



International Society for the Reform of Criminal Law Conference 2007

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The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada

Canada

Overview

- **Role and function of the Office of the Correctional Investigator (OCI)**
- **Human rights and Corrections**
- **Three key challenges:**
 - **Offenders with Mental Health Issues**
 - **Aboriginal Offenders**
 - **Women Offenders**



Mission of the Office of the Correctional Investigator

“As Canada’s federal prison Ombudsman offering oversight of federal Corrections, the Correctional Investigator contributes to public safety and the promotion of human rights by providing independent and timely review of offender complaints. The Correctional Investigator makes recommendations that assist in the development and maintenance of an accountable federal correctional system that is fair, humane and effective.”



Responsibilities of the OCI

Key Functions

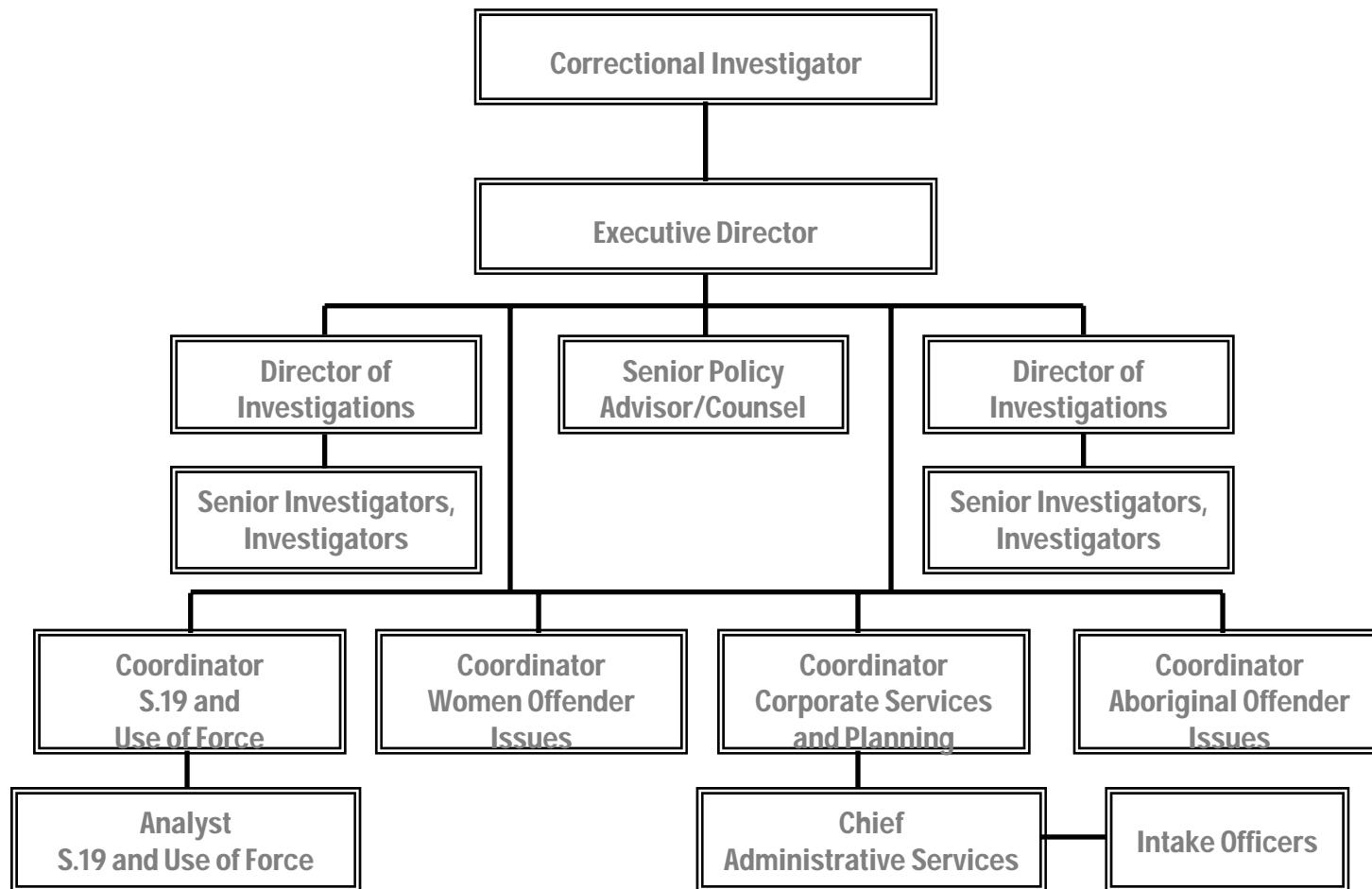
- Individual inmate complaints
- Systemic Issues and Policy Review related to areas of complaint

Special Portfolios

- Women's Issues
- Aboriginal Issues
- Section 19 CCRA / Use of Force
- Mental Health



