

CORRECTIONAL SERVICE CANADA

CHANGING LIVES. PROTECTING CANADIANS.



Audit of Offender Redress

INTERNAL AUDIT SECTOR

MARCH 6, 2018

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EXECUTIVE SUMMARY

What We Examined

The Audit of Offender Redress was conducted as part of the Correctional Service Canada (CSC) Internal Audit Sector's 2016-2019 Risk-Based Audit Plan.

The overall objectives of this audit were to provide reasonable assurance that:

1. An adequate framework was in place to support the offender complaint and grievance process;
2. CSC was meeting its statutory obligations pertaining to the complaint and grievance process as outlined in the *Corrections and Conditional Release Act (CCRA)* and the *Corrections and Conditional Release Regulations (CCRR)*; and
3. CSC had appropriately planned for and implemented a strategy for the effective and efficient resolution of grievances filed at the national level.

The Audit of Offender Redress was national in scope and assessed relevant procedures and practices in place at National Headquarters (NHQ) as well as at ten institutions located across all five regions. The audit also included a sampling and review of responses to complaints and grievances, which were received between fiscal years 2014/15 and 2016/17, to determine the degree to which CSC staff were making satisfactory efforts to respond.

The offender complaint and grievance process (hereby referred to as “the Process”) is comprised of three internal levels, with the offender having the option to escalate the matter if he or she is dissatisfied with the response received at a preceding level. Each respective institution is responsible for responding at the first two levels of the Process (complaint and initial grievance) whereas NHQ is responsible for responding at the final level (final grievance).

Why it's Important

This audit links to CSC's corporate priority of “efficient and effective management practices that reflect values-based leadership” and to the corporate risk that “CSC will not be able to implement legislative changes”.

The Process provides offenders with a pro-social means of resolving issues when they are dissatisfied with an action or decision by a staff member; and theoretically allows CSC to enhance dynamic security within institutions. An ineffective Process can further create animosity of offenders against staff, thereby impacting the safety of the institutions.

Over the three-year time period from fiscal years 2014/15 to 2016/17, CSC received 49,634 complaints, 11,666 initial level grievances and 18,471 final level grievances.

What We Found

With respect to the first objective, the audit team found that some elements of a management framework were in place. Namely, a Commissioner's Directive and related guidelines existed and identified the key roles and responsibilities of those involved in the Process. As well, training had been provided to final level grievance analysts to assist them in carrying out their duties. The audit did however note that:

- overall accountability for ensuring compliance with the Commissioner's Directive was not defined thus there was little oversight of the Process;
- administrative staff and decision makers at the institutional level were not appropriately equipped with training, tools and support to fulfill their complaint and grievance-related responsibilities;
- practices in place did not sufficiently address offender misuse of the Process; and
- complaint and grievance-related data was not consistently used to inform management decision making.

With regards to the second objective, while there was evidence to demonstrate that CSC had taken steps to help ensure that offenders had complete access to a fair and expeditious Process, several observations were noted as follows:

- complaint and initial grievance responses did not always reflect CSC guidance, potentially impacting the degree to which responses were perceived to be fair;
- expediency of responses continued to be a challenge, impacting CSC's ability to demonstrate compliance with the timelines stated in the Commissioner's Directive;
- contrary to the requirements of the Commissioner's Directive, a process was not always in place to collect complaints and grievances from segregation on the weekends and holidays;
- access controls over the complaint/grievance collection process were not always in place, effecting CSC's ability to protect the integrity of the Process from conflict of interest; and
- opportunities existed to strengthen informal resolution efforts at the lowest possible level, thereby reducing pressure on the grievance backlog at the national level.

With respect to the third objective, the audit found that mechanisms were in place to oversee and plan for the remediation of a grievance backlog at the national level. However, the audit did identify some challenges which include the following:

- performance reporting did not demonstrate progress against pre-established performance targets; and
- there was no Service-wide plan in place to improve complaint and initial grievance resolution capabilities at the lowest possible level of the Process.

Management Response

Management agrees with the audit recommendations overall. Work will be undertaken to strengthen overall oversight and support for the offender redress process, including the development of training and knowledge management products to be used by staff at all levels involved in the offender redress process. Measures will also be taken to address concerns raised by the audit with respect to fair and complete access to the complaint and grievance process (i.e. methods for submitting, informal resolution, vexatious grievors, grounding of decision in policy framework, etc.). The Offender Redress Division has established a project team to complete the work outlined in the Management Action Plan (MAP). The MAP is scheduled for full implementation by March 2019.

ACRONYMS & ABBREVIATIONS

| | |
|--------------------------------------|--|
| ADR: | Alternative Dispute Resolution |
| CCRA: | <i>Corrections and Conditional Release Act</i> |
| CCRR: | <i>Corrections and Conditional Release Regulations</i> |
| CSC: | Correctional Service Canada |
| The Commissioner's Directive: | Commissioner's Directive 081 (<i>Offender Complaints and Grievances</i>) |
| The (CSC) Guidelines: | Guidelines 081-1 (<i>Offender Complaints and Grievances Process</i>) |
| EXCOM: | Executive Committee |
| NHQ: | National Headquarters |
| ORD: | Offender Redress Division |
| The Process: | The offender complaint and grievance process |
| RHQ: | Regional Headquarters |
| V&C: | Visits and Correspondence Unit |

1.0 INTRODUCTION

1.1 Background

The Audit of Offender Redress was conducted as part of the Correctional Service Canada (CSC) Internal Audit Sector's 2016-2019 Risk-Based Audit Plan. This audit links to CSC's corporate priority of "efficient and effective management practices that reflect values-based leadership" and to the corporate risk that "CSC will not be able to implement legislative changes".

