



The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada

**ANNUAL REPORT
OF THE
CORRECTIONAL INVESTIGATOR**

2003-2004



Canada 



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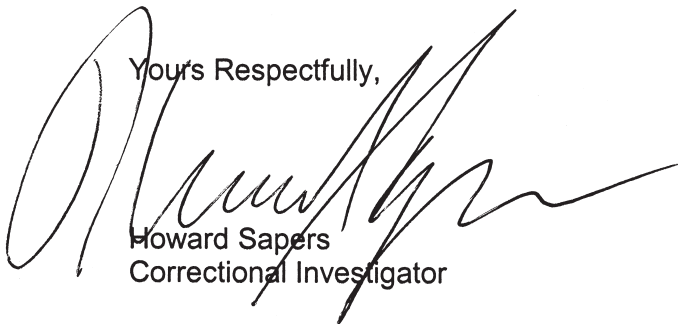
June 30, 2004

The Honourable A. Anne McLellan, P.C., M.P.
Solicitor General of Canada
(Ministry of Public Safety and Emergency Preparedness)
House of Commons
Wellington Street
Ottawa, Ontario

Dear 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 31st Annual Report of the Correctional Investigator.

Yours Respectfully,



Howard Sapers
Correctional Investigator

Canada

MR. RONALD R. STEWART
CORRECTIONAL INVESTIGATOR
November 1977 – October 2003

Mr. Stewart retired from the position of Correctional Investigator in October of last year after more than a quarter century of service. During his tenure we have witnessed significant and lasting changes in the field of corrections.

The role of the Correctional Investigator, during this time period, has been consistent in the promotion of a correctional system that is fair, safe and humane:

- the Office's Inquiry Report into allegations of staff misconduct at Archambault Institution in the early 1980's brought a public focus to segregation practices which resulted in sweeping policy changes.
- the Office's active participation in the development of the 1992 Corrections and Conditional Release Act, which clearly established the Correctional Investigator as an Ombudsman and defined a set of principles to promote the fair and humane treatment of federal offenders, and
- the Office's 1995 Report on the Mistreatment of Offenders at the Prison for Women which resulted in Madame Justice Arbour's Commission of Inquiry and the subsequent recommendations concerning openness, accountability and compliance with the rule of law in correctional operations.

The former Solicitor General of Canada, Mr. Wayne Easter on the occasion of Mr. Stewart's retirement wrote:

Your efforts, and those of your staff, reflected your commitment to maintaining an independent and accessible avenue of redress for offender complaints. Your work has resulted in the resolution of thousands of individual offender inquiries or complaints. At the policy level, your recommendations to the Commissioner of the Correctional Service of Canada, and to my predecessors and me, have helped to ensure that the Correctional Service fulfills its mandate. Your contribution to the protection of society has been direct: you continually engaged and challenged the Correctional Service to advance and improve the ways in which it encourages and assists offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control and respecting the rule of law.

The Office of the Correctional Investigator would like to thank Mr. Stewart for his long service and offer best wishes for his retirement.

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MESSAGE FROM THE NEW CORRECTIONAL INVESTIGATOR



It is my privilege to present my first report as Correctional Investigator. My core value in approaching my new functions is that the Office should address offender problems from the perspective of informed objectivity. This reflects the time-honoured tradition of being an ombudsman, serving citizens by listening, learning, analyzing and influencing in order to resolve conflict and ensure fairness.

An ombudsman is neither an advocate nor an adversary, neither a judge nor a jury. S/he is an independent, impartial investigator who proceeds in a direct, timely fashion using significant powers of inquiry to assess the facts and come to common sense conclusions. Not by any power to impose outcomes but rather by the power of thorough, persuasive analysis and articulation does the ombudsman achieve resolution of citizens' problems. Only once the investigation is complete does the ombudsman take a position—not for the client group but for fairness.

I believe that the immediacy and flexibility of this approach lends itself very well to the prison environment, where integrity, independence and responsiveness can often have an impact on vital liberty and

personal security rights. I believe that it will be fundamental that I implement the ombuds approach in a way that encourages candour and trust with offenders and staff alike. I believe that my Office can continue to make a difference for all concerned.

With specific regard to this year's Report we have decided to change our format for reporting ongoing issues of concern. Each page contains a concise description of the concerns and issues that have arisen in the past. A more complete review is available from the series of Annual Reports that have already contained findings and recommendations on these topics. We have emphasized the progress that has been made in collaboration with CSC, offenders and other stakeholders and briefly underlined the issues that remain to be addressed. Finally my specific recommendations are set out.

I hope that this format will provide the reader with a balanced and concise review that will be useful in understanding our perspective on the matters. Reader comments on any of the topics are welcome. Please send me your comments by email at sapershi@oci-bec.gc.ca or by surface mail at Box 3421, Station "D", Ottawa, Ontario K1P 6L4.

WHAT WE DO



Established under Part III of the *Corrections and Conditional Release Act*, my Office investigates and attempts to resolve individual federal offender complaints. As well, we have a responsibility to review and make recommendations on the Correctional Service's policies and procedures associated with individual complaints. In this way, systemic areas of concern can be 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 to carry out that investigation.

The Office addresses the vast majority of inmates' complaints at the institutional level, through discussion and negotiation. When 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.

Whenever I believe that a matter has not been adequately addressed and requires the attention of the Commissioner of Corrections, we report our findings and recommendations to the Commissioner pursuant to s.177 to 179 of the CCRA. That report provides 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 is 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 authority is tempered by strict legal rules limiting our ability to disclose information acquired. A vital assurance to all those with whom we deal, this confidentiality underlines 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. Our legislation arms us with the operational tools and discretion to carry out thorough investigations on a broad range of offender problems. Nevertheless, we may only recommend solutions to offender problems, albeit at all levels. Our influence ranges from institutional staff and management through regional and headquarters staff and the Commissioner of Corrections to the Minister of Public Safety and Emergency Preparedness and, ultimately, 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:

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

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 CSC considerations that may lead to adverse decisions. More importantly, though, I refer to *fairness in the commonsense, 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 preconceptions, 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 everyone's conduct is measured by an informed, balanced, impartial standard, disputes are more likely to be resolved in a way that respects the rules.

If the persons applying the standard are impartial and independent, *and perceived as such*, they are more likely to succeed in their mission.

FIRST DAY OF AN INSTITUTIONAL VISIT



Monday

- 7:45 a.m.** The investigator arrives at the front counter of the medium-security facility. She greets the officer on duty, whom she has known since 1997 when he worked on a living unit at Drumheller. As always, the officer opens her briefcase and computer bag and searches for contraband. The investigator passes through the metal detector. During this process she surveys the area and chats with the officer to get a feel for the level of tension and any significant happenings inside.
- 8:00 a.m.** The investigator meets with the Deputy Warden's secretary, who arranges interviews in this institution. The investigator will meet with inmate groups (the Inmate Committee, the Native Brotherhood and the Lifers Group, among others) and then with individuals. Interviews are scheduled in a vacant office near the "keepers" office. The names are from the list the investigator provided a week ago and from inmate requests received since the announcement of the visit was posted in all living units. The investigator will also be seeing inmates in the segregation unit, the hospital and the special needs unit for inmates with mental health problems. The investigator relies on the secretary to handle any delays or missed appointments. There are three committees and 37 names on the list.
- 8:15 a.m.** The investigator has a confidential meeting with the Institutional Security Officer to be informed of any safety or security concerns about inmates on the list as well as current issues in the institution as a whole. This is for the investigator's personal safety and to provide her with possibly useful background for what she will see and hear in the next four days.
- 9:30 a.m.** The meeting with the Inmate Committee (IWC) is winding down. The Chair is an old acquaintance serving ten years. He has a realistic outlook on dealing with the Warden and staff but is also respected by most inmates. The Committee can be counted on to get to the point. Issues relate to access to employment, purchase of food for private family visits, screening of visitors for an upcoming social visit and the effects of the CSC policy banning purchase of personal computers for cell use. The investigator provides information and advice on how to proceed with most items and undertakes to raise the social visit and the employment situation with the Warden. The Committee's comments on computers will be folded into the mediation that the OCI is about to have with CSC National Headquarters.
- 11:30 a.m.** The investigator observes the noon meal—quality of the food, progress of the line, cleanliness etc. She tries to make time every trip for at least a couple of these observations of various processes.
- 11:45a.m.** Lunch with the Deputy Warden, two Unit Managers and the Chief of Health Services—an informal discussion of how things are going.
- 4:00 p.m.** Thirteen individual interviews completed. Some inmates repeated the IWC concerns. Other had specific problems on which the investigator referred the inmate to staff or to the complaints and grievance process (with instructions to contact the investigator if the inmate encounters obstacles). Four had problems requiring attention during the visit. The investigator called the Warden immediately on a denied temporary absence to attend a family funeral. She will see the Chief of

Health Services in the morning on two cases and she will visit the Head of Programs on an inmate who was suspended and who risks not completing an essential course in time for his parole hearing.

4:15 p.m. The investigator meets with the Grievance Coordinator to review timeliness of grievance replies and to inquire about topics that have involved an unusually high number of grievances. The big issue lately is visits. “Procedural Fairness/Redress” is one of four areas of focus that the OCI is reviewing this year to get a sense of the “health” of institutions and to support systemic inquiries at the national level. The other areas are “Segregation,” “Programming/Conditional Release” and “Transfers.” On each topic the investigator has pulled data from CSC’s informatics system and is expected to make inquiries with responsible staff where concerns arise. She will review any problems at her debriefing with the Warden on Thursday afternoon.

8:00 p.m. In the hotel after supper the investigator tidies up her reports on what she has

reviewed today and enters them in the OCI’s case tracking system. She begins to frame issues for her debriefing meeting and to draft her institutional report. In the report she will provide a detailed analysis of each area of focus as well as other systemic issues that come up during the visit. The report must be completed within two weeks of returning from the institution. In the same period she will also have to write to the Warden detailing significant cases, concerns, findings and recommendations. Follow-up with staff that can’t be done at the institution will be completed by phone or email.

She finalizes her schedule for tomorrow:

- 8 a.m. in the segregation unit
- 11:30 meeting with the Chief of Psychology on cognitive skills programming
- tour of the yard and the landscaping shop during lunch hour
- eight interviews after 1 p.m.
- meeting with the Elder and the Native Liaison on access to sweat lodges for aboriginal inmates

10:00 p.m. Call home. Bed.

MAJOR OUTSTANDING ISSUES



ABORIGINAL OFFENDERS

Past Challenges:

For many years this Office has underlined the disadvantaged position of Aboriginal offenders at each significant milestone of the corrections process.

We have proposed that an independent review of discrimination toward Aboriginal offenders take place, that a Deputy Commissioner be appointed to direct matters related to Aboriginal offenders, and that there be an early completion and implementation of programs targeting their needs. We have suggested that quarterly reports be prepared to assist CSC senior management in identifying and resolving problems related to Aboriginal offenders. Currently, while 41 percent of non-Aboriginal offenders are

serving their sentences on conditional release in the community, only 31 percent of Aboriginal offenders are on conditional release. This gap is even greater for women offenders and remains basically unchanged over the past decade.

We have supported CSC's approach of fostering partnerships and cooperation on the part of Aboriginal communities in effecting safe release with appropriate programming opportunities in the communities. We have recognized that this is a very difficult process given the means of some communities to provide what is needed.

Positive Developments

CSC has established working groups and advisory bodies involving Aboriginal organizations to assist the Service in implementing effective community initiatives.

Successful piloting of some Aboriginal programs and specialized living arrangements has taken place.

The Senior Deputy Commissioner has been identified as the official responsible for championing Aboriginal concerns at the Executive Management Committee.

CSC's Policy Division is conducting a complete review of Aboriginal, gender and cultural barriers in order to incorporate the issues uncovered into the CSC operational policy and practice. As part of this review the Division is concentrating initially on issues related to case management and searches of inmates, visitors and staff. This approach is intended to ensure that diversity issues and appropriate solutions are brought to the attention of staff in all operational contexts—not simply in stand-alone policies related to specific groups. CSC expects the review to be completed and policies revised by the end of November 2004.

Ongoing Challenges

Even though CSC's review of diversity obstacles is a useful step, we continue to advocate an independent review of obstacles to the successful and timely reintegration of Aboriginal offenders. As we have often repeated, with support from the Parliamentary Sub-Committee on Corrections and Conditional Release Act of the Standing Committee on Justice and Human Rights and from Aboriginal organizations, there is a need for a perspective unfettered by competing internal interest before such a review will achieve success.

The successful programs that have been established must achieve continuing funding and new program initiatives must take place as soon as possible. As well, it appears that a disproportionate number of Aboriginal-specific programs are available in minimum-security institutions, while the predominant need for programs is at the medium- and maximum-security levels. In regions where only a small number of Aboriginal inmates are housed in institutions, there is a tendency not to provide programming for small groups.

Our discussions with national Aboriginal organizations indicate that there remains a significant need for funded and effective community programs to

Positive Developments *continued*Ongoing Challenges *continued*

complete the process of successful reintegration that is initiated by effective institutional programs.

In some regions there continue to be operational practices that preclude or limit Aboriginal access to needed Elder support and spiritual practices. While these can be addressed on an ad hoc basis, their existence underlines the tenuous nature of progress in this sector of corrections.

I recommend that:

- **the Minister appoint a Deputy Commissioner Aboriginals specifically responsible for Aboriginal programming and liaison with Aboriginal communities, as a permanent voting member of all existing Senior Management Committees, to ensure an Aboriginal perspective and presence in CSC decision-making;**
- **the Minister initiate an evaluation of CSC's policies, procedures and evaluation tools to ensure that existing discriminatory barriers to the timely reintegration of Aboriginal offenders are identified and addressed. This review should be undertaken independent of CSC, with the full support and involvement of Aboriginal organizations, and report by March 31, 2005.**

WOMEN OFFENDERS

Past Challenges:

Madame Justice Arbour's Commission of Inquiry into the events at the Prison for Women was a very public and very inclusive process. The Commission's report, issued in April 1996, was a landmark for corrections in this country. Its findings and recommendations focussed our collective attention not only on the potential for Women's Corrections but also on the requirement for openness, fairness and accountability in all correctional operations.

