

ISO

INVESTIGATIONS & STANDARDS OFFICE

2013 Annual Report

This Annual Report summarizes the work of the Investigations and Standards Office from January 1 to December 31, 2013.



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History and Mandate

The Investigations and Standards Office ISO (ISO or the Office) was established in January 2010 with the proclamation of the new *Corrections Act* and *Regulations*. The Office's mandate is to provide independent oversight of the Corrections branch of the Yukon Department of Justice through investigations and inspections.

Key responsibilities of the Office include:

- ▷ Periodic inspections of the Whitehorse Correctional Centre (WCC).
- ▷ Reviews of inmate discipline upon appeal.
- ▷ Reviews of complaints made by inmates or those on probation.
- ▷ Investigations.

The Director of ISO may investigate any matter with respect to the administration of the *Corrections Act* at the request of the Assistant Deputy Minister (ADM) of Community Justice and Public Safety (CJPS) or on the Director's own motion. The Office also facilitates training and orientation sessions for Corrections Officers and new Hearing Adjudicators on the disciplinary system and the role and mandate of the Office.

ISO's mandate does not include:

- ▷ Conducting criminal investigations.
- ▷ Investigating complaints regarding police.
- ▷ Investigating complaints about the medical treatment received from a physician.
- ▷ Investigating complaints about federal corrections or parole decisions.

The Director of ISO reports findings and recommendations from investigations and inspections to the Deputy Minister of Justice. The Deputy Minister must respond to ISO recommendations with information on the actions taken by Corrections within 90 days of receiving ISO's report.

The Office includes the Director, Senior Investigator, three Investigators and an Intake Analyst.

Mission, Values and Service Standards

MISSION

ISO's mission:

- ▶ Provide independent oversight of Corrections by carrying out investigations and inspections;
- ▶ Ensure a timely, fair and impartial review mechanism for inmate complaints and appeals of inmate discipline; and
- ▶ Make recommendations to improve policies, procedures and correctional practices.

VALUES & SERVICE STANDARDS

- ▶ **Impartiality and timeliness** - ISO is committed to examining all complaints and appeals from an impartial and objective perspective. ISO will respond to requests within statutory timelines and with urgency where critical issues of safety or deprivation of liberty are involved.
- ▶ **Investigative excellence** - Members of ISO maintain all competencies, knowledge and qualifications required to carry out the work of the Office. Members of ISO will ensure a high standard of vigilance, professionalism and thoroughness in carrying out all investigations.
- ▶ **Constructive engagement** - ISO will work constructively with the Corrections branch to ensure effective administration of the *Corrections Act* and *Regulations*.

ISO Caseload

From January 1 to December 31, 2013, ISO received 114 complaints and inquiries; 62 appeals of disciplinary hearings; and conducted one inspection and one investigation on the Director's own motion.

Table 1 - ISO Caseload 2010-2013

ISO Caseload	2010	2011	2012	2013
Complaints	71	57	106	90
Inquiries	6	7	16	24
Appeals	26	35	41	62
Special Investigations ¹	0	2	2	1
Inspection	0	1	0	1

The following table captures the number of admissions to WCC from 2010-2013 by type of admission. Generally, there will be some correlation between complaint caseload and inmate population; however, other factors can affect ISO's caseload such as repeat complainants.

Table 2 – WCC Admissions 2010-2013

WCC Admissions	2010	2011	2012	2013
Remand	372	451	518	508
Sentenced	244	242	286	254
Other	29	16	18	31
Total	645	709	822	793

¹ Special Investigations include investigations ordered by the Assistant Deputy Minister, Community Justice and Public Safety or on the Director's own motion.

From January 1 to December 31, 2013, Whitehorse Correctional Centre received 570 inmate complaints. The table below represents the total number of complaints received by WCC and the percentage of those complaints where the inmate was not satisfied and requested an ISO review.

