Service, which are not detailed in the Major Outstanding Issues section of the Report. Although our review of these matters has not at this time resulted in specific findings and recommendations, I believe, given their significance to the offender population, that they need to be noted.

ADMINISTRATIVE SEGREGATION

Segregation units remain at, or near, full capacity and the number of long-term segregation cases remains unnecessarily high. It will be necessary to find new solutions, and to consider how to more effectively implement the law and policy on administrative segregation, in order to address this problem.

A long-discussed aspect of administrative segregation is the issue of independent review of placements. As I have indicated, there is considerable expert support for this approach. The Service has just completed its trial of an "enhanced" system, involving participation in reviews by community members. The opportunity now arises to review the pilot projects and engage in a broadly based consultation on the Parliamentary Sub-Committee recommendations on independent adjudication of segregation decisions.

CSC Response

The independent evaluation prepared by Consulting and Audit Canada, as well as the CSC report on the results of the Enhanced Segregation Review Board pilot, are currently being reviewed. Next steps will include consultation with the Office of the Correctional Investigator, the Canadian Bar Association, Unions, and other interest groups.

INFECTIOUS DISEASES

CI Comments

With respect to the incidence and spread of HIV/AIDS and Hepatitis C in our institutions, I believe that an immediate decision is called for on the implementation of harm reduction measures such as access to clean tattooing equipment and needle exchanges. While the correctional environment presents challenges in this area there is a need for a coherent drug strategy which ensures that the health and safety of both staff and offenders is reasonably addressed.

CSC Response

The points raised are in line with CSC's approach to the provision of health services. CSC supports a harm reduction approach for the prevention of infectious diseases. A number of initiatives have already been implemented including: methadone maintenance treatment, provision of bleach and condoms, peer education counselling, Hepatitis A & B immunization Program, Reception Awareness Program and Core Substance Abuse Program.

CSC recognizes that in order to have a Comprehensive Health Strategy for Infection Control in Prison additional components must be

put in place. CSC is developing a plan to support safer tattooing within the institutions. Also, CSC continues to assess other potential initiatives such as needle exchange.

MENTAL HEALTH TREATMENT

CI Comments

The Service is currently engaged in a review of its regional mental health facilities. This is a timely and important study given the impact of mental health problems on the care, custody and rehabilitation of offenders.

CSC Response

CSC is in agreement.

EVALUATION OF SECURITY INFORMATION

CI Comments

This year the Service finally promulgated Directives on preventive security standards and guidelines. The implementation of the new policies provides us and the Service with an opportunity to examine an important function arising from the basic principles set out in the policies—the identification, evaluation and use of security information in decisions that impact offenders' level of custody and release opportunities.

CSC Response

The issue of the appropriate use of security information can affect case management decisions, particularly those involving transfers, conditional release and detention. CSC has an obligation to ensure that such information is analyzed, properly used in decision-making, and is sufficiently protected when it may affect the safety of an individual, the security of a penitentiary or the viability of an ongoing investigation.

ION SCANNERS

CI Comments

Issues have been raised with respect to the operation of these instruments, which detect the presence of substances on the skin or clothing of individuals, and the accuracy of the results of ION examinations. As well, there has been discussion of the role that ION scan results should play in decisions with respect to the granting of visits in institutions.

In October 2003, a formal mediation of this issue—the effectiveness of the equipment, the level of its use and its proper role in taking decisions on visits—will take place. Participants will include relevant Service staff, staff from our Office, inmate representatives and community legal experts.

CSC Response

CSC is looking forward to the multi-party facilitated discussion on this issue.

INMATE COMPUTERS

CI Comments

In June of this year, the Service decided to prohibit the purchase of computers by inmates. Given the impact of this decision on the offender population we have contacted the Service to initiate a review of this policy change and the alternatives available.

CSC Response

It has been determined that inmate-owned computers represent an overall security threat for CSC and could jeopardize the security of the institution and the safety of persons. Therefore, inmates are no longer able to purchase computers. However, because having access to a computer has a positive impact on the successful reintegration of

the offender and because it is a way to continue to maintain contact with the community, CSC will provide inmates with access to computers in a controlled environment. Inmate accessible computers must be secure, consistent in their configuration and managed throughout their life-cycle. CSC has completed an inventory of the computers used in programming and is now determining the software inventory and configuration and will be finalized in fall 2003.