Office of the Correctional Investigator

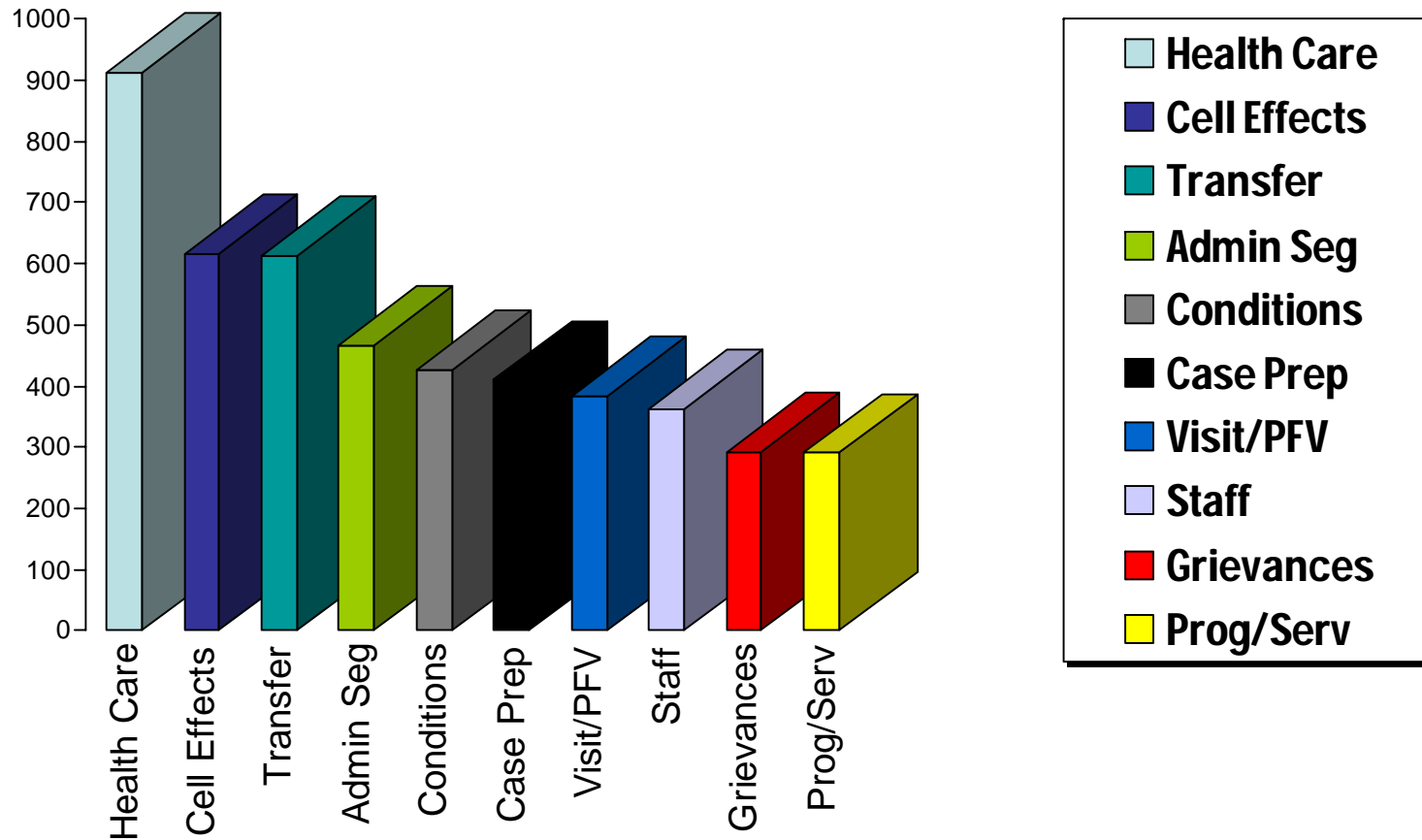


OCI Operations 2005-2006

- ✓ **7591 inmate inquiries or complaints**
- ✓ **4655 investigations**
- ✓ **2426 offender interviews**
- ✓ **370 days of visits to institutions**
- ✓ **104 incidents of serious injury or death**
- ✓ **1016 incidents involving Use of Force**



Ten Key Issues



Corrections and Human Rights

The Three Pillars of Effective Corrections

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



MH Legislative Framework

- **Federal offenders are excluded from the *Canada Health Act* and are not covered by Health Canada or provincial health systems**
- **The Correctional Service of Canada (CSC) therefore provides health care services directly to federal offenders, including those residing in Community Correctional Centres**
- **The CSC is legislatively mandated to provide health care to offenders through the *Corrections and Conditional Release Act (CCRA)***



Legislative Framework (Cont'd)

Section 86 of the *CCRA* states that:

- (1) The Service shall provide every inmate with
 - (a) essential health care (which includes mental health care), and**
 - (b) reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community.****
- (2) The provision of health care under subsection (1) shall conform to professionally accepted standards.**



Legislative Framework (Cont'd)

