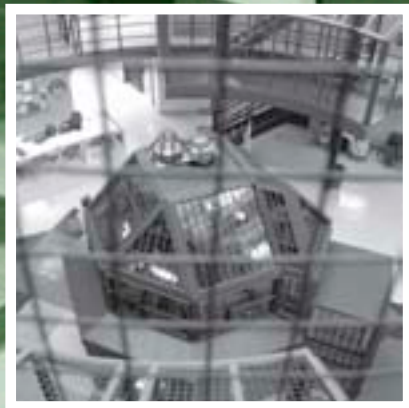




The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada



1973-2008  
**O C I** **35<sup>th</sup>** anniversary  
Office of the Correctional Investigator

# Annual Report of the Office of the Correctional Investigator 2007-2008

Canada

## **Annual Report of the Office of the Correctional Investigator 2007-2008**

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The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

P.O. Box 3121  
Station "D"  
Ottawa, Ontario  
K1P 6L4

C.P. 3121  
Succursale "D"  
Ottawa (Ontario)  
K1P 6L4

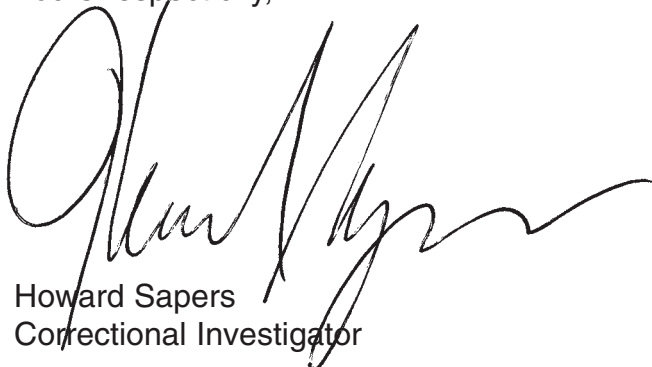
June 26, 2008

The Honourable Stockwell Day  
Minister of Public Safety  
House of Commons  
Wellington Street  
Ottawa, Ontario

Dear Minister,

In accordance with section 192 of the *Corrections and Conditional Release Act*, it is my privilege to submit to you the 35<sup>th</sup> Annual Report of the Correctional Investigator.

Yours respectfully,



Howard Sapers  
Correctional Investigator

Canada



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**WARNING**  
Stay Clear When  
Gate Is In Motion!







## CORRECTIONAL INVESTIGATOR'S MESSAGE

This year marks the 35<sup>th</sup> anniversary of the Office of the Correctional Investigator (OCI). This milestone provides me with a great opportunity to reflect upon the contribution of this important public Office and to celebrate its many accomplishments. The creation of *any* ombudsman office is a cause for celebration. Ombudsman offices strengthen a society's commitment to democratic values by establishing an independent oversight body to publicly report on the way a government carries out its responsibilities. The ombudsman office is a valuable vehicle for individual citizens to voice their concerns about how the government acts—or fails to act. The creation of an effective ombudsman office is an important sign of the health and confidence of a democracy, and any government that establishes such a vehicle to scrutinize its own actions clearly appreciates the role of independent oversight.

The creation of an ombudsman office *specifically responsible for addressing prisoners' complaints* is, in my opinion, an even greater cause for celebration. It is a recognition that even those who have committed serious crimes must have access to an independent avenue of redress to voice their concerns and ensure

*The creation of any ombudsman office is a cause for celebration. Ombudsman offices strengthen a society's commitment to democratic values by establishing an independent oversight body to publicly report on the way a government carries out its responsibilities.*

that they are subject to fair and humane treatment while in the care and custody of government officials. Through respecting the human rights of prisoners, a society conveys a strong message that everyone—regardless of their circumstances, race, social status, gender or religion—is to be treated lawfully, with respect and dignity.

By their nature, penitentiary systems are largely closed to the public eye and operate behind closed doors. Historically, there can be no doubt that this operating reality has on occasion masked unfairness, inequity and even brutality from public view. Openness, transparency and accountability in corrections are thus fundamental objectives to ensure that the rule of law prevails behind prison walls. The Office of the Correctional Investigator has contributed significantly

to those three objectives in the last 35 years. Other factors have also positively affected the evolution of federal corrections and human rights of offenders, including litigation, royal commissions of inquiry, reviews by parliamentary committees and the presence of a dedicated NGO sector, to name a few. Moreover, the leadership and specific initiatives of the Correctional Service of Canada (CSC) and the ministers responsible for the CSC have also resulted in positive gains. Notwithstanding, I will mark our 35<sup>th</sup> anniversary by focusing on the *unique* contribution of the Office and its working relationship with the Correctional Service of Canada.

Looking back 35 years has been an informative and important exercise. Much progress has taken place not only in the Office of the Correctional Investigator itself but also, more importantly, in the agency subject to its oversight—the Correctional Service of Canada. With many challenges over the years, the Correctional Service has progressed to become a modern correctional system that continues to be committed to high professional standards and its twin goals of effective corrections and public safety. I am proud that this Office has contributed to its success by promoting accountability and fairness.

*In the last 35 years, the Office has examined more than 140,000 offender inquiries and complaints. That is perhaps the most telling accomplishment of this small and dedicated agency.*

As for the Office, its story is one of tenacity and determination, as it worked to keep up with increasing demands for its ombudsman services and to fulfill its strong commitment to remain accessible and responsive to its clientele. This story is also one of perseverance in sustaining the integrity of its core mandate to address offender concerns, which at times has been difficult and unpopular. In the last 35 years, the Office has examined more than 140,000 offender inquiries and complaints. That is perhaps the most telling accomplishment of this small and dedicated agency.

As I reviewed the 35-year history of the Office, I was struck by the common themes that emerged in annual reports. Interestingly, the themes resonate very well in this era of renewed government accountability:

- Ombudsman offices need to be independent. Independence from both the agency subject to its oversight and the minister responsible for that agency is a fundamental component of an effective ombudsman office.
- Harsh conditions and treatment of prisoners, as well as the denial of access to effective internal and external complaint mechanisms, can lead to violence. Introducing effective complaint mechanisms can alleviate tensions and reduce violence in prison.
- Correctional culture is strong and difficult to change. Outside intervention is often not embraced, but it is necessary to make significant progress.
- At times, the Office has made important recommendations that the Correctional Service has not implemented until the courts, royal commissions of inquiry or other oversight agencies, such as the Canadian Human Rights Commission, have required the CSC to do so.

- Some issues raised decades ago remain central concerns for the OCI.
- Independent oversight and external decision-making are essential in instances where prisoners' fundamental rights are at stake—for example, in disciplinary and segregation decisions.
- Segregation, formally known as dissociation—the harshest condition of confinement in a penitentiary—has often played a significant role in high-profile incidents.
- The Correctional Service has been inconsistent in applying lessons learned from serious incidents, including deaths in custody, and ensuring that corrective action is implemented across the country and over time.

It is my hope that this 35-year review will stimulate a dialogue not only between this Office and the Correctional Service, but also among all those concerned about corrections and public safety in Canadian society. It is also my expectation that we can learn from this rich history and move forward without repeating mistakes. Following the 35 years of history of the OCI, this year's annual report will again address issues of offender concern related to the Correctional Service's five key priorities.

Howard Sapers  
Correctional Investigator



# LOOKING BACK





Historically, prison ombudsman offices have been created as a direct result of well-publicized serious human rights violations and as a way to address the chronic inability of internal prison complaint and grievance mechanisms to fairly and effectively respond to offenders' complaints. Canada is no exception in this regard.

In 1971, Kingston Penitentiary experienced one of the bloodiest prison riots in Canada's history. Five correctional officers were taken hostage and some prisoners were brutally tortured. Two of the prisoners died, 13 others were seriously injured and part of Kingston Penitentiary was destroyed. Following the riot, many of the inmates implicated in the disturbance were transferred to Millhaven Penitentiary. Subsequently, correctional staff at Millhaven Penitentiary assaulted 86 offenders involved in the riots, causing injuries of various degrees. A royal commission of inquiry, chaired by Justice J.W. Swackhamer, was appointed to examine these tragic events.

Justice Swackhamer described the harsh conditions of confinement and the very punitive regime of Kingston Penitentiary at the time as "repressive and dehumanizing". Inmates were obliged to spend at least 16 hours a day locked in virtual isolation in their cells, and they were subject to restrictive prison rules and harsh disciplinary sanctions for any rule violation. Justice Swackhamer remarked that in this environment "...boredom and a sense of helplessness and hopelessness were inevitable. The result was a furious sense of discontent and the breeding of violent and anti-social inclinations".<sup>1</sup> Justice Swackhamer further concluded that "...there is no doubt that such conditions played a large part in the prison disturbances of 1971; in a sense, the depressing and dehumanizing life of the institution was the soil within which the violent seed was planted and grew".<sup>2</sup>

In recommending an external avenue of redress, Justice Swackhamer made the following observation:

Grievances of all types are bound to exist among the prison population. Whether those grievances are justified or not, they require to be dealt with so that the order and morale of the institution may be maintained. At present, we heard that such grievances can only be resolved, if at all, when the inmate submits them to the administration. It is clear that the inmate frustrations are created and thrive because the inmates' only avenue of complaint is to the very administration which is frequently the source of its dissatisfaction. It is perfectly evident that at Kingston Penitentiary the total absence of any formula by which such matters could be effectively aired was a factor in the disturbance itself.<sup>3</sup>

## The Early Years of the Office

The Office of the Correctional Investigator was established in 1973 pursuant to Part II of the *Inquiries Act*, in response to Justice Swackhamer's sweeping recommendations for strengthening the accountability and oversight of the federal correctional system. On June 1, 1973, Ms. Inger Hansen was appointed as the first Correctional Investigator by the then-Solicitor General, the Honourable Warren Allmand. In the Office's first annual report, for 1973/74, Ms. Hansen took the opportunity to discuss her views about the new Office. She noted that the Office was not established "...by special legislation, but under the *Inquiries Act* to provide an opportunity to assess the terms of reference and to allow the government to evaluate the effectiveness of the office before it became encased in rigid legislation".<sup>4</sup> She endorsed the initial approach, but clearly expected the Office's mandate to be entrenched in legislation

1. Canada, *Report of the Commission of Inquiry into Certain Disturbances at Kingston Penitentiaries during April 1971* (1972) at 57 (Chair: Justice Swackhamer).
2. *Ibid.* at 56.
3. *Ibid.* at 62.
4. Office of the Correctional Investigator, *Annual Report 1973/74* at 2.

quickly—something that only happened 19 years later. She was also critical of her reporting relationship to the Solicitor General, the Minister responsible for the Canadian Penitentiary Service, as it was then known. She thought reporting directly to Parliament would enhance the credibility of the new prison watchdog. In its first year of operation, the small Office of five full-time employees received an unexpected 782 offender complaints, none of which were, in the opinion of Ms. Hansen, frivolous.<sup>5</sup>

Many of her initial 10 recommendations would eventually be adopted. For example, independent chairpersons (ICPs) from outside the penitentiaries were appointed in 1976 to adjudicate serious disciplinary matters. Before ICPs were introduced, wardens or employees of the Canadian Penitentiary Service made all disciplinary decisions against offenders. The implementation of ICPs was attributed to the 1976 recommendations of the Sub-Committee on the Penitentiary System in Canada, chaired by Justice Mark MacGuigan. However, it is important to note that, three years earlier, the OCI had recommended the appointment of persons “...whose only duty would be to preside over disciplinary hearings to make findings of guilt or innocence of inmates who have been charged with flagrant or serious offences”.<sup>6</sup>

The Canadian Penitentiaries Service also acted on an OCI recommendation related to the Service’s use of dissociation (also known as segregation or isolation). At the time, inmates could spend months in dissociation as punishment for rule transgressions. In most cases, the inmates would spend 23-and-a-half hours per day in a small cell. The cell would contain a single bed and a toilet (a hole in the floor in some punitive dissociation cells). A naked light bulb, left on 24 hours a day, would hang from the ceiling. In response to the Office’s recommendation to review the practice of dissociation, the Vantour Report on Dissociation (1975) paved the way for eventual reforms, including the establishment of institutional Segregation Review Boards, which regularly review each offender placement in segregation.<sup>7</sup>

Some of Ms. Hansen’s recommendations were not adopted. Her concerns, initially raised 35 years ago, unfortunately still ring true today. For example, Ms. Hansen was concerned about the timeliness of the internal inmate complaint and grievance system, and reported that some inmates considered the grievance procedure “useless”.<sup>8</sup> She noted that an effective internal grievance system would alleviate pressure on OCI operations.

*In most cases, the inmates would spend 23-and-a-half hours per day in a small cell. The cell would contain a single bed and a toilet (a hole in the floor in some punitive dissociation cells). A naked light bulb, left on 24 hours a day, would hang from the ceiling.*

During its first years of operation, the Office began developing complaint procedures to improve accessibility, timeliness and effectiveness. In its second year of operation, the Office received 988 complaints. With a small staff, the Office was unable to meet the demand. Ms. Hansen stated:

We still fall short of our goal of prompt, personal attention to all complaints. It is hoped that close attention to priorities and efficiency of the office procedures will eventually resolve this.<sup>9</sup>

At the time, the Office reported good cooperation with the Canadian Penitentiary Service and stated that “...in most cases, administrators are receptive to our representations”.<sup>10</sup> The Office also started to highlight systemic issues that required the Canadian Penitentiary Service’s close attention. The internal grievance procedures remained front and centre, but the OCI started to document other issues in detail, such as use-of-force policy and practice, access to medical services, involuntary transfers, denial of temporary absences, and disciplinary measures such as restrictive diets as punishment.

5. *Ibid.* at 3.

6. *Ibid.* at 84.

7. Canada, *Report of the Study Group on Dissociation* (Ottawa: Canadian Penitentiary Service, 1975) (Chair: Jim Vantour).

8. *Ibid.* at 13.

9. Office of the Correctional Investigator, *Annual Report 1974/75* at 5.

10. *Ibid.* at 4.



In its third year, the OCI clearly demonstrated its value following an incident at Millhaven Institution. The Correctional Investigator initiated an examination of the events leading up to the use of gas and force at Millhaven Institution on November 3, 1975. This investigation included 22 days of in camera hearings beginning on January 15, 1976. The incident involved the use of handcuffs and leg irons in a “cruel and possibly dangerous manner”; the unauthorized, unnecessary and potentially dangerous use of gas without proper armoured recording; and the confinement of naked inmates in the dissociation unit without mattresses or bedding. Without the existence of the Office, this incident would likely have gone unnoticed as just “routine business” at that institution.<sup>11</sup>

For four years in a row, the OCI made recommendations regarding the unfair application of earned remission policy and law, which are no longer features of sentence administration in Canada. This fact is noteworthy because a recent report commissioned by the Minister of Public Safety proposed a return to a system similar to earned remission.<sup>12</sup> I urge the Government of Canada, before it proceeds any further with such a proposal, to carefully review the significant concerns that eventually led to the elimination of earned remission.

## The MacGuigan Report on Canada’s Penitentiary System

In 1976, the Standing Committee on Justice and Legal Affairs asked a sub-committee, chaired by Justice MacGuigan, to conduct a comprehensive review of penitentiary system in Canada. The MacGuigan Report (1976) described the state of the Canadian Penitentiary Service at the time as follows:

Seven years of comparative peace in the Canadian Penitentiary System ended in 1970 with a series of upheavals (riots, strikes,

murders and hostage-taking) that grew in numbers and size with each passing year. By 1976 the prison explosions were almost constant; hardly a week would pass without another violent incident. The eruption and violence were born of anger, frustration and oppression within the tight and unnatural confines of prison over unresolved grievances, transfers, harassment and provocation described by both sides (staff and inmates in adversary attitudes) as “mind games”.<sup>13</sup>

The MacGuigan Report (1976) was a damning indictment of the failure of penitentiaries to either rehabilitate offenders or protect the public.<sup>14</sup> It described a correctional climate of severe violations of human rights, brutality and inhumane treatment. Its sweeping recommendations aimed to change the correctional philosophy of the day. It advocated the contemporary view that offenders are sent to prison *as* punishment and not *for* punishment, and promoted the development of a new correctional approach focused on rehabilitation through programming, treatment and vocational training.

The MacGuigan Report (1976) commented on the effectiveness of the internal grievance system and that of the OCI, and came to the following conclusion:

At present, the grievance procedure is so unwieldy and ineffective that it might well be creating more problems than it solves....If the grievance passes through all these channels (four complaint and grievance levels), the inmate may have to wait many months for a reply which, very often, leaves him no better satisfied than when he began. The inmate may also have recourse to the Correctional Investigator, but this channel too may take quite some time to report back to him, and even then the Correctional Investigator may only suggest solutions to the proper authorities.<sup>15</sup>

11. Mary Campbell, “Revolution and Counter-Revolution in Canadian Prisoners, Rights” (1998) 2 Can. Crim. L. Rev. at 300.

12. Canada, Correctional Service of Canada Review Panel, *A Roadmap to Strengthening Public Safety* (2007) (Chair: Mr. Rob Sampson) (www.ps-sp.gc.ca).

13. Canada, *Report of the Sub-Committee on the Penitentiary System in Canada* (1976) at 5 (Chair: Justice MacGuigan).

14. Mary Campbell, “Revolution and Counter-Revolution in Canadian Prisoners, Rights” (1998) 2 Can. Crim. L. Rev. at 285.

15. Canada, *Report of the Sub-Committee on the Penitentiary System in Canada* (1976) at 97 (Chair: Justice MacGuigan).

After acknowledging the creation of the Office was “a small response to a very large problem”,<sup>16</sup> the Report reaffirmed the value of the Office and suggested enhancing its reporting relationship:

We also point out that an ombudsman by any acceptable standard should report to Parliament. Independence, both in fact and in theory, is an essential condition of the office’s effectiveness.<sup>17</sup>

The MacGuigan Report was influential, and many of its recommendations would be implemented. They paved the way for a series of reforms, including a new focus on rehabilitation, and for more openness and accountability. Following this report, the government appointed independent chairpersons, as discussed previously; created an internal Inspector General; and established citizen advisory committees.