The Correctional Service's response to Justice Arbour's report over the years has not been public or inclusive. The once clear vision for change has become clouded. The "final response plan," which was to detail the most effective means of achieving the objectives that underpin the report's recommendations, has never been produced. Because of the situation this Office has recommended in successive annual reports that the CSC publicly and thoroughly revisit the Arbour recommendations.

The Service's response to our representations has been consistent: "CSC took decisive action on all 87 recommendations/sub-recommendations, with few exceptions. These recommendations were implemented as written or accepted in principle. Four (4) recommendations/sub-recommendations were referred to Justice Canada for review."

The Canadian Human Rights Commission released a report in January 2004 entitled *Protecting Their Rights – A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*. The areas of concern identified and the recommendations made by the Human Rights Commission are for the most part consistent with those of Justice Arbour. The same can be said for the reports issued by the Auditor General (April 2003) and the Standing Committee on Public Accounts (November 2003).

The continued currency of these areas of concern raises serious questions about the CSC's claim to having taken "decisive action" on the Arbour

recommendations and speaks directly to our recommendations concerning the requirements for a thorough public revisiting of Justice Arbour's report.

Positive Developments

The recent opening of the fifth regional facility for women offenders in Abbotsford, British Columbia. Not only will this facility allow minimum- and medium-security women from the Pacific Region to remain close to their families and communities, it will also give these women access to federal correctional programs designed to assist them in safely reintegrating into society at the earliest points in their sentences.

The CSC closed one of its two remaining maximum security women's units that was "temporarily" located in a men's prison. This is the second of three such special units to have been closed over the last 18 months.

In May 2003, the CSC opened a new secure unit for women at l'Établissement Joliette, thereby providing a maximum security facility for francophone women. Prior to this they were being housed outside of the Quebec region.

CSC successfully held a national consultation on community initiatives for women offenders in June 2003. Several key stakeholders were invited to provide expert advice on how best to provide services to women serving their sentences in the community. This national meeting was followed by a series of regional consultations, and will conclude with a specialized consultation targeted towards meeting the needs of Aboriginal women offenders. This Office looks forward to the action plans resulting from these consultations.

The use of force in women's institutions has dramatically changed for the positive. This Office has noted fewer incidents of use of force, and in general, a greater compliance with the policy governing such interventions.

Ongoing Challenges

Secure units at the Ontario and British Columbia facilities for women are not yet open. Pending this, inmates classified as maximum security will have to be housed in other provinces or, in the case of British Columbia, in provincial institutions.

The CSC's non-action on Arbour-related issues, beyond that detailed above, continues to raise concerns. For example, the recommendations related to sanctions "for correctional interference with the integrity of the sentence" were referred to the Department of Justice in 1996 for review. To date a final decision has not been rendered. I refer readers as well to the section of this report entitled Cross-Gender Staffing for a further example of delay and non-action.

This Office continues to have serious concerns about CSC's use of a security classification system that was designed for men. Our own experience and, most recently, the report of the Canadian Human Rights Commission indicate that this system does not recognize the unique and individual needs of female offenders. As such, it often results in higher than necessary security classifications, particularly for minority group women and those living with disabilities.

I recommend that:

- the Minister mandate the early publication of a “final response plan” on Madame Justice Arbour’s recommendations, followed by a consultation process involving all interested stakeholders;
- the Department provide a public response to the Canadian Human Rights Commission recommendations by October 31, 2004.

ALLEGATIONS OF HARASSMENT AND STAFF MISCONDUCT

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Past Challenges:

In the eyes of many offenders, complaining about the conduct of CSC staff involves considerable personal risk without the expectation that the complaint will be investigated in a timely, fair and effective fashion. Whether or not this perception is justified, it stands to reason that redress will be effective only if offenders have confidence that complaints, often on very sensitive matters, will be dealt with in an unbiased way and without retaliation.

Last year we rather reluctantly concurred with the CSC’s view that harassment investigations could meet these criteria without automatically involving participation by outside investigators. Accordingly, we agreed that these investigations be undertaken under a specialized offender grievance review process that would mirror the central elements of the CSC employee grievance policy. To us the most important elements are:

- early and confidential transmission of the complaint to the Institutional Head for decision on whether harassment has occurred;

- a thorough record of the Institutional Head’s decision and the basis for it;
- if harassment is indicated, timely conduct of the investigation by specially-trained staff from outside the institution;
- a complete opportunity for the complainant to receive and respond to the draft investigation response before it is finalized;
- opportunity for the complainant to grieve any adverse outcome as a priority matter.

As well, we believed that offenders should be assured of this Office’s involvement, so we recommended that we be apprised of all complaints and outcomes of investigations.

With respect to complaints of staff misconduct we believed that the process should involve analogous elements of fairness, timeliness, independence, thoroughness and expertise, as well as the guarantee of prompt access to police where the offender believes criminal conduct has occurred.

Positive Developments

CSC has revised its offender complaints and grievances procedures to incorporate the principles that this Office advocated. It has provided initial training to staff. Based on its monitoring of compliance with the new policy, it has produced two tools which should assist in the effective implementation of the procedures. CSC indicates that these will permit detailed tracking of the progress of individual complaints and will provide clear rules to ensure compliance with the policy.

Ongoing Challenges

A particular concern that has arisen lately, however, is the availability of specialized training for staff who will be conducting harassment investigations under the new procedures.

Positive Developments *continued*

The Service has agreed to give priority to this issue and to enforce complete compliance with the process by October 31, 2004.

Ongoing Challenges *continued***I recommend that:**

- **CSC closely monitor the implementation of the revised process for addressing harassment and staff misconduct complaints and initiate an evaluation of its effectiveness, to be completed by March 2005.**

MONITORING AND INVESTIGATION OF INMATE INJURY AND INSTITUTIONAL VIOLENCE

Past Challenges:

This year I have combined our review and investigations of inmate injuries and institutional violence, because our concerns and the potential resolution of problems in these two areas are closely integrated.

The timeliness of investigations under s.19 of the *Corrections and Conditional Release Act* into serious injury or death of offenders has been an issue. Of further concern was the ability of CSC to identify injuries that did not fit into the definition of “serious bodily injury” and to demonstrate that these incidents were being appropriately reviewed.

Where information is being gathered, through means such as “climate indicators” a clear analysis of the

causes of violence and injuries continues to be lacking. The report on Health Care Needs Assessment of Federal Inmates in Canada (April 2004) noted that “injuries were common among inmates” with a significant number of the injuries “due to altercations or were self-inflicted”. The report further identifies within the section on Areas of Further Knowledge Development the requirement to have accurate “rates of inmate injuries and contributing factor”.

The absence of this information and the delays in the investigative process hinders management’s ability to reasonably review and take appropriate decisions in limiting inmate injuries and institutional violence.

Positive Developments

CSC has adopted a new set of timelines for its investigations which should shorten the duration of the process.

CSC has undertaken to provide a summary report on investigations involving death or serious bodily injuries, including the corrective actions taken.

CSC has agreed to focus its investigations on “major injuries,” which it has more clearly

Ongoing Challenges

The timeliness and coordination of CSC’s investigative process requires the on-going attention of senior management.

Despite anticipated improvements in its recording and analysis procedures, CSC has yet to implement our recommended quarterly reports to the Executive Committee on inmate injuries and institutional violence.

Positive Developments continued

identified as a category. CSC will also improve the incident reporting system to ensure that injury data consistently capture all major injuries and their causes.

*Ongoing Challenges continued***I recommend that:**

- **the CSC's investigation process, by the end of 2004, be compliant with the new timelines;**
- **all investigative reports into inmate death or major injury be reviewed nationally, and a summary report of the recommendations and corrective actions taken be produced quarterly.**

DOUBLE BUNKING

Past Challenges:

Problems of personal safety, institutional security and effective supervision necessarily arise from double occupancy of cells. CSC has long maintained its intention to eliminate the practice but states that population pressures and financial constraints have rendered this impossible to date. The Service underlines, however, that double bunking is permitted only where absolutely necessary and with the Commissioner's permission (reviewed annually). Moreover, it is not permitted in segregation and mental health units, where the dangers of incidents are more pronounced.

We have taken the view that CSC should at least prohibit double bunking in special units that are neither segregation nor those housing inmates in normal association (the general population). A particular concern has been reception units, where offenders are assessed after their initial admission to penitentiaries and where safety and security risks may not be immediately known to supervising staff.

Positive Developments

CSC confirms that double bunking is not permitted in hospitals or mental health units (or analogous units housing inmates who may act out or be otherwise stressed by having a cellmate). The level of double bunking declined from April 2001 (11.1 percent) to October 2001 (8.6 percent), after which it increased to 12.1 percent in July 2002. Since then, the level has decreased to 6.3 percent in January 2004, its lowest level in three years. CSC has revised its semi-annual procedure for seeking the Commissioner's permission to double

Ongoing Challenges

The problem persists in reception units in four regions, where at least 148 cells are authorised for double bunking. Millhaven Institution's assessment unit, for example, is expected to include 64 double-bunked cells for the coming year. We hope that the new semi-annual procedures will permit this situation to be addressed in a timely and reasonable manner. We note as well that double bunking occurs in the Temporary Detention Unit in Pacific Region, where offenders are housed when they are

Positive Developments *continued*

bunk certain units. Henceforth this will be based not only on numerical needs for space, but also on an assessment of any risk factors and group needs that might preclude double bunking, given the nature of the unit in question.

Ongoing Challenges *continued*

returned to custody from unsuccessful conditional releases. It is reasonable to anticipate that security concerns may have arisen during the releases that might not be known to staff in these units.

I recommend that CSC take immediate steps to eliminate double bunking in reception and other non-general population units by the end of fiscal 2004–2005.

USE OF FORCE

Past Challenges:

While we have acknowledged significant improvements in the quality and procedural compliance of CSC's reviews of use of force, we continued to have concerns about its effectiveness in gathering and analyzing use-of-force data that would assist management in making systemic change. In

particular we awaited the contribution of Health Services to the analytical function. Finally, we maintained our view that allegations of excessive use of force should be investigated independently by experts from outside CSC.

Positive Developments

There has continued to be a significant improvement in CSC's monitoring and review of use of force.

CSC's capacity to gather relevant data and provide comparative analysis regarding use of force between institutions and regions has improved.

Availability of this data has also resulted in a number of specific initiatives directed at particular institutional and regional shortfalls.

CSC has implemented a set of guidelines relating to the role of Health Care in use-of-force incidents.

Ongoing Challenges

This Office has spoken with the Service regarding our general satisfaction with the improved quality of use force interventions and the review process in most regions. We remain concerned with recurring problems in the Quebec region with regard to both of these areas.

In response to concerns generated by both this Office and the Security Division at National Headquarters, the Regional Deputy Commissioner has recently developed a comprehensive plan of action with accountability measures to address the concerns identified. We will continue to monitor the impact of the action plan closely and in conjunction with both the Regional and National Headquarters over the course of the next reporting period.

I recommend that:

- **CSC implement the recent action plan developed by the Quebec region to ensure compliance with use of force procedures before the end of 2004;**
- **the quarterly reports currently produced on use of force interventions provide more in-depth analyses of the numerical data by the end of 2004;**
- **CSC maintain a record of those initiatives implemented to correct systemic shortfalls identified through the analysis of both use of force data and the actual reviews.**

STRIP SEARCH POLICY**Past Challenges:**

Last year this Office expressed concern with the preliminary results of the Correctional Service's review of its policies on strip searches. In our view the policy did not address the issues that we had raised in 1999 and onwards. We continued to express particular concern about the undue use of

force (as opposed to alternative search methods) to effect strip searches and the improper grounds that had been used to justify exceptional strip searches of whole living units or institutions under s.53 of the CCRA.

Positive Developments

CSC is about to publish a searching reference manual for use by staff carrying out all searches, including strip searches. It is also supporting policy by introducing a new form to be used for the authorisation, review and monitoring of exceptional and emergency strip searches. These changes will be effected by October 15, 2004. CSC undertakes that the documents will address all the concerns we have raised and will preclude the repetition of events such as those on which we sought mediation.

Ongoing Challenges

Assuming that the manual meets our concerns, its implementation and accountability for compliance with it will bear ongoing monitoring and review by CSC and by this Office. Principally, there must be broad enough publication that all stakeholders inside institutions and in the community are able to make reference to the manual.

I recommend that:

- **CSC publish its materials related to strip searches by October 15, 2004;**
- **CSC develop measures to ensure compliance with the rules set out therein.**

INMATE FINANCES

Past Challenges:

It has been several years since inmate allowances for work and program participation have been increased in keeping with the cost of living. This has reduced their ability to purchase items inside institutions, which we believe has given rise to the violence that can accompany competition for scarce commodities in prison. Moreover, it has adversely affected the amount of money that offenders can use to facilitate their integration into society during the initial phase of release.

CSC undertook to review the adequacy of inmate finances and to consult this Office, offenders and

other stakeholders in the process. It maintained, however, that no increase in funding for inmate allowances was anticipated.

A specific concern has been the substantial fees inmates must pay to communicate with family and other significant persons in the community under the Millennium telephone system. It has been seven years since CSC undertook to modify this system so as to reduce its financial burden. Protracted litigation among service providers has prompted CSC to delay implementation of these innovations.

Positive Developments

A broadly-based consultation is taking place on offender management of finances. Participants include this Office, offenders and community advocate organizations. The study will seek to identify new means of providing inmates with access to funds and with direct access to goods and services in return for their participation in work and programs. Offenders' skills and attitudes with respect to sound management of their own resources will be an additional focus. CSC has underlined that it intends to address the two problems cited above that result from inadequate funds.