The offender complaint and grievance process is comprised of three internal levels¹. The *Corrections and Conditional Release Regulations (CCRR)* describes the three level process as follows:

- Formal complaint (institution/community district level)
- Initial level grievance (institution/community district level)
- Final level grievance (national level)

The complaint is the first step in the process and is meant to be answered by the supervisor directly responsible for the person or area that is the subject to the complaint. At this stage, the *CCRR* requires that every effort be made to resolve the matter informally through discussion. If the offender is not satisfied with the decision at the complaint level, he or she may submit a written grievance to the initial level, which would be responded to by the Institutional Head or District Director, as the case may be. Should offenders be unsatisfied with the response to their initial level grievance, they can raise it to the final (national) level, where a grievance analyst drafts a response for review and approval by the decision maker, which is either the Senior Deputy Commissioner or the Assistant Commissioner, Policy as delegated by the Commissioner. In order to reduce any potential concerns of conflict of interest, there are specific situations where a complaint or initial level grievance is to be submitted directly to the next level without first receiving a response from the prior level. For example, this would include complaints pertaining to allegations of harassment, sexual harassment or discrimination which would proceed directly to the initial level, unless the allegation was against the Institutional Head or District Director, in which case the matter must be addressed as a final level grievance.

Table 1 summarizes the number of complaints and grievances received by decision level over the period from fiscal years 2014/15 to 2016/17. For information regarding the most frequently grieved subject matter, please refer to **Annex C**.

Table 1 - Total Number of Offender Complaints and Grievances Received (By Decision Level)²

| Decision Level | Fiscal Year | | | Grand Total |
|--------------------|--------------------|---------------|---------------|---------------|
| | 2014/15 | 2015/16 | 2016/17 | |
| Complaint | 18,680 | 15,861 | 15,093 | 49,634 |
| Initial Grievance | 4,201 | 3,882 | 3,583 | 11,666 |
| Final Grievance | 9,541 ³ | 4,941 | 3,989 | 18,471 |
| Grand Total | 32,422 | 24,684 | 22,665 | 79,771 |

¹ Note that in addition to the three level process described above which is internal to CSC, offender complaints or grievances may be referred to other (external) bodies for review, including to the Outside Review Board, the Office of the Correctional Investigator, the Canadian Human Rights Tribunal or Federal Court.

² Data extracted from Performance Direct – June 22, 2017

³ 4,889 of the final level grievances received in fiscal year 2014/15 related to an NHQ policy change pertaining to the inmate telephone system.

1.2 Legislative and Policy Framework

Legislation

The offender complaint and grievance process is addressed in the *Corrections and Conditional Release Act* (CCRA), sections 90 and 91 as well as in the *CCRR*, sections 74-82.

The *CCRA* requires that CSC provides “a procedure for fairly and expeditiously resolving offenders’ grievances on matters within the jurisdiction of the Commissioner” and that “every offender shall have complete access to the offender grievance procedure without negative consequences”. The offender complaint and grievance process provides offenders with a means of redress when they are dissatisfied with an action or decision by a staff member.

The *CCRR* describes the three level complaint/grievance process, as outlined in the *Introduction* section of this report. Key excerpts from both legislative documents are included in **Annex D**.

CSC Directive and Guidelines

There is one primary Commissioner’s Directive and related guidelines pertaining to offender redress.

The purpose of the *Commissioner’s Directive 081 - Offender Complaints and Grievances* is to:

- support the fair and expeditious resolution of offender complaints and grievances at the lowest possible level in a manner that is consistent with the law; and
- ensure that the legal obligation to provide timely and impartial resolution of offender complaints and grievances is met.

The purpose of *Guidelines 081-1 - Offender Complaint and Grievance Process* is to:

- ensure a fair and expeditious offender complaint and grievance process (hereby referred to as “the Process”) by providing further information on the process and its application; and
- provide clarification regarding:
 - how to address issues that may arise between staff members and offenders while in a correctional environment;
 - how to administratively process offender complaints and grievances; and
 - how to analyze, review, and respond to offender complaints and grievances.

1.3 CSC Organization

National Headquarters

The Office of Primary Interest (OPI) for offender redress is CSC’s Policy Sector. The Assistant Commissioner, Policy, has the authority to develop guidelines that must be followed with reference to the Process. The Policy Sector’s Offender Redress Division (ORD) plays a major role in carrying out CSC’s redress-related responsibilities.

The mission of the ORD is to provide expeditious access to a fair and effective offender redress mechanism and recommend corrective action in cases where there is mistreatment or injustice. The ORD is responsible for drafting responses to grievances at the final (national) level.