## Illegal Searches, Overcrowding and Other Issues

On October 1, 1977, a new Correctional Investigator was appointed. Mr. Ronald Stewart would remain as head of the OCI for the next 26 years. In the early years of his tenure, the Office again raised the issue of independence and its reporting relationship with the Minister. The *Annual Report 1977/78* explained the issue as follows:

No matter how properly the Correctional Investigator performs his task, there will always be complications under the present terms of reference. It is not so much whether there is actual direction by the Minister, but how the office is perceived by the inmates. If the office appears to be part of the Ministry it loses credibility and the task becomes more difficult.

I reiterate, no interference has been encountered and none is anticipated but the Ombudsman can only be effective if the office maintains a high level of credibility.<sup>18</sup>

During the following five years, the Office continued to struggle to respond to increasing demand for its services. The *Annual Report 1978/79* summarized the situation as follows:

Each year it is our goal to maintain the highest level of service possible. Geographical realities coupled with staff resources and increasing numbers of complaints are major factors having a bearing on the effectiveness of the office.<sup>19</sup>

The Office reported several accomplishments. Many of its recommendations were implemented by the Canadian Penitentiary Service, which became the Correctional Service of Canada in 1979.<sup>20</sup> The *Annual Report 1980/81* reported that dental services had improved significantly in response to an OCI recommendation. Other OCI recommendations were subsequently implemented following the involvement of courts or other oversight agencies. In one example, the Office denounced a troubling illegal practice at the Prison for Women in Kingston. Women were being indiscriminately subjected to internal body cavity searches where no reasonable grounds for such searches existed. The Office’s recommendation to stop that practice was finally implemented when a court ruled that the Correctional Service did not have the authority to conduct such searches without reasonable grounds. Finally, previous OCI recommendations on religious diets were also implemented, following the involvement of the Canadian Human Rights Commission.<sup>21</sup>

*The Office denounced a troubling illegal practice at the Prison for Women in Kingston. Women were being indiscriminately subjected to internal body cavity searches where no reasonable grounds for such searches existed. The Office’s recommendation to stop that practice was finally implemented.*

16. *Ibid.* at 98.

17. *Ibid.* at 99.

18. Office of the Correctional Investigator, *Annual Report 1977/78* at 2.

19. Office of the Correctional Investigator, *Annual Report 1978/79* at 13.

20. Office of the Correctional Investigator, *Annual Report 1980/81* at 12.

21. Office of the Correctional Investigator, *Annual Report 1981/82* at 14.

The Office raised concerns regarding the opening of two Special Handling Units (SHUs), the most secure maximum-security institutions in federal corrections. These units were opened in response to recommendations of the Vantour Report on Dissociation (1975). Shortly after these units opened, the Office identified the “potential for trouble”<sup>22</sup> they posed. To this day, the Office continues to question the need for separate institutions to manage difficult offenders who could safely be managed in existing maximum-security institutions.

Over the years, many of the Office’s recommendations to improve procedural fairness at the SHUs were nonetheless adopted. The Correctional Service implemented clear admission criteria, began providing written reasons for SHU transfers and offered offenders an opportunity to respond to SHU transfer recommendations. The lack of suitable programs and activities, as well as adequate mental health services, at the SHUs—originally noted in 1978—remain concerns for this Office to the present day.

With the adoption of the *Canadian Charter of Rights and Freedoms* in 1982, Charter litigation enabled courts to affirm fundamental rights and entitlements of prisoners, and allowed for the development of detailed procedural safeguards. Interestingly, many OCI recommendations on the duty to act fairly would eventually find their way into court decisions.

On June 23, 1983, the Solicitor General requested that the Correctional Investigator conduct a full, independent and impartial investigation into allegations of mistreatment of certain inmates confined in the Archambault Institution, following a deadly incident that occurred at that penitentiary on July 25, 1982. The OCI held 37 days of in camera hearings, resulting in more than 7,000 pages of testimony and 98 exhibits. Thirty-one inmates, 109 correctional officers and 45 other witnesses testified.

During the incidents of July 25, 1982, three correctional officers were taken hostage in an escape attempt. In the end, three correctional officers died while five

were seriously injured. Some were stabbed to death, while others were beaten and tortured by inmates. Two inmates committed suicide during these tragic events. Early reports pointed to harsh conditions of confinement and inhumane treatment of offenders as contributing factors to the violence. The overriding purpose of the OCI investigation was to “...ascertain whether any allegations by inmates of mistreatment had any basis in fact and if so, to identify, where possible, specific members of the Institution’s staff as having been responsible for such mistreatment”.<sup>23</sup> In the end, many facts could not be established, but the OCI found that at least two inmates were physically mistreated; force and gas were used in violation of policy; some offenders were verbally abused and humiliated after the incident of July 25, 1982; several inmates were denied adequate clothing, mattresses and bedding; and health care staff did not follow procedures.

Prison overcrowding was first raised in the *Annual Report 1983/84*, and double bunking in segregation was raised the following year. Overcrowding would fluctuate in the years to come; recently, it has again become a serious problem. The practice of double bunking in segregation would not be eliminated until the late 1990s.

## Caseload Rises, Frustrations Mount

Although progress was being made, frustrations grew between the Correctional Service and this Office in the early 1980s. Between 1982 and 1986, the OCI noted that the Correctional Service was taking a long time to deal effectively and conclusively with a number of outstanding OCI recommendations. In the *Annual Report 1985/86*, the Office highlighted four areas of outstanding offender concern that required immediate attention:

The practice of double bunking in segregation and dissociation areas continues, though we have recommended it should cease.

22. Office of the Correctional Investigator, *Annual Report 1977/78* at 11.

23. Office of the Correctional Investigator, *Report on Allegations of Mistreatment of Inmates at Archambault Institution Following the Events which Occurred on July 25<sup>th</sup>, 1982* (1984).

The time frames for processing grievances and claims appeals at the National headquarters are seldom met and although some efforts have been made in this area, we do have concerns about the thoroughness and objectivity of the reviews of grievances and claims.

Our recommendation for equitable and reasonable telephone access to inmates has been shuffled downwards.

The duty to act fairly in processing involuntary transfers, despite recent court decisions and the Correctional Service of Canada directives which detail responsibility in this area, continues to prompt complaints from inmates encountering an absence of fairness in some decisions on these transfers.<sup>24</sup>

Between 1987 and 1992, the staff of the Office grew slowly while the caseload exploded. In that five-year period, the number of offender complaints grew from 1,329 to a staggering 5,090. The number of employees in the Office increased from 9 to 16. The number of areas of offender concern detailed in annual reports also increased significantly over that period, from 14 in 1987 to 29 in 1991. In 1986, the Office created the new position of Director of Investigations, which was initially filled by Mr. Ed McIsaac. Mr. McIsaac became the Executive Director of the Office shortly thereafter, a position he still capably holds as of the writing of this report.

During these five years, the Office voiced its frustration on many occasions because, in its view, the responses of the Correctional Service were characterized by "...excessive delays, an absence of thorough objective review and a reluctance to make decisions" in addressing issues.<sup>25</sup> For example:

Our communications with the inmate population suggest that the current level of responsiveness displayed by the Service, particularly at the national level, to the addressing of a number of

offender related-concerns has been unacceptable and is in need of change.<sup>26</sup>

Delays, defensiveness and non-commitment are inconsistent with the Service's stated Mission and the basic concept of administrative fairness and I sincerely hope that our comments are taken in the constructive way that they are offered.<sup>27</sup>

Concerns about the internal grievance system, health care services, double bunking, temporary absences and access to telephones remained strong throughout those years. A few new noteworthy issues also emerged during this period. For example, in 1981, the Cabinet Committee on Social Development approved a new inmate allowance program. With the assistance of Statistics Canada, it calculated rates for inmate incentive pay and set the maximum rate at \$7.55 per day. However, by 1986, the Correctional Service's maximum rate for inmate work and program participation was only \$6.90 per day. In the late 1980s, the Office began raising its concern about inmate allowances. In its *Annual Report 1988/89*, it noted that the maximum rate of \$6.90 per day had not kept up with inflation and had remained unchanged since 1986. This rate, which the Office judged inadequate more than 20 years ago, has not increased in the interim. Low inmate allowances significantly limit the resources available to offenders at the time of their release. They also adversely affect the institutional environment by spurring the creation of an underground market economy. In 1981, the Correctional Service created a typical inmate "canteen basket" to monitor the costs of the products inmates most commonly purchased. At that time, the canteen basket cost \$8.49. Today, the canteen basket costs more than \$60, but the maximum rate of \$6.90 has not changed since 1986.

*In 1981, the Correctional Service created a typical inmate "canteen basket" to monitor the costs of the products inmates most commonly purchased. In 1981, the canteen basket cost \$8.49. The same basket now costs more than \$60.*

24. Office of the Correctional Investigator, *Annual Report 1985/86* at 21.

25. Office of the Correctional Investigator, *Annual Report 1986/87* at 15 and *Annual Report 1987/1988* at 17.

26. Office of the Correctional Investigator, *Annual Report 1989/90* at 38.

27. Office of the Correctional Investigator, *Annual Report 1990/91* at 43.

Another new issue that was reported for the first time in the late 1980s, and which remains a challenge for the OCI, is the Correctional Service's internal investigations of serious bodily injuries and deaths. In 1987, the Office conducted two reviews of internal CSC investigations and described the results as follows:

In both instances the internal investigations were found to be incomplete and lacking objectivity, and the subsequent reviews of the investigation reports conducted by Regional Headquarters and National Headquarters authorities were in my opinion nothing more than a rubber stamping process.<sup>28</sup>

## Signs of Progress

Yet, even in this difficult period, some progress was being made, and the Correctional Service remained committed to addressing systemic issues this Office raised. In fact, in 1991, the Correctional Service published a book entitled *Our Story: Organizational Renewal in Federal Corrections*. Two years earlier, the Correctional Service had undertaken an ambitious reorganization, culminating with the adoption of a new Mission Statement in February 1989. *Our Story* was published as an attempt to reflect on the new Mission and the core values of the Correctional Service. The book offered the following comments on the role of the OCI:

We are determined that the individuals within our charge are treated fairly and with respect and that they maintain the rights to which they are entitled. Because of this, we support, indeed value, the role of the Correctional Investigator. It is frequently through his observations and advice that we are afforded the opportunity to take corrective action where it is merited. Because of our unique relationship with the Correctional Investigator, we have included in our Mission document the strategic objective to ensure that we are open and responsive in all our dealings with the Correctional Investigator.<sup>29</sup>

Two other key CSC initiatives are worth noting, as both would result in positive change within federal corrections. In both instances, extensive consultations took place, which included input from this Office. First, in 1989, the Secretariat of the Solicitor General released *Final Report: Task Force on Aboriginal Peoples in Federal Corrections*. At the prompting of the Solicitor General of the day, the Task Force on the Reintegration of Aboriginal Offenders as Law-Abiding Citizens was established in March 1987 with the following mandate:

Examine the process which Aboriginal offenders (status and non-status Indians, Métis, and Inuit) go through, from the time of admission to a federal penitentiary until warrant expiry, in order to identify the needs of Aboriginal offenders and to identify ways of improving their opportunities for social reintegration as law-abiding citizens, through improved penitentiary placement, through improved institutional programs, through improved preparation for temporary absences, day parole and full parole, as well as through improved and innovative supervision.<sup>30</sup>

*When the Task Force was created in 1987, although Aboriginal people comprised 2.5 percent of Canada's population, approximately 9 percent of federally incarcerated inmates were Aboriginal people.... the proportion of people in federal custody who are Aboriginal has now reached almost 20 percent.*

The Task Force helped provide the blueprint for Aboriginal federal corrections for the following decade. Specific sections of the *Corrections and Conditional Release Act* (CCRA) would be enacted that addressed the unique spiritual and programming needs of Aboriginal offenders, and new, more responsive minimum-security penitentiaries would eventually be created—the Healing Lodges. The CCRA would also allow for the Minister to enter into agreements with Aboriginal communities to provide correctional services to Aboriginal offenders, including care, custody and supervision. When the Task Force was created in 1987, although Aboriginal people comprised 2.5 percent

28. Office of the Correctional Investigator, *Annual Report 1987/88* at 20.

29. Correctional Service of Canada, *Our Story: Organizational Renewal in Federal Corrections* edited by Jim Vantour (1991) at 109–110.

30. Secretariat of the Solicitor General, *Final Report: Task Force on Aboriginal Peoples in Federal Corrections* (Ottawa: Supply and Services Canada, 1989) at 5.

of Canada's population, approximately 9 percent of federally incarcerated inmates were Aboriginal people. Unfortunately, the many government-wide initiatives that followed did not improve these troubling statistics. On the contrary, the proportion of people in federal custody who are Aboriginal has now reached almost 20 percent.

Second, in April 1990, the Correctional Service released *Creating Choices: The Report of the Task Force on Federally Sentenced Women*.<sup>31</sup> The Task Force was commissioned to review the overall situation at the Prison for Women in Kingston (P4W) and to chart a new, appropriate and effective direction for female offenders. Building on a strong commitment to partnership, it was a tripartite endeavour between the Correctional Service, the Elizabeth Fry Society and Aboriginal women. The Task Force employed a women-centered approach to corrections, stressed the importance of meaningful choices for women and emphasized a concern about the overrepresentation of Aboriginal women in the federal prison system. The report focused on the "special needs" of women offenders and on the profound impact of the physical and sexual abuse that many of them had suffered. The primary recommendation of this landmark report was the closure of P4W, and the development of five regional facilities and an Aboriginal Healing Lodge for women.<sup>32</sup> The regional facilities began opening in 1995 and P4W closed in 2000. The implementation of the philosophy advocated in *Creating Choices* would generate debate for many years to come.

Starting in the early 1980s and continuing until the early 1990s, an extensive set of initiatives led to the development of the federal government's renewed blueprint for criminal law in Canada. The publication of the *Criminal Law in Canadian Society* and the ensuing Correctional Law Review resulted in the development of today's frameworks for both criminal and correctional law. The Correctional Law Review "...was a comprehensive roll-up of all pertinent litigation and recommendations to date, intended to create a fair, modern code for penitentiary and conditional release management that would help

avoid excessive litigation and piecemeal reforms".<sup>33</sup> The Correctional Law Review, which was led by officials from the Secretariat of the Solicitor General and subject to extensive consultations, produced nine working papers, including *Correctional Authority and Inmate Rights*.<sup>34</sup> This working paper acknowledged that the "...Correctional Investigator varies somewhat from the traditional ombudsman mould in that he or she reports to the Solicitor General, not to Parliament".<sup>35</sup> Although the consultations clearly included comments by many stakeholders to address this shortcoming, the working paper ultimately proposed to maintain the status quo. The work of the Correctional Law Review eventually resulted in the enactment of the CCRA in 1992.

## A New Legislative Framework

Nineteen years after the OCI was created pursuant to the *Inquiries Act*, the Office finally received its own legislative framework on November 1, 1992, with the enactment of Part III of the CCRA. The Office was now embedded within comprehensive legislation that emphasized inmate rights, due process protections and independent oversight of correctional operations. The CCRA also for the first time articulated the purpose and principles of federal corrections. As expressed in the CCRA, the primary purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society. The key principles to guide the Correctional Service in achieving this goal were also articulated in the CCRA, and are as follows:

1. The protection of society is the paramount consideration in the corrections process.
2. Offenders retain the rights and privileges of all members of society, except those rights and privileges that are necessarily removed or restricted as a consequence of the sentence.
3. Correctional decisions are made in a forthright and fair manner, with access by the offender to an effective grievance procedure.

31. Correctional Service of Canada, *Creating Choices: the Report of the Task Force on Federally Sentenced Women* (1990).

32. Correctional Service of Canada, *The Closing of the Prison for Women in Kingston: End of an Era* (2000).

33. Mary Campbell, "Revolution and Counter-Revolution in Canadian Prisoners, Rights" (1998) 2 Can. Crim. L. Rev. at 310.

34. Solicitor General of Canada, *Correctional Authority and Inmate Rights* (Correctional Law Review Working Paper No. 5, 1987).

35. *Ibid.* at 119.

4. The Service uses the least restrictive measures consistent with protection of the public, staff members and offenders.<sup>36</sup>

The *Annual Report 1992/93* was the first report issued pursuant to the CCRA. Part III of the CCRA was reproduced in its entirety in the annex to this report. The Correctional Investigator reflected on the value of the new legislation by stating:

My view is that the Act has not significantly added to the powers which the Correctional Investigator previously possessed. Rather, the legislation has clearly established the “Function” of the Correctional Investigator as that of an Ombudsman and clarified the authority and responsibilities of the Office within a procedural framework which both focuses and paces our activities. In essence, Parliament has provided the Correctional Investigator, not with new powers, but with specific direction and momentum.<sup>37</sup>

The Office voiced its disappointment about the fact that the CCRA did not establish direct legislative reporting. Again, it reaffirmed the importance of the necessity for an ombudsman office to be independent from the government organization it is mandated to investigate. Nevertheless, the *Annual Report 1992/93* also made it clear that the main purpose of the Office was not to publish reports, but “...to facilitate the resolution of offender problems”.<sup>38</sup> This core function remains front and centre in the OCI’s operations to this day.