Ongoing Challenges

Pending improvements that are occasioned by CSC's actions, offenders and their families will continue to incur the adverse effects of inadequate funds. The challenge will be to ensure that improvements are identified and effected as soon as possible.

In some regions, a lack of employment has exacerbated inmates' lack of access to funds. As well, there has been a general reduction in pay levels that inmates receive for participation in work and other programs. This trend is very disturbing. Although litigation on the Millennium System is complete, delays in implementing a fairer system persist.

I recommend that:

- **CSC immediately review inmate pay levels, access to employment, availability of funds on conditional release, and produce action plans to address these issues before December 31, 2004;**
- **a telephone system with rates comparable to those in the community be in place by March 31, 2005.**

CASE PREPARATION AND ACCESS TO PROGRAMS

Past Challenges:

The areas of concern associated with this issue have focussed on the ability of CSC to provide responsive programming and prepare offender cases in a thorough and timely fashion for conditional release consideration.

The Office's previous recommendations in an attempt to begin addressing this issue have called for a review in the following areas:

- current program capacity, the extent of waiting lists and measures required to address deficiencies,

- the specific reasons for the high number of waivers, postponements and adjournments of National Parole Board hearings,
- the causes for the dramatic decline in unescorted temporary absence and work release programming, and
- the factors impacting on the continuing disadvantaged position of Aboriginal offenders in terms of timely conditional release.

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Positive Developments

CSC has conducted a review of the current availability of programmes, the extent of the waiting lists and the accuracy of their existing data base in reasonably identifying timeliness of access to programmes. This is a useful first step in developing a system which ensures timely program access.

A joint working group, with representatives from this Office, the Correctional Service and the National Parole Board was convened in July of 2003. The mandate of the working group was to identify factors that contribute to cases being delayed in going to the National Parole Board and identify ways of reducing this pattern. The working group report is expected to be finalized in July of 2004.

Ongoing Challenges

The timely provision of inmate programming continues to be a problem.

There is overcrowding at the medium security levels while there are significant vacancies at the minimum security levels.

Delays in the preparation of cases for conditional release consideration remain unreasonably high.

Work release and unescorted temporary absence programming, particularly at the medium security level, continue to decline.

Aboriginal offenders remain at a disadvantaged position in terms of timely conditional release.

I propose to meet with the Chair of the National Parole Board and the Commissioner, on completion of the joint working group's report to identify what specific actions need to be taken to address these issues.

TRANSFER OF OFFENDERS

Past Challenges:

CSC provided us with preliminary results of its audit of the transfer process. We found that these did not address two factors:

- the continuing presence of large numbers of inmates in institutions classified at higher security than the inmates' individual classifications;

- the quality of data used for monitoring the transfer process

Positive Developments

CSC has produced a management control framework that will permit monitoring of institutions' compliance with all rules involved in law and policy on transfers.

A system is now in place to permit senior management across the country to work with applicable staff and to effect transfer decisions for inmates in long-term segregation situations. As a result, spaces will be cleared to permit relocation of over-classified inmates.

Ongoing Challenges

There remain an unacceptably high number of inmates in institutions that do not correspond to their security classification and, specifically, in segregation awaiting transfer.

As well, we have voiced our concerns on two specific problems:

- delays in actually effecting transfers after they have been approved;
- delayed response by potential receiving regions to requests for inter-regional transfers.

CSC has undertaken to address these issues in the near future.

I recommend that CSC aim to achieve the following measurable results by the end of 2004:

- **reduction to one week of the period during which inmates must await implementation of approved transfers;**
- **complete compliance with the statutory period of 60 days between an inmate's transfer request and the resulting decision, even in the case of inter-regional transfers;**
- **a 50 percent reduction in the number of inmates who are over-classified and who are in segregation for more than 60 days pending achievement of transfers.**

INMATE GRIEVANCE PROCEDURES

Past Challenges:

For several years we have underlined two major concerns on how CSC fulfills its obligations regarding the offender redress systems:

- ongoing significant delays in responding to grievances, especially at the Regional and National Headquarters levels;

- failure to use grievance results as a management tool by producing quarterly reports, as CSC specifically promised to issue on aboriginal, women offenders and health service issues.

Positive Developments

CSC has produced a new staff manual on complaints and grievances that incorporates many, but not all, of the suggestions OCI made when consulted.

Significant improvements have been made to procedures governing complaints of harassment and staff misconduct.

CSC has applied extra resources in an attempt to clear backlogs at the regional and national headquarters levels.

New information technology applications have been developed to permit the regular monitoring of frequently shifting indicators on important aspects of the grievance process. These include analysts' caseloads, the designation of grievances as high priority and the timing of corrective action.

CSC and OCI have sponsored two very promising mediations (facilitated discussions) on systemic issues. We plan to organize others in 2005.

Ongoing Challenges

Timeliness remains a significant issue. It will be necessary for CSC to recognize that this is a problem requiring accountable managerial attention. Identifying and allocating multiyear funding to address timeliness issues must be made a priority.

While some quarterly reports are beginning to appear, it is unclear whether CSC management is using them to identify the circumstances leading to upheld grievances and rectifying these areas of concern.

CSC has agreed to discuss the issue of how complaints and grievances are analyzed, particularly from an evidentiary perspective. This is based on our preliminary view that the identification of relevant information and the assessment of its probative value may warrant a closer review.

The promising system of assigning institutional mediators to attempt early, informal resolution of complaints, which appeared to be making progress in Alberta and Quebec facilities, appears to be losing momentum. Managerial and resourcing support of these positions seems to have dropped off considerably. This is unfortunate, as the approach goes a long way towards providing effective redress and avoiding unnecessary use of more costly formal procedures.

I recommend that:

- **CSC make timeliness of grievance responses a priority for all senior managers with any involvement in the process:**
- **before the end of 2004, CSC identify and provide the human resources necessary to assure timeliness on an ongoing basis;**
- **CSC ensure that the publication of all previously agreed-upon quarterly reports on grievances be instituted and that these reports be considered part of the agenda of all institutional and regional management committee meetings, as well as of CSC Executive Management Committees.**

YOUNGER OFFENDERS

Past Challenges:

Although a minimal number of minors are admitted to penitentiaries under the former *Young Offenders Act* or the current *Youth Criminal Justice Act*, the position of this Office has been that persons under 18 years old should never be so imprisoned in federal penitentiaries. We recommended that CSC take this position whenever the courts sought its advice on whether to place a minor in a federal institution. Moreover, we have held the view that CSC should provide special services and programs to inmates under the age of 21. These offenders, numbering more than 400 at any given time, very often find themselves in disadvantaged situations—segregation, abuse by other inmates, low access to and success in programming, gang affiliations, and delayed conditional release.

CSC stated that it was not prepared to adopt a position that minors should never be admitted to penitentiaries, but that it would provide staff appearing before the Courts with appropriate information on anticipated concerns in penitentiaries.

In June 2003 CSC held a meeting on young offenders that examined, among other items, whether these inmates should be provided with programs tailored to their specific needs. As well, there was to be a follow-up meeting on ensuring that the CSC was in compliance with the new *Youth Criminal Justice Act*.

Positive Developments

CSC has agreed to research and document the adverse effects of federal incarceration on inmates under 21 as compared to others. Such effects would relate to elements such as:

- delays in achieving release
- access to/completion of programs
- disciplinary offences
- time in segregation
- involvement in major incidents
- injuries
- gang involvement

Ongoing Challenges

CSC continues not to recognize the need to provide special housing, programming or other services for younger offenders. Their position is that programs available to all inmates can be adapted to meet the needs of younger offenders.

We continue to await comprehensive follow-up to last June's meeting, particularly as this involves interaction with other jurisdictions on how to meet younger offenders' needs.

Positive Developments *continued*

Based on this information CSC will review whether any special programs, services or placements should be offered to younger offenders. Herein CSC will work closely with an inter-jurisdictional group of corrections officials that was formed at the June 2003 meeting.

Ongoing Challenges *continued*

The challenge is to provide a correctional environment that is safe, humane and offers relevant programming opportunities to ensure that younger offenders are speedily and successfully reintegrated into society.

I recommend that:

- **CSC identify the obstacles to successful reintegration for younger offenders and develop action plans to meet identified problems before the end of 2004;**
- **these action plans be implemented by March 31, 2005;**
- **CSC work closely with representatives of other jurisdictions to determine the appropriate venues for provision of needed placements and programs and the best practices for dealing with younger offenders.**

CSC POLICY ON CLASSIFICATION OF OFFENDERS SERVING LIFE SENTENCES

Past Challenges:

Known colloquially as “the two-year rule,” this CSC policy amends the Custody Rating Scale so that newly admitted offenders serving life sentences will automatically serve at least their first two years in a maximum-security facility.

This is contrary to the *Corrections and Conditional Release Act* and has exacerbated problems of overcrowding and conflict. Moreover, CSC has failed to show its willingness and capacity to override placement decisions in deserving cases without delay. Again in 2003–2004 we encountered numerous examples where inmates who are clearly unsuitable for maximum security placement have either been refused relief or have encountered excessive delays in achieving reasonable reconsideration of their placement.

This issue has been an ongoing source of fundamental dispute between this Office and the Correctional Service since the implementation of the policy in February of 2001. With the support of a number of community stakeholders we have consistently called for the repeal of this policy. The Canadian Human Rights Commission in its January 2004 Report added its voice to this call:

It is recommended that Policy Bulletin No. 107, which requires offenders, serving a minimum life sentence for first or second degree murder be classified as maximum security for at least the first two years of federal incarceration, be rescinded immediately in favour of a fair and balanced individual assessment.¹

¹ Canadian Human Rights Commission. 2004. *Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, Special Report, p. 33, January.

Positive Developments

CSC is implementing a process that will permit a consistent and timely review of classification decisions, both maintaining and recommending exemption from the two-year policy.

Ongoing Challenges

The rule remains contrary to law, in our view, and continues to produce the population management problems that arise from unnecessary placement of some inmates in higher security settings than their circumstances require.

Assuming the policy is not repealed, the new review procedure must be implemented in a manner that will ensure compliance at an early date.

I recommend that:

- **the policy concerning the security classification of offenders serving life sentences be repealed;**
- **the Minister initiate an immediate review on both the legality of the policy and its impact on individual offenders over the preceeding three years;**
- **in the interim, CSC ensure that a revised review procedure for exemptions to maximum security classifications is implemented by August 31, 2004.**

CONFIDENTIALITY OF HEALTH INFORMATION

Past Challenges:

For several years this Office has participated actively in CSC's attempt to promulgate a policy that would address the need to protect the confidentiality of health services information. CSC's initial disposition of this matter underlined the distinction between information collected for treatment purposes and that collected to assess risk. In the former case the information would not normally be disclosed, unless it was necessary to do so to protect the offender or another person, or if a statutory obligation required disclosure. In the latter case the

inmate was deemed to have no right to confidentiality as s/he would have been informed of the non-medical purpose of the collection of information before s/he provided it and would have confirmed this in writing. In the past year, however, the Service has apparently revised its position, maintaining that all information on the health services file is the property of CSC and will be disclosed if the CCRA requires this for risk assessment or supervision purposes.

Ongoing Challenges:

We continue to have grave concerns regarding the proper control of health information provided by offenders. If they cannot be assured that this information will only be disclosed with their consent, the willingness of other inmates to seek treatment and to be candid with health care providers could be affected.

Our most recent discussions with Health Services Branch officials have not led to progress. They appear disinclined to adopt any new measures that would enhance protection of health information beyond the measures currently identified in policy. In particular, CSC maintains that it would hesitate to provide new protections where these would

require additional resources or would complicate current procedures involving the use of psychological information in case management.

In our view this conflicts with the principle that medical privacy is a fundamental entitlement that

should be violated only by express, informed consent or when demonstrably justified objectives, such as public safety, necessitate exceptions. Administrative convenience and cost are interests that cannot stand in the way of the basic right to privacy.

I recommend that CSC implement a system that will:

- **place all health information, irrespective of the purpose of its collection, under the custody and control of health service professionals;**
- **require express written consent of offenders before they provide health information to CSC staff for risk-assessment purposes;**
- **prohibit disclosure of health information without the offender's consent except where the disclosure is necessary to prevent serious, immediate harm to an identified person (the same standard that applies to the general public);**
- **provide offenders the opportunity to be apprised of health information that CSC intends to disclose and the opportunity to make representations about the disclosure;**
- **provide offenders with a description of all health information that is disclosed without their consent.**

INFECTIOUS DISEASES

Past Challenges:

In 1996, the Expert Committee on Aids in Prison (ECAP), which was established by CSC, reported on the increasing incidence of infectious diseases. ECAP found the causes of disease to include the use and sharing of contaminated drug paraphernalia and, to some extent, unsafe tattooing practices. By 2003 most of the Committee's recommendations for education, treatment and harm-reduction had been implemented. No progress had been made, however, on the recommendations for setting up authorised safe tattooing locations in institutions and for making clean needles available to inmates for exchange. This Office has repeatedly recommended full implementation of the ECAP recommendations.

Clear issues arise from the fact that non-medical drug use is illegal and a definite security concern within institutions. Moreover, CSC staff voiced concerns that injection and tattooing instruments could be used as weapons.

ECAP's view was that the dangers of disease transmission outweighed legal and security concerns. CSC's Health Services Branch essentially supports this view, as does the 2004 Report on Offender Health of the Canadian Public Health Association² and the 2004 Report of the Canadian Human Rights Commission on federally sentenced women³.

² Canadian Public Health Association. 2004. "A Health Care Needs Assessment of Federal Inmates in Canada", *Canadian Journal of Public Health*, Volume 95, Supplement 1, March/April.