Regional Headquarters

Effective October 2013, Regional Headquarters (RHQ) no longer plays a formal role in the offender redress process. The grievances that used to be answered by RHQ are now escalated directly to the final level. This change was made in an attempt to streamline the Process.

Institutions/Districts

The Institutional Heads/District Directors are responsible for ensuring that offenders have complete access to the Process without negative consequences and that there is a mechanism in place to monitor the use of the Process at his/her institution or district.

The onus for responding to complaints and grievances rests with decision makers, who are to ensure that grievors are provided with complete, documented, comprehensible and timely responses to all issues that are related to the subject of the complaint or grievance. According to the Commissioner’s Directive, the term

'decision maker' refers to "the staff member who responds to a complaint or grievance at any level of the offender complaint or grievance process (normally the supervisor, Institutional Head/District Director, the Commissioner, or the senior staff member that the Commissioner designates)".

1.4 Risk Assessment

A risk assessment was completed by the audit team based on a review of past audits and other reports related to the Process; as well as interviews with key stakeholders. Applicable legislation and policy documents were also considered.

A consistent concern brought to the attention of the audit team was the length of time it took for offenders to receive responses to complaints and grievances; and a backlog of unanswered grievances at the national level.

Overall, the preliminary assessment completed by the audit team identified the main risks that:

- CSC is not meeting its statutory obligations pertaining to the complaints and grievance process as outlined in the *CCRA* and *CCRR*;
- CSC is not responding to complaints and grievances in a manner that is effective and efficient; and
- the backlog of grievances will continue to grow.

These risks were considered in developing the audit objectives and criteria.

2.0 OBJECTIVES AND SCOPE

2.1 Audit Objectives

The overall objectives of this audit were to provide reasonable assurance that:

1. an adequate framework was in place to support the Process;
2. CSC was meeting its statutory obligations pertaining to the complaint and grievance process as outlined in the *CCRA* and *CCRR*; and
3. CSC had appropriately planned for and implemented a strategy for the effective and efficient resolution of grievances filed at the national level.

Specific audit criteria are included in **Annex A**.

2.2 Audit Scope

The audit was national in scope and assessed relevant procedures and practices in place at both selected sites and the ORD. The audit included visits to institutions which collectively housed incarcerated offenders of varying demographics (i.e. men, women, indigenous), but scoped out community facilities given the relatively low volume of offender complaints and grievances submitted against these sites.

The audit also included a sampling and review of responses to complaints and grievances, which were received over the period from fiscal years 2014/15 to 2016/17, to determine the degree to which decision makers were making satisfactory efforts to respond.

The audit did not assess the correctness or technical accuracy of the responses, primarily as the audit team noted that over the period from fiscal years 2014/15 to 2016/17, for those initial grievances that were raised to the final (national) level, only 2.1% of these grievances had been upheld by the final level. This demonstrates that a significant proportion of decisions that were challenged by offenders at the institutional level were later maintained by the ORD, thereby reducing the risk that institutions were issuing incorrect responses to any significant extent.

3.0 AUDIT FINDINGS AND RECOMMENDATIONS

3.1 Management Framework

The first audit objective was to determine whether an adequate framework was in place to support the Process.

The framework was examined from three perspectives: the degree to which clear department-wide accountability over the Process was in place; the degree to which the design and implementation of the Process sufficiently prevented offender misuse of the system; and the degree to which data pertaining to complaints and grievances was being collected, analyzed and used to make decisions.

The following sections highlight those areas where expectations were met and those where management attention is required. **Annex A** provides the overall assessment for all audit criteria.

3.1.1 Accountability

The audit expected to find that: authority, responsibility and accountability were clear and communicated; and that personnel had been provided with the training, tools and information required to carry out their respective responsibilities.

This criterion was assessed as being partially met. The audit found that roles and responsibilities of the individuals involved in the Process, including the institutional heads and decision makers was clearly defined in the *Commissioner's Directive 081 - Offender Complaints and Grievances* (herby referred to as "the Commissioner's Directive"). The audit also found that the information contained in the Commissioner's Directive was communicated and understood. There were however some areas where improvements were needed regarding oversight and training. These concerns are discussed below.

Accountability and responsibility for the complaint and grievance process Service-wide was not defined thus there was little oversight of the overall Process.

At the national level, the Office of Primary Interest (OPI) for offender redress was the Policy Sector of CSC. While the Commissioner's Directive stated that the "Assistant Commissioner, Policy has the authority to develop guidelines that must be followed with reference to the complaint and grievance process", the Directive did not clearly assign responsibility or accountability for the effectiveness of the Process to any particular group. Ultimately, the audit found that it was unclear as to who was responsible for overseeing the complaints and grievance process Service-wide. Additionally, there was little Service-wide oversight being conducted other than a self-assessment at the institutional level.

The audit did find that ORD would review the responses provided to offenders at the complaint and initial grievance levels if the grievance reached the final level and would consider communicating with the institution if concerns with the prior level responses were noted. This, however, would only apply to the five percent of the total complaint and initial level grievance responses that were raised to the final level. In addition, the ORD would also respond to any questions from institutional staff regarding the Process.