## Federal Corrections at a Crisis Point

The beginning of the 1990s was a difficult time for the Correctional Service. With well in excess of 3,000 double-bunked inmates, the capacity of the Correctional Service to fulfil its legislative mandate

was pushed to the limit. The OCI was seriously concerned, stating that “...federal corrections is at a crisis point”.<sup>39</sup> It described the pervasive and far-reaching effects of overcrowding as follows:

This situation, one must appreciate, reaches far beyond the provision of a comfortable living environment for federal inmates. It is our contention that overcrowding impacts measurably on the Service’s ability to provide timely access to treatment programming and thorough case preparation for conditional release consideration; required daily exercise and showers for those locked up twenty-three hours a day plus in segregation cells; meaningful employment and reasonable pay levels; responsive institutional placements and transfers consistent with security classifications; reasonable ongoing contact with family, friends and community resources; needed individual attention from professional staff for those who require it; and the assurance of a humane, safe and secure institutional environment for both inmates and staff.

In short, overcrowding impacts on virtually all aspects of an individual’s life during the period of incarceration and in the long run, given that the vast majority of inmates will return to society, on the protection of society itself.<sup>40</sup>

The above passage is important for at least two reasons. First, due to the operational and financial challenges the Correctional Service faced at the time, its capacity and latitude to respond to the systemic offender issues raised by the Office diminished significantly. As a result, the Office began to show increasing dissatisfaction with its level of responsiveness. Second, as the current government explores criminal law reforms that may significantly increase the prison population, it must be mindful of the operational and human consequences that overcrowding and limited resources have on staff, inmates and, ultimately, public safety.

36. *Corrections and Conditional Release Act*, S.C. 1992, Chap. 20, s. 4.  
37. Office of the Correctional Investigator, *Annual Report 1992/93* at 1.  
38. *Ibid.* at 3.  
39. Office of the Correctional Investigator, *Annual Report 1993/94* at 1.  
40. *Ibid.* at 2.

*As the current government explores criminal law reforms that may significantly increase the prison population, it must be mindful of the operational and human consequences that overcrowding and limited resources have on staff, inmates and, ultimately, public safety.*

Issues of emerging importance in the larger community often manifest themselves within penitentiaries. In 1994, the Expert Committee on AIDS in Prison, established by the Correctional Service, reported on the increasing incidence of infectious diseases in federal penitentiaries. The Committee found the causes of disease to include the use and sharing of contaminated drug paraphernalia. The Committee presented a series of recommendations, including a pilot needle-exchange project. The Office endorsed all of the Committee's recommendations. By 2004, the Correctional Service had implemented most of the Committee's recommendations for education, treatment and harm reduction. The only outstanding recommendation related to making clean needles available to inmates for exchange to prevent serious communicable diseases, such as hepatitis C and HIV, from spreading among the offender population and, ultimately, to society at large. (This issue, which the Office had raised repeatedly, again gained national attention in 2004 when the Office directed a recommendation to the Minister of Public Safety to introduce a needle-exchange program in federal corrections.)

On February 14, 1995, the Office submitted to the Minister a Special Report pursuant to section 193 of the CCRA, concerning the inhumane treatment of inmates at P4W in April 1994. The publication of this OCI Special Report, which was shortly thereafter tabled before Parliament, marked the first and only time that the OCI has used this provision.

On April 26, 1994, cell extractions of eight women offenders took place at P4W. An all-male emergency response team (ERT) strip-searched the women, who were then placed in prolonged confinement in administrative segregation. The OCI Special Report

concluded that the videotapes of the incident showed "...a massive display of force being exercised in the face of virtually no resistance", and that the strip searches and cell extractions were "...without question degrading and dehumanizing for those women involved".<sup>41</sup> The Correctional Investigator also criticized the Correctional Service's internal investigation of these incidents. In fact, it chastised the report of the CSC Board of Investigation as "incomplete, inconclusive and self-serving", concluding it was a "white wash".<sup>42</sup> The video was eventually aired on CBC and shocked Canadians.

## The Arbour Commission

The government of the day did not wait long to respond to the public outrage and established a royal commission of inquiry to investigate both the events at P4W and the Correctional Service's response to the events. Later, in a publication to celebrate the 50<sup>th</sup> anniversary of the *Universal Declaration of Human Rights*, the Correctional Service would state the following about the importance of this inquiry:

The Commission, chaired by Justice Louise Arbour, can be characterized as an indictment against the Correctional Service of Canada. It is no doubt that these events at P4W will always remain a stain in the history of the Service.<sup>43</sup>

In her historic report, Justice Louise Arbour acknowledged the significant role the Office played in bringing these events to the attention of Parliament and the Canadian public. She made the following statement on the Office's professionalism:

Throughout the events examined by this Commission, and indeed, throughout this inquiry's process, including the investigations and hearings, the Correctional Investigator conducted himself in full compliance with the letter and spirit of his legal mandate. In dealing with the Correctional Service on the issues before me, between April of 1994 and February of 1995, the Correctional Investigator and his

41. Office of the Correctional Investigator, *Special Report of the Correctional Investigator Concerning the Treatment of Inmates and Following Certain Incidents at the Prison for Women in April 1994 and Thereafter* (1995) at 5 and 6.

42. *Ibid.* at 2 and 4.

43. Correctional Service of Canada, *50 Years of Human Rights Developments in Federal Corrections* (1998) at 28.



staff were persistent, factual and professional; their attitude and correspondence were never inflammatory, and they showed considerable patience in dealing with a bureaucracy which was neither ready, willing nor able to participate in any exercise of self-scrutiny or criticism.<sup>44</sup>

She also made the following specific comments on the value and unique contribution of the Office:

It is clear to me that the statutory mandate (of the OCI) should continue to be supported and facilitated. Of all the outside observers of the Correctional Service, the Correctional Investigator is in a unique position both to assist in the resolution of individual problems, and to comment publicly on the systemic shortcomings of the Service. Of all the internal and external mechanisms or agencies designed to make the Correctional Service open and accountable, the Office of the Correctional Investigator is by far the most efficient and the best equipped to discharge that function.<sup>45</sup>

The *Arbour Report* resulted in the Correctional Service undertaking a number of positive initiatives, including training of senior managers and front-line staff on the duty to act fairly and on the rule of law; the establishment of several task forces and working groups on administrative segregation, policy development, reintegration and human rights; the appointment of the Deputy Commissioner for Women; new procedures regarding cross-gender searches; new strategies to address specific mental health issues of federally sentenced women; and a new CSC system for prioritizing offender grievances and complaints. Although the Correctional Service did not implement some key Arbour recommendations, including independent adjudication and a “separate stream” for women’s corrections, the reforms it did implement would undeniably change federal corrections for the better.

One key recommendation of Justice Arbour directly affected the daily operations of the Office. In response to her report, the Office began thoroughly reviewing

the CSC’s use-of-force interventions, a task that included viewing videotapes. This undertaking, which at the time was not resourced, added a significant workload to the Office’s operations. The Office now reviews more than 1,000 use-of-force incidents per year.

Starting in 1994 and continuing for at least three years, the Office was focused on the events leading to the establishment of the Arbour Commission and the resulting activities related to addressing Justice Arbour’s many recommendations. The *Annual Report 1994/95* included a copy of the OCI Special Report on the events at P4W, as well as details on the responses of the Correctional Service to the OCI recommendations. The practice of including the responses of the Correctional Service to the OCI recommendations continues today. In the *Annual Report 1995/96*, the Office proposed a way to address one of Justice Arbour’s central concerns. In her report, she advocated for greater judicial control and guidance in response to the “...disturbing lack of commitment to the ideals of Justice on the part of the Correctional Service...”.<sup>46</sup> She stated the following:

It is only because of the Correctional Investigator’s inability to compel compliance by the Service with his conclusions, and because of the demonstrated unwillingness of the Service to do so willingly in many instances, that I recommended greater access by prisoners to the courts for the effective enforcement of their rights and the vindication of the Rule of Law.<sup>47</sup>

In response to, and in support of, the findings of Justice Arbour, the *Annual Report 1995/96* of the Office recommended the following:

On the basis of my own experience over the past few years and without limiting the judicial guidance and control called for by Justice Arbour, I believe there is a need for a mechanism between this Office and the courts with the authority to order timely corrective action in instances of illegalities, gross mismanagement or unfairness.

44. Canada, *Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston* (1996) at 170 (Chair: Justice Louise Arbour).

45. *Ibid.* at 195

46. *Ibid.* at 198.

47. *Ibid.* at 195.

The correctional environment, the impact of administrative decisions on individuals within that environment and the consistent failure of the Correctional Service to approach individual and systemic areas of concern in an objective, thorough and timely fashion demand that a timely and responsive binding avenue of redress be available.

As such I recommend:

- a) That an administrative tribunal be established with the authority both to compel Correctional Service compliance with legislation and policy governing the administration of the sentence and to redress the adverse effects of non-compliance.
- b) That access to the tribunal be provided for in those instances where if within a reasonable time after receiving a recommendation from the Correctional Investigator pursuant to s. 179 of the *Corrections and Conditional Release Act*, the Commissioner of Corrections takes no action that is seen as adequate or appropriate.

The above recommendation is intended to support and complement, not limit or replace, the function of the Office in ensuring that areas of offender concern are decided on in an objective and timely fashion consistent with the Service's legislative responsibilities.<sup>48</sup>

Professor Michael Jackson, in his book entitled *Justice Behind the Wall*, made the following comments on the necessity of resolving long-standing OCI concerns:

One of the most important advantages of a tribunal remedy is that it would bring closure to those issues, often of a system-wide nature, that have filled up the annual reports of the Correctional Investigator. The very existence of such an avenue of resolution would provide a major incentive for the Service to resolve these issues at an early stage.<sup>49</sup>

In response to the *Arbour Report*, the Commissioner called upon Dr. Maxwell Yalden, former Chief Commissioner of the Canadian Human Rights Commission and a member of the UN Human Rights Committee, to review the Correctional Service's capacity to meet its domestic and international human rights obligations. The Working Group on Human Rights issued its report in 1997. It recommended establishing a procedure for submitting matters to adjudication through a tribunal or a court process.

## Concerns About Independence Resurface

The Working Group on Human Rights also recommended that the Correctional Investigator report directly to Parliament, to ensure the overall credibility and effectiveness of this independent oversight mechanism.<sup>50</sup> The Working Group also commented on the relationship between the two organizations, and stated:

The CI's role and responsibilities very clearly impact upon those of the CSC and, as a result, are bound over time to involve some friction between the two organizations, however much management on both sides may strive to avoid. ... Although the most recent Annual Report of the Correctional Investigator (1996–97) points to some improvements in the working relationship between the CI and the CSC, the overall history of that relationship has been less than satisfactory for either party. This raises the critical question to what extent respect for human rights of inmates or employees may have suffered as a result.<sup>51</sup>

48. Office of the Correctional Investigator, *Annual Report 1995/96* at 2.

49. Michael Jackson, *Justice Behind the Walls* (Vancouver/Toronto: Douglas & McIntyre, 2002) at 588.

50. Canada, Working Group on Human Rights, *Human Rights and Corrections: A Strategic Model* (Ottawa: Correctional Service of Canada, 1997) (Chair: Dr. Maxwell Yalden).

51. *Ibid.* at 31–32.

The challenge related to the relationship between an ombudsman office and the agency subject to its oversight was echoed by the Office of the Auditor General (OAG) in an audit report completed around the same time on the operations of the OCI. The OAG stated:

An ombudsman's strength lies in its ability to persuade others of the value of any recommendation or opinion flowing from an investigation. Consequently, the working relationship between the ombudsman and the institution within the scope of his or her mandate must be carefully balanced. The nature of the work implies that this relationship can be neither too cordial nor too adversarial. This balance of creative tension is not easy to achieve, but is very important.<sup>52</sup>

*The working relationship between the ombudsman and the institution within the scope of his or her mandate must be carefully balanced. The nature of the work implies that this relationship can be neither too cordial nor too adversarial.*

The Working Group on Human Rights also captured well the systemic issues that had strained the relationship between the Office and the Correctional Service—many of which are, unfortunately, still unresolved. The Working Group concluded:

Among the bones of contention between the CI and the CSC over the years are several that have immediate and obvious implications for both the substantive and procedural rights of federal offenders, including the increasing prevalence of “double-bunking” in both general and segregated inmate populations, inmate pay, Special Handling Units, and other aspects of custody involving placement, segregation and transfer, use of force,

the effectiveness of the internal grievance procedure, and access to programming to prepare inmates for reintegration.

The *Annual Report 1998/99* detailed the beginning of a major restructuring and modernization of the Office. The OCI made these changes partly in response to an OAG audit of the OCI's operations. The Office finalized an updated Policies and Procedures Manual, which more clearly detailed the investigative process and links to the OCI's legislative responsibilities. The OCI also developed a staff training program and upgraded the computerized data collection system. Information packages about the Office and its complaint procedures were developed and forwarded to all federal penitentiaries and parole offices, as well as to community facilities that housed federal offenders.

In May 2000, the Sub-Committee on the *Corrections and Conditional Release Act* released its report. The report was in response to a CCRA provision requiring that the Act be examined five years after its coming into force. The Sub-Committee endorsed the mandate of the Office and stated that it was “...in a good position to right wrongs experienced by individual offenders and bring to light systemic problems that lead offenders to lodge complaints”.<sup>53</sup> The Sub-Committee made several recommendations to enhance the independence and effectiveness of the Office. It too recommended that the Office report to Parliament directly to enhance its perceived independence, and that annual and special reports be automatically referred to a standing committee of the House of Commons for close examination. Interestingly, it also recommended that the Office conduct independent investigations into all inmate deaths or serious bodily injuries, in addition to those the law requires the Correctional Service to conduct. It should be noted that section 19 of the CCRA requires the Correctional Service to forward all such investigations to the Office for review. The government of the day did not pursue any of these recommendations.<sup>54</sup>

52. Office of the Auditor General, *The Correctional Investigator Canada* (Report of the Auditor General of Canada to the House of Commons) (1997) c. 33.

53. Canada, Sub-Committee on Corrections and Conditional Release Act of the Standing Committee on Justice and Human Rights, *A Work in Progress: the Corrections and Conditional Release Act* (2000) (Chair: Mr. Paul DeVilliers).

54. Solicitor General Canada, *Response to the Report of the Sub-Committee on Corrections and Conditional Release Act of the Standing Committee on Justice and Human Rights: A Work in Progress: The Corrections and Conditional Release Act* (Ottawa: Solicitor General Canada, November 2000).

## A New Century, New Challenges and Opportunities

In the early 2000s, the Office undertook a comprehensive strategic review of its own operations, with the assistance of Treasury Board of Canada, Secretariat. This review resulted in funding increases for the Office and helped inspire the creation of coordinator positions in three key areas of offender concern: women's issues; Aboriginal issues; and reviews of use-of-force incidents, as well as CSC investigations into deaths or serious bodily injuries.

At the same time, the Office faced significant challenges due to a growing number of offender complaints, and "...had more [systemic] issues under review with the Correctional Service than at any time in the Office's history".<sup>55</sup> The Office also continued to pursue the lack of progress made on the implementation of Justice Arbour's recommendations.

*The Office severely condemned placing maximum-security women and women with serious mental health problems in male penitentiaries (in other words, co-located units). What was to be a "temporary measure", according to the Correctional Service, lasted over six years.*

Moreover, the Office severely condemned placing maximum-security women and women with serious mental health problems in male penitentiaries (in other words, co-located units). What was to be a "temporary measure", according to the Correctional Service, lasted over six years. The Office believed that women's corrections had to be viewed within the context of the "vision for change" provided by the CSC Task Force on Federally Sentenced Women a decade earlier, as well as in light of Justice Arbour's recommendations related to a "separate stream" for women's corrections.

The Office made the following assessment of women's corrections:

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

The response to Justice Arbour's Report by the Correctional Service has been anything but public and inclusive. The clear "vision for change" of a decade ago is clouded. The impact of the top priority ascribed to Women's Corrections in 1996 is open to serious question.<sup>56</sup>

In 2004, the Canadian Human Rights Commission (CHRC) would confirm the Office's assessment of women's corrections in a comprehensive report, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*.<sup>57</sup> The report was based on a large consultation with various stakeholders, including this Office. As noted in the *Annual Report 2003/2004*, the CHRC's areas of concern and recommendations were, for the most part, consistent with those of Justice Arbour. The OCI had previously raised the vast majority of concerns outlined in the CHRC report. The CHRC report made several observations and recommendations, including the following:

- Women, particularly Aboriginal women, are often incarcerated in a facility with a higher security level than required, due to unresponsive and discriminatory risk/need assessment tools.
- The blanket policy that imposes an automatic two-year maximum-security classification on all offenders serving life sentences is unfair and should be rescinded, as it adversely affects federally sentenced women and Aboriginal offenders.
- The delivery of health care is uneven across the different women's facilities, and the

55. Office of the Correctional Investigator, *Annual Report 2000/2001* at 4.

56. Office of the Correctional Investigator, *Annual Report 2001/2002* at 11.

57. Canadian Human Rights Commission, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women* (2004).

implementation of the CSC Mental Health Strategy for Women Offenders is inadequately resourced to meet the needs of women.

- The Correctional Service has an obligation to effectively curb the spread of infectious diseases and should pilot a needle-exchange program.
- Women-centered training must be mandatory for those who work in women's facilities, and refresher training must be regularly offered.
- The Correctional Service should implement independent adjudication for decisions related to involuntary segregation.
- Access to responsive programming and meaningful employment is poor, especially for Aboriginal women.
- Community housing options, programming and support for women are inadequate.