CSC's policy has been approved but given the concerns raised by some stakeholders, CSC plans to organize a multi-party facilitated discussion on how best to implement a strategy to allow for the appropriate use of computers by inmates under the amended policy.

ACCESS TO JUSTICE

CI Comments

Inmates' access to counsel is a growing problem. Restrictions on Legal Aid and its funding in various Provincial and Territorial jurisdictions have had the effect of reducing the scope of matters on which inmates can consult and retain counsel as well as reducing the numbers of lawyers who are able/willing to take on inmate cases.

Access to counsel is an important entitlement for any citizen. Moreover, it is extremely important in the correctional context, where complex and important questions frequently arise. The CCRA and Regulations set out a number of provisions guaranteeing access to counsel, such as when inmates are segregated or are charged with a serious disciplinary offence. As well, the legislation provides guarantees of confidential inmate communica-tion with lawyers. Absent the ability to actually acquire legal representation, these are hollow rights.

We believe that there is a need for a broad consultation of partners in the criminal justice system, including community and offender representatives, to see if mechanisms can be established to address the problem.

CSC Response

CSC recognizes the importance of legal aid services for federal offenders and is aware that access to legal aid is not equal across the country. It is suggested that the CI bring this issue to the attention of the Minister of Justice.

MAXIMUM SECURITY INSTITUTIONS

CI Comments

In May of this year the Service instituted a review of maximum/security facilities by a team of senior managers. The purpose of this exercise, as I understand it, is to try to develop interventions that could be effected by staff, in a context of respect for human rights, that will assist inmates in following their correctional plans toward eventual release.

Maximum security institutions have been a long time concern for my Office. Given their emphasis on control of offender movements and activities, they tend to inhibit effective progress toward reintegration and often operate in a manner that runs counter to the CCRA principle of applying the least restrictive custody consistent with the needs of inmates.

Accordingly, we look forward to the results of the review and the ensuing discussion on its impact on these institutions.

CSC Response

As part of an ongoing review of practices, CSC is taking measures to improve the safety and security of correctional facilities, and to improve the ability of offenders to fulfill their correctional plans. The introduction of *Integrated Correctional Intervention Strategies* (ICIS) will provide a greater balance between assistance and control through more focused and integrated interventions. ICIS is a set

of measures that focuses on the needs of CSC's most disruptive offenders, to help address population management challenges in maximum-security institutions, founded upon the principles of respect for human dignity and use of least restrictive measures consistent with public, staff and offender safety. The measures are consistent with the principles of the CCRA.

There will be a phased introduction of ICIS. The measures will first be introduced in Millhaven Institution in the fall. Following an assessment of the implementation at Millhaven, ICIS will then be introduced in Kent and Atlantic Institutions in the winter before it is considered for implementation in all maximum-security institutions.

CSC is committed to continuous improvement in its operations and ensuring the safety of the public, its staff and the inmates under its jurisdiction. This is all part of an on-going process to refine practices, and to improve correctional results.

A PROPOSAL FOR RESOLUTION

CI Comments

A number of reports from a variety of sources, including persons commissioned by CSC to offer expert advice, have produced a series of recommendations on the issues of external review and accountability. The intent of these recommendations, to borrow a phrase from Professor Michael Jackson's recent book "Justice Behind the Walls – Human Rights in Canadian Prisons" was "to draw the operations of the Correctional Service of Canada into the gravitational pull of a culture that respects legal and constitutional rights".

To date the Service has resisted that pull and, for the most part, maintains its own orbit.

While the Service, in recent years, has made efforts to enhance its own internal mechanisms for promoting human rights and legal entitlements it continues to show an absence of willingness to be scrutinized by others.

My Office will produce, by the end of October 2003, a Discussion Paper outlining the issues as we see them and our proposed options for resolution. We will provide wide distribution of this Paper and will invite the Service and other participants in the criminal justice process, including government agencies, community partners and offender representatives, to present their own written views on the subject. Once these have been shared, I propose that the Service and my Office convene a broadly-based conference early in 2004 to attempt to identify measures to bring closure to the issue.

CSC Response

CSC's internal review processes of individual matters have been adjusted to include participation from organizations outside of CSC (e.g. investigations into security incidents).

Accountability is a feature of management. When problems arise, there are many measures that must be activated, ranging from policy discussions to options analysis for implementation purposes. Notwithstanding these organizational measures, accountability measures, as dictated by the particulars of the situation must occur, for the purpose of organizational and personal learning.