Table 3 – WCC Internal Inmate Complaints

	2010	2011	2012	2013
Internal Complaints through WCC	N/A	330	490	570
% of internal complaints that went to ISO	N/A	17%	22%	16%

1. COMPLAINTS

Complaint systems within a correctional centre play a very critical role. The complaint system helps to support the effective management of inmates in custody by addressing issues before they escalate; moreover, an inmate's right to seek redress of legitimate complaints allows for issues to be brought forward which may affect inmate rights as enshrined in the *Corrections Act* and *Regulations*. Over the past thirty years, in Canada there have been numerous judicial reviews following disturbances in correctional centres where a contributing factor was a complaint system which was perceived as inaccessible, unfair and ultimately ineffective at addressing any inmate grievances.

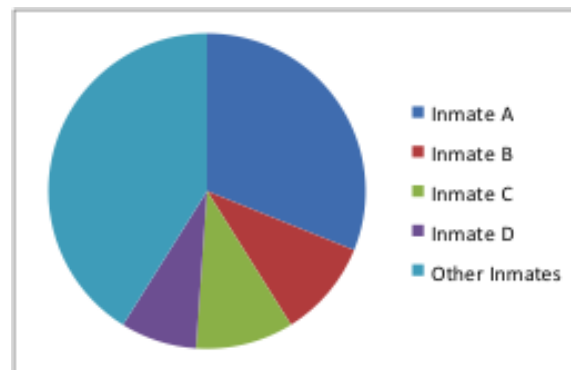
Inmates have a right to file a complaint under the *Corrections Act* and *Regulations*. WCC has seven days to investigate the complaint and respond to the inmate in writing. A complainant may request that the Director of ISO review the response from WCC. The Director of ISO must, within 7 days of receipt of a request for review, respond to the complainant and the person in charge.

In 2013, 90 ISO complaint files were opened and 24 inquiry files were created.

ISO inquiries are defined, for example, as communications with an inmate that do not progress to a formal complaint. Inquiries may escalate into a complaint, although sometimes issues can be resolved during conversations between the ISO member and the inmate. Inquiries may also be resolved when ISO finds remedies have been reached internally through the WCC process.

In 2013, there was a decrease in complaint files, but an increase in inquiry files. In 2012, a total of 106 complaints and 16 inquiries were received²; in 2013, there were 90 complaints and 24 inquiries. Moreover, in 2013, there were a number of repeat complainants. See figure 1 below. Specifically, four complainants made up more than 50% of the complaints and inquiries: inmate A submitted 28; inmate B submitted 9; inmate C submitted 9, and finally inmate D submitted 7.

Figure 1 – Repeat Complainants



ISO noted that the complexity, number of issues in some complaints and time required to obtain information from WCC resulted in longer review and response periods to complainants. However, ISO responds to all inmates filing a complaint within 7 days of receiving them and continues to communicate with the inmate throughout the investigation process.

Attached at Appendix A is the list of types of issues raised in inmate complaints. The complaints varied, but the most common issues raised by inmates included: unit placements, visitation privileges, staff member grievances, and telephone privileges.

2. APPEALS

When an inmate is charged with an alleged breach of a rule of the correctional centre, within 96 hours of the charge being approved an administrative hearing based on the principles of natural justice is held by an independent adjudicator. Independent adjudicators preside over the hearing and after hearing testimony and reviewing evidence, render a decision on guilt or innocence and decide on a sentence if the inmate is found guilty.

² In 2012, out of the 106 inmate complaints to ISO 2 inmates were responsible for 42 of the complaints equaling 40 % of the complaints for that year.

After a decision is made, either the inmate or person in charge at WCC can appeal the decision to ISO within 7 days of the hearing. Once ISO has received the appeal, the Office has 7 days to respond in writing to the appellant with their decision. In cases where the inmate's liberty is at risk, either through loss of remission or a sentence of separate confinement, ISO will typically suspend the disposition and sentence pending completion of the Office's review.