In 2003, after 26 years as Correctional Investigator, Mr. Ronald Stewart was not reappointed. After his departure, an audit by the Auditor General of Canada "...determined that the former Correctional Investigator committed serious abuses and wrongdoing, some of which resulted in substantial personal benefit".<sup>58</sup> Mr. Stewart subsequently issued a letter of regret that stated, "At no time did I ever intend to do anything wrong or take actions that could have resulted in personal benefit. I deeply regret any procedures that might have been viewed as inappropriate or misleading".<sup>59</sup>

## Issues Receive Renewed Attention

I was appointed as the Correctional Investigator on April 1, 2004. Upon my arrival, it became apparent that the Office would benefit greatly from higher visibility to increase its effectiveness as an ombudsman office. As I reviewed previous annual reports, I quickly realized that there was no shortage of issues that needed renewed public attention. I used the tabling of my annual reports as opportunities to raise national public awareness on issues of offender concern. My first four annual reports allowed me and my staff to focus public attention on the following issues:

- **2004: Public Health.** I recommended that the Correctional Service immediately implement a prison-based needle-exchange program to best protect inmates and society at large from the spread of infectious diseases. The lack of a full range of harm-reduction initiatives jeopardized inmate health and the health of the general public.
- **2005: Mental Health.** I highlighted the fact that the proportion of federal offenders with significant, identified mental health needs had more than doubled over the past decade. I also stated that mental health services offered by the Correctional Service to these offenders had not kept up with the dramatic increase in the number of offenders with mental illnesses.
- **2006: Aboriginal Offenders.** I reported that Aboriginal people accounted for a disproportionate share of the federal prison population. They represented 18 percent of the federal prison population, although they accounted for just 3 percent of the general Canadian population. I stated that the Correctional Service does not control admissions to penitentiaries, but it does have a constitutional and statutory obligation to manage sentences in a culturally responsive and non-discriminatory manner. The Correctional Service's own statistics confirmed that correctional outcomes for Aboriginal offenders were not improving in many areas that the Correctional Service could positively influence.
- **2007: Barriers to Public Safety.** I reported on the increasing inability of the Correctional Service to prepare offenders in a thorough and timely fashion for conditional release consideration. Our review of offender complaints showed that many of these delays were directly related to the Correctional Service's inability to provide the required assessments, treatment and programming before the offender's scheduled parole hearing dates. I also highlighted the chronic shortage of Aboriginal-specific core programming in maximum-security institutions, which meant that Aboriginal offenders could

58. Office of the Auditor General of Canada, *Office of the Correctional Investigator* (November 2006), c. 11 at para. 11.12.

59. Ronald Stewart. Letter dated August 1, 2007 at <http://www.publicsafety.gc.ca/media/nr/2007/nr20071025-2-eng.aspx>.

not carry out their correctional plans and transfer to lower-security institutions where Aboriginal programs were more available.

### **The Pillars of Effective Corrections**

- 1. The absolute necessity of fostering a strong culture of human rights within the Correctional Service of Canada.*
- 2. The need for correctional staff and senior managers to be accountable in their administration of law and policy.*
- 3. The requirement to assist offenders to ensure their timely, safe reintegration into the community.*

With increased visibility, the Office is now more often sought out for public comment and called upon to testify before various parliamentary committees. OCI staff members have authored many articles on a variety of correctional issues and have been invited to present at local, national and international conferences and workshops. In my opinion, this new focus has brought a higher and more positive degree of openness and transparency to federal corrections, and an increased understanding of the role of the Office.

Upon my arrival, I also took the time to refocus the Office's operations on the protection of human rights. The *Annual Report 2004/05* highlighted three pillars of sound correctional practice: the protection of human rights; the acceptance of accountability; and safe, supported, timely reintegration. Adherence to these basic principles is key to the Correctional Service meeting its dual statutory obligations: to provide safe, humane custody; and to assist offenders, through rehabilitative programming and supervision, to return to their communities as law-abiding citizens.

In 2005, the OCI was selected as the lead partner on an important three-year project, funded by the Canadian International Development Agency, with the prison administration of China. The Jail Supervision Division of the Penitentiary Administration Bureau of the Chinese Public Security Ministry (JSD)

openly acknowledged significant human rights challenges in its prisons and demonstrated an interest in responding to a recent report of the UN Special Rapporteur against Torture. The UN report was critical of Chinese authorities' treatment of their prisoners. This project is unique because the JSD is partnering directly with the OCI, whose statutory mandate includes making recommendations on human rights compliance. The OCI was specifically selected for this project because of its unique mandate and its established expertise in human rights in correctional settings. Two delegations of senior prison officials from China came to Canada and evaluated how Canada manages its prisons and penitentiaries, and how it provides oversight of its correctional operations.

## **Deaths in Custody**

A year before my arrival, the Office received a CSC investigation report on the death of Mr. Roger Guimond and a video of the incident. After completing its preliminary review on May 12, 2003, the Office requested additional information. The Correctional Service failed to provide most of this information and considered the matter closed. After several other OCI requests and meetings, the Correctional Service's National Headquarters finally reviewed the videotape of the incident—three months after our initial intervention. The Commissioner subsequently agreed to convene an independent investigation of the incident itself and of the Correctional Service's previous investigation. In September 2003, Mr. Roger Tassé, a former Deputy Minister of Justice, was mandated to undertake the independent investigation into the Correctional Service's conduct and management as regards to the death of Roger Guimond on October 18, 2002, while he was an inmate at Port-Cartier Institution. At that time, the Office suspended its own investigation, pending the results of Mr. Tassé's inquiry.

*The Correctional Service's investigation into Mr. Guimond's death and management's subsequent review of the investigative report were seriously flawed.*

During his rounds, a correctional officer found Mr. Guimond, who was an epileptic, lying on the floor in his cell. He was having trouble breathing and there was white foam at his mouth. There was a long delay of one hour and 17 minutes until the cell was opened to administer first aid. Even after the cell was opened, Mr. Guimond received no care, despite the presence of the duty nurse. An ambulance was finally called and arrived almost two hours after the problem was first discovered. Mr. Guimond had convulsions on two occasions and went into cardiopulmonary arrest. He was finally transferred to an outside hospital but was declared dead a short time later. A CSC regional investigation found that the nurse had failed to meet his obligations but that the Correctional Officers had acted reasonably under the circumstances. The Correctional Service's investigation into Mr. Guimond's death and management's subsequent review of the investigative report were seriously flawed. Mr. Tassé made the following comments related to the Correctional Service's investigative process:

I found that several individuals failed to get to the bottom of things; there was a very poor analysis of the incident and very poor steps following it. This is the aspect of this affair that I find distressing. To err is human; no one is perfect. What is difficult to admit, however, is that the incident was not seriously analysed and there was no attempt to learn from it in order to better manage similar incidents in the future. As we will see in this report, there were several times during this affair when the will of several people in authority to get to the bottom of things gave way to the easy way out, of refusing to face the reality of the situation with all of its problems or to take the necessary corrective measures.<sup>60</sup>

I believe that without the involvement of the Office, this incident would have gone unaddressed. As a result of our action and Mr. Tassé's report, the Correctional Service implemented a new protocol to evaluate the management of medical emergencies; provided additional training in crisis management; improved the quality of its investigative procedures; and improved the delivery of health care.

In 2006, the Office continued to be concerned about the high number of deaths and injuries in federal institutions. The Office was especially concerned about the number of similar findings and recommendations made year after year by the Correctional Service's national investigators, provincial coroners and medical examiners after reviewing inmate deaths. In spring 2006, the Office conducted a comprehensive review of reports, observations and recommendations dealing with deaths in custody and other matters. The project examined all reported deaths—due to factors other than natural causes—that occurred over a five-year period in Canadian federal correctional institutions. The study included all deaths that the Correctional Service had determined were homicides, suicides, overdoses or accidents.

The *Deaths in Custody Study* was submitted to the Correctional Service in February 2007 and publicly released in July 2007. It presented troubling findings. The report provided evidence that the Correctional Service must enhance its capacity to focus on observations and recommendations related to deaths in custody. The Correctional Service had failed to consistently incorporate lessons learned and to implement corrective action over time and across regions, as similar errors were repeatedly made and noted. The study also suggested that the Correctional Service resisted or failed to act reasonably on a large proportion of coroners' findings and recommendations, compared to the findings and recommendations of its own boards of investigation. The report concluded that "...the Service fell short in implementing its own policies and practices, and in doing everything possible to avert a fatality".<sup>61</sup>

Subsequent to the *Deaths in Custody Study*, the Office conducted two detailed investigations involving two inmate deaths. Unfortunately, the two deaths raised concerns that had been previously discussed in the *Deaths in Custody Study*, as well as in previous OCI annual reports.

60. Canada, *Report of the Special Investigation Under Section 20 of the Corrections and Conditional Release Act: Death of Inmate Roger Guimond on October 18, 2002 at Port-Cartier Institution* (2004) (Chair: Mr. Roger Tassé).

61. Office of the Correctional Investigator, *Deaths in Custody Study* (2007) at [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca).

First, the Office investigated the death of a 52-year-old First Nations offender who, at the time of his death, was in the Pathways Healing Unit in a medium-security institution. In the early hours of Tuesday, October 3, 2006, the inmate inflicted a wound to his left arm, which lacerated his brachial artery. He pressed his cell emergency button, which prompted the correctional officer on duty to attend his cell and to call for additional staff assistance. By the time paramedics arrived, approximately 33 minutes after the inmate had pushed his cell emergency button, they found him unconscious on the floor of his cell and not breathing. The paramedics attempted to revive him with defibrillator equipment and continued their attempts to revive him while he was transported, in leg irons, to an outside hospital. He was declared dead a short time later.

The internal CSC investigations concluded that the CSC staff who attended to this medical emergency failed to respond adequately as per policy, and did little to attempt to save the inmate's life during the 33-minute period, except to call for an ambulance 10 minutes after he pressed his cell emergency button.

The Office concluded that, while in care of the Correctional Service, the inmate self-inflicted a life-threatening wound to his left arm, and subsequently called for help by pressing his cell emergency button. Although assistance was eventually rendered, it fell short of what must be expected from the CSC.

The second investigation conducted by the OCI concerned the death of a 19-year-old woman, Ms. Ashley Smith. On October 19, 2007, Ms. Smith was pronounced dead at a Kitchener hospital. At the time of her death, she was an inmate at Grand Valley Institution for Women (GVI). As a result of her tragic death, three front-line staff and one correctional manager were charged with criminal negligence causing death.

Shortly after the death of Ms. Smith, pursuant to section 170 of the CCRA, the Office reviewed the circumstances surrounding her death. On December 21, 2007, the Office provided the Correctional Service and the Department of Public Safety with an *Interim Report into the Death of Ashley Smith*. The interim report raised troubling questions about the ability of the Correctional Service to fulfil its core mandate to provide safe and humane care and custody for this inmate. The criminal investigation into her death is ongoing at the time of writing of this report and, therefore, very limited information is available to the public.

Most of the issues the Office has publicly raised over the years relate directly to the Correctional Service's current five key corporate priorities. That is not surprising as, for the most part, both this Office and the Correctional Service share the same concerns. In fact, both have a mutual interest in resolving them. This year's OCI *Annual Report* will again address issues of offender concern related to the Correctional Service's five key corporate priorities. My Office believes that action on these priorities will go a long way toward addressing longstanding areas of offender concern.





# THE CORRECTIONAL SERVICE OF CANADA'S FIVE KEY PRIORITIES

1. Safe Transition of Eligible Offenders into the Community
2. Safety and Security for Staff and Offenders in Our Institutions
3. Enhanced Capacities to Provide Effective Interventions for First Nations, Métis and Inuit Offenders
4. Improved Capacities to Address Mental Health Needs of Offenders
5. Strengthened Management Practices



In its last three reports on plans and priorities (2006/07 to 2008/09), the Correctional Service has identified the following five key corporate priorities to guide its efforts to deliver the best possible correctional results consistent with its mandate:

1. safe transition of eligible offenders into the community;
2. safety and security for staff and offenders in our institutions;
3. enhanced capacities to provide effective interventions for First Nations, Métis and Inuit offenders;
4. improved capacities to address mental health needs of offenders; and
5. strengthened management practices.

The Office will comment once again this year on offender concerns as they relate to these five CSC priorities, past recommendations, commitments and progress in addressing the concerns. We will also make special comments regarding the Correctional Service's internal offender grievance process.

## 1. Safe Transition of Eligible Offenders into the Community

We know that evidence-based programming and treatment can significantly reduce re-offending, and we acknowledge the Correctional Service's endorsement of such programming and treatment approaches.

*For almost two decades, this Office has raised concerns in its annual reports about the degree to which the Correctional Service prepares offenders in a thorough and timely fashion for conditional release consideration.*

As discussed in the Looking Back section, for almost two decades, this Office has raised concerns in its annual reports about the degree to which the Correctional Service prepares offenders in a thorough and timely fashion for conditional release consideration. Providing timely, targeted correctional programs designed to address identified criminogenic factors can significantly reduce re-offending and thereby enhance public safety. The Correctional Service's latest Departmental Performance Report stated:

Research shows that society is best protected when an offender is gradually reintegrated into society through supervised release, rather than at the end of sentence with no control—no supervision or constraints; no opportunity to revoke the release on indication of problematic behaviour; and no opportunity to reassess and intervene in a manner that would reduce the potential for re-offending.<sup>62</sup>

Recently, the Panel established by the Minister of Public Safety to provide him with independent expert advice endorsed this approach. In its report, *A Roadmap to Strengthening Public Safety*, the CSC Review Panel, chaired by Robert Sampson, specifically acknowledged that implementing research-based correctional programs, paired with evaluation and accreditation processes, is the best approach and should be continued.<sup>63</sup>

Upon admission to a penitentiary, every inmate is assessed, and a correctional plan prescribing programming is put in place. Indeed, the Correctional Service has some very good programs and initiatives related to education, employment, substance abuse, living skills, sex offender treatment, violent offender treatment and family violence prevention that significantly decrease re-offending.

The Correctional Service continues to make progress in the area of risk assessment, either by enhancing existing tools or by developing new tools to assess the risk and needs of various segments of its prison population, such as women offenders, Aboriginal

62. Correctional Service of Canada, *Departmental Performance Report 2006–2007* (2007) at 32.

63. Canada, Correctional Service of Canada Review Panel, *A Roadmap to Strengthening Public Safety* (2007) (Chair: Mr. Rob Sampson) ([www.ps-sp.gc.ca](http://www.ps-sp.gc.ca)).

offenders, violent offenders and sexual offenders. However, this progress has been slow, and there is evidence that some assessment tools continue to impose security classifications that are higher than necessary. That results in offenders, particularly women and Aboriginal offenders, being unnecessarily placed in higher security institutions than their situation warrants, and thereby being denied access to needed programs.

The Correctional Service has good programs, and has made some progress in addressing the validity and reliability of its risk and needs assessment tools. However, this Office is concerned about the CSC's decreasing ability to move offenders through their correctional plans in a timely fashion and to prepare them for conditional release consideration. Limited program capacity affects the ability of willing offenders to participate in their correctional plans, thereby delaying their safe reintegration into the community, increasing both overcrowding and costs.

Now, as the Correctional Service faces increases to its offender population, the situation has become critical. Many of these delays relate directly to the Correctional Service's current difficulty in providing the required assessments and treatment before an offender's scheduled parole hearing dates. More offenders will return unprepared to the community, where they will be supervised for a shorter period. For the great majority of offenders, timely, gradual and supported reintegration is the most effective way to enhance public safety.

To address some of the issues associated with timely case preparation and access to programs, a joint working group involving the Correctional Service, the National Parole Board and the OCI was established more than four years ago. In November 2004, the working group issued its *Report on Factors Causing Delays in National Parole Board Reviews*. The report made recommendations to facilitate timely conditional release reviews. It also recommended ensuring that offenders appearing before the Board receive the

assistance and programs they need for their eventual safe community reintegration in a timely manner. To date, there is no evidence that the situation has improved. On the contrary, the following is true:

- According to the National Parole Board, the proportion of inmates released from federal institutions at the end of their sentences, with no prior parole, increased from 66 percent in 2002/03 to 73 percent in 2006/07.
- With a budget of \$1.8 billion, the CSC allocated only \$37 million in 2006/07 for core programming—one of the key elements of its legislative mandate. That represents approximately 2 percent of its total budget.

We support the Correctional Service's efforts to secure resources to improve timely access to a full range of effective offender programs and treatment. The following specific barriers to reintegration in the area of access to programs remain to be addressed by the Correctional Service:

- long waiting lists for programs in most regions, resulting in programs being provided late in the offender's sentence, beyond his or her parole eligibility dates;
- waivers, postponements and withdrawals of applications for National Parole Board hearings because of delayed program access;
- the fact that correctional plans must be developed and implemented more quickly due to the increased percentage of new offenders being admitted with sentences of four years or less;
- a shortage of program facilitators and program officers, especially those with the skill sets required to deliver Aboriginal-specific programming;
- limited access to programs in the community, especially for women and Aboriginal offenders;
- limited or no anti-gang programming in most institutions—meaning that, by default, reliance on segregation and increased security levels are quickly becoming the norm in managing this area of concern;

- difficulties in recruiting and retaining mental health professionals;
- delays in evaluation and national implementation of Aboriginal-specific programming; and
- the chronic shortage of Aboriginal-specific core programming in maximum-security institutions, which means that Aboriginal offenders cannot carry out their correctional plans and transfer to lower security institutions where Aboriginal programs are available.

The Correctional Service is committed to making genuine progress in the development of reliable and valid risk and need assessment tools, and to increasing its capacity to deliver programs. However, it seriously lacks the resources it needs to fulfil its mandate of preparing offenders for timely and safe reintegration into the community. Addressing that lack must be a priority.

1. *I recommend that the Correctional Service immediately allocate adequate resources to measurably improve its capacity to provide the required assessments and programming in advance of the offender's scheduled parole hearing dates.*
2. *I recommend that the Correctional Service establish as a priority the timely preparation of cases to appear before the National Parole Board, as per existing policy. Performance in this priority area should be both measured and closely monitored on an ongoing basis through increased reporting at the regional and national levels, and form a component of the CSC Departmental Performance Reports.*

## 2. Safety and Security for Staff and Offenders in Our Institutions

The overall level of violence in penitentiaries remains unacceptable. A key legislative responsibility of the federal correctional system is to ensure that inmates serve their sentences in a safe and secure environment. For years, this Office has expressed concern regarding the extent to which the Correctional Service provides such an environment. Experience shows that mechanisms such as positive, ongoing interactions with offenders and alternative dispute resolution help diminish institutional violence. Recent instances of violence have been attributed to gang-related activities, drug use and other chronic frustrations. Prison violence remains for the most part unaddressed on a systematic and integrated basis by the Correctional Service.