³ Canadian Human Rights Commission. 2004. *Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, Special Report, January.

Positive Developments

CSC's Methadone Maintenance Treatment Program has been functioning relatively smoothly and effectively. While I would prefer that access to the program be provided to a greater number of inmates, I commend CSC for this initiative.

On a further positive note, CSC Health Services Branch will soon implement a pilot project to provide access to safe tattooing in a manner partially paid for by inmates. Numerous features of the plan address safety concerns.

Ongoing Challenges

There remains no movement on needle exchanges despite ongoing indications, both in Canada and abroad, that underline the health advantages of such programs.

The essential facts remain that:

- interdiction of drugs and drug paraphernalia, albeit an extremely important objective, has not succeeded in eliminating illicit drug use;
- the prohibition of drug injection, and the resulting clandestine use of scarce injection tools, have resulted in great harm.

I recommend that:

- **CSC introduce, before March 31, 2005, a safe needle exchange program based on thorough consultation with medical and security experts, offenders, CSC staff and concerned community organizations.**
- **failing a positive response from CSC, the Minister direct the introduction of such a program.**

USE OF ISOLATION IN MENTAL HEALTH TREATMENT

Past Challenges:

We were concerned that the use of isolation for treatment purposes (behaviour modification) might be occurring without proper regard for the patient's right to consent to such procedures in full

knowledge of the consequences of the refusal. As well, we sought assurances that the use of isolation complies with the rules governing administrative segregation where applicable.

Ongoing Challenges:

CSC has implemented a protocol that addresses our previous concerns in this area. All inmate patients

(and their representatives) and health services staff are informed of the terms of the protocol.

INMATE ACCESS TO COMPUTERS

Past Challenges:

Last year, based upon its review of reports on a series of incidents involving misuse of in-cell computers, CSC decided to prohibit the further introduction of computers to individual cells. The Service recognized the importance of inmate access to computers, however, and stated its intention to make computers in designated areas outside cells available for inmate use. These areas would be supervised and would make use of equipment that was secure from misuse.

Inmates, this Office and a number of community stakeholders voiced concerns about the necessity for the measures taken and the serious impact of reducing access to computers on offender programs, reintegration and personal uses (e.g. litigation or recreation). Providing sufficient outside-of-cell computers has proved extremely problematic for CSC. Far fewer computers are currently available than would be necessary for adequate inmate access.

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Positive Developments

At the behest of a number of stakeholders the Senior Deputy Commissioner mandated a facilitated discussion aimed at maximizing inmate access to computers while maintaining security. The discussion took place at Kingston Penitentiary on March 26, 2004. Participants included senior staff from CSC National Headquarters, representatives of prisoner advocacy organizations, institutional managers and staff, our own General Counsel and, most importantly, inmates from Kingston Penitentiary, Joliette Institution for Women and Matsqui Institution.

The discussion resulted in the formation of a working group, composed of representatives from all the sectors at the March 26 meeting. The mandate of this group is to provide tangible, early solutions that will permit broad access to computers for all inmates in a safe and secure fashion.

It is expected that the group will submit recommendations on an ongoing basis and that solutions will be implemented during the current fiscal year.

Ongoing Challenges

Optimizing access to computers pending new developments arising from the facilitated discussion will be difficult.

CSC has to monitor any tendencies to “overzealous” supervision and confiscation of currently existing in-cell computers.

The supply of computers for centralized use shows no sign of growing sufficiently to meet needs, as more and more offenders enter the system without access to their own computer. Pressures on the current use of institutional computers for programs and employment will increase.

I recommend that:

- the solutions proposed by the working group be prioritized for implementation, so that the matter may be substantially resolved in the current fiscal year
- these solutions include providing effective access to all inmates who wish to acquire computer skills and to benefit from the information technology of the 21st century.

THE ION SCAN AND OTHER NON-INTRUSIVE SEARCHES OF VISITORS

Past Challenges:

This Office had received many complaints from inmates and visitors about inaccurate results of visitor ion scan testing. As well, great concerns were expressed that visits were being restricted or suspended based purely on the results of the test—without any corroborating information to indicate that a visitor might introduce drugs. CSC agreed that the matter deserved review, at least with respect to the fairness of ion scan procedures and the adequacy of risk assessments on which decisions to restrict visits were being made.

CSC and this Office agreed to hold a facilitated discussion of the issue. This discussion was held at Matsqui Institution on October 14-15, 2003. The discussion was attended by a wide range of CSC managers and staff from the institution and from National Headquarters, as well as a representative from this Office, experts from the company supplying the ion scan technology, and inmates. The discussion centred on the case of a Matsqui inmate and his spouse whose problems with the system had given rise to a third-level grievance.

Positive Developments

As a result of the discussion the Correctional Service agreed to promulgate new policy guidelines to clarify how ion scan testing and resulting threat risk assessments and visit decisions should be conducted. The procedure was based in great part on a document that inmates at Matsqui had drafted to ensure fairness and accuracy in arriving at visit decisions. Under the procedures any restrictions on visits would be proportionate to the degree of risk disclosed by a complete review of the circumstances, including the views of the visitor involved.

CSC also agreed to review the effectiveness of the ion scan and of all other forms of non-intrusive searches—principally drug dogs and metal detectors. This will take place in the coming year and our Office is to be consulted on the terms of reference.

Ongoing Challenges

The promulgation of the new procedures has been delayed because CSC wishes to complete a thorough consultation process. Implementation is not anticipated before July 2005. We consider this an unnecessarily protracted process, given the consultation and planning that has already occurred.

In any event, once the policy is implemented, the challenge will become to ensure that all CSC staff comply substantially with the rules. My staff will monitor this process carefully and closely review any concerns raised by inmates and their visitors.

As to the evaluation of the effectiveness of non-intrusive searches, the key will be to ensure that such mechanisms disclose the reasonable belief that is the required basis for any decisions restricting visits. Moreover it will be necessary to demonstrate that the intrusion on personal privacy occasioned by these measures, and the expense of implementing them, produce commensurate results in restricting the flow of drugs into penitentiaries.

I recommend that CSC implement its new ion scan procedures and conduct its review of the effectiveness of non-intrusive searches by the end of December 2004.

FILES IN PROGRESS



Work is proceeding on a number of issues that we introduced in last year's Annual Report but remain in the preliminary stages of development.

1. Consultation on Human Rights, Independent Review and Accountability in the Canadian Corrections System

We have finalized our discussion paper. Broad distribution of the paper will take place in the summer of 2004. Stakeholders are invited to provide written comment by the end of October 2004. The Office will be holding bilateral discussions with both individuals and groups. There will be a consultation meeting of interested parties by the end of calendar year 2004 to assist this Office in formulating a final position on these matters.

A copy of the discussion paper can be accessed at www.oci-bec.gc.ca.

2. Maximum Security Units

CSC has only recently begun to implement its Integrated Correctional Intervention Strategies, which are intended to encourage and support the progress of maximum security inmates toward program participation and eventual movement to lower security. We will be reviewing the success of these ventures and, in particular, monitoring how they affect the restrictiveness of the custody of the inmates involved. We hope to meet with CSC management by the end of this year for an overall review. In the meantime our investigators at the institutions involved will make this a permanent item on the agenda of their meetings with Wardens and with inmate representatives.

3. Elderly Offenders

Elderly offenders represent a large and growing special needs group within the inmate population. The Correctional Service finalized a comprehensive review in the spring of 2001 which identified a wide range of areas that needed to be addressed so

as to reasonably meet the needs of this population. We received a commitment from CSC last year that issues associated with accommodation, palliative care, reintegration options and program development would be further reviewed.

The Canadian Journal of Public Health in its March/April 2004 edition published A Health Care Needs Assessment of Federal Inmates in Canada. It was noted that there had been a 60 percent increase in the number of inmates aged 50 and over with an 87 percent increase in those 65 and over since 1993. The Report underlines the requirement for greater information on and specific attention to the health care needs of this growing segment of the inmate population.

I recommend that CSC in responding to the Health Care Needs Assessment of Federal Inmates in Canada develop a specific action plan focused on addressing the identified needs of Elderly Offenders.

4. Cross-Gender Monitoring Project

CSC initiated the Monitoring Project in 1997 in response to a series of recommendations from the Arbour Commission of Inquiry. The identified objectives of the project were to assess the systemic impact of cross-gender staff in federal women's institutions, to identify operational and policy issues, and to make recommendations for improvement.

The third and final Annual Report of the Cross-Gender Monitors was released in April of 2001. At the time of the release CSC indicated that it would be "further analyzing the rationale and research supporting the recommendations made by the Monitors and would undertake consultations with interested stake holders and other government departments, prior to finalizing its response to the report."

Despite numerous undertakings by CSC over the past three years, a final response to the report's recommendations has not been forthcoming.

A copy of the Report may be found at http://www.csc-scc.gc.ca/text/prgrm/fsw/gender3/toc_e.shtml.

We were advised in February of this year that “managers in the women’s facilities were currently completing the Cross-Gender Matrix and Guidelines, on a weekly basis and will do so for approximately 6 months. Staff from the Women Offender Sector will also visit each site and complete interviews with supervisors regarding this issue. Once we have completed this project and have made a determination regarding this critical issue, the Correctional Service of Canada will respond to the Cross-Gender Monitor’s Final Report.”

It has now been in excess of three years since the release of the report.

I recommend that:

- **CSC’s response to the 2001 Report of the Cross-Gender Monitors be finalized and publicly released by September 2004**
- **consultation with interested stakeholders and other government departments on CSC’s response be initiated by October 2004.**

5. CSC Non-Smoking Policy

CSC has introduced a draft policy whose ultimate purpose could be to eliminate smoking from all buildings inside institutions. The focus of this proposal is on addressing health issues arising from smoking, including second-hand smoke. We have been participating in the working group devising this policy and have ourselves been consulting inmates on the subject.

We are very conscious of the negative effects of smoking on offenders, staff and institutional visitors (including our own investigators). The matter is a workplace safety and health problem that has traditionally been resolved by courts and administrative bodies in favour of the workers, without giving great credence to the purported “rights” of smokers.

In a prison, however, other issues need to be examined.

For one, a prison is the home of its residents. Even if the law has been reluctant to accept the privacy of inmate living space the question remains, as a function of policy, whether certain privileges should attach to an inmate’s living space if this can be done in keeping with the rights of non-smokers.

Secondly, the effect of the prohibition of smoking on institutional stress and conflict levels must be considered.

Thirdly, as a matter of fairness, there will be issues of the relative access of some inmates (e.g. those in segregation) to outside smoking areas.

6. Aboriginal Gangs

There is a consensus that the presence of Aboriginal gangs in institutions, particularly in the Prairie Region, had caused great problems for the inmates affiliated with gangs, for other inmates and for effective population management, operations and reintegration planning in the institutions involved.

The problem assumes a greater dimension given that (as the name implies) it impacts Aboriginal offenders in yet another negative way. Moreover, the negative effect on younger offenders, who are confined to institutions without specific programming to address their needs as young adults, is all the more pronounced.

We have seen some encouraging developments in programming and in population management that address this problem—most recently at Edmonton Institution, where a special project has thus far succeeded in “opening” the population for safe interaction among gangs and other inmates, and a treatment program focussing on gang members has shown some positive results.

Despite such positive developments much work needs to be done and we look forward to working with CSC on these issues.

FOCUS ON MENTAL HEALTH



What We Know:

- Inmates have substantially higher prevalences of mental disorders compared with the general public; rates of most disorders are higher in female than in male inmates;
- The majority of inmates suffer from a substance abuse disorder and in many cases, their substance use contributed to committing the crime that resulted in their incarceration;
- Suicide rates in inmates are substantially higher than in the comparably aged general public and are higher than those observed in prisons in several other countries.

This excerpt is from the recent report of the Canadian Public Health Association *A Health Care Needs Assessment of Federal Inmates in Canada*.⁴ The study had been commissioned by CSC and appeared in the March/April edition of the *Canadian Journal of Public Health* (www.cpha.ca/english/cjph/cjph.htm).

The study confirms the findings of a number of stakeholders, including, but not limited to, this Office and the Correctional Service: prisons house a disproportionate number of persons in need of mental health treatment, especially women.

It is particularly regrettable that the study also confirms the view of many observers—supported in CSC’s own ongoing review of its mental health facilities—that the treatment available to inmates with mental disorders is inadequate to the task of preparing them for safe release into the community.

In last year’s Annual Report we anticipated, with great interest, the results of CSC’s review of the role of regional treatment centres and of the effectiveness of mental health assessment and treatment. As of this writing, most of the review’s findings have been compiled, and CSC’s Health Services Branch is about to forward its findings and recommendations to the Executive Committee.

I find that the preliminary outcomes of the review disclose an urgent need for action on a number of fronts.

- mental disorders must be diagnosed quickly and accurately when offenders enter the federal system, so that they may be admitted to institutions offering programs that will meet their needs.
- Mental health units must be established in medium- and maximum-security institutions with a full complement of qualified staff in order to provide appropriate, though less comprehensive treatment than what is available at CSC’s regional psychiatric treatment hospitals.
- Inmates housed in the Special Handling Unit must be afforded appropriate mental health assessments and treatment.
- A broader range of pathologies must be addressed than has been the case to date—including, for example, disorders related to impulse control, fetal alcohol syndrome and substance abuse.
- Mental health treatment facilities must be accredited in accordance with provincial mental health treatment delivery standards.
- Some facilities, such as the Regional Treatment Centre in Kingston, Ontario and the Shepody Treatment Centre in Dorchester, N.B., are hindered in their ability to provide adequate treatment to inmates because of their physical configuration and should be replaced by appropriate facilities.
- There is an urgent need for liaison between CSC and community organizations so that continuity of treatment and support will be extended to offenders on release.