ISO received 62 appeals of disciplinary hearings in 2013, which was a significant increase from the 41 appeals the previous year. Both the inmate and the person in charge at WCC (Superintendent) are able to appeal a disciplinary hearing. In 2013, there was a significant difference in the origin of the appeal: the person in charge requested an appeal 11 times and the inmate requested an appeal over 50 times. This is a considerable change from 2012 where the appeals were divided evenly between the inmate population and person in charge. The number of appeals received by ISO peaked in August with 14 appeals.

As Figure 2 shows, of the 62 appeals reviewed, ISO confirmed the decision and disposition 38 times; confirmed the decision, but substituted the disposition 13 times; rescinded the decision and disposition 5 times; and directed a new hearing 5 times. One file was not reviewed due to the inmate appealing prior to the process being finalized.

Figure 2 - 2013 ISO Decisions on Appeals of Disciplinary Hearings

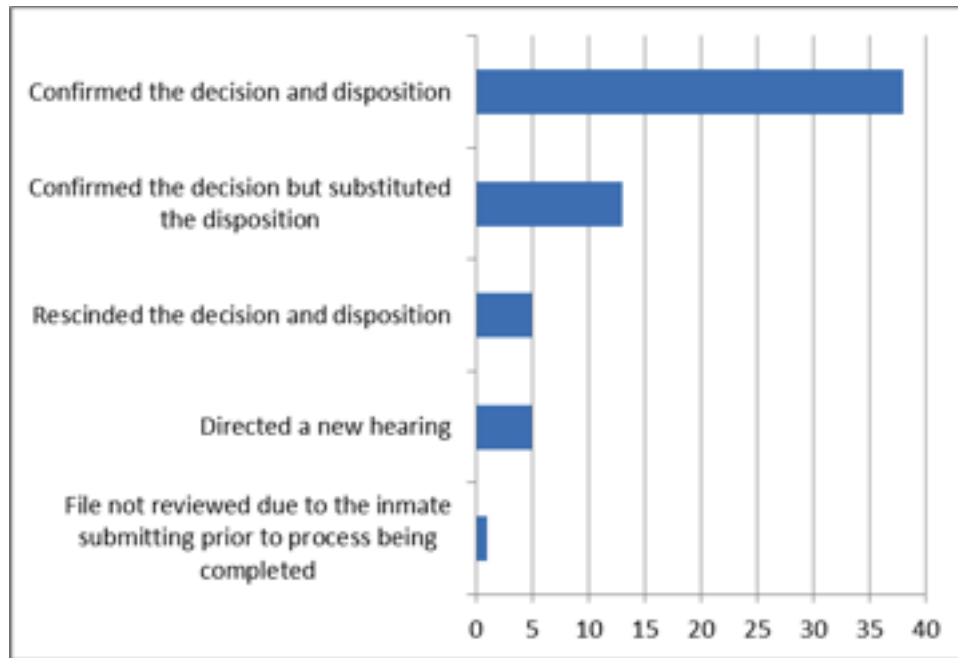


Figure 3 and Table 4 reflect the history of ISO decisions in relation to appeals of inmate disciplinary hearings. ISO’s reasons for overturning a hearing or requesting a new hearing typically relate to a lack of procedural fairness; for example, if the hearing was not recorded properly or if the inmate requested but was denied access to legal counsel, ISO would overturn the hearing as these are fundamental breaches of fairness and natural justice.