*The overall level of violence in penitentiaries remains unacceptable. A key legislative responsibility of the federal correctional system is to ensure that inmates serve their sentences in a safe and secure environment.*

Additional mental health services would significantly improve the institutional environment. Far too many vulnerable offenders suffering from mental illnesses are subject to abuse from other offenders, while many more become the subject of avoidable use-of-force interventions and extensive placements in segregation.

## The *Deaths in Custody Study*

In 2006, in response to our concern about the high number of deaths and injuries in federal institutions, the Office conducted a comprehensive review of reports, observations and recommendations dealing with deaths in custody. The *Deaths in Custody Study*, referenced in the Looking Back section of this report, was submitted to the Correctional Service in February 2007 and publicly released in July 2007. The study came to the disturbing conclusion that “it is likely that some of the deaths in custody could have been averted through improved risk assessments, more vigorous preventive measures, and more competent and timely responses by institutional staff”.<sup>64</sup>

The Correctional Service indicated a willingness to address many of the *Deaths in Custody Study's* findings. The Correctional Service committed to improving the timeliness and effectiveness of the investigation process, and to enhancing its mental health capacity and responsiveness to incidents. Over the last year, we have been made aware of initiatives aimed at addressing concerns raised in the *Deaths in Custody Study*. These include the following:

- a new website, accessible to all CSC employees and managers, that summarizes lessons learned in the management of incidents that resulted in deaths;
- an ongoing survey of wardens on how best to manage medical emergencies;
- a new Commissioner's Directive, “Use of and Responding to Alarms”;
- an ongoing review of the policy on recording and reporting security incidents; and
- a further commitment to a detailed analysis of injuries sustained by offenders with mental health issues.

Although these are good initiatives, they fall short of what is required and expected in the circumstances to address the concerns raised in the *Deaths in Custody Study*. There is concern that these initiatives will not result in consistent application of corrective action across the country and over time. In the meantime, two of our own recent investigations, detailed in the Looking Back section of this report, suggest that preventable deaths continue to occur. Unfortunately, we anticipate more cases.

Given the seriousness of the issues, I expect a much more rigorous and coordinated response by the Correctional Service in the coming fiscal year.

3. *I recommend that the Correctional Service develop an action plan on the steps it will take to establish a process to ensure consistent and timely implementation, as well as regular follow-up, of its recommendations, and those of coroners and medical examiners.*
4. *I recommend that the Correctional Service:*
  - *establish a consistent framework for recording and reporting attempted suicides, self-inflicted injuries and overdoses;*
  - *provide a systemic review and analysis of the circumstances associated with these types of injuries; and*
  - *initiate corrective action to prevent the recurrence of such injuries.*
5. *I recommend that the Correctional Service ensure that all relevant reports related to offender deaths are provided to coroners and medical examiners in a timely fashion, and that recommendations from these bodies are immediately responded to.*

64. Office of the Correctional Investigator, *Deaths in Custody Study* (2007) at [www.oci-bec.gc.ca](http://www.oci-bec.gc.ca).

### 3. Enhanced Capacities to Provide Effective Interventions for First Nations, Métis and Inuit Offenders

The overrepresentation of Aboriginal people in Canada's prisons and penitentiaries is well known. Nationally, Aboriginal people are less than 3 percent of the Canadian population, but they comprise almost 20 percent of the total federal prison population. For women, this overrepresentation is even more dramatic—they represent 32 percent of women in federal penitentiaries. Using the latest census data, we estimate the overall incarceration rate of Aboriginal Canadians to be 983 per 100,000, or almost nine times higher than the rate for non-Aboriginal people.

In June 2006, the Correctional Service published a *Strategic Plan for Aboriginal Corrections* to address the specific needs of all Aboriginal offenders and to help the CSC move forward in three key areas:

- implement initiatives within a continuum of care to provide culturally appropriate interventions that address the specific criminogenic needs of First Nations, Métis and Inuit men and federally sentenced women offenders;
- enhance horizontal collaboration and coordination within the CSC, within the Public Safety portfolio, and with other levels of government, Aboriginal organizations and stakeholders, to contribute to Aboriginal community development and to help Aboriginal offenders initiate and sustain their healing journeys; and
- address systemic barriers internally and increase CSC cultural competence.

In spite of the above, the overall situation for the great majority of Aboriginal offenders has not significantly improved. My *Annual Report 2006/07* detailed a persistent pattern of disadvantaged outcomes resulting from existing policies, procedures, practices and organizational structures. The Report focused on inequitable results or outcomes of current CSC policies and practices, such as the following:

- Inmates of First Nations, Métis or Inuit heritage face routine over-classification, resulting in their placement in minimum-security institutions at only half the rate of non-Aboriginal offenders.
- The over-classification for Aboriginal women is even worse. For example, at the end of September 2007, native women made up 45 percent of maximum-security federally sentenced women, 44 percent of the medium-security population and only 18 percent of minimum-security women.
- Placement in a maximum-security institution and segregation limits access to rehabilitative programming and services intended to prepare inmates for release.
- This over-classification is a problem because it means inmates often serve their sentences far away from their family, their community, and the valuable support of friends and elders.
- Aboriginal offenders are placed in segregation more often than non-Aboriginal offenders.
- Aboriginal inmates are released later in their sentences than other inmates.
- The proportion of full parole applications resulting in National Parole Board reviews is lower for Aboriginal offenders.
- The use of work releases has dropped dramatically, from 1,044 in 2003/04 to 655 in 2007/08—a 37 percent decrease. Work releases for Aboriginal offenders dropped even more dramatically—by 71 percent, from 160 to 47, in the same period. The Correctional Service is failing to use an effective reintegration tool with an almost 100 percent success rate—work releases.

Aboriginal offenders are more likely to be released on statutory releases, as opposed to parole, resulting in increased periods of incarceration and less time in the community under supervision. The proportion of Aboriginal offenders under community supervision is significantly smaller than the proportion of non-Aboriginal offenders serving their sentences on conditional release. Aboriginal offenders continue to be overrepresented among all offenders referred for detention. Parole is more likely to be revoked for Aboriginal offenders than for non-Aboriginal people. The rate of revocations for breach of conditions (no new criminal offence) is higher for Aboriginal offenders. Aboriginal offenders are re-admitted to federal custody more frequently than non-Aboriginal offenders, and too often this cycle of unfair treatment begins again. To break this cycle, the Correctional Service must do a better job of preparing Aboriginal offenders while they are in custody and provide better support while they are in the community.

*Aboriginal offenders are more likely to be released on statutory releases, as opposed to parole, resulting in increased periods of incarceration and less time in the community under supervision.*

In past OCI annual reports, this Office recommended that the Correctional Service appoint a deputy commissioner specifically responsible for Aboriginal corrections to ensure that the Correctional Service incorporates Aboriginal concerns into all of its operational and policy decisions at the senior level. This recommendation has not been accepted. The Correctional Service instead expanded the role and responsibilities of the Senior Deputy Commissioner (SDC) by adding the Aboriginal portfolio to his duties. Three years later, there is little evidence that this change has had the desired result. On the contrary, the gap in outcomes between Aboriginal and other offenders continues to grow.

The *Corrections and Conditional Release Act* stipulates that the Correctional Service shall establish a National Aboriginal Advisory Committee to advise the Correctional Service on the provision of correctional services to Aboriginal offenders. The National Aboriginal Advisory Committee has not met since June 2004. In response to my last annual report, the Correctional Service indicated that “work to select new members for the National Aboriginal Advisory Committee is underway”.<sup>65</sup> A year later, this Office has yet to be informed of the re-establishment of this legally required committee.

We continue to be concerned that the Correctional Service does not have the necessary data collection systems in place to monitor and evaluate its progress in the area of Aboriginal corrections. We have for years recommended that the Correctional Service publicly issue detailed quarterly reports analyzing key correctional outcomes for Aboriginal offenders, including transfers, segregation, discipline, temporary absences and work releases, detention referrals, delayed parole reviews, and suspensions and revocations of conditional releases. The Correctional Service indicated in its *Strategic Plan for Aboriginal Corrections* that it would develop and implement an integrated monitoring system for assessing the impact of policy and operational changes on Aboriginal offenders by March 2007. This date has long passed, and there is no evidence of improved data collection or analysis. In fact, we have been advised that the Correctional Service will now produce only basic internal annual reports on Aboriginal offenders, as it claims trends are not significantly changing over time. Key correctional outcomes must be the subject of close and regular monitoring to evaluate progress on the implementation of the *Strategic Plan for Aboriginal Corrections*.

In response to my last annual report, the Correctional Service stated that it uses the *Departmental Performance Report* (DPR) to “...report on progress toward the goals of the National Action Plan on Aboriginal Offenders”.<sup>66</sup> Unfortunately, the latest CSC DPR,

65. Office of the Correctional Investigator, *Annual Report 2006/2007* at 45.

66. *Ibid.*



for 2006/07, does not report on key correctional outcomes that are of concern to this Office, including transfers, segregation, discipline, temporary absences and work releases, detention referrals, delayed parole reviews, and suspensions and revocations of conditional releases. Therefore, parliamentarians and Canadians have no way of evaluating the Correctional Service's progress, or lack thereof, in this priority area of concern. The lack of openness and the refusal to engage in full reporting on this critical file remain a serious concern to this Office.

Over the years, my Office and other observers have become increasingly concerned about over-classification of Aboriginal and women offenders, and the discriminatory use of the Correctional Service's actuarial risk assessment tools. Actuarial risk assessment tools are psychological scales that measure the potential or risk of recidivism, institutional adjustment or escape, and reintegration.

The Correctional Service developed an action plan in response to findings questioning the validity of its actuarial tools. Unfortunately, we understand that the Correctional Service only expects to fully implement new tools by fiscal 2009/10, more than six years after the Canadian Human Rights Commission found that women and Aboriginal offenders were subject to systemic discrimination, and 13 years after Justice Arbour raised this concern.

The combination of over-classification and lack of Aboriginal programming best illustrates how systemic barriers can hinder offender reintegration. Aboriginal offenders are over-classified because of a poorly conceived actuarial scale. As a result, Aboriginal offenders are disproportionately and inappropriately placed in higher security institutions, which have limited or no access to core programs designed to meet their unique needs. This scenario, for the most part, explains why the reintegration of Aboriginal offenders is lagging so significantly behind the reintegration of other offenders. Clearly, correctional outcomes cannot be explained by individual differences alone.

6. *I recommend that the Minister immediately re-establish the National Aboriginal Advisory Committee, as required by law.*
7. *Once it is appointed, I recommend that the National Aboriginal Advisory Committee, as its first order of business:*
  - *review the Correctional Service's governance structure and resources allocated to ensure the timely implementation the CSC's Strategic Plan for Aboriginal Corrections; and*
  - *examine the capacity of the Correctional Service to monitor progress on key correctional performance indicators, including transfers, segregation, discipline, temporary absences and work releases, detention referrals, delayed parole reviews, and suspensions and revocations of conditional releases.*

## 4. Improved Capacities to Address Mental Health Needs of Offenders

As reported in the Correctional Service's *Report on Plans and Priorities 2007/08*, mental health problems are up to three times more common among inmates in correctional institutions than among the general Canadian population. More than 1 out of 10 male inmates and 1 out of 5 female inmates have been identified at admission as having mental health problems, an increase of 71 percent and 61 percent, respectively, since 1997.

In July 2004, the Correctional Service approved a Mental Health Strategy that promotes the adoption of a continuum of care from initial intake through the safe release of offenders into the community. In December 2005, the Correctional Service secured funds to strengthen the community component of this strategy. This Office welcomed the news of these new investments—approximately \$6 million per year for five years—in community mental health. We

also note the Government of Canada's inclusion in its March 2007 Budget of new investments—approximately \$21 million over two years—to address the lack of a comprehensive mental health intake assessment process and to improve primary mental health care in CSC institutions. The March 2008 Budget provided additional ongoing funding—approximately \$16 million per year.

*Mental health problems are up to three times more common among inmates in correctional institutions than among the general Canadian population.*

Even with the new funding, the current situation remains problematic on several fronts. First, the Correctional Service has difficulty recruiting additional mental health professionals—such as nurses (including those with psychiatric specializations), psychologists, and behavioural science technologists and behavioural counsellors—to fill existing funded positions. In fact, before the recent funding was secured, the Correctional Service had a large staff deficit in at least two of its regions. Therefore, some funding lapsed. Recruiting and retaining staff, and making the Correctional Service an employer of choice for mental health professionals, will remain a challenge for years to come.

The Correctional Service faces many barriers in recruiting and retaining staff, many of which are beyond its control. First, some government-wide human resources policies hinder its ability to hire and retain mental health professionals. Second, the physical infrastructure of three of its Regional Treatment Centres (RTCs) is archaic and not conducive to addressing offenders' treatment needs. As noted in the *CSC Panel Report*, significant capital investments are required to address this situation.<sup>67</sup> Finally, no funding has been secured for what is identified as “intermediate mental health care”. There are many offenders who need ongoing mental health care and support, but who do not require the level of intensive care offered in RTCs. These offenders, who make up a significant proportion of offenders with mental health concerns, are not receiving the level of care they need.

Too often, their symptoms are managed through placement in segregation. Infrastructure investments are needed to establish intermediate mental health care units to address this service gap.

The full implementation of the Correctional Service's Mental Health Strategy is urgently required. It will ensure that the Correctional Service complies with its legal obligation to provide every inmate with essential mental health care and reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community, according to professionally accepted standards. Improving outcomes in this area is critical. In the *Report on Plans and Priorities 2008/09*, the Correctional Service assesses the impact of not providing adequate mental health services as follows:

Inmates with untreated mental health disorders cannot engage in their correctional plans. They may compromise the safety of other inmates and front-line staff, and many may become unstable within the community upon release, particularly where service providers may not perceive offenders as one of their client groups.<sup>68</sup>

8. *I recommend that the Minister make securing adequate and permanent funding for intermediate mental health care a key portfolio priority.*
9. *I recommend that the Correctional Service make its training initiatives to ensure that all front-line employees are trained in dealing with mentally ill offenders a priority for the current fiscal year.*

67. Canada, Correctional Service of Canada Review Panel, *A Roadmap to Strengthening Public Safety (2007)* (Chair: Mr. Rob Sampson) ([www.ps-sp.gc.ca](http://www.ps-sp.gc.ca)).

68. Correctional Service of Canada, *Report on Plans and Priorities 2008/09 (2007)* at 31.

## 5. Strengthened Management Practices

In its latest report on plans and priorities, the Correctional Service committed to strengthening its management practices by ensuring that there is a “robust and effective organization that is able to deliver on its key operational priorities and other activities in a cost-effective manner and to do this in a way that is consistent with public service values that are essential to a healthy workplace and to the confidence and trust of Canadians”.<sup>69</sup> The Correctional Service states that it will do so by improving results in the areas of harassment, staff grievances, respect, trust, accountability, management practices, ethics, resources, integrity, fairness, inclusiveness of the workplace and respect. The Correctional Service should be commended for its leadership efforts to strengthen its management practices. We will limit our comments and observations on this key priority to those initiatives that are of concern because of their impact on the offender population. Clearly, management practices can, and do, influence the treatment of offenders.

### Human Resources Issues

In its *Strategic Plan for Human Resource Management 2007–2010*, the Correctional Service acknowledges that it must put into place robust measures to recruit and retain a representative workforce. The Correctional Service identified the need to continue to increase the proportion of Aboriginal workers at all levels, particularly in its executive ranks and in institutions with significant Aboriginal offender populations. It planned to implement a national strategy for recruiting Aboriginal employees and senior executives to meet its needs, starting in March 2008. This Office has yet to receive a copy of this national strategy, or any indication of how achievements will be evaluated and reported.

The offender population is becoming increasingly diverse, and the Correctional Service must ensure that its workforce is representative of this diversity. A diverse, representative workforce at all levels of the organization is one of the best ways of promoting meaningful and positive interactions among staff and offenders.

*10. I recommend that the Correctional Service increase the representation of diverse groups in its workforce at all levels to reflect the ethno-cultural diversity of its offender population.*

## A Special Word on Grievance and Harassment Complaints

This past year, the Correctional Service revised its Commissioner’s Directive CD 081 on the internal offender complaints and grievances system. The revision involved a consultation with stakeholders. Initially, the consultation failed to include proposed changes to timeframes for response at the Commissioner’s level. After my Office pointed out this shortcoming, the Correctional Service consulted on the issue of a proposed new timeframe for processing third-level grievances. This process included a consultation with offenders. In the end, the CSC revised CD 081 and adopted extended timeframes for response to grievances at the Commissioner’s level. The new timeframes moved from 25 days to 80 days for routine grievances and from 15 days to 60 days for high-priority grievances. This amendment raises serious concerns in terms of the Correctional Service’s legislative responsibilities to provide “a procedure for fairly and expeditiously resolving offenders’ grievances”.<sup>70</sup>

It is evident that the huge increase in response times—within a system that has for decades been criticized for its inability to respond in a thorough, objective and timely fashion—places at issue the

69. *Ibid.*

70. *Corrections and Conditional Release Act*, s. 90.

Correctional Service's commitment to ensuring that offender grievances are resolved in a fair and expeditious manner. It further places in question the commitment of the Correctional Service to complying with the intent of the Arbour recommendations directed at the Commissioner's level of the process.