In the coming year this Office will work with CSC towards addressing the needs of offenders in this area. I am aware that financial and human resource commitments are necessary to this end and we will be supportive of CSC’s efforts in securing these resources.

⁴ Canadian Public Health Association. 2004. “A Health Care Needs Assessment of Federal Inmates in Canada”, *Canadian Journal of Public Health*, Volume 95, Supplement 1, p. S48, March/April.

CONCLUSION

This has been a productive year. Although we remain at odds with the Correctional Service of Canada on the appropriate resolution of some issues associated with Health Care, Women and Aboriginal Offenders, the Service has stepped forward and initiated significant change in a number of longstanding areas of concern. Substantive policy and operational changes have occurred in the areas of Investigations, Use of Force and Allegations of Harassment and Staff Misconduct. The Service has as well undertaken to continue its review and evaluation of issues associated with Younger Offenders, the Inmate Grievance Procedure, Inmate Injuries and Institutional Violence. In addition two mediated consultations occurred with respect to the Service's policies and procedures related to Inmate Access to Computers and Visitor Screening. This process has opened an encouraging avenue of redress for offender concerns involving not only the Service and this Office but as well inmates and interested third parties.

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

Operationally, we have again this year, within a limited resource base, managed nearly seven thousand offender complaints. The intake and investigative staff have addressed approximately three thousand of these complaints through an immediate response (provision of information, advice or a referral) with the remainder resulting in the initiation of an inquiry or investigation. A specific detailing on the areas of complaint and dispositions are provided in the statistics section of this Report.

The investigative staff conducted both announced and unannounced visits at each federal correctional institution over the course of this year. They collectively spent in excess of four hundred working days at the institutions, conducted more than twenty-five hundred individual interviews with federal offenders and met regularly with inmate committees at every institution in the country.

The Coordinator of Use of Force, in addition to managing a process that reviewed some one thousand Use of Force incidents has established a regular briefing and consultation process with each of the regions to assist in the development of a consistent evaluation procedure for Use of Force incidents.

Our Coordinators for Women and Aboriginal Corrections, in addition to their review of individual and systemic complaints, have maintained an on-going liaison with government and non-government agencies active in the areas of Aboriginal and Women's criminal justice and human rights issues.

The General Senior Policy Advisor/Counsel, at the national level, has effectively managed a process which ensures that the position of the Office on issues directly impacting on inmate rights and entitlements are given consideration by the Service during the course of their policy development and review.

The Directors of Investigation in support of our investigative process have established reporting and consultation structures at the regional and national levels to ensure that unresolved and on-going areas of concern are referred to the Service's senior management in a timely fashion.

The key to the Office's operations is our staff. I will take this opportunity on behalf of myself and my predecessor, to publicly acknowledge and thank the staff for their dedication and professionalism in managing what is at times an overwhelming workload. Their commitment to fairness and reason in addressing offender concerns is the cornerstone to maintaining an accessible, independent avenue of redress. It is as well the base from which recommendations to the Commissioner and Minister are developed. Their contribution is immeasurable.

STATISTICS

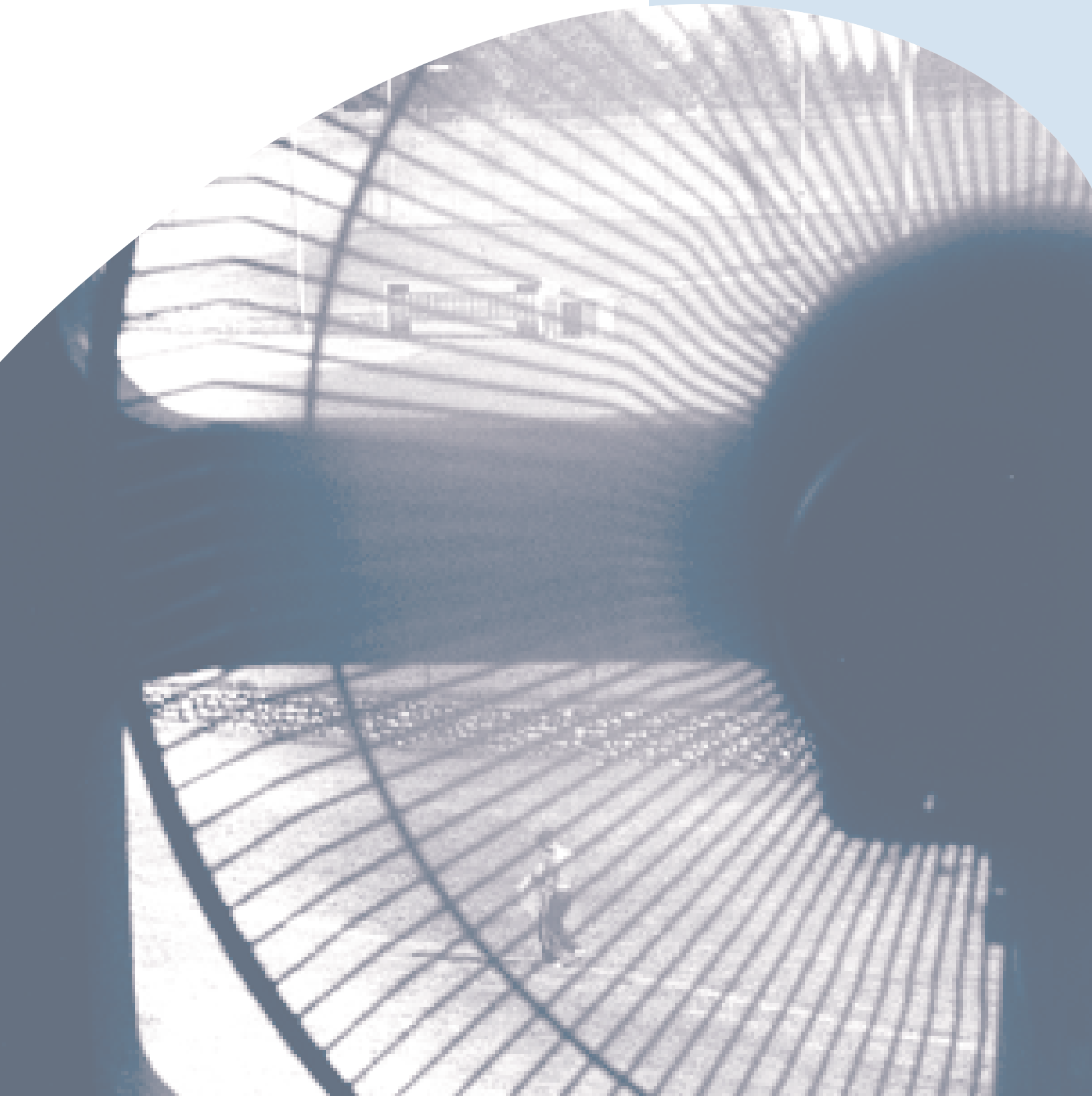


TABLE A
CONTACTS ⁽¹⁾ BY CATEGORY

CATEGORY	CASE TYPE		TOTAL
	I/R ⁽²⁾	INV ⁽³⁾	
Administrative Segregation			
Conditions	19	85	104
Placement/Review	94	181	275
Total	113	266	379
Case Preparation			
Conditional Release	63	76	139
Post Suspension	8	15	23
Temporary Absence	21	26	47
Transfer	44	42	86
Total	136	159	295
Cell Effects	176	296	472
Cell Placement	41	86	127
Claims Against the Crown			
Decisions	21	15	36
Processing	33	28	61
Total	54	43	97
Community Programs/Supervision	3	5	8
Conditions of Confinement	130	224	354
Correspondence	34	49	83
Death or Serious Injury	7	8	15
Decisions (General) - Implementation	17	22	39
Diet			
Medical	13	29	42
Religious	11	14	25
Total	24	43	67
Discipline			
Independent Chairperson Decisions	5	6	11
Minor Court Decisions	9	4	13
Procedures	22	23	45
Total	36	33	69
Discrimination	12	17	29
Employment	50	70	120
File Information			
Access - Disclosure	45	80	125
Correction	93	54	147
Total	138	134	272

TABLE A (cont.)
CONTACTS ⁽¹⁾ BY CATEGORY

CATEGORY	CASE TYPE		TOTAL
	I/R ⁽²⁾	INV ⁽³⁾	
Financial Matters			
Access	27	54	81
Pay	48	48	104
Total	75	75	185
Food Services			
	23	31	54
Grievance Procedure			
	103	177	280
Health and Safety – Worksite			
	8	11	19
Ion Scan			
	8	5	13
Health Care			
Access	110	371	481
Decisions	77	192	269
Total	187	563	750
Mental Health			
Access	7	20	27
Programs	3	3	6
Total	10	23	33
Methadone			
	19	47	66
Official Languages			
	5	4	9
Operation/Decisions of the OCI			
	48	11	59
Penitentiary Placement			
	29	34	63
Programs			
Access	59	108	167
Quality/Content	12	23	35
Total	71	131	202
Release Procedures			
	27	27	54
Request for Info			
	117	-	117
Safety/Security of Offender(s)			
	56	103	159
Search and Seizure			
	40	44	84
Security Classification			
	73	101	174
Sentence Administration – Calculation			
	20	27	47
Staff Responsiveness			
	242	188	430
Telephone			
	47	118	165
Temporary Absence Decision			
	26	73	99

TABLE A (cont.)
CONTACTS ⁽¹⁾ BY CATEGORY

CATEGORY	CASE TYPE		TOTAL
	I/R ⁽²⁾	INV ⁽³⁾	
Transfer			
Decision – Denials	109	147	256
Implementation	53	87	140
Involuntary	99	116	215
Total	261	350	611
Urinalysis	9	10	19
Use of Force	13	33	46
Visits			
General	119	246	365
Private Family Visits	46	64	110
Total	165	310	475
Outside Terms of Reference			
Parole Decisions	196	—	196
Other Issues	57	—	57
GRAND TOTAL	2,906	3,986	6,892

(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			
Burnaby	6	0	0
Edmonton Women's Facility	119	11	6
Regional Reception Centre (Québec)	20	4	2
Grand Valley	111	31	7
Isabel McNeill House	9	4	1
Joliette	141	43	9
Okimaw Ohci Healing Lodge	10	0	0
Nova	81	18	5
Regional Psychiatric Centre (Prairies)	33	13	4
Springhill	5	0	0
Total	455	124	34
ATLANTIC			
Atlantic	222	99	15
Shepody Healing Centre	8	3	0
Dorchester	309	81	10
Springhill	124	39	7
Westmorland	28	12	2
Region Total	691	234	34
ONTARIO			
Bath	89	40	8
Beaver Creek	55	18	3
Collins Bay	107	32	6
Fenbrook	195	96	15
Frontenac	52	20	2
Joyceville	234	61	10
Kingston Penitentiary	492	141	15
Millhaven	178	79	9
Pittsburgh	19	18	2
Regional Treatment Centre	52	9	3
Warkworth	254	125	11
Region Total	1,727	639	84
PACIFIC			
Elbow Lake (Kwikwèxwelhp)	5	5	2
Ferndale	30	14	4
Kent	262	72	14
Matsqui	93	10	6
Mission	112	45	9

TABLE B (cont.)
CONTACTS BY INSTITUTION

Region/Institution	Number of contacts	Number of interviews	Number of days spent in institution
Mountain	172	29	9
Pacific & RTC	41	36	5
William Head	44	16	4
Region Total	851	227	54
PRAIRIE			
Bowden	165	68	12
Drumheller	188	68	13
Edmonton	362	133	15
Grande Cache	51	18	2
Pê Sâkâstêw Centre	5	4	2
Regional Psychiatric Centre	94	28	4
Riverbend	4	2	1
Rockwood	15	7	4
Saskatchewan Penitentiary	260	65	6
Stony Mountain	332	104	17
Region Total	1,476	497	76
QUEBEC			
Archambault	119	121	13
Cowansville	184	111	15
Donnacona	165	56	15
Drummondville	199	131	14
Federal Training Centre	75	39	6
La Macaza	117	129	14
Leclerc	113	23	10
Montée St-François	14	9	3
Port Cartier	342	113	20
Regional Reception Centre/SHU Québec	179	106	12
Ste-Anne des Plaines	27	16	5
Region Total	1,534	854	127
GRAND TOTAL	6,734	2,517	409

TABLE C
COMPLAINTS AND INMATE POPULATION – BY REGION

Region	Total number of contacts ^(*)	Inmate population ^(**)
Atlantic	801	1,222
Quebec	1,737	3,325
Ontario	1,862	3,455
Prairies	1,585	3,032
Pacific	869	1,869
TOTAL	6,854	12,903

(*) Excludes 38 contacts from provincial institutions

(**) As of March 2004, according to the Correctional Service of Canada's Corporate Reporting System.

TABLE D
DISPOSITION OF CONTACTS BY CASE TYPE

CASE TYPE	Disposition	Number of Complaints
Immediate Response	Information given	1,594
	Referral	1,109
	Withdrawn	203
	Total	2,906
Investigation	Information given	1,163
	Not supported	395
	Pending	91
	Referral	942
	Resolution facilitated	1,227
	Withdrawn	168
	Total	3,986
GRAND TOTAL		6,892

TABLE E
AREAS OF CONCERN MOST FREQUENTLY IDENTIFIED BY OFFENDERS

TOTAL OFFENDER POPULATION

Health Care	750
Transfer	611
Visits and Private Family Visits	475
Cell Effects	472
Staff Responsiveness	430
Administrative Segregation	379
Conditions of Confinement	354
Case Preparation	295
Grievance Procedure	280
File Information (Access, Correction and Disclosure)	272

ABORIGINAL OFFENDERS

Health Care	102
Staff Responsiveness	72
Administrative Segregation	58
Conditions of Confinement	54
File Information (Access, Correction and Disclosure)	52
Grievance Procedure	51
Security Classification	51
Temporary Absence – Decision	41
Transfer	40
Cell Placement	39

WOMEN OFFENDERS

Health Care	47
Staff Responsiveness	28
Administrative Segregation	24
Conditions of Confinement	23
File Information (Access, Correction and Disclosure)	21
Grievance Procedure	19
Security Classification	19
Temporary Absence – Decision	18
Transfer	17
Cell Placement	17

**RESPONSE FROM THE CORRECTIONAL SERVICE OF CANADA
TO THE 31ST ANNUAL REPORT
OF THE CORRECTIONAL INVESTIGATOR**

2003-2004

INTRODUCTION

MANDATE

The mandate 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 in the delivery of its service.