The audit team did not find any proactive or on-going oversight to ensure that all institutions were following the requirements of the Commissioner's Directive. The lack of such oversight allowed for institutions to be in non-compliance with the Directive, as was found at some of the sites visited. This is further discussed under section 3.2.1 of this report.

While steps have been taken to equip grievance analysts at the national level with the training, tools and support required to fulfil their responsibilities, the audit found that similar steps had not been taken at the institutional level.

At the national level, the audit found that newly hired grievance analysts received formal training on the Process. This training was accompanied by detailed reference material which provided an overview of the Process, including review of relevant legislation and CSC policies; and outlined the steps to be followed in preparing a grievance response. In addition, during audit interviews, grievance analysts at NHQ indicated that in learning the response writing process, analysts could consult more experienced team members as well as past grievance responses, which were archived on a shared network drive. Overall, these grievance analysts indicated that the training and resources available were generally sufficient to support them in carrying out their respective roles and responsibilities in the response writing process.

At the institutional level, the Commissioner's Directive requires the Institutional Head to ensure that there is a staff member designated to complete the duties associated with the Grievance Coordinator position. According to the Directive, Grievance Coordinators will, upon receipt of a complaint or grievance, assign a grievance code, determine the priority level, and record the complaint or grievance in the Offender Management System (OMS).

At some institutions visited, the audit found that Grievance Coordinators were heavily involved in the Process, performing an administrative role as well as providing advice and guidance to staff upon request and performing quality assurance reviews on responses prior to the response being released to the offender. Conversely, at other sites, the Chief, Administrative Services or Assistant Warden, Management Services played the advisory role to institutional staff charged with responding to complaints and grievances. The audit found that the individuals filling these roles had generally not received structured training on their respective role and responsibilities pertaining to the complaint and grievance process.

Furthermore, decision makers at the institutional level also had not received structured training on how to respond to complaints and grievances, often relying on work experience and peer support to learn the Process. In addition, many decision makers indicated that they did not have access to example responses to complaints and grievances, and felt that having access would assist them in modelling responses that were better aligned with expectations.

While the Commissioner's Directive indicates that "the Institutional Head/District Director will ensure that all staff are provided training concerning the offender complaint and grievance process and its requirements and importance", the audit noted that no up-to-date training was available online or otherwise for institutional staff. This finding is consistent with the results of CSC's past internal audit of the Offender Complaint and Grievance Process (2009), where it was found that "nationally, there [was] no formal training related to the... process".

As further discussed under section 3.2.1 (*Legislative Framework*) of this report, the audit team noted inconsistencies in the responses to complaints and grievances. For example, the audit noted that responses did not always substantiate decisions with reference to CSC policy or other authoritative documents. This was particularly concerning given that during audit interviews with offenders, interviewees expressed concern with what they perceived to be a lack of rationale provided to justify decisions made; also indicating that they would be more likely to raise a complaint or grievance decision to the next level if the response did not demonstrate that decisions were based on CSC policy.

3.1.2 Prevention of Misuse

The audit expected to find that the design and implementation of the Process sufficiently prevented offender misuse of the system.

This criterion was assessed as not met. The findings are discussed below.

CSC was not effectively addressing misuse of the complaints and grievance process by offenders.

Based on an analysis of available data, the audit noted that a small proportion of offenders were responsible for a disproportionate number of complaints and grievances submitted over the period from fiscal years 2014/15 to 2016/17. More specifically, 14 offenders out of the total grievor population of 13,599 (0.10%) accounted for 8,337 of the 79,771 (10.45%) complaints and grievances submitted during this period.

During audit interviews, both CSC staff and offenders expressed frustration with some offenders who, according to interviewees, used the Process as a means to address trivial matters, often submitting multiple complaints/grievances pertaining to the same issue. These individuals were seen as misusing and overburdening the system, resulting in slower response times for more serious offender concerns.

Both the *CCRA* and the *CCRR* identify mechanisms that can be used by CSC to curb offender misuse of the complaint and grievance process. More specifically:

1. *CCRA*, paragraph 91.1(1) indicates that "if the Commissioner is satisfied that an offender has persistently submitted complaints or grievances that are frivolous, vexatious or not made in good

faith, the Commissioner may, in accordance with the prescribed procedures, prohibit an offender from submitting any further complaint or grievance except by leave of the Commissioner”;⁴ and

2. *CCRR*, paragraph 74(4) indicates that a “supervisor may refuse to review a complaint... where, in the opinion of the supervisor, the complaint is frivolous or vexatious or is not made in good faith”.

In addition, the Commissioner’s Directive outlines a process whereby the Institutional Head/District Director may designate an offender as a multiple grievor “if the volume of complaints and/or grievances submitted impacts on the capacity to respond to submissions by other grievors and/or hinders other grievors’ access to the process at that site”. However, unlike the mechanisms identified in *CCRA* 91.1(1) and *CCRR* 74(4) whereby CSC may impose limitations on the requirement for a response to a complaint or grievance, the multiple grievor status still requires that a response be provided to the offender, but affords decision makers more time in providing the response.