As previously noted, the current inmate grievance process is rooted in the 1977 *Report to Parliament of the Sub-Committee on the Penitentiary System in Canada*. The timeline for the Correctional Service to respond to inmate grievances was initially set at 10 working days for each of the four levels.

The relationship between this Office and the inmate grievance process is longstanding. The initial *Annual Report 1973/1974* notes that "in conjunction with the establishment of the Office of the Correctional Investigator, the Canadian Penitentiary Service established an inmate grievance procedure for dealing with inmate complaints".<sup>71</sup> The Office commented on the need for a timely response from the Correctional Service if both organizations were to effectively fulfil their respective mandates.

The Office, in its *Annual Report 1989/90*, concluded with regard to the grievance process:

The effectiveness and credibility of any levelled redress mechanism is dependent upon a combined front-end process which is capable, in a participative fashion, of thoroughly and objectively reviewing the issue at question. It also requires a final level within the process which has the courage to take definitive and timely decisions on those issues which are referred to its attention for resolution. I feel the difficulties with the current grievance process are not directly related to its structure or its existing procedures, but rather to the lack of commitment and acceptance of responsibility on the part of CSC's senior management for its operation. An improvement in the effectiveness

and credibility of the process will only happen when those responsible for its operation decide to make it work.<sup>72</sup>

The Correctional Service initiated a formal review of the grievance process in April 1989, the first of many. In 1990 the Commissioner of the day, in response to the Office's comments concerning senior management commitment and acceptance of responsibility, stated "...the timelines of our responses will be seen—quite correctly—as a real indicator of the importance we place on resolving offender complaints".

The difficulties with the process persisted, and in 1993 the Office recommended "...that the Service conduct an extensive national audit on the management of the current procedure with a view to not only ensuring that the timeframes and reporting requirements are met, but to as well examine the thoroughness and objectivity of the current procedure and the level of credibility it currently holds with the population it is intended to serve".<sup>73</sup> This recommendation was rejected. The Correctional Service opted to initiate its third "high-level review" of the process in five years. This review eventually resulted in policy changes but no improvement in performance.

The inmate grievance system was a central area of focus for the Arbour Commission. The *Arbour Report* of 1996 stated:

It is striking that virtually all of the issues that have arisen in the course of this inquiry were raised in the first instance by the inmates in complaints, grievances and, in some cases, in letters addressed to senior Correctional Service officials.

Some of these grievances were never answered at all. Those that were answered were almost always answered late; in some cases, several months after the answers were due. There is

71. Office of the Correctional Investigator, *Annual Report 1973/1974* at 13.

72. Office of the Correctional Investigator, *Annual Report 1989/1990* at 29.

73. Office of the Correctional Investigator, *Annual Report 1992/1993* at 24.

no system to effectively prioritize those grievances where the only effective response would be one received on an urgent basis.

However, by far the most troubling aspect of the responses to those grievances, which raised important issues of fundamental inmate rights, was the number of times in which the response failed to deal properly with the substance of the issue raised.<sup>74</sup>

In the Finding Section on grievances, Justice Arbour stated:

The Correctional Investigator has pointed out for years the chronic un-timeliness of the response to the complaint and grievance process in the Correctional Service. In reply, the Correctional Service now takes the position that it has set for itself unrealistic timeframes within which to respond and that these will have to be readjusted. I agree that grievances should be dealt with within a timeframe that will allow an adequate and informative response. The evidence I have heard discloses that lengthy delays produce often neither.<sup>75</sup>

*The Correctional Investigator has pointed out for years the chronic un-timeliness of the response to the complaint and grievance process in the Correctional Service.*

In response to the *Arbour Report*, the Correctional Service adjusted its policy on offender complaints and grievances in June 1998. These adjustments included the following:

- formal prioritization of offender grievances based on their potential effect on rights and freedoms;

- differentiation of response timeframes based on priority; and
- adjustment of timeframes to ensure thorough investigations.

This Office was actively involved in the consultations leading to these adjustments and supportive of the policy direction taken. With respect to the issues of timeframes and priorities, the policy stated:

CSC will ensure that offenders are provided with complete, written responses to issues raised in complaints and grievances within 15 working days of receipt, when the complaint or grievance is assessed as being a priority case, and within 25 working days in all other cases.<sup>76</sup>

The Office was advised during the consultation process leading to the above-noted policy changes that the extensions to the response timeframes of 5 days for priority grievances and 15 days for other cases would ensure a timely and thorough response to offender concerns at all levels of the process.

The *Annual Report 1999/00* acknowledged the improvements to the grievance process and concluded:

This Office has a vested interest in ensuring that the Service's internal grievance procedure is both fair and expeditious in resolving individual offender complaints and identifying systemic areas of concern. With in excess of twenty thousand federal offenders, we cannot be, nor were we ever intended to be, the primary reviewer of offender complaints. The grievance process, to be effective, must be and be seen by the offender population to be thorough, objective and timely in responding to their complaints.<sup>77</sup>

74. Canada, *Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston* (1996) at 150 and 151 (Chair: Justice Louise Arbour).

75. *Ibid.* at 162.

76. Correctional Service of Canada. *Commissioner's Directive 081: Offender Complaints and Grievances*.

77. Office of the Correctional Investigator, *Annual Report 1999/2000* at 10 and 11.

The backlog of grievance responses, mainly at the regional and national levels of the process, had returned by 2002. A recommendation in the *Annual Report 2001/02* again focused on the issue of delay:

I recommend, with respect to the Inmate Grievance Procedure, that the Service initiate action immediately, to clean up the backlog of outstanding grievances and establish procedures to ensure that grievances are addressed in a timely fashion.<sup>78</sup>

In 2004, the Correctional Service initiated a “human resources capacity review within the offender redress process”. The Office was further advised that “CSC is currently reviewing the grievance manual and all of the grievance-related processes to improve timelines of responses”. The timeliness of responses, specifically at the Commissioner’s level of the process, did not improve.

I concluded in my *Annual Report 2004/05* that the inmate grievance process was “...dysfunctional in terms of ‘expeditiously resolving offender grievances’, most notably at the national level”.<sup>79</sup> I recommended that the Correctional Service take immediate steps to review the operation of its process and that it retain an external consultant to assist with its review. In response to this recommendation, the Correctional Service stated:

CSC is currently conducting a national review of the offender Redress Process which will be completed by February 2006. The review addresses the efficacy of the current process, as well as resource requirements and reporting structures.

At the third level (Commissioner), timeliness continues to be a serious challenge and must be addressed. The review will address these issues.<sup>80</sup>

I noted in my *Annual Report 2005/06* that while the Correctional Service had initially agreed with my previous year’s recommendation, the branch responsible for offender redress had conducted the national review of the offender redress process, with no external involvement. The CSC produced a report in May 2006 acknowledging that present operations “...are not meeting statutory requirements”, but to date no action plan has been finalized to reasonably address the matter. I further commented that during fiscal 2005/06, only 15 percent of the grievances responded to at the Commissioner’s level were addressed on time. I recommended that the “...Correctional Service immediately comply with its legal obligation and establish a procedure for fairly and expeditiously resolving all offender grievances”.<sup>81</sup>

The Correctional Service’s response of June 2006 was that it would “...continue to review and improve its current process for responding to offender complaints and grievances, at all levels within CSC”.<sup>82</sup> The Correctional Service further stated “...through resource re-allocations, the backlog of grievances at the third level (Commissioner’s), at the end of FY 05-06, had been eliminated. Every effort will be made through streamlining of processes and policy improvements to sustain these gains and ensure timeliness of responses at the national level”.<sup>83</sup>

Regarding this issue, I stated in my *Annual Report 2006/07*:

The Correctional Service in 1998, facing excessively lengthy delays and a lack of compliance with its own policy, extended its timeframes “to better reflect the time required to respond”. This Office raised concerns at the time that such an extension was inconsistent with the Correctional Service’s commitment to “an effective timely redress process for offenders” and did not reflect legal requirements. Almost a decade later, only 22% of the grievances

78. Office of the Correctional Investigator, *Annual Report 2001/2002* at 32.

79. Office of the Correctional Investigator, *Annual Report 2004/2005* at 19.

80. *Ibid.* at 58.

81. Office of the Correctional Investigator, *Annual Report 2005/2006* at 14.

82. *Ibid.* at 47.

83. *Ibid.*

identified as high priority at the Commissioner's level were answered within these expanded timeframes in fiscal 2006–07 and the Correctional Service is again considering extending the already extended timeframes.<sup>84</sup>

Given the above history on the matter, the movement of the response time on priority grievances at the Commissioner's level from three weeks to three months is unacceptable. Given the seriousness of the situation, I see no other alternative than to recommend outside assistance to ensure the timely and fair resolution of third-level grievances.

*11. I recommend that the Minister direct the Correctional Service to immediately re-instate the response times at the Commissioner's level of the Offender Grievance and Complaint System at 15 days for priority grievances and 25 days for non-priority grievances, and that the Correctional Service take the necessary steps to comply with those timeframes.*

84. Office of the Correctional Investigator, *Annual Report 2006/2007* at 25.





A green-tinted photograph of a prison courtyard. In the foreground, a group of five people is walking away from the camera down a paved path. To the left is a stone building with a large pillar. To the right is a chain-link fence. In the background, a man in a uniform stands near a group of two people. A building with a staircase is visible in the upper part of the image.

# LOOKING FORWARD



I am convinced that when the Correctional Service pays adequate attention to offender concerns, its effectiveness vastly improves, staff and inmates co-exist in a safer environment, and the public is best served. Everyone, including society at large, benefits from a strong commitment to effective corrections—the delivery of evidence-based correctional services and policy within a framework respectful of legal and human rights.

My Office is committed to continuing to engage in a constructive dialogue with the Correctional Service and to making progress on many longstanding areas of offender concern. Our focus will continue to be on ensuring fairness and accountability.

*I am convinced that when the Correctional Service pays adequate attention to offender concerns, its effectiveness vastly improves, staff and inmates co-exist in a safer environment, and the public is best served.*

This year marks the 60<sup>th</sup> anniversary of the *United Nations Universal Declaration of Human Rights*. On December 10, 2007, the UN Secretary-General launched a year-long campaign to celebrate this milestone. The theme of the campaign is “dignity and justice for all of us”. To pay special tribute to this anniversary, Ms. Louise Arbour, UN High Commissioner for Human Rights (UNHCHR), reached out to all national human rights institutions around the world to focus their attention on the situation of persons deprived of their liberty in prisons and other places of detention. The Office of the UNHCHR invited the national human rights institutions, including specialized ombudsman offices such as the OCI, to undertake activities promoting dignity and justice for detainees throughout 2008. The UN High Commissioner for Human Rights designated the week of October 6–12, 2008, to showcase these activities and publicly demonstrate these institutions’ commitment to the fair and humane treatment of detainees.

Canada could take advantage of this UN initiative and further demonstrate its commitment to protecting and promoting human rights. The OCI urges the Government of Canada to use this opportunity to announce its commitment to signing and ratifying the *Optional Protocol on the Convention against Torture*. This action would continue Canada’s long tradition of promoting and defending human rights at home and abroad. In this context, Canada would have an opportunity to assess its domestic oversight framework for all places of detention. The mandates of existing oversight agencies could be reviewed to ensure that all persons detained in Canada are subject to effective independent oversight, and the independence of oversight agencies could be reaffirmed or enhanced, where required. That would clearly and unequivocally demonstrate, to Canadians and the international community, Canada’s commitment to accountability in promoting and protecting human rights.

With respect to my Office, I am convinced the time is right to implement the long-called-for change in its reporting relationship to Parliament. Currently, I am required to provide annual and special reports to the federal Minister of Public Safety, who, in turn, must submit them to both houses of Parliament within 30 sitting days. A key element of any ombudsman operation is the independence of the Office from the government organization it is mandated to investigate. This independence has traditionally been established and maintained by having the ombudsman office report directly to the legislative authority that established it. The current reporting relationship through the federal Minister of Public Safety, given the Minister’s direct responsibility for the Correctional Service, has been an ongoing point of debate since the Office was created. Reporting directly to Parliament is more consistent with the traditional role of ombudsman offices and would help ensure that the Office’s independence is never questioned.

*12. I recommend that as part of any review of the Corrections and Conditional Release Act, the Minister propose that the Office of the Correctional Investigator report directly to Parliament.*

Again, this year I welcome the opportunity to thank my staff members in the Office, who have worked so tirelessly for the betterment of federal corrections. Their professionalism and personal commitment to the mandate of the Office reflect the core values and ethics of the Public Service.

The Correctional Service is in a transitional phase. Many initiatives are underway that will affect the future of corrections. On April 20, 2007, the Minister announced the establishment of an independent panel to look at the CSC's operational policies, strategies and business plans, in order to determine future directions for the Correctional Service. This initiative was part of the government's commitment to protecting Canadian families and communities. The panel released its report on December 13, 2007.<sup>85</sup> It included 109 recommendations, focusing on five key themes:

1. offender accountability;
2. elimination of drugs from prisons;
3. offender employment and employability;
4. physical infrastructure; and
5. elimination of statutory release and a movement toward earned parole.

The government responded to the CSC panel recommendations via its March 2008 Budget.<sup>86</sup> It is not clear how many recommendations will eventually be implemented. However, the March 2008 Budget funded the CSC's Transformation Office to examine the panel's recommendations and develop detailed responses.

In addition, parliamentarians constantly solicit the Correctional Service to estimate the costs of legislative proposals that could, if Parliament adopts them, significantly increase Canada's penitentiary population. Furthermore, the Treasury Board Secretariat is currently examining the Correctional Service's allocation of funds to its priorities in a strategic review exercise. Finally, the Correctional Service has established a task force to examine its policy development and policy communications processes. All these activities could redefine federal corrections in Canadian society.

The next fiscal year promises to be another very demanding one for the OCI, as our workload will continue to increase. We are looking forward to working collaboratively with the Correctional Service on its five key priorities. We acknowledge that our shared issues will not be easy to resolve. However, we hope that the Correctional Service will respond not only to our specific recommendations but also to the context in which they arise, by setting the bar high and committing itself to addressing these longstanding offender concerns in a reasonable and timely way. Canadians deserve nothing less than the best correctional system in return for their significant and growing investment.

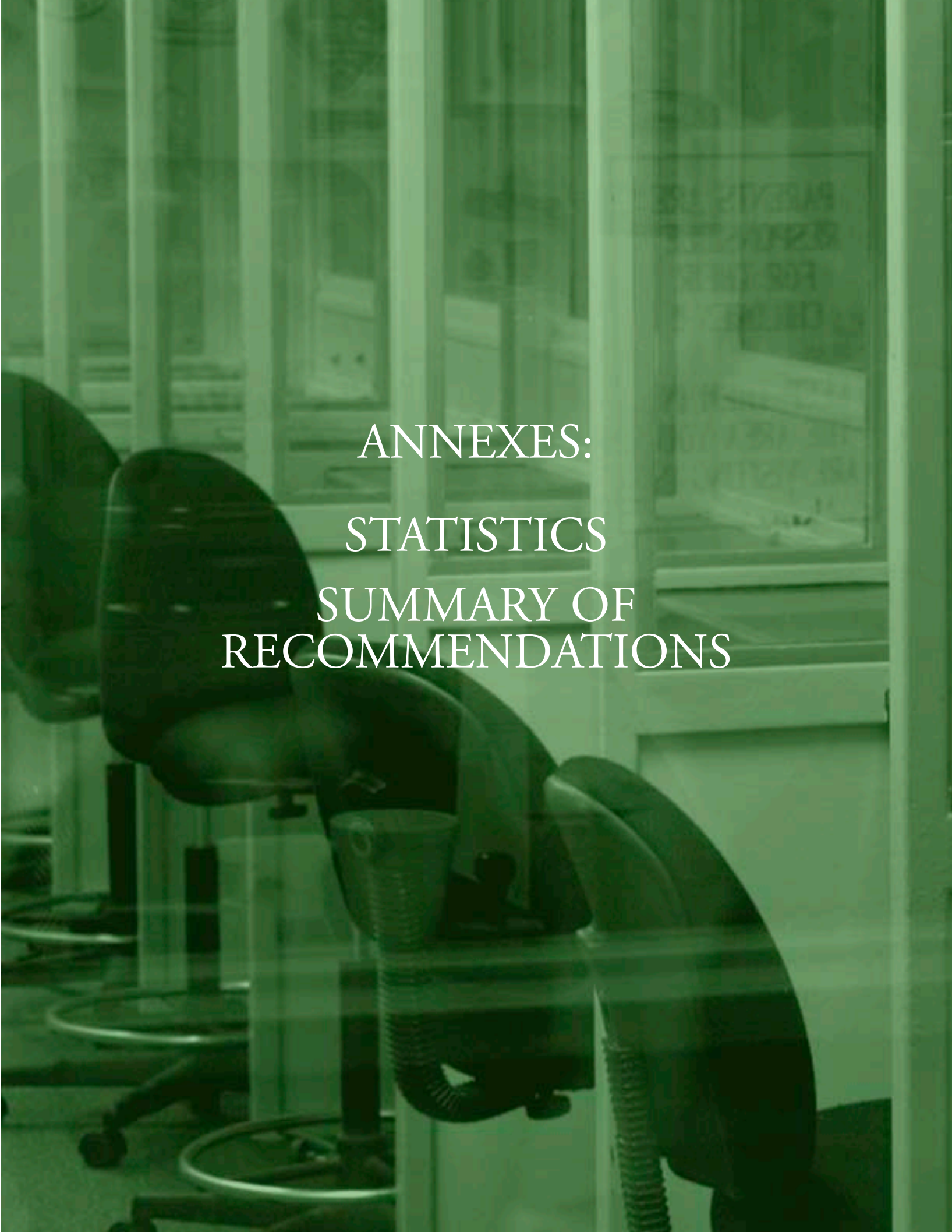
In the coming year, the Office will meet with stakeholders concerned about in-custody deaths and will examine the feasibility of implementing a formal reporting and information-sharing system in Canada. Such systems already exist in other jurisdictions and have proven to be invaluable in assisting to prevent tragic deaths.