APPROACH

Canada's federal correctional system uses research-based approaches, the success of which is internationally recognized. Many of the world's correctional systems are using the research-based tools developed by CSC to assess offender risks and needs.

Criminological research repeatedly demonstrates that the approach outlined in the CCRA—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 short- and longer- term safety of our communities. Offenders who have benefited from targeted interventions are less likely to commit new crimes.⁵

THE CHANGING OFFENDER PROFILE

Aggregate Population

Today, offenders present a broader range of risks and needs than in previous years. They have had more extensive and violent criminal histories as youths and as adults. Ninety percent of male offenders have previously been convicted of adult or youth crimes. Approximately 81 percent have previously committed a violent offence. One in three is serving a sentence of more than 10 years. The number of offenders having characteristics that require classification as maximum security at admission has increased by 50 percent since 1997.

A growing factor in institutional safety and security is the incompatibility between individuals and among groups, partly due to the increase in younger offenders with shorter sentences. The growth in organized crime is reflected in an increase in gang affiliations among the offender population—15 percent in 2003 compared to 12 percent in 1997—and more leaders of organized groups are in federal custody. Gangs and organized crime adapt to law enforcement efforts, as strategic or functional alliances among these groups are common and are increasingly sophisticated.

Most offenders continue to have unstable job histories, low levels of education, a high occurrence of learning disabilities, poor problem-solving skills and difficulties with self-regulation. These factors pose challenges for effective treatment and successful program completion and employability.

Added to these challenges are those pertaining to health. Research has shown that inmates generally have considerably poorer levels of health than do

⁵ J. McGuire, Ed., 1995. *What Works: Reducing Re-offending*, Chichester: John Wiley & Sons.

other Canadians. Of particular importance to criminal behaviour and public health are the continuing high rates among offenders, and the resulting costs, of alcohol and substance abuse (80 percent). Related to these problems are high rates of infectious diseases (e.g. HIV/AIDS [2 percent] and Hepatitis C [25 percent]).

4 Added to these continuing requirements is the recent increase in mental health problems among offenders. This trend adds to the number of residency and long-term supervision orders issued by the courts, with concomitant effects on population management, segregation and statutory releases. At admission, 20 percent have been previously hospitalized in a mental health facility, 11 percent have a current psychiatric diagnosis (an increase of about 70 percent from 1996/97), and 18 percent have been prescribed related medication. Suicide among incarcerated men is almost four times more frequent than among men in Canadian society. There is also an increasing need for chronic and palliative care, given the growing number of offenders serving life and indeterminate sentences.

At the same time, there has been an increase in the number of offenders serving short (under three years) federal sentences. The average sentence length is the lowest in 15 years. Short sentences allow less time for case management and program interventions.

Aboriginal Offenders

Although Aboriginal people make up only 3 percent of the Canadian adult population, they currently account for 18 percent of offenders in institutions and 16 percent of offenders under supervision in the community.

As a group, Aboriginal offenders tend to be younger, 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. Case file records indicate that an extremely high percentage of Aboriginal offenders report early drug and/or alcohol use (80 percent), physical abuse (45 percent), parental absence or neglect (41 percent), and poverty (35 percent) in their family backgrounds. Twenty-eight percent of Aboriginal offenders had been raised as wards of the community and 15 percent had been sent to residential schools. Aboriginal offenders suffer from a higher incidence of health problems.

There is now a trend for courts to impose shorter sentences on Aboriginal offenders as compared with non-Aboriginal offenders.⁶ At the same time, the data indicate that the current Aboriginal offender population is at higher risk to re-offend than their non-Aboriginal counterparts. The challenge of reducing the disproportionate representation of Aboriginal offenders in the federal correctional system, therefore, remains considerable.

Women Offenders

Women make up 4 percent of the federal offender population. Since April 2000 the percentage of women incarcerated for a violent crime has increased by 9 percent (from 242 in 2000 to 264 in 2004). At the same time, the proportion of women serving short sentences (less than three years) has increased significantly, from 30 to 36 percent. Aboriginal women offenders exhibit significantly higher levels of identified needs than non-Aboriginal women.

CHALLENGES

The changing offender profile and sentence lengths have created new challenges for CSC. The following sections discuss each challenge in terms of actions CSC has taken and initiatives that are planned.

⁶ Canadian Centre for Justice Statistics, 2000. *The Over-Representation of Aboriginal People in the Justice System*, June.

Control and Assistance

The changing offender profile requires new strategies for both control and assistance. Control refers to safety and security issues while assistance refers to health and program interventions.

Safety and Security

CSC is introducing a number of additional institutional security measures, particularly in maximum security institutions. These include

- segmenting the maximum security population;
- rotational use of yards;
- structured use of inmate time;
- the addition of Assistant Warden Security Programs positions;
- retraining in use of ion scanners and guidelines for visitors on their use;
- the Climate Indicator Profiling System to identify potential trends that may lead to unrest;
- additional regular planned institution-wide searches;
- enhanced special events security measures;
- an accelerated use of force review process; and
- evaluated intensive support units for substance-abusing offenders.

CSC is enhancing intelligence and information systems by updating the Offender Management System (OMS). CSC is also working with partners in Public Safety and Emergency Preparedness Canada (PSEPC), Justice Canada and justice partners in other jurisdictions to develop a modern intelligence framework and integrated information systems to be able to respond to these new pressures. Finally, CSC undertook a review of the adequacy of maximum security institutions and made initial adjustments to infrastructure where required. Longer-term strategies are being explored.

Health and Program Interventions:

Health – CSC has taken a number of steps to improve the provision of its health services. Specifically, CSC is in the process of getting accreditation for its health services units in

institutions, and a Memorandum of Understanding has been developed with Health Canada to better control infectious diseases. A review of the role of regional treatment centres is underway and consultations have begun to eliminate exposure to second-hand smoke in institutions.

CSC plans to implement a health information system, pilot-test a program of safe tattooing practices, develop an intake assessment strategy for mental health, and develop and implement community mental health strategies with Health Canada and related departments and service providers in other jurisdictions.

Programs – With regard to programs, CSC has introduced interventions for disruptive inmates at maximum security institutions (Integrated Correctional Intervention Strategies and Motivational Behavioural Intervention Strategies). A modularized program delivery approach will assist programming efforts for those offenders serving short sentences. Nine rehabilitation programs have been accredited (three for sex offenders, and three each on substance abuse, and living skills). As well, CSC introduced the Women Offender Substance Abuse Program.

CSC plans to evaluate the violence prevention, sex offender and substance abuse programs; implement the Lifer Orientation Program and as recommended by the Auditor General; increase women's programs available in institutions and the community; enhance women offenders' capacity to secure employment; pursue partnerships with universities for research and development with regard to women's issues; and actively augment community support.

The Correctional Investigator (CI) has noted a number of positive developments that CSC has achieved during the past fiscal year. Specifically, he referred to the recent opening of the fifth regional facility for women offenders in British Columbia and complimented CSC on its national consultation on community initiatives for women offenders in June 2003, which was followed by a series of regional consultations.

Safe Re-entry into the Community

CSC has focussed on improving the potential for offenders' safe transition and long-term reintegration in the community. Specifically, CSC introduced intensive community supervision practices; developed a Community Maintenance Program; expanded its services in 25 employment and employability centres, addressing the needs of about 6000 offenders; and arranged community accommodation alternatives and support services for 300 special needs offenders. CSC has also refocussed Exchange of Service Agreements (e.g. in New Brunswick and Ontario) for seamless correctional service delivery and expanded community service and programming capacity for offenders while under supervision and after sentence completion.

Essential to public safety are communities which offer programs and services to offenders while under supervision and after sentence completion. CSC has, therefore, introduced a focussed approach to transition to the community; increased its focus on establishing inter-regional Citizen's Advisory Committees; and augmented citizen-led Circles of Support and Accountability on release.

CSC is currently reviewing the impact of Statutory Release with Residency. With regard to community supervision, CSC has undertaken a feasibility study of Community-based Security Intelligence Officers, plans to adjust the community management infrastructure for District Directors and has strengthened Memoranda of Understanding with police services.

Reducing the Disproportionate Representation of Aboriginal Offenders

CSC has or is in the process of developing six programs targeted to Aboriginal offenders that deal with healing, family violence, sex offences and substance abuse. Elders and Native Liaison Officers have been engaged to deliver spiritual and cultural services and bridge cultural gaps within institutions. In terms of community capacity building, CSC has

engaged Aboriginal communities in the development of healing lodges (s. 81), hired Aboriginal Community Development Officers to enhance the role of Aboriginal communities in federal corrections (s. 84), and established Aboriginal advisory and working groups to better inform CSC policies and practices. CSC plans to implement its healing lodge and Inuit and Métis action plans in response to research report recommendations.

CSC and its partners agree that there has been very limited progress in developing successful strategies to dissociate offenders from Aboriginal gangs and is committed to working with them to find solutions. The CI has noted encouraging developments in programming and in population management that address the problem of Aboriginal gangs, most recently at Edmonton Institution. Specifically, he highlighted the special project introduced there, which he suggests has succeeded in "opening" the population for safe interaction among gangs and other inmates. The Service will continue to work with the CI on this issue.

CSC plans to implement the newly developed Aboriginal programs and expand Pathways units in all five regions. CSC is planning consultations with specialists with a view to better meeting the needs of Aboriginal women offenders. As well, CSC is exploring options for women's healing units and developing recruitment and retention strategies for Aboriginal nurses.

The CI has noted the progress CSC is making with regard to Aboriginal programs and Aboriginal community capacity-building.

Relationship With the Office of the Correctional Investigator

The CCRA is the legislative framework for CSC's Mission Statement. The Mission reflects Canadians' values, including respect for the rule of law and safe, secure and humane custody. Consistent with the CSC Mission, which speaks to openness and integrity in our accounts to the public via the Minister, CSC is committed to being transparent in its responses to the CI.

To achieve effective solutions to the challenges it faces, CSC requires the engagement of Canadians and key partners, such as the CI, in the development of criminal justice policy. The CI plays a very important role in teaching offenders to resolve problems in pro-social ways, diffusing tensions and ensuring fairness for those inmates serving sentences in Canada's federal prisons. This role directly supports the criminal justice system in general and CSC in particular.

CSC has a unique and close relationship with the CI. Over the past year, meetings were held to

resolve issues of mutual concern, such as ion scan technology and inmate access to computers.

The CI continues to raise concerns that will be addressed in the body of this report. The report presents the CI's recommendations and CSC's responses. CSC's response has been organized by broad categories to afford the reader a more comprehensive view of actions taken in a particular area. As a result, the order of presentation of responses is somewhat different to that used in the CI's report.

SPECIAL NEEDS

ABORIGINAL OFFENDERS

CI Recommendations:

I recommend that:

- **the Minister appoint a Deputy Commissioner Aboriginals specifically responsible for Aboriginal programming and liaison with Aboriginal communities, as a permanent voting member of all existing Senior Management Committees, to ensure an Aboriginal perspective and presence in CSC decision-making;**
- **the Minister initiate an evaluation of CSC's policies, procedures and evaluation tools to ensure that existing discriminatory barriers to the timely reintegration of Aboriginal offenders are identified and addressed. This review should be undertaken independent of CSC, with the full support and involvement of Aboriginal organizations, and report by March 31, 2005.**

CSC Response:

- The Senior Deputy Commissioner of CSC has been assigned accountability for overseeing Aboriginal initiatives within the Service. The issue of having a Deputy Commissioner Aboriginal Initiatives was raised with the leadership of the

Métis National Council (MNC) and the Assembly of First Nations (AFN), for their consideration. Their advice was to invest in service delivery to Aboriginal offenders rather than build bureaucracy.

- The Service has undertaken a number of initiatives to ensure that policies and practices are culturally sensitive and in turn increase the potential for Aboriginal offenders' safe re-entry in communities. CSC has completed an initial comprehensive policy review to identify potential systemic issues.

In addition, CSC has or is in the process of developing six Aboriginal-specific programs addressing, for example, healing, family violence, sex offences and substance abuse. Elders and Native Liaison Officers have been engaged to deliver spiritual and cultural services and bridge cultural gaps within institutions. We have engaged Aboriginal communities in the development of healing lodges (CCRA s.81); hired Aboriginal Community Development Officers to enhance the role of Aboriginal communities in federal corrections (CCRA s.84) and established Aboriginal advisory and working groups (the National Aboriginal Working Group [NAWG] and the Commissioner's Aboriginal Advisory Committee [NAC]) to better inform CSC policies and practices.

CSC plans to implement its healing lodge and Inuit and Métis action plans in response to research report recommendations.

WOMEN OFFENDERS

CI Recommendations:

I recommend that:

- **the Minister mandate the early publication of a “final response plan” on Madame Justice Arbour’s recommendations, followed by a consultation process involving all interested stakeholders;**
- **the Department provide a public response to the Canadian Human Rights Commission recommendations by October 31, 2004.**

CSC Response:

In accordance with the direction of the then Solicitor General, CSC developed an action plan in response to the recommendations of the Arbour Report. The action plan was shared with the CI and approved by subsequent Ministers. With the exception of those handled by the Department of Justice, all the recommendations made by Madame Justice Arbour have been addressed and CSC is continually monitoring to ensure their ongoing relevance.