With respect to *CCRA*, paragraph 91.1(1), the audit team was informed that it had not yet been implemented and that its application was currently under review. With respect to *CCRR*, paragraph 74(4), some decision makers at the institutional level indicated that while they could potentially refuse to review a complaint where it was deemed to be frivolous, vexatious or not made in good faith, it was often deemed more prudent to respond to the complaint. At one institution visited, the audit team was told that it was institutional policy to respond to all complaints, irrespective of the content. After speaking with decision makers, the audit noted that the majority had never actioned paragraph 74(4), despite several decision makers indicating that they could recall instances where it may have been warranted. Some decision makers expressed concern that exercising this paragraph could potentially result in legitimate concerns going unanswered; and indicated that deeming a complaint to be frivolous, vexatious or not made in good faith was a subjective exercise with little direction or guidance in place to determine in which situations the use of this mechanism would be suitable.

With regards to the multiple grievor designation, the audit noted from speaking with decision makers that this was yet another mechanism that was not frequently utilized, even in situations where it may have been warranted. Decision makers indicated that while the multiple grievor designation could potentially extend complaint and grievance response timeframes, decision makers were still required to respond to every complaint and grievance submitted; and that it was often more prudent to respond in a timely manner rather than to postpone the provision of responses for a longer length of time.

According to interviews with ORD staff, the workload generated at the national level to respond to grievances submitted by just nine specific grievors was significant. To help manage the additional workload, the ORD had assigned dedicated grievance analysts who predominately responded to submissions filed by these nine individuals. However, the institutions which housed these grievors did not receive additional resources to manage the substantial workload generated by these offenders.

3.1.3 Monitoring and Reporting

The audit expected to find that a mechanism existed at all levels to collect and analyze complaint and grievance related data; and that the resulting information was used to inform decision-making.

This criterion was assessed as being partially met. The audit found that at one point, a mechanism had existed at the national level to collect and analyze complaint and grievance related data to inform management decision-making. However, this reporting activity was later suspended. In addition, monitoring and reporting activities were not in place at all institutions visited.

CSC did not always leverage the availability of data to make informed decisions.

The audit noted that at the national level, the ORD had, in the past, regularly prepared performance reporting, including quarterly and annual performance reports which were shared internally within the Division as well as with CSC’s most senior decision-making body, the Executive Committee (EXCOM). These reports identified the number of complaints and grievances received as well as total response output at the complaint, initial and final grievance levels, comparing current period levels to that of the prior corresponding reporting period. These reports also provided key statistics on the complaints and grievances received,

⁴ Note that the Glossary of this audit report provides definitions for the terms “frivolous”, “vexatious” and “not made in good faith”.

including grievor demographics (gender, indigenous, security level); the percentage of decisions that were rendered within expected timeframes; as well as identification of the most frequently grieved subject matter. However, this reporting activity was later suspended in order to focus resources on the final level grievance backlog.

The audit noted that at most institutions visited, there was some degree of complaint and grievance monitoring in place, with the Grievance Coordinator generally taking the lead role. At some institutions, monitoring activity entailed tracking timelines for complaint and grievance responses, following up with decision makers as deadlines approached and reporting outstanding and late responses to more senior administrative staff. At other institutions, the monitoring exercise was more extensive, involving regular reporting of the number and type of complaints and grievances received by grievance subject with the intent of informing management of potential trends warranting further attention.

The Commissioner's Directive indicates that "the Institutional Head/District Director will ensure that there is a mechanism in place to monitor the use of the offender complaint and grievance process at his/her site". The Directive does not elaborate on what this monitoring exercise should entail.

Complaint and grievance data is a valuable source of information which can be used to identify potential areas of concern requiring attention. Regular monitoring of complaint and grievance data may help to identify emerging trends before they become widespread, significant problems. To the extent that the nature and volume of complaints and grievances warrants formal monitoring, CSC should consider the exercise as a means to inform and direct management decision making at all levels.

Conclusion

With respect to the first objective, the audit team found that some elements of a management framework were in place. Namely, a Commissioner's Directive and related guidelines existed and identified the key roles and responsibilities of those involved in the Process. As well, training had been provided to final level grievance analysts to assist them in carrying out their duties.

As noted, the management framework requires further improvements in order to better support the Process. More specifically, the audit found that:

- Overall accountability for ensuring compliance with the Commissioner's Directive was not defined;
- Administrative staff and decision makers at the institutional level were not appropriately equipped to fulfill their complaint and grievance-related responsibilities;
- Practices in place did not sufficiently address offender misuse of the Process; and
- Complaint and grievance-related data was not consistently used to inform management decision making.

3.2 Statutory Requirements

The second audit objective was to determine whether CSC was meeting its statutory obligations pertaining to the complaint and grievance process.

More specifically, the audit assessed whether the Commissioner's Directive and CSC's practices (at the institutional and national levels) were aligned with applicable sections of the *CCRA* and *CCRR*.

Annex A provides the overall assessment for all audit criteria.

3.2.1 Legislative Framework

The audit expected to find that CSC had taken steps to ensure that:

- a. CSC was fairly and expeditiously resolving offenders' grievances (*CCRA*, S.90);
- b. offenders had complete access to the grievance procedure without negative consequences (*CCRA*, S.91);
- c. efforts were being made by staff members and offenders to resolve matters informally (*CCRR*, S.74(2)); and
- d. offenders were provided with a written copy of the decision (*CCRR*, S.74(3), 78 and 80(3)).