The Office will also continue to work with various central agencies to enhance our corporate risk management practices, our security and business continuity policy, and our information management and internal audit capacity.

With much work to do and many interesting challenges to meet, I look forward to the coming year.

85. Canada, Correctional Service of Canada Review Panel, *A Roadmap to Strengthening Public Safety* (2007) (Chair: Mr. Rob Sampson) ([www.ps-sp.gc.ca](http://www.ps-sp.gc.ca)).

86. Budget 2008 at 170.



ANNEXES:  
STATISTICS  
SUMMARY OF  
RECOMMENDATIONS



# ANNEX A: STATISTICS

## Table A: Complaints<sup>(1)</sup> By Category

Complaints - see Glossary (1)  
 Internal Response - see Glossary (2)  
 Investigation - see Glossary (3)

CATEGORY	I/R <sup>(2)</sup>	INV <sup>(3)</sup>	TOTAL
<b>Administrative Segregation</b>			
Conditions	16	87	103
Placement/Review	73	230	303
<b>Total</b>	<b>89</b>	<b>317</b>	<b>406</b>
<b>Case Preparation</b>			
Conditional Release	58	119	178
Post Suspension	23	17	40
Temporary Absence	8	36	44
Transfer	42	75	117
<b>Total</b>	<b>132</b>	<b>247</b>	<b>379</b>
Cell Effects	197	323	520
Cell Placement	15	64	79
<b>Claims Against the Crown</b>			
Decisions	7	4	11
Processing	18	28	46
<b>Total</b>	<b>25</b>	<b>32</b>	<b>57</b>
Community Programs/Supervision	6	11	17
Conditions of Confinement	98	252	350
Correspondence	31	39	70
Death or Serious Injury	4	6	10
Decisions (General) – Implementation	8	8	16
<b>Diet</b>			
Medical	9	27	36
Religious	3	16	19
<b>Total</b>	<b>12</b>	<b>43</b>	<b>55</b>
<b>Discipline</b>			
Independent Chairperson (ICP) Decisions	7	3	10
Minor Court Decisions	7	8	15
Procedures	25	15	40
<b>Total</b>	<b>39</b>	<b>26</b>	<b>65</b>
Discrimination	4	8	12
Employment	38	62	100
<b>File Information</b>			
Access – Disclosure	58	113	171
Correction	69	57	126
<b>Total</b>	<b>127</b>	<b>170</b>	<b>297</b>

*Continued next page*

## Table A: Complaints<sup>(1)</sup> By Category (cont.)

CATEGORY	I/R <sup>(2)</sup>	INV <sup>(3)</sup>	TOTAL
<b>Financial Matters</b>			
Access	42	63	106
Pay	41	49	90
<b>Total</b>	<b>83</b>	<b>112</b>	<b>196</b>
Food Services	29	33	62
Grievance Procedure	83	181	264
Harassment	21	31	52
Health and Safety – Worksite	2	3	5
Ion Scan/Drug Dog	4	3	7
<b>Health Care</b>			
Access	89	349	438
Decisions	90	235	325
Dental	17	69	86
<b>Total</b>	<b>196</b>	<b>653</b>	<b>849</b>
<b>Mental Health</b>			
Access	3	31	34
Programs	4	4	8
<b>Total</b>	<b>7</b>	<b>35</b>	<b>42</b>
Methadone	10	46	56
Official Languages	7	2	9
Operation/Decisions of the OCI	20	7	27
<b>Programs</b>			
Access/Services	56	124	180
Release Procedures	35	58	93
Safety/Security of Offender(s)	45	131	176
Search and Seizure	18	23	41
Security Classification	67	105	172
Sentence Administration	19	16	35
Staff Performance	136	180	316
Telephone	61	128	189
Temporary Absence Decision	16	52	68
<b>Transfer</b>			
Implementation	42	112	154
Involuntary	68	124	192
Pen Placement	28	56	84
Voluntary	26	99	125
<b>Total</b>	<b>164</b>	<b>391</b>	<b>555</b>
Urinalysis	11	10	21
Use of Force	5	27	32

*Continued next page*



## Table A: Complaints<sup>(1)</sup> By Category (cont.)

CATEGORY	I/R <sup>(2)</sup>	INV <sup>(3)</sup>	TOTAL
<b>Visits</b>			
General	50	154	204
Private Family Visits	38	73	111
<b>Total</b>	<b>88</b>	<b>227</b>	<b>315</b>
<b>Outside Terms of Reference</b>			
Parole Process/Decisions	79	52	131
Other Issues	45	20	72
<b>Grand Total</b>	<b>2139</b>	<b>4258</b>	<b>6398</b>

## Glossary

**Complaint:** Complaints may be made by an offender or a third party on behalf of an offender by telephone, facsimile, letter or during interviews held by the OCI's investigative staff at federal correctional facilities.

The legislation also allows the OCI to commence an investigation at the request of the Minister or on the OCI's own initiative.

**Internal Response:** A response provided to a complainant that does not require consultation with any sources of information outside the OCI.

**Investigation:** A complaint where an inquiry is made with 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: Complaints by Institution

REGION/INSTITUTION	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
<b>WOMEN'S FACILITIES</b>			
Edmonton Women's Facility	40	27	9
Fraser Valley	25	13	3
Grand Valley	58	15	6
Isabel McNeill House	3	3	1
Joliette	57	12	3.5
Okimaw Ohci Healing Lodge	5	1	1
Regional Psychiatric Centre (Prairies)	5	5	1
Nova	52	23	4
<b>Total</b>	<b>245</b>	<b>99</b>	<b>28.5</b>
<b>ATLANTIC</b>			
Atlantic	133	40	6
Dorchester	254	80	7.5
Shepody Healing Centre	20	5	4
Springhill	146	49	6
Westmorland	26	21	1.5
<b>Region Total</b>	<b>579</b>	<b>195</b>	<b>25</b>
<b>ONTARIO</b>			
Bath	110	54	7.5
Beaver Creek	46	6	1
Collins Bay	73	23	4.5
Fenbrook	178	81	9.5
Frontenac	34	13	2
Joyceville	164	45	7
Kingston Penitentiary	577	84	11
Millhaven	198	25	5
Pittsburgh	32	14	1.5
Regional Treatment Centre	71	19	6.5
Warkworth	251	105	9.5
<b>Region Total</b>	<b>1704</b>	<b>469</b>	<b>65</b>
<b>PACIFIC</b>			
Ferndale	33	11	2
Kent	152	41	9
Kwikwèxwelhp	6	0	1
Matsqui	85	37	6
Mission	140	78	8.5
Mountain	97	50	8.5
Pacific	127	53	5.5
Regional Treatment Centre	111	60	5
William Head	23	13	4
<b>Region Total</b>	<b>774</b>	<b>343</b>	<b>49.5</b>

*Continued next page*

## Table B: Complaints by Institution (cont.)

REGION/INSTITUTION	Number of Complaints	Number of Interviews	Number of Days Spent in Institution
<b>PRAIRIE</b>			
Bowden	211	80	12
Drumheller	199	61	12
Edmonton	334	76	9.5
Grande Cache	86	16	2
Ochichakkosipi	11	10	2
Pê Sâkâstêw Centre	22	6	1
Regional Psychiatric Centre	110	23	3
Riverbend	8	2	0.5
Rockwood	31	13	2
Saskatchewan Penitentiary	258	90	11
Stan Daniels	20	3	0.5
Stony Mountain	248	91	9.5
Willow Cree	17	9	2
<b>Region Total</b>	<b>1557</b>	<b>480</b>	<b>67</b>
<b>QUEBEC</b>			
Archambault	149	33	6
Centre Régional Santé Mentale	51	22	3
Cowansville	184	88	9
Donnacona	182	77	12
Drummond	113	32	7.5
Federal Training Centre	22	1	1
La Macaza	112	44	6
Leclerc	171	8	2.5
Montée St-François	41	11	1
Port Cartier	253	80	9
Regional Reception Centre	77	24	3
Special Handling Unit	52	24	4.5
Ste-Anne des Plaines	21	9	1.5
Waseskun	2	0	0
<b>Region Total</b>	<b>1430</b>	<b>453</b>	<b>66</b>
<b>GRAND TOTAL</b>	<b>(*) 6,289</b>	<b>2039</b>	<b>297</b>

(\*) Excludes 97 complaints from federal offenders in the community and 10 complaints from federal offenders in provincial institutions.

## Table C: Complaints and Inmate Population - By Region

REGION	Total Number of Complaints (*)	Inmate Population (**)
Atlantic	579	1337
Quebec	1430	3125
Ontario	1704	3557
Prairie	1557	3149
Pacific	774	1884
Women's Facilities	245	490
<b>TOTAL</b>	<b>6289</b>	<b>13543</b>

(\*) Excludes 97 complaints from federal offenders in the community and 10 complaints from federal offenders in provincial institutions.

(\*\*) As of June 2008, according to the Correctional Service of Canada's Corporate Reporting System.

## Table D: Disposition of Complaints by Action

ACTION	Disposition	Number of Complaints
Internal Response	Information given	1553
	Not supported	71
	Pending	14
	Referral	400
	Withdrawn	102
<b>Total</b>		<b>2,140</b>
Investigation	Information given	1342
	Not supported	336
	Pending	71
	Referral	1041
	Recommendation/Resolution Facilitated	1324
	Withdrawn	142
<b>Total</b>		<b>4,256</b>
<b>GRAND TOTAL</b>		<b>(*) 6,396</b>

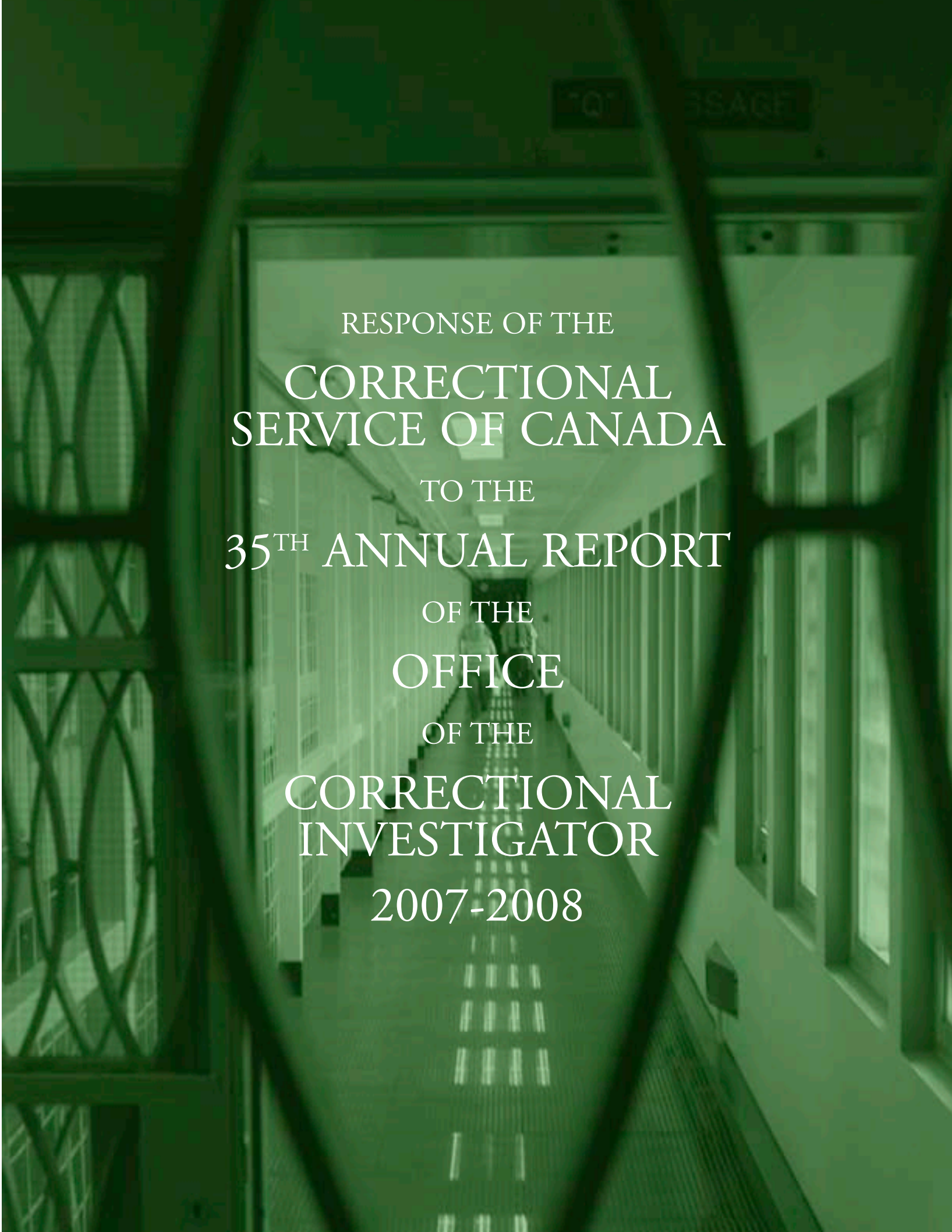
(\*) Includes 97 complaints from federal offenders in the community and 10 complaints from federal offenders in provincial institutions.

## Table E: Areas of Concern Most Frequently Identified by Offenders

TOTAL OFFENDER POPULATION	
Health Care	762
Transfer	552
Cell Effects	519
Administrative Segregation	406
Case Preparation	379
Staff Performance	368
Conditions of Confinement	344
Visits and Private Family Visits	315
Information – Access and Correction	297
Grievance Procedure	264
ABORIGINAL OFFENDERS	
Health Care	94
Transfer	83
Case Preparation	67
Staff Performance	68
Administrative Segregation	63
Information – Access and Correction	61
Cell Effects	55
Visits and Private Family Visits	45
Conditions of Confinement	44
Safety/Security of Offender	37
Grievance Procedure	37
WOMEN OFFENDERS	
Health Care	47
Staff Performance	20
Administrative Segregation	16
Conditions of Confinement	16
Safety/Security of Offender	15
Temporary Absence Decision	14
Case Preparation	14
Telephone	11
Visits and Private Family Visits	10
Information – Access and Correction	9

## ANNEX B: SUMMARY OF RECOMMENDATIONS

1. I recommend that the Correctional Service immediately allocate adequate resources to measurably improve its capacity to provide the required assessments and programming in advance of the offender's scheduled parole hearing dates.
2. I recommend that the Correctional Service establish as a priority the timely preparation of cases to appear before the National Parole Board, as per existing policy. Performance in this priority area should be both measured and closely monitored on an ongoing basis through increased reporting at the regional and national levels, and form a component of the CSC Departmental Performance Reports.
3. I recommend that the Correctional Service develop an action plan on the steps it will take to establish a process to ensure consistent and timely implementation, as well as regular follow-up, of its recommendations, and those of coroners and medical examiners.
4. I recommend that the Correctional Service:
  - establish a consistent framework for recording and reporting attempted suicides, self-inflicted injuries and overdoses;
  - provide a systemic review and analysis of the circumstances associated with these types of injuries; and
  - initiate corrective action to prevent the recurrence of such injuries.
5. I recommend that the Correctional Service ensure that all relevant reports related to offender deaths are provided to coroners and medical examiners in a timely fashion, and that recommendations from these bodies are immediately responded to.
6. I recommend that the Minister immediately re-establish the National Aboriginal Advisory Committee, as required by law.
7. Once it is appointed, I recommend that the National Aboriginal Advisory Committee, as its first order of business:
  - review the Correctional Service's governance structure and resources allocated to ensure the timely implementation the CSC's **Strategic Plan for Aboriginal Corrections**; and
  - examine the capacity of the Correctional Service to monitor progress on key correctional performance indicators, including transfers, segregation, discipline, temporary absences and work releases, detention referrals, delayed parole reviews, and suspensions and revocations of conditional releases.
8. I recommend that the Minister make securing adequate and permanent funding for intermediate mental health care a key portfolio priority.
9. I recommend that the Correctional Service make its training initiatives to ensure that all front-line employees are trained in dealing with mentally ill offenders a priority for the current fiscal year.
10. I recommend that the Correctional Service increase the representation of diverse groups in its workforce **at all levels** to reflect the ethno-cultural diversity of its offender population.
11. I recommend that the Minister direct the Correctional Service to immediately re-instate the response times at the Commissioner's level of the Offender Grievance and Complaint System at 15 days for priority grievances and 25 days for non-priority grievances, and that the Correctional Service take the necessary steps to comply with those timeframes.
12. I recommend that as part of any review of the **Corrections and Conditional Release Act**, the Minister propose that the Office of the Correctional Investigator report directly to Parliament.



RESPONSE OF THE  
CORRECTIONAL  
SERVICE OF CANADA  
TO THE  
35<sup>TH</sup> ANNUAL REPORT  
OF THE  
OFFICE  
OF THE  
CORRECTIONAL  
INVESTIGATOR  
2007-2008

# INTRODUCTION

The Correctional Service of Canada (CSC or the Service) contributes to the maintenance of a just, peaceful and safe society through the safe and humane custody and supervision of offenders; and by assisting offenders to rehabilitate and reintegrate into the community.

CSC manages 58 institutions, 16 community correctional centres and 71 parole offices. At the end of the 2007-2008 fiscal year, CSC was responsible for approximately 13,600 federally incarcerated offenders and 8,400 offenders in the community. Over the course of the year, including all admissions and releases, CSC managed 20,000 incarcerated offenders and 14,500 supervised offenders in the community.