Section 87 of the *CCRA* further states that:

The Service shall take into consideration an offender's state of health and health care needs

- (a) in all decisions affecting the offender, including decisions relating to placement, transfer, administrative segregation and disciplinary matters; and,**
- (b) in the preparation of the offender for release and the supervision of the offender.**



Mental Health Services

- **Canada’s prisons and penitentiaries have de facto become “warehouses for the mentally ill”**
- **Proportion of federal offenders with significant, identified mental health needs has more than doubled over the past decade**



Mental Health Services (Cont'd)

- **In its own review, the Correctional Service of Canada (CSC) indicated that its mental health services are significantly deficient**
- **Mental health services offered by the CSC have not kept up with the dramatic increase in numbers**
- **In response, the CSC developed a comprehensive MH strategy**



Mental Health Services (Cont'd)

- **The CSC's strategy indicates that significant investments are required in four major areas:**
 - **Comprehensive clinical intake assessment**
 - **Specific requirements for enhancing the Service's current Treatment Centres**
 - **Intermediate mental health care units within existing institutions to provide on-going treatment and assessment during the period of incarceration**
 - **Community mental health to support offenders on conditional release**



Mental Health Services (Cont'd)

Honourable Michael J. L. Kirby found:

- **Greater capacity to respond to the needs of offenders to gain access to mental health services and addiction treatment – throughout the course of the sentence and beyond**
- **Five treatment centres are not resourced at levels comparable to provincial forensic facilities**
- **Psychologists are primarily engaged in risk assessment as opposed to treatment and rehabilitation**
- **There is no specific training for front-line correctional staff on mental illness and addiction**



Legislative Framework On **Aboriginal Offenders**

- **The *CCRA* requires that the *CSC* shall:**
 - **take all reasonable steps to make available to aboriginal inmates the services of an aboriginal spiritual leader**
 - **establish a National Aboriginal Advisory Committee**
 - **provide programs designed particularly to address the needs of aboriginal offenders**



Legislative Framework On **Aboriginal Offenders (Cont'd)**

The *CCRA* states:

- **The Minister may enter into an agreement with an aboriginal community for the provision of correctional services to aboriginal offenders (section 81)**
- **Where an inmate who is applying for parole has expressed an interest in being released to an aboriginal community, the Service shall, if the inmate consents, give the aboriginal community an opportunity to propose a plan for the inmate's release to, and reintegration into, the aboriginal community (section 84)**



Aboriginal Offenders

- **Aboriginal offenders represent 19% of the federal prison population although they amount to just 3% of the general Canadian population**
- **The overall situation of Aboriginal offenders continues to deteriorate in many areas that the CSC can positively influence**



Aboriginal Offenders (Cont'd)

- **Overall incarceration rate for Aboriginal People in Canada is 1024 per 100,000 adults. The rate for non-Aboriginal persons is 117 per 100,000 adults**
- **Correctional outcomes for Aboriginal offenders are not improving in many areas that CSC can positively influence**



Aboriginal Offenders (Cont'd)

- **Aboriginal offenders are released much later in their sentence than non-Aboriginals**
- **They tend to waive their rights to parole hearings at a much higher frequency than non-Aboriginal offenders**



Aboriginal Offenders (Cont'd)

- **Aboriginal offenders do not benefit equally from temporary absences and work releases**
- **Aboriginal offenders are also more likely to have their conditional release revoked than non-Aboriginals – the higher rate of revocation without new offences is especially worrisome**
- **Aboriginals are under-represented in minimum-security institutions**



Legislative Framework on Women Offenders

- **The *CCRA* requires that the CSC shall:**
 - **Provide programs designed particularly to address the needs of female offenders.**
 - **Consult regularly about programs for female offenders with appropriate women's groups and other appropriate persons or groups.**



Women Offenders: **Canadian Human Rights Commission 2004**

- **The CHRC Report identified systemic barriers to full equality, particularly with regard to Aboriginal women, racialized women and women with disabilities.**
- **The CHRC made 19 recommendations for action related to:**
 - **Risk and need assessment.**
 - **Safe and humane custody and supervision.**
 - **Rehabilitation and reintegration programming.**
 - **Mechanisms for redress.**



Women Offenders (Cont'd)

- **Classification tools discriminate against, and over-classify, women offenders**
- **Lack of Aboriginal programs for women in Eastern Canada**
- **Too few alternatives to long-term segregation cases**



Women Offenders (Cont'd)

- **Lack of meaningful employment and employment preparation**
- **Limited access to the community (UTAs, Work Releases)**
- **Insufficient community programs/support upon release**



Conclusion

Additional Oversight Required:

- As a preventative measure, regular inspections of “places of detention” should be introduced in Canada to complement Ombudsman function as per *UN Optional Protocol on the Convention against Torture*.**
- Administrative segregation decisions should be subject to confirmation by an Independent Adjudicator.**
- Correctional Investigator should report directly to Parliament, not via Minister.**





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