Overall, these criteria were assessed as being partially met. The audit found that offenders were consistently provided with a written copy of the decision and that responses were generally written in a professional tone. In addition, the responses typically addressed all of the concerns raised by the offender in their complaint or grievance. Areas where concerns were found are explained below.

Responses to complaints and grievances did not always identify what was considered when forming the decision thus making grievors more likely to escalate their issue to the next level.

The CCRA requires that CSC provide “a procedure for fairly... resolving offenders’ grievances on matters within the jurisdiction of the Commissioner”. To help achieve this, CSC has issued guidance on how decision makers should prepare written responses to complaints and grievances. This guidance outlines the key components of an appropriate response, which should, among other things, identify the information considered in determining the response (statements, documents, policies, rules, etc.). The guidance further indicates that “individuals preparing responses... be prepared to answer questions, and provide a rationale supported by law and policy”.

Through file review, the audit team confirmed the compliance with the requirements related to responding to complaints and grievances. One area where compliance concerns were found related to identifying the information considered in determining the response. When looking at the written responses for decisions not entirely in favour of the offender (including denied, upheld in part, no further action required⁵), it was found that there was no substantiated reason in 39% of the complaints (49/127) and 27% (16/60) initial level grievances. This is of particular importance given that during audit interviews with offenders, interviewees expressed that they would be more likely to raise a complaint or grievance decision to the next level if the response did not demonstrate that decisions were based on CSC policy. While offenders may choose to escalate these grievances to the final level, the audit found that the national level maintained the institutional decision in 97.9% of cases. This demonstrates that if institutions would better articulate the logic of their decision making, offenders may feel less inclined to escalate their grievances to higher levels.

During audit interviews at the institutional level, decision makers generally indicated that they had not received training on how to respond to complaints and grievances. In addition, the audit noted that there was often no requirement for responses to go through some form of quality assurance prior to being provided to the offender.

At the final level, the audit noted that responses followed a standard format. This format addressed the CSC guidance, with each response written by a trained grievance analyst and subjected to an extensive mandatory review process which involved the ORD’s management as well as CSC’s senior executive branch. The audit team did not note any concerns with the content of the final level responses.

The expediency of decision-making continues to be a challenge, especially at the final level.

The CCRA requires that CSC provide “a procedure for... expeditiously resolving offenders’ grievances on matters within the jurisdiction of the Commissioner”. To address this legislated requirement, the Commissioner’s Directive dictates that decision makers will render a decision with regard to complaints and grievances within the following timeframes, which have been in place since 2007:

Complaint and Initial Grievance

High Priority – Within 15 working days of receipt by the Institutional Grievance Coordinator

Routine Priority – Within 25 working days of receipt by the Institutional Grievance Coordinator

Final Grievance

High Priority – Within 60 working days of receipt by the National Grievance Coordinator

Routine Priority – Within 80 working days of receipt by the National Grievance Coordinator

Note that the Commissioner’s Directive defines ‘high priority’ complaints and grievances as those that concern matters that have a direct effect on life, liberty or security of the person or that relate to a grievor’s access to the complaint and grievance process. Other complaints and grievances are designated as routine priority.

⁵ Note that the Glossary of this audit report includes a description of all complaint/grievance decision types.

Table 2 identifies the rate of compliance with the required timeframes for the complaints and initial level grievances in our audit sample.

Table 2 – Compliance with Required Response Timeframes for Audit Sample

| Decision Level | File Review Results | Rate of Compliance |
|-------------------|---------------------|--------------------|
| Complaint | 194 / 223 | 87% |
| Initial Grievance | 58 / 68 | 85% |

Furthermore, based on an analysis of the entire population of final level grievance data for fiscal years 2014/15 to 2016/17, the audit found that compliance with the required response timeframes was 55%⁶ (8,367/15,232). For those final level decisions that were delayed, the average response time was 217 working days for high priority grievances and 281 working days for routine priority grievances, both of which are substantially longer than the required timeframes of 60 working days and 80 working days, respectively.

The Commissioner's Directive indicates that "If the Institutional Head/District Director or the Director, Offender Redress, considers that more time is necessary to deal adequately with a complaint or grievance, the grievor must be informed, in a letter dated on or before the due date, of the reason(s) for the delay and of the date by which the decision will be rendered". The audit found that in instances where decision makers required more time for response preparation, it was standard practice to issue an extension letter, which, as required by the Commissioner's Directive, provided reason(s) for the delay as well as a revised date that the offender should expect to receive a response. The extension letters took the form of a standard template which provided a generic reason for why the response was delayed. The reason often read as follows: "further analysis is required to permit a thorough review of the issues identified in your presentation". The rationale provided was devoid of a specific reason tailored to each respective grievance.

During audit interviews with offenders, interviewees expressed concern with the length of time it took to receive a response to their respective submissions, especially at the final level. In fact, this was a reoccurring theme throughout the audit, including during discussions with management and staff at the institutional and national level.