CSC has long experienced growing challenges in sustaining results due to three overarching realities: longstanding operational and financial pressures; a changing, more complex and more problematic offender population<sup>1</sup> which presents significant security and reintegration challenges; and insufficient investment in infrastructure – leading to rust-out and to institutions not designed/configured to manage the changing offending profile. Furthermore, from 1994-1995 to 2006-2007 latest that is available, the average annual cost of maintaining offenders has increased from \$36,731 to \$74,261.

## Federal Budget 2007

Recognizing the gravity of these aforementioned challenges, Budget 2007 provided CSC with bridge funding over two years (2007-2008 and 2008-2009) to meet only its most urgent requirements and to keep the Service operationally viable, pending the results of an independent review of CSC operations.

## Independent CSC Review Panel

The CSC Review Panel, launched by the Minister of Public Safety in April 2007, was mandated to review CSC's operational priorities, strategies and business plans with a view to enhancing public safety. The Panel's report was submitted to the Minister and was publicly released on December 13, 2007.

The Report recognized the realities and challenges currently facing the Service and made 109 recommendations. It provides a foundation for CSC's transformation agenda and a new correctional vision to contribute to public safety. The most significant aspects of the recommendations are categorized in five major areas:

### 1. Offender Accountability

- that the principles of the *Corrections and Conditional Release Act* be strengthened to further emphasize offender responsibility and accountability.

### 2. Eliminating drugs from prison

- that CSC strengthen its interdiction initiatives on all fronts.

### 3. Employability/Employment

- that the employability skills (job readiness) of offenders are enhanced through work opportunities in penitentiaries and employment opportunities in the community at the time of release; and to implement a more structured workday to allow for the proper balance between work, education and correctional programs.

1 From 1997 to 2008, the federal offender population has been largely characterized by offenders with extensive histories of violence, previous youth and adult convictions and serious substance abuse histories. This period has seen increased affiliations with gangs and organized crime (from 11% to 14%), higher rates of infection with Hepatitis C and HIV, and serious mental health disorders (from 6% to 10%). In addition, the proportion of homicide offenders has increased from 22% in 1997 to 25% in 2008 and there is an increasing trend toward maximum security designations (from 6% to 11%).



## 4. Physical Infrastructure

- that CSC explore new approaches to the design and construction of regional “complexes” – complexes that would reinforce an overall correctional management model that stresses the accountabilities of offenders and provides opportunities to improve correctional results.

## 5. Eliminating Statutory Release And Moving to Earned Parole

- that offenders must work to address risks and needs and earn their way back to their home communities, demonstrating that they have changed and are capable of living as law-abiding citizens.

*Note: Earned parole is not part of the first phase of transformation supported by the Government in Budget 2008. This change will require significant consultation, planning and legislative change. Earned parole will be reviewed at a later date.*

Furthermore, the Panel’s report also recognized that CSC’s priorities were integral to the organization’s transformation but that they needed to be supported through sustainable funding. The five (5) priorities of the Service are:

1. safe transition of eligible offenders into the community;
2. safety and security for staff and offenders in our institutions;
3. enhanced capacities to provide effective interventions for First Nations, Métis and Inuit offenders;
4. improved capacities to address the mental health needs of offenders; and
5. strengthened management practices.

## Federal Budget 2008

Subsequent to the release of the Panel’s report, the Government, through Budget 2008, made a significant investment to initiate a new vision for the federal correctional system. It provided funding to ensure that CSC is firmly on track to respond comprehensively to the Panel’s recommendations. CSC’s baseline funding was stabilized and funding was provided to enable CSC to strengthen control of its institutions through enhanced safety and security measures, including training for correctional staff and greater investments in illicit drug detection measures.

A CSC Transformation Team was established and is leading CSC’s response to the Report’s recommendations. It is recognized that this transformation will require a long-term commitment and a phased approach. The new vision for CSC will be characterized by a stronger focus on how its efforts contribute to enhanced public safety of all Canadians – CSC’s primary goal. As well, there will be greater consistency in delivering correctional services and a higher level of integration, particularly between institutions and the community. Finally, the principle of shared responsibility and accountability of offenders to follow their correctional plans and CSC to provide opportunities and tools to do so will be clearer and better understood. Initial initiatives identified by the Transformation Team will assist in building the right foundations for future investments in federal corrections.

# SAFE TRANSITION OF ELIGIBLE OFFENDERS INTO THE COMMUNITY

## Recommendation #1:

*I recommend that the Correctional Service immediately allocate adequate resources to measurably improve its capacity to provide the required assessments and programming in advance of the offender's scheduled parole hearing dates.*

In the short-term, as part of the transformation agenda, CSC will be exploring new models for a streamlined assessment process and earlier initiation of programs at the commencement of an inmate's sentence. By spring 2009, CSC will also develop National Correctional Reintegration Program referral guidelines for all national correctional programs which will allow for a more efficient use of existing program delivery resources.

CSC will also develop program delivery tools to help Correctional Program Officers to address the needs of offenders with education deficits, learning disabilities and mental disorders. These tools will be based on the findings of recent evaluations regarding the efficacy of structured and didactic programs. These tools will include methods of adapting program delivery to homogenous groups.

Through the transformation agenda, CSC will initiate proposals to develop and implement an integrated program strategy. The proposed program model will include an intervention designed specifically to address the challenges of the changing offender population.

Over the next three (3) years, CSC will position correctional program delivery staff to:

- facilitate appropriate supplementary assessments and program referrals;
- deliver programs focusing on Violence Prevention and Substance Abuse to address the capacity demands of a short-term offender population; and
- deliver the Community Maintenance Program.

## Recommendation #2:

*I recommend that the Correctional Service establish as a priority the timely preparation of cases to appear before the National Parole Board, as per existing policy. Performance in this priority area should be both measured and closely monitored on an ongoing basis through increased reporting at the regional and national levels, and form a component of the CSC Departmental Performance Reports.*

Gaps have been identified in the provision of programming and the timely preparation of cases. As part of CSC's transformation agenda, the Service will be focusing on approaches that enhance the timely preparation of eligible inmate cases for presentation for review by the National Parole Board. Work is underway to improve efficiencies in the area of correctional programs, program availability earlier in the sentence, and efforts to actively encourage offenders to participate in their correctional plan. Focus on achieving results in these areas is expected to increase the number of eligible offenders who are prepared for safe release to the community.

Regional and National Headquarters will use the Corporate Monitoring Tool to assess progress in this area.

# SAFETY AND SECURITY FOR STAFF AND OFFENDERS IN OUR INSTITUTIONS

## Recommendation #3:

*I recommend that the Correctional Service develop an action plan on the steps it will take to establish a process to ensure consistent and timely implementation, as well as regular follow-up, of its recommendations, and those of coroners and medical examiners.*

CSC has developed a number of different strategies to increase and support its capacity for a more timely analysis of the information contained in investigation reports, as well as those of Coroners' and Medical Examiners. In addition, greater focus is placed on communicating "significant findings" to the operational sites. Three (3) such documents are currently available to staff on the CSC Infonet site and additional documents will be forthcoming in the fall of 2008.

All recommendations are seriously considered and, when a recommendation is deemed appropriate and feasible, an action plan is put in place. Every action is tracked until such time as it is complete, acceptable and documented. Since September 2007, a quarterly report entitled "EXCOM Follow-up on Board of Investigations (BOI) Actions" on actions completed or pending is provided to the Senior Deputy Commissioner.

Resources within the Correctional Operations and Programs Sector and the Health Care Sector now exist to increase CSC's capacity to monitor the progress on action plans and support their implementation.

## Recommendation #4:

*I recommend that the Correctional Service:*

- a) *Establish a consistent framework for recording and reporting attempted suicides, self-inflicted injuries and overdoses;*

A revised Commissioner's Directive (CD) 568-1, *Recording and Reporting of Security Incidents*, was promulgated on July 4, 2008. Specific definitions have been included to ensure accurate recording and reporting of incidents. The recording and reporting of these types of incidents will initially be done in a standardized way and modified only after an assessment by other officials such as a psychologist or a security intelligence officer.

The development of an Offender Management System Renewal module on Incident Reporting is currently underway and expected to be completed by spring 2009 which will further assist in addressing the recommendations made by the Office of the Correctional Investigator (OCI).

CSC will also be producing the 2007-2008 Annual Inmate Suicide Report by December 2008.

- b) *Provide a systemic review and analysis of the circumstances associated with these types of injuries; and*

In April 2008, CSC corresponded with the OCI regarding the concerns about the number of incidents that result in injuries which are not investigated. CSC indicated that it would conduct further analysis of inmate injuries in a phased approach.

CSC will begin with the area of mental health. In collaboration with Health Services and Research, the Service will focus on injuries sustained by inmates categorized as suffering from a Mental Health affliction, diagnosed and self-reported only. This will include both victims and instigators. It is our hope that this will allow the Service to better understand the circumstances surrounding these incidents, what conclusions can be drawn and what type of follow-up if any, is required.

CSC's intention is to focus on one area in order to see where improvements can be made and which areas require further analysis. We expect to have this initial analysis completed by the end of December 2008.

- c) *Initiate corrective action to prevent the recurrence of such injuries.*

Quarterly reports will be produced by National Headquarters (NHQ) Performance Assurance Sector and the data will be provided by security level, region, facility, and will indicate the number of verified self-inflicted injury incidents. These reports will be provided to NHQ Security Branch for review and interpretation and as a result, further quantitative analysis could be conducted by NHQ Performance Assurance Sector, such as trends over time, comparisons by gender, ethnicity, location of the incidents and sentence length. The Inmate Injury Annual Report for 2007-2008 is expected to be completed by the end of December 2008.

Through the continued production of quarterly reports, CSC will be able to see where the incidents are occurring and if necessary, follow-up with the regions to discuss anomalies.

### **Recommendation #5:**

*I recommend that the Correctional Service ensure that all relevant reports related to offender deaths are provided to Coroners and Medical Examiners in a timely fashion and that recommendations from these bodies are immediately responded to.*

CSC will continue to co-operate fully with the Coroners and Medical Examiners and will share relevant information in accordance with the law. Coroners/Medical Examiners are provided with copies of CSC Incident Investigation Reports on a regular basis. Recommendations emanating from these Coroners' Inquests/Fatality Inquiries are sent to CSC and integrated corporate responses are prepared for the Commissioner's signature. Timeliness is a priority and response times are reflected based on the nature, complexity and extent of the recommendations provided to CSC.

Each province has different processes and timeframes for the review of deaths in custody. This can result in CSC receiving the Coroners'/Medical Examiners' recommendations long after CSC has completed their investigation and completed the corrective measures and action plans. In some cases, many years have passed. As a result, CSC's replies may at times be viewed as untimely when in fact CSC had responded quickly after the incident.

# ENHANCED CAPACITIES TO PROVIDE EFFECTIVE INTERVENTIONS FOR FIRST NATIONS, MÉTIS AND INUIT OFFENDERS

## Recommendation #6:

*I recommend that the Minister immediately re-establish the National Aboriginal Advisory Committee, as required by law.*

The Commissioner is responsible for establishing the National Aboriginal Advisory Committee (NAAC) and he has made this a priority. The members have been selected for the NAAC and notified of their appointment and their first meeting will be taking place on September 16-17, 2008.

## Recommendation #7:

*Once appointed, I recommend that the National Aboriginal Advisory Committee as its first order of business:*

- a) review the Correctional Service's governance structure and resources allocated to ensure the timely implementation the CSC's Strategic Plan for Aboriginal Corrections; and,*

CSC will be seeking the advice of the NAAC on the provision of correctional programs to Aboriginal offenders. This will include reviewing CSC's Strategic Plan for Aboriginal Corrections. As well, CSC will be seeking advice from the Committee on how to consult regularly with Aboriginal communities.

- b) examine the capacity of the Correctional Service to monitor progress on key correctional performance indicators, including transfers, segregation, discipline, temporary absences and work releases, detention referrals, delayed parole reviews, and suspension and revocation of conditional release.*

These areas will be discussed with the NAAC with the goal to seek advice on options to improve results and help to inform of the next steps associated with the transformation agenda as it relates specifically to Aboriginal offenders.

# IMPROVED CAPACITIES TO ADDRESS MENTAL HEALTH NEEDS OF OFFENDERS

## Recommendation #8:

*I recommend that the Minister make securing adequate and permanent funding for intermediate mental health care a key portfolio priority.*

In Budget 2008, CSC received permanent, ongoing funding (\$16.6M annually) to enhance institutional mental health services and the overall continuum of mental health care for federal offenders. These funds will be directed toward implementing a comprehensive clinical mental health intake assessment of offenders at admission; increasing primary mental health care in institutions; and enhancement of clinical staffing ratios at treatment centres to meet consistent standards. These additional funds will assist CSC to improve both the continuum of mental health care provided to offenders as well as the correctional results for federal offenders with mental disorders, thereby enhancing public safety.

## Recommendation #9:

*I recommend that the Correctional Service make its training initiatives to ensure that all front-line employees are trained in dealing with mentally ill offenders a priority for the current fiscal year.*

CSC recognizes the importance of training front-line staff that are required to work with offenders who are mentally disordered. Additional training for front-line staff is included in the implementation plan of CSC's Mental Health Strategy.

The following provides an overview of some of the training that has or will be provided to front-line staff.

Over 700 CSC employees (including parole officers, nurses, and correctional officers) and contracted agency staff in the community have been trained in mental health awareness as part of the Community Mental Health Initiative. Additional training will be

delivered during this fiscal year and over the next two (2) years to institutional nurses, staff working in Community Residential Facilities (CRFs) for women, and correctional officers.

Specific training for psychologists has also been developed on mental health assessment and diagnosis and suicide risk assessment and intervention training.

Dialectical Behaviour Therapy (DBT) has been demonstrated to be an effective intervention for certain mental disorders, has been implemented in the women's institutions. DBT training is a National Training Standard (NTS) for staff that work in the Structured Living Environments and Secure Units of women's facilities. In addition, DBT Awareness and Training for Management in Women's Institutions is under development and will be implemented in the Fall-Winter 2008.

Integrated Mental Health and Security Training will be piloted this fiscal year and will assist staff in developing awareness, knowledge, and skills for use with inmates presenting with high risk/high needs and mental health issues.

Institutional Heads and District Directors will also ensure that all correctional officers have received the approved CSC Suicide Prevention and Intervention training either as a component of the Correctional Training Program (CTP) or on a stand-alone basis. As well, all other staff who have regular interactions with offenders will receive the Suicide Awareness component of the New Employee Orientation Program (NEOP) either as a component of their orientation or on a stand-alone basis. It should also be noted that all staff who have regular interactions with offenders shall be provided with two hours of refresher training in suicide prevention every two years.

# STRENGTHENED MANAGEMENT PRACTICES

## Recommendation #10:

*I recommend that the Correctional Service increase the representation of its workforce at all levels to reflect the ethno-cultural diversity of its offender population.*

As part of its three-year Aboriginal Human Resources Plan, CSC will develop a suite of initiatives to increase Aboriginal representation at all levels that reflect the offender population. Major components of the plan during its first year include the development of a package outlining the steps required to hire more Aboriginal staff (Fall 2008); an Aboriginal Management Development Program (Winter 2008); an Aboriginal Employment Program aimed at recruiting Aboriginals beyond market availability (Spring 2009); a Federal Student Work Experience Program (FSWEP) for Aboriginal students (Winter 2008); and the development of a comprehensive communications strategy to ensure success of the overall plan (Spring 2009).

CSC also acknowledges that the ethno-cultural profile of offenders is changing and is examining how to achieve a representation workforce as part of its Strategic Plan for Human Resource Management Plan.

## Recommendation #11:

*I recommend that the Minister direct the Correctional Service to immediately re-instate the response times at the Commissioner's level of the Offender Grievance and Complaint System at 15 days for priority grievances and 25 days for non-priority grievances, and that the Correctional Service take the necessary steps to comply with those timeframes.*

In recent years, CSC has made substantial progress on improving the quality of its grievance responses – providing accurate, relevant, complete, and fair replies

to offenders. Third-level grievances often present complex issues that have general and systemic application to the entire organization, as well as important interests for the offenders concerned. Responses may have a significant bearing on policies and departmental operations. Grievance reviews can give rise to significant discussion among operational managers and policy holders. Many third-level grievance responses require a considerable amount of research, investigation, and consultation with policy holders and operational experts. This process can involve significant time irrespective of the resources available to address grievances. While we endeavour to respond to grievances as quickly as we can, especially where these relate to personal safety, liberty and security interests, we want to ensure that each grievance receives the consideration it deserves and that lessons learned from grievances are incorporated into the subsequent management of the Service.

The Service recently examined the time frames for third-level grievances in light of the aforementioned considerations. Based on a review of the actual time frames over several years for completion of third-level grievances, it was determined that the revised third-level time frames were reasonable in order to maintain and enhance the effectiveness of our procedure. While most grievances are completed long before the new prescribed deadlines, it is prudent to recognize the time that is required to address the most complex problems.

As the OCI has indicated, the Commissioner decided to conduct a specific consultation of offenders and inmate committees on the time frames. It is worth noting that the results, which were shared with the OCI, indicate that a minority (16%) disagreed with the deadlines, while 24% agreed or had no concerns with the new deadlines. Another 24% said they had no comment, whereas 3% did not specifically voice an agreement or disagreement with the deadlines, but did not provide other comments.

The Service completed 92.9% of grievances submitted within the new time frames since they were implemented. Completion rates will be reviewed again at the end of this fiscal year as previously indicated to the OCI. CSC is committed to ensuring that the time frames remain an element of our efforts to optimize the complaint and grievance system as a means of resolving offender problems and as a useful tool for managers.

## LOOKING FORWARD

### **Recommendation #12:**

*I recommend that as part of any review of the Corrections and Conditional Release Act, the Minister propose that the Office of the Correctional Investigator report directly to Parliament.*

This recommendation deals with Part III of the *Corrections and Conditional Release Act* and lies outside the jurisdiction of the Correctional Service of Canada.