Figure 3 - Appeals History 2010-2013

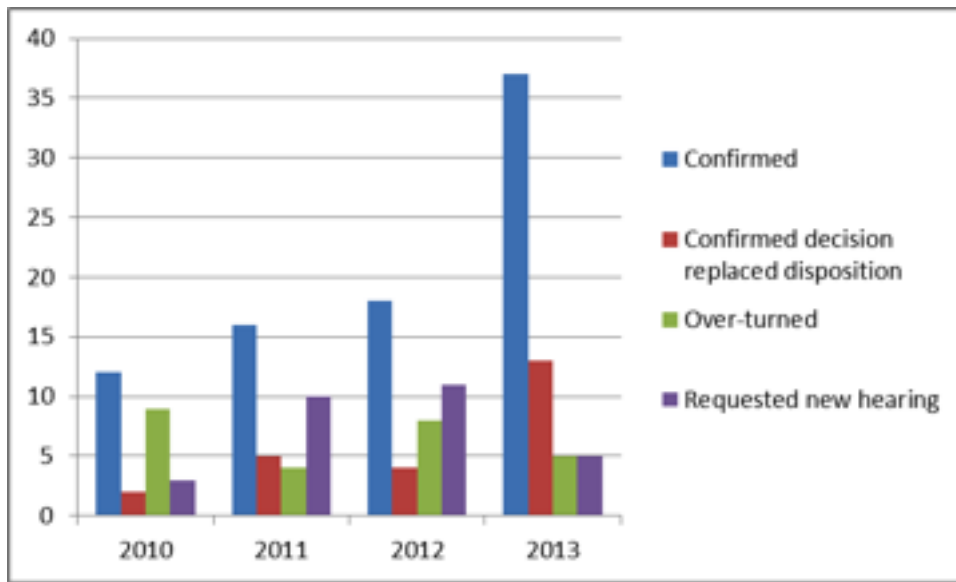


Table 4 – Appeals History 2010-2013

	2010	2011	2012	2013
Confirmed	12	16	18	38
Confirmed decision replaced disposition	2	5	4	13
Over-turned	9	4	8	5
Requested new hearing	3	10	11	5

3. INSPECTIONS AND SPECIAL INVESTIGATIONS

ISO undertook one facility inspection and one Director's own motion investigation of Corrections in 2013. The inspection took place in October 2013 and included a physical inspection of the facility to ensure compliance with health and safety standards. All findings were communicated to the affected inmates and management of the correctional centre. ISO plans to carry out an inspection of Corrections in 2014.

Additionally, a Director's own motion investigation was launched when an inmate complained about their supervision by Corrections Officers in the Arrest Processing Unit at WCC. The investigation included interviews with the complainant and staff at WCC, a review of staff compliance with and the adequacy of WCC policy, and a review of three days of DVR footage. The investigation resulted in a finding of insufficient evidence to substantiate the complaint; however, several recommendations were made to WCC management regarding staff procedures, records management, and operational policies.

ISO Recommendations

Since January 2010, ISO has issued over 100 recommendations to Corrections. Thirty one of these recommendations were made in 2013. These recommendations were issued as a result of investigations, inspections and reviews of inmate complaints. The Corrections branch provides a response to ISO indicating whether the recommendations are accepted and listing the proposed actions to be taken. Similar to other agencies carrying out correctional oversight, ISO's recommendations are non-binding. However, ISO's recommendations have directly improved correctional policies, procedures, quality assurance, training and management of inmates. ISO also references these recommendations in any new investigation or inspection to ensure improved correctional practices over the long term.

Looking Ahead

The ISO will continue to plan for an inspection of the correctional centre in 2014. The Office will work closely with complainants and corrections to resolve issues and complaints as early as possible. ISO will also strive to identify systemic issues arising from WCC and recommend enhancements and changes to Corrections policy and procedures which improve correctional practice over the long term. ISO will continuously look for ways to achieve its' mandate and adhere to or surpass the Office's Mission, Values and Service Standards.

Appendix A

COM PLAIN T ISSUE	FREQUENCY
Assaults-Staff	1
CC Inconsistencies	3
*Class-Placements	10
Confidentiality	2
Food Services	4
Harassment	3
ISO Decision	4
Med- Dental Access	1
Med- Access	4
Med- Treatment	4
Med- MH Treatment	1
*Other	8
Personal Effects	2
Physical Plant	3
Program- Canteen	3
Program- Library	1
*Program- Visits	5
Records-Reporting	4
Requests- Non ISO	4
Searches	2
Sentence Calculation	2
Staff- APU	1
Staff- Contract	1
*Staff- Corrections	6
*Telephone	10
Wages	1
Total as of December 31-2013	90

* Highlighted areas have highest frequency from January 1-2013 to December 31-2013.