Response times at the final level had been hindered by a grievance backlog, which diverted NHQ resources away from responding to new grievances recently received. The backlog is discussed in further detail under the third audit objective of this report, but it is important to note here that a driving force behind the creation of this backlog was a lack of success at the institutional level to resolve offender concerns at the lowest possible level, as well as measures implemented between 2012 and 2014 which effected offenders directly. For example, in fiscal year 2014/15, 4,889 (or roughly half) of the final level grievances received related to an NHQ policy change pertaining to the inmate telephone system. National policy changes impacting institutional amenities or offender routines can create dramatic spikes in the number of complaints and grievances submitted by offenders, especially at the final level.

This is not the first time that CSC's Internal Audit Sector has noted issues with the timeliness of responses. In 2009, the Internal Audit of Offender Complaint and Grievance Process found that "a significant number of complaints and grievances [were]... not provided with a response within established timeframes".

If CSC cannot comply with its own response timeframes, it will not meet the legislated requirement to expeditiously resolve offenders' grievances.

Some institutions were not collecting and reviewing complaint and grievance submissions from the segregation unit on the weekends and holidays.

The Commissioner's Directive indicates that complaints and grievances are to be "collected every working day, with the exception of offenders in segregation or on cell confinement, in which case complaints and grievances are collected every calendar day". In addition, "complaints and grievances classified as high priority will be brought immediately to the attention of the Institutional Head or Officer-in-Charge of the institution". This would include a complaint or grievance where the offender was expressing their intention to commit suicide.

⁶ **Annex E** provides a yearly summary of compliance results of final-level grievances for this three-year period.

Of the seven institutions visited that had segregation units, only two had a consistent process in place to ensure collection and review of complaints and grievances on the weekends and holidays. In addition, the audit noted that one additional institution had only recently implemented a process for weekend collection.

CSC's Internal Audit Sector has reported this finding in the past. For example, in 2009, the Audit of Offender Complaint and Grievance Process found that some sites were unsure whether collection was occurring on weekends and holidays. In addition, in 2012, the Review of Practices in Place to Prevent/Respond to Death in Custody found that half of the segregation units visited did not have a process in place to collect and review complaints and grievances on weekends and holidays. Despite past efforts to bring attention to this matter, non-compliance with this requirement of the Commissioner's Directive remains an issue.

Institution-specific complaint and grievance collection processes were not always designed in a manner that adequately protected the integrity of the Process from conflict of interest.

The CCRA, Section 91 requires that "every offender shall have complete access to the offender grievance procedure without negative consequences". While the Commissioner's Directive assigns this responsibility specifically to the Institutional Head, it does not define or otherwise direct the Institutional Head on how to design and implement an institutional complaint and grievance process which would meet this legislated requirement. However, across the Service, several institutions had installed drop off boxes specific to complaints and grievances.

The audit found that while all institutions visited had a formal complaint and grievance process in place that was accessible to offenders, the manner in which complaints and grievances were collected varied across the institutions. Specifically, at three of the 10 institutions visited, offenders used the general mail box to make their submissions, where the Visits and Correspondence Unit (V&C) was charged with collecting and screening the general mail, before it was distributed to addressees. The concern noted was that V&C is staffed by correctional officers, who, by virtue of the fact that they interact directly and frequently with offenders, can often be the subject of offender complaints and grievances. This may create a conflict of interest, whereby the individuals who may be the subject of a complaint or grievance are charged with the responsibility of ensuring that complaints and grievances are delivered to the institutional administration.

Furthermore, at one institution visited, the audit found that although a complaint/grievance specific box existed for offenders living outside of segregation, an offender was responsible for collecting and reviewing submissions on a daily basis and making deliveries to the institutional administration. This arrangement could be considered a breach of the grievors' privacy.

During audit interviews with offenders, interviewees generally indicated that they had not experienced challenges in physically submitting a complaint or grievance. However, many offenders expressed concern with what followed or what may potentially follow the submission process, with some offenders indicating that their submission had gone missing or that they were concerned with being subjected to unfair treatment as a result of their complaint/grievance. While the audit team could not confirm whether these concerns were based on fact or perception, the audit team could confirm that at many of the institutions visited, there were insufficient practices in place to protect against conflict of interest on the part of correctional officers collecting the complaints and grievances.

Evidence was often lacking to demonstrate that staff members at the institutional level had made an active effort in attempting to resolve matters informally.

The CCRR, paragraph 74(2) requires that "where a complaint is submitted... every effort shall be made by staff members and the offender to resolve the matter informally through discussion". This legislated requirement is reflected in the Commissioner's Directive, where it indicates that "all staff members make every effort to resolve matters that are the subject of offender complaints and grievances informally through discussion or by using alternative dispute resolution mechanisms, where such mechanisms exist".

In reviewing the responses to offender complaints and grievances, the audit found that in instances where the offender had made a specific request in the complaint or initial grievance form to be interviewed, there was evidence in 65% (77/119) and 62% (21/34) of subsequent responses, respectively to demonstrate that this meeting had occurred.

The audit found from speaking with staff members at the institutional level that there was a strong level of awareness and understanding of the need to resolve matters informally through discussion. Staff generally indicated that they would meet with the offender to discuss the matter whenever possible, but sometimes cited a lack of available time to do so given competing operational priorities.