Examples of such action include the following:

- the DCW reviews complaint and grievance trends on a quarterly basis;
- every three months, the DCW reviews institution-supplied data on women offenders who have passed their parole eligibility date;
- a frontline staffing protocol has been drafted and disseminated to the field;
- statistics on the gender distribution of front-line staff are gathered every four months and compliance to the protocol is reported annually; and
- the DCW holds annual meetings with stakeholders and consults where issues require.

An action plan in response to the Canadian Human Rights Commission(CHRC) Report on Women Offenders will be completed by October 31, 2004.

Meetings have been held with representatives from the CHRC to develop an audit framework together. The Service will consult broadly on our response to their recommendations.

Some of the issues raised by the CI in the past and reiterated by the CHRC include:

- initial security classification;
- security reclassification; and
- assessment process.

The following is an update on initiatives undertaken by CSC related to these issues.

Initial Security Classification

A study was conducted examining the validity of the Custody Rating Scale (CRS) for women offenders. Concerns among stakeholders, however, persist. To address these concerns, Public Safety and Emergency Preparedness Canada is currently reviewing the observations and conclusions of research related to the validity and inter-rater reliability of the CRS as it applies to women and Aboriginal offenders. After concluding its review, the Department will propose further steps if necessary.

Security Reclassification

CSC’s Research Branch has developed a gender-specific security reclassification scale for women (SRSW). The three-year field test was completed in June 2003. Data have been analysed, and the final report will be completed and reviewed by an external panel of academic experts this fall (2004). It is anticipated that, pending approval, the tool will be implemented in late November 2004. Of note, the development and validation of the SRSW included an overrepresentation of Aboriginal women, and separate analyses were performed to ensure applicability to this group.

Assessment Process

CSC co-chaired a working group with the Native Counselling Service of Alberta to examine the applicability of the assessment process for Aboriginal offenders. The meeting was held in March 2003; the

working group consisted of both internal and external stakeholders, and focussed on the offender assessment process, including measures to assess security classification. As well, CSC is revising the offender assessment process to ensure that it is gender and culturally sensitive. The revised process will be ready for consultation with external experts in the field of Aboriginal offender assessment in November 2004.

CROSS GENDER MONITORING PROJECT

CI Recommendations:

I recommend that:

- **CSC's response to the 2001 Report of the Cross Gender Monitoring Project be finalized and publicly released by September 2004;**
- **consultation with interested stakeholders and other government departments on CSC's response be initiated by October 2004.**

CSC Response – Agree in Part:

The Service is in the final stages of completing the response to the Third and Final Report of the Cross Gender Monitoring Project, due December 31, 2004. A Cross Gender Evaluation Matrix was developed to acquire data relating to cross gender issues and practices. Quantitative data were collected over a period of six months (December 2003 – May 2004) in four of the women's facilities.

In addition to the quantitative data collection, site visits conducted in June 2004 focussed on issues related to staffing and the number and extent of complaints related to invasion of privacy and harassment. Interviews were conducted with both primary workers and operational managers in each of the women's facilities.

YOUNGER OFFENDERS

CI Recommendations:

I recommend that:

1. **CSC identify the obstacles to successful reintegration for younger offenders and develop action plans to meet identified problems before the end of 2004;**
2. **these action plans be implemented by March 31, 2005;**
3. **CSC work closely with representatives of other jurisdictions to determine the appropriate venues for provision of needed placements and programs and the best practices for dealing with younger offenders.**

CSC Response – Agree:

As of July 2004, there were 356 younger offenders (20 years old or younger) in CSC institutions and 79 in the community.

1&2. CSC manages younger offenders on a case-by-case basis, considering the offender's age, risk and needs, and in accordance with the CCRA, CCRR and CSC's policies.

Offenders aged 20 and under are a high needs group that are typically serving short sentences. With respect to reintegration efforts, our analysis indicates that in 2002–2003, 624 offenders 20 years of age or younger were enrolled in 1578 programs. Thus 5 percent of the approximately 30,000 program seats filled that year were occupied by younger offenders, who were primarily enrolled in education, substance abuse, and living skills programs. This information indicates that younger offenders are gaining access to programming at a rate that reflects their proportion of the offender population.

Our review also indicates that all major areas of need identified in contemporary criminal justice literature are being addressed with our current menu of programs (e.g., impulsivity, cognitive deficits, pro-criminal attitudes and values, substance abuse, sexual deviancy). The Service's correctional programs incorporate effective treatment techniques and approaches, such as motivational enhancement and structured relapse prevention, that are applicable to all offenders, regardless of age.

3. The CSC maintains a direct link to the current issues and progress regarding youth, (those offenders under the age of 18) via its participation as a member of the Coordinating Committee of Senior Officials – Youth Justice. This committee is part of the Deputy Ministers of Justice Forum. The purpose of this group is to assess progress in implementation of the recently enacted Youth Criminal Justice Act (YCJA). As of the latest meeting held in Montreal in early June 2004, there were no specific issues that required follow-up by CSC.

ELDERLY OFFENDERS

CI Recommendations:

I recommend that CSC, in responding to the Health Care Needs Assessment of Federal Inmates in Canada, develop a specific action

plan focussed on addressing the identified needs of elderly offenders.

CSC Response – Agree:

In fiscal year 2003–04, there were 1748 offenders aged 50 or more, representing 14 percent of the federally incarcerated population.

The report does identify the demographic shift related to age and suggests that those incarcerated late in life for the first time might have distinct characteristics that do not “represent older versions of younger inmates.”

CSC has always provided individualized health care based on an assessment of each inmate's needs. In response to the report, CSC has piloted a specific health assessment form for individual offenders aged 50 or more. In fiscal 2004–2005 this health assessment form is being implemented in all regions. This should help in addressing the health needs of these offenders. The palliative care guidelines have now been developed and implemented across CSC.

POPULATION MANAGEMENT

DOUBLE BUNKING

CI Recommendation:

I recommend that CSC take immediate steps to eliminate double bunking in reception and other non-general population units by the end of fiscal 2004–2005.

CSC Response – Agree in Part:

CSC is continuing to make efforts to eliminate double-bunking within our fiscal framework. In April 2001, the level of double-bunking was at 11 percent and as of January 2004 it was 6 percent, the lowest in three years. This is attributable to a decrease in the overall offender population, an increase in accommodation cells, and more stringent monitoring of the exemption process.

CSC identifies single accommodation as the most desirable and appropriate method of housing offenders. Since the spring of 2001, regions have been required to report semi-annually on their progress in eliminating double-bunking and to request exemptions to the policy in cases where they anticipate requiring the use of double-bunking on an ongoing basis. Exemptions are granted for a six-month period. A national report consolidates the regional requests for exemptions for each six-month period and provides an overview of the national trends in double-bunking.

CSC has introduced a new reporting mechanism that may assist in reducing double-bunking in non-general population units. When Wardens are applying for an exemption, they are required to explain how they will manage their institution's population and the prioritization of where and why double-bunking will occur.

Eliminating double-bunking at reception is difficult given our lack of control of admissions. CSC recognizes the potential risks associated with double-bunking in reception units and continues to be vigilant in its oversight. To mitigate the risk, CSC

is in direct communication with jails with respect to security concerns about individual offenders and has trained staff to be sensitive to these risks. Exchange of Service Agreements with provinces also have resulted in better information-sharing.

No major incidents were reported in reception units where exemptions have been granted for the period of April 1 to September 30, 2004: Springhill Reception, Regional Reception Centre – Quebec, Millhaven Assessment Unit, Edmonton Institution and Bowden Institution.

TRANSFER OF OFFENDERS

CI Recommendation:

I recommend that CSC aim to achieve the following measurable results by the end of 2004:

- 1. reduction to one week of the period during which inmates must await implementation of approved transfers;**
- 2. complete compliance with the statutory period of 60 days between an inmate's transfer request and the resulting decision, even in the case of inter-regional transfers;**
- 3. a 50-percent reduction in the number of inmates who are over-classified and who are in segregation for more than 60 days pending achievement of transfers.**

CSC Response – Agree:

1. CSC agrees in principle with the CI that the time to execute warrants should be reduced. It may not be possible to reduce the waiting period to one week considering, among other things, growing numbers of incompatibilities, bed availability, and availability and cost of transportation. An examination of our transfer data indicates that overall, 68 percent of voluntary transfers are executed within seven

days of the approval of the transfer and 57 percent of involuntary transfers (excluding emergency transfers) are executed within seven days of approval. Approximately 87 percent of all transfers (voluntary and involuntary) are executed within 15 days of approval. Of the remaining, 9 percent are executed between 16 and 24 days, and 4 percent between 25 and 30 days.

2. CSC is monitoring compliance and noted deficiencies must be addressed immediately by institutions where gaps have been identified.
3. In the majority of cases, offenders are accommodated in an institution of a security level that is consistent with their assigned security classification. The Service is examining the population of offenders who are housed in security levels higher than their assigned status and who are in segregation pending a transfer. CSC will identify the size of this population and will look at factors contributing to delays and the status of these transfer requests on a case-by-case basis. CSC is also currently examining the introduction of a regional review process that will focus on finding options for long-term segregated inmates.

CSC POLICY ON CLASSIFICATION OF OFFENDERS SERVING LIFE SENTENCES

CI Recommendation:

I recommend that:

- 1. the policy concerning the security classification of offenders serving life sentences be repealed;**
- 2. the Minister initiate an immediate review on both the legality of the policy and its impact on individual offenders over the preceding three years;**
- 3. in the interim, CSC ensure that a revised review procedure for exemptions to maximum security classifications is implemented by August 31, 2004.**

CSC Response – Agree in part:

1. CSC's evaluation of the policy on *Security Classification of Offenders Serving a Minimum Life Sentence for First or Second Degree Murder* is nearing completion. The Service is assessing the extent to which the policy achieved the outcomes intended and is looking at unanticipated consequences, if any. The report is due October 31, 2004.
2. Given that the implications of implementing the policy are currently being assessed, a recommendation to the Minister would be premature.
3. CSC agrees with the CI and has initiated a review of the exemption procedure of the policy on classification of offenders serving life sentences. The CI participated with CSC in the first stages of this review. This procedure will be implemented by August 31, 2004.

CASE PREPARATION AND ACCESS TO PROGRAMS

CI Recommendation:

I propose to meet with the Chair of the National Parole Board and the Commissioner, on completion of the joint working group's report, to identify what specific actions need to be taken to address these issues.

CSC Response – Agree:

CSC is fully engaged in assessing the implications of the changing offender profile on programming and interventions and welcomes the CI's input in this initiative.

CSC has taken steps to rectify delays and lack of access to programs and temporary absences through a joint review with the National Parole Board (NPB) and the CI. Specifically, the review is attempting to identify the factors that contribute to a delay in

cases being reviewed by the NPB and determine ways to reduce them. The findings and recommendations of the joint review are nearing completion, with the final report expected by August 2004.

In addition to the work of the joint review, CSC has undertaken a number of activities to ensure offenders' needs are more accurately identified and addressed in a timely manner:

- Each operational site has reviewed its inventory of correctional programs to confirm and retain those programs that are currently operational and to delete those programs that are no longer in use;
- All parole officers have reviewed the accuracy of referrals to correctional programs on a case-by-case basis. These reviews are critical to the accurate determination of offender needs and the Service's capacity to deliver correctional programs.

SECURITY

USE OF FORCE

CI Recommendation:

I recommend that:

- 1. CSC implement the recent action plan developed by the Quebec region to ensure compliance with use-of-force procedures before the end of 2004;**
- 2. the quarterly reports currently produced on use-of-force interventions provide more in-depth analyses of the numerical data by the end of 2004;**
- 3. CSC maintain a record of those initiatives implemented to correct systemic shortfalls identified through the analysis of both use-of-force data and the actual reviews.**

MAXIMUM SECURITY UNITS

The CI made no recommendations in this area.

The Service has experienced construction problems with the secure unit in Grand Valley Institution for Women. CSC anticipates the unit will open by August 31, 2004.

Fraser Valley Institution opened on schedule in March 2004. A priority for the Service was to establish the accommodation for the majority of the women who are at the minimum and medium security levels. This institution includes the structured living environment, which is the first element of the Intensive Intervention Strategy. The construction of the secure unit is well underway and CSC anticipates its completion by the summer of 2005.

CSC Response – Agree:

1. The Service has taken several actions vis-à-vis compliance issues in the Quebec Region. These include a review of challenging cases, staff training for situations that could result in use of force, and immediate briefings of senior personnel on problematic issues highlighted by the use-of-force videos. All actions are currently being implemented.
2. Quarterly reports on results on the use of force in institutions are now being reviewed by the Executive Committee. Input from the CI is welcome.
3. The Service has, in recent months, made efforts to address some of the systemic problems identified in the use of force through joint training exercises with several institutions and

through discussions with Wardens and the Assistant Deputy Commissioner, Operations, on best practices. The direct participation and input of the CI representative in many of these efforts is appreciated. The Security Branch will continue to address systemic issues through timely and innovative approaches such as joint training meetings. Results of these initiatives will be used as baseline data for future comparisons. The CI has acknowledged that some positive initiatives are being undertaken to improve overall performance.

STRIP SEARCH POLICY

CI Recommendation:

I recommend that:

- 1. CSC publish its materials related to strip searches by October 15, 2004;**
- 2. CSC develop measures to ensure compliance with the rules set out therein.**

CSC Response – Agree:

1. CSC agrees with the CI that policies governing strip searching are adequate. The Service will be providing a strip searching booklet to staff to enhance the proper application of these policies. In response to recommendations made by the CI, the booklet will incorporate additional direction to staff to assist them in understanding the circumstances and justifications required for authorizing exceptional and emergency searches. The strip searching booklet will be published by October 15, 2004.
2. CSC has a process in place to monitor and evaluate compliance in all aspects of its operations.

THE ION SCAN AND OTHER NON-INTRUSIVE SEARCHES OF VISITORS

CI Recommendation:

I recommend that CSC implement its new ion scan procedures and conduct its review of the effectiveness of non-intrusive searches by the end of December 2004.

CSC Response – Agree:

The Guidelines on the Use of Non-Intrusive Search Tools are expected to be promulgated by the Security Branch by July 31, 2004. Included in this package are:

- a nationally standardized threat risk assessment form;
- letters to inmates and visitors following positive indications and subsequent decisions on visit status;
- a form letter to be provided to all approved visitors. (This letter outlines the search procedures and expectations for visitors and also highlights CSC's drug strategy concerning prevention and interdiction.)

CSC has a process in place to monitor and evaluate compliance in all aspects of its operations.

MONITORING AND INVESTIGATION OF INMATE INJURY AND INSTITUTIONAL VIOLENCE

CI Recommendation:

I recommend that:

- 1. the CSC's investigation process, by the end of 2004, be compliant with the new timelines;**
- 2. all investigative reports into inmate death or major injury be reviewed nationally, and a summary report of the recommendations and corrective actions taken be produced quarterly.**

CSC Response – Agree:

1. Wardens and District Directors must provide an accountability report to the Commissioner and Senior Deputy Commissioner on all significant incidents within 48 hours of the occurrence. The report must include facts, corrective actions and timeframes. This allows the Service to immediately address any gaps in policy or practice following serious incidents.

The Service's revised investigation process, which was implemented in April 2004, requires Boards of Investigation to submit a final report within eight weeks of the signing of the convening order, followed by an extensive consultation at national headquarters to ensure completeness when the report is received. Comments from the consultation are included in the analysis document accompanying the investigation report. As part of the revised process, the investigation reports, with the analysis document, corrective measures and/or action plans, are being distributed in a more timely fashion to the CI and Executive Committee members. The Performance Assurance Sector ensures that the timeframes of this new investigation process are respected.

2. All investigation reports into death or serious bodily injury are being reviewed nationally. A roll-up of the number of investigations convened, including a comparative analysis covering the types of incidents, the types of institutions and the location of the incidents, is being produced on a quarterly basis. This report is shared with the CI.

CSC agrees with the recommendation of the CI to prepare a summary report of recommendations and corrective actions taken following investigations. However, we do not agree that they should be prepared quarterly, since each report is fully reviewed at Executive Committee meetings held every six weeks. These discussions result in immediate actions being taken. Given that considerable time is required to implement and follow up on actions taken, CSC is proposing a semi-annual reporting process. The first report will be available on December 15, 2004.

ABORIGINAL GANGS**The CI made no recommendations in this area.**

CSC is not satisfied with progress to date on dissociating offenders from Aboriginal gangs. CSC is organizing Regional Think Tanks to address issues related to the disproportionate representation of Aboriginal offenders in federal institutions. Outside experts will assist CSC to identify needs, review results to date, set priorities and generate solutions. Gangs will inevitably be one of the initiatives addressed.

INMATE ACCESS TO COMPUTERS*CI Recommendation:***I recommend that:**

1. **the solutions proposed by the working group be prioritized for implementation, so that the matter may be substantially resolved in the current fiscal year;**
2. **these solutions include providing effective access to all inmates who wish to acquire computer skills and to benefit from the information technology of the 21st century.**

CSC Response – Agree:

1. In June 2003, CSC changed its policy regarding inmate-owned computers, given the difficulties in preventing breaches when computers are available in cells. Policy was required to provide offenders access to computers in a controlled environment. The CI, the John Howard Society and the Canadian Association of Elizabeth Fry Societies participated in discussions of strategies to achieve this end.
2. Steps are being taken to ensure that there are computers placed in easily accessible locations, including libraries or program rooms open in the evenings for use by inmates. Certain institutions have installed computers directly in the living

units. Software controls have been installed on these computers to ensure that viruses cannot be introduced, and arrangements have been made to

have staff supervision for areas providing computer access.

HEALTH CARE

CONFIDENTIALITY OF HEALTH INFORMATION

CI Recommendation:

I recommend that CSC implement a system that will:

- 1. place all health information, irrespective of the purpose of its collection, under the custody and control of health service professionals;**
- 2. require express written consent of offenders before they provide health information to CSC staff for risk-assessment purposes;**
- 3. prohibit disclosure of health information without the offender's consent except where the disclosure is necessary to prevent serious, immediate harm to an identified person (the same standard that applies to the general public);**
- 4. provide offenders the opportunity to be apprised of health information that CSC intends to disclose and the opportunity to make representations about the disclosure;**
- 5. provide offenders with a description of all health information that is disclosed without their consent.**

CSC Response – Disagree:

CSC does not agree with the recommendations made by the CI on this issue. CSC protects all health information in accordance with the requirements of the Privacy Act and does not agree that additional systems or measures are required.

1. CSC has a corporate responsibility to protect health and personal information in its care, regardless of where it is stored. This is reflected in our policies. It would be neither effective nor efficient to transfer all health information to the custody and control of only health service personnel.

Access to necessary information by those with a need to know works best when information is organized according to the purpose for which it was collected. Offenders commonly enter CSC with health information that has been gathered by health professionals, and perhaps others, on orders of the court, or in some other way. This health information is normally found on case management files. It is considered to be protected and is confidential as mandated by the provisions of CD 803, the CCRA, and the Privacy Act.

2. CSC must obtain an offender's consent for all medical and mental health procedures or treatment, participation in research and for the sharing of health care information, except in some specific circumstances as prescribed by law. Consent must be informed, meaning the offender must have a clear understanding of the nature of the procedure and be fully apprised of the possible results and risks associated with the procedure.

CSC does not agree with the CI's recommendations that express written consent be obtained from offenders before they provide health information to CSC staff for risk-assessment purposes.

CSC believes that the following paragraphs of CD 803 address the CI's recommendation:

(Paragraph 2)

The consent of the offender must be obtained for:

- a) *all medical procedures;*
- b) *all mental health procedures, including psychiatric and psychological assessment and treatment;*
- c) *involvement or participation in any form of research, and*
- d) *the sharing of health care information, except as provided for in this directive and in relevant legislation.*

(Paragraph 3)

Notwithstanding paragraph 2b, even if an offender refuses to consent to an assessment, in the interest of public safety, a risk assessment will be done based on available information.

(Paragraph 4)

Consent shall be voluntary, informed and specific to the assessment, treatment or procedure.

(Paragraph 13)

An offender who consents to a psychiatric or psychological assessment or treatment for case management purposes shall be considered to have also consented to release the results of that assessment or treatment to the appropriate case management personnel.

(Paragraph 14)

All information relevant to release decision-making or to the supervision or surveillance of offenders in the institution or the community shall be provided to the offender's case management officer whether or not the offender has consented to the release.

(Paragraph 15)

The confidentiality of the offender's information shall normally be maintained when the information is related solely to therapeutic matters and is not relevant to risk assessment or case management issues.

3. Health professionals' codes of ethics require that health information be held secure and confidential unless there is a serious or immediate risk to some person, in which case the security considerations override the mandatory protection

of personal information. This is true in clinical practice in the community as well as in the correctional system. CSC respects all aspects of the Privacy Act.

At every step during the case management process, the offender is advised of information to be shared with the NPB or the case management team, including health information. The offender has an opportunity to respond to the disclosure. However, if the information is part of a decision-making recommendation, it will not be withheld.

This is addressed in CD 803, paragraph 17:

Information shared without the consent of the inmate shall only be provided to those persons who have a need-to-know. Such disclosure shall be documented on the offender's file and the offender notified of the disclosure unless to do so could jeopardize the safety of any person.

4. Health information is not disclosed without an offender's consent unless it is related to risk. In these cases, the provisions of CD 803 apply and such disclosures shall be documented on the offender's file and the offender notified of the disclosure unless doing so could jeopardize the safety of any person.

An internal audit focussing on privacy of information will be conducted in the 2004–2005 fiscal year. CSC will ensure that this audit include the issue of confidentiality of health information.

CSC proposes a meeting to clarify specific outstanding concerns of the CI.

INFECTIOUS DISEASES

CI Recommendation:

I recommend that:

1. **CSC introduce, before March 31, 2005, a safe needle exchange program based on thorough consultation with medical and security**

experts, offenders, CSC staff and concerned community organizations;

- 2. failing a positive response from CSC, the Minister direct the introduction of such a program.**

CSC Response – Agree to explore:

CSC's infectious diseases control program is based on a public health approach, which includes preventive services such as health education, voluntary screening for early detection and treatment of infection, and harm reduction programs (i.e. programs to reduce the harm associated with drug use) to help reduce the transmission of infectious diseases within the correctional setting.

Harm reduction initiatives, which are implemented in all facilities, include the availability of condoms, dental dams, water-soluble lubricants and bleach, as well as a methadone maintenance treatment program.

1. Given the considerable controversy around the issue of safe needle exchange, a good deal of consultation will be required to develop strategies to gain public acceptance. We welcome input from the CI.
2. CSC is piloting safer tattooing practices under controlled health and security conditions. The CSC Safer Tattooing Practices Pilot Initiative will

be an additional harm reduction measure to minimize the negative consequences associated with illicit tattooing practices. Objectives of the initiative are to:

- minimize the transmission of infectious diseases in the inmate population and to the community at large;
- minimize the risk of CSC staff injuries;
- promote health and wellness while maintaining security.

The pilot, which will be conducted in six sites, will begin this fiscal year 2004–2005. Evaluation of this project will contribute to knowledge regarding the feasibility and effectiveness of harm reduction initiatives.

FOCUS ON MENTAL HEALTH

The CI made no recommendations in this area.

The report of the National Treatment Centre Review Committee has been accepted by CSC. The Service acknowledges that a significant amount of work is required to develop the mental health continuum of care internally and in the community. CSC will engage in developing partnerships with other federal government departments, provincial correctional and community health service stakeholders with a view to responding to the needs of mentally disordered offenders.

REDRESS

ALLEGATIONS OF HARASSMENT AND STAFF MISCONDUCT

CI Recommendation:

I recommend that:

CSC closely monitor the implementation of the revised process for addressing harassment and staff misconduct complaints and initiate an evaluation of its effectiveness, to be completed by March 2005.

CSC Response – Agree:

CSC has developed tools as well as a clear process and procedures to ensure the effective handling and monitoring of grievances containing allegations of harassment. An automated suite of reports, updated every 24 hours, is accessible via RADAR to the offender grievance community and to the CI. This ensures that we are all reviewing the same information. Through these reports, staff can drill down to the offender level, accessing all relevant records directly through RADAR, ensuring consistency and accuracy of information obtained. An automated information review process is being implemented to provide for the ongoing monitoring of trends in harassment grievances. An internal assessment of our process should be completed by March 2005.

INMATE GRIEVANCE PROCEDURES

CI Recommendation:

I recommend that:

- 1. CSC make timeliness of grievance responses a priority for all senior managers with any involvement in the process;**
- 2. before the end of 2004, CSC identify and provide the human resources necessary to assure timeliness on an ongoing basis;**

- 3. CSC ensure that the publication of all previously agreed-upon quarterly reports on grievances be instituted and that these reports be considered part of the agenda of all institutional and regional management committee meetings, as well as of CSC Executive Management Committees.**

CSC Response – Agree:

1. CSC is currently reviewing the manual and all of the grievance-related processes to improve timelines of responses. CSC developed a support tool for offender grievances at the third level to ensure the consistency, quality and timeliness of responses, which will be available to regions and institutions by September 2004.

We have also sent policy clarifications to management, staff and offenders in the form of letters and memos from the Senior Deputy Commissioner whenever necessary.

In an attempt to improve the timeliness of responses and to resolve issues at the lowest possible level, CSC plans to maximize the use of mediation in institutions.

The Rights, Redress and Resolution Branch has developed a survey for staff, offenders and stakeholders concerning mediation, outside review boards and institutional grievance committees. Its objective is to determine the value added and drawbacks of these alternatives to the redress process. A report is due by December 2004.

2. CSC is undertaking a human resource capacity review within the offender redress process.
3. CSC will ensure the production and availability of quarterly bulletins and will post them on the Infonet for access by all CSC staff and managers. An automated process for the timely production of these reports is being developed.

POLICY DEVELOPMENT

INMATE FINANCES

CI Recommendation:

I recommend that:

- 1. CSC immediately review inmate pay levels, access to employment and availability of funds on conditional release, and produce action plans to address these issues before December 31, 2004;**
- 2. a telephone system with rates comparable to those in the community be in place by March 31, 2005.**

CSC Response – Agree in part:

1. CSC agrees with the CI's recommendation to conduct a review of the policy governing inmate pay levels and access to employment and availability of funds on conditional release and to produce action plans to address these issues. The review will be completed by March 31, 2005.
2. CSC's Technical Services Branch is currently negotiating a contract with a service provider, but before this process can be finalized, it must have its rates approved by the CRTC.

CSC NON-SMOKING POLICY

The CI made no recommendations in this area.

As a result of the growing evidence of the negative health effects of exposure to second-hand smoke, the CSC announced a consultation process on a proposal

to eliminate exposure to second-hand smoke inside federal institutions. The consultations will focus on addressing a number of issues, including how minimizing exposure to second-hand smoke for staff and inmates should apply to those with limited access to the outdoors, in such situations as maximum security institutions, suicide watches, Special Handling Units and protective custody. CSC's intent is to pursue this objective with due attention to its obligations to provide a healthy environment for those living and working in the federal correctional system.

CONSULTATION ON HUMAN RIGHTS, INDEPENDENT REVIEW AND ACCOUNTABILITY IN THE CANADIAN CORRECTIONS SYSTEM

The CI made no recommendations in this area.

In response to the CI's paper on Independent Review, PSEPC is taking the lead on the policy review of Independent Adjudication for Administrative Segregation.