From speaking with offenders, interviewees indicated that staff were not always willing to meet to discuss the complaints or grievances that had been submitted, despite offenders making specific requests for a meeting on the complaint/grievance form. In addition, some offenders indicated that in instances where they did meet with a staff member, they sometimes felt pressured into withdrawing their complaint even though the matter had not been resolved to the offender's satisfaction. The Guidelines indicate that "if an offender no longer wishes to pursue a complaint/grievance through the redress process, he/she must submit a written explanation indicating how the matter was resolved". The audit found that in instances where a complaint was identified as being "resolved", it was common for the decision-maker to prepare a brief response and have the offender sign off on the response form. However, these responses did not always identify how the matter had been resolved, so it was unclear as to whether the matter had in fact been appropriately addressed by the decision-maker.

In order to improve informal resolution capabilities, in 2011, NHQ provided temporary funding at the institutional level to support a pilot project on alternative dispute resolution (ADR). The goal of ADR was to "provide (a) fair and expeditious resolution process to address offender concerns, complaints and grievances". The pilot project was suspended as of March 31, 2017, and the associated funding was re-allocated to final level backlog activities as this was deemed to be a higher priority.

Decision-makers at institutions that had previously participated in the pilot project indicated that ADR had reduced the level of effort required on the part of decision-makers to address complaints and grievances, making more time available for other operational priorities. Offenders who were familiar with the pilot project felt that ADR resulted in responses that were timelier than what would be expected from the traditional complaint/grievance process. In addition, offenders appreciated the opportunity to speak with CSC staff in-person regarding their complaint as this was not always afforded to them through the traditional complaint/grievance process.

Informal resolution provides offenders with the opportunity to improve communication skills and theoretically allows CSC to enhance dynamic security within institutions. Without this, the escalation of complaints and grievances to a formal level increases the time to resolve grievances, and can further create animosity of offenders against staff, thereby impacting the safety of the institutions.

Conclusion

While there was evidence to demonstrate that CSC had taken steps to help ensure that offenders had complete access to a fair and expeditious Process, several observations were noted as follows:

- complaint and initial grievance responses did not always reflect CSC guidance, potentially impacting the degree to which responses were perceived to be fair;
- expediency of responses continued to be a challenge, impacting CSC's ability to demonstrate compliance with the timelines stated in the Commissioner's Directive;
- contrary to the requirements of the Commissioner's Directive, a process was not always in place to collect complaints and grievances from segregation on the weekends and holidays;
- access controls over the complaint/grievance collection process were not always in place, effecting CSC's ability to protect the integrity of the Process from conflict of interest; and
- opportunities existed to strengthen informal resolution efforts at the lowest possible level, thereby reducing pressure on the grievance backlog at the national level.

3.3 Backlog Remediation Activities

The third audit objective was to determine whether CSC had appropriately planned for and implemented a strategy for the effective and efficient resolution of grievances filed at the national level.

Remediation activities were assessed from two perspectives: oversight and project management.

Annex A provides the overall assessment for all audit criteria.

3.3.1 Oversight

The audit expected to find that oversight of backlog remediation activities had been established and effectively implemented.

This criterion was assessed as being partially met. While there was evidence to demonstrate that senior management was providing oversight over grievance backlog reduction activities, the audit found that the periodic reporting provided to senior management did not report against performance targets.

Opportunities exist to strengthen performance reporting to senior management.

The mandate of EXCOM is to review operational and policy items that require strategic discussion and to make decisions that are to be implemented across the Service. EXCOM is also responsible for monitoring corporate performance.

Based on a review of EXCOM Records of Decisions, the audit found that the Policy Sector had presented to EXCOM on at least four separate occasions between fiscal years' 2014/15 to 2016/17. The primary purpose of these presentations was to request approval of new funds or to request renewal or re-profiling of existing funds pertaining to grievance backlog reduction and statutory compliance activities. At the more recent presentations, the Policy Sector tabled performance targets pertaining to final level grievance response output which were to be used to measure the relative success of the proposed initiatives.

The audit noted that the ORD regularly prepared reports, including quarterly and annual performance reports which were shared with EXCOM. These reports identified the number of complaints and grievances received as well as total response output at the complaint, initial and final grievance levels, comparing current period levels to that of the prior corresponding reporting period. However, these reports did not include a comparison of planned targets which had been previously presented at EXCOM to actual performance. Therefore, it was difficult to ascertain the degree of success achieved in meeting targets.

3.3.2 Project Management

The audit expected to find that CSC had project management plans, tools and resource allocations in place to eliminate the backlog of grievances and prevent it from reoccurring.

This criterion was assessed as being partially met. While there was evidence to demonstrate that CSC had plans, tools and resource allocations in place to support the objective of eliminating the backlog of final level grievances, the plan in place did not express how it would prevent future backlogs in the longer term.

Opportunities exist to improve planning, specifically in relation to backlog prevention.

The ORD is comprised of specialized teams of grievance analysts who focus on responding to grievances falling under specific grievance codes. The objective of this organizational structure is to maximize efficiencies typically associated with specialization, in that the same team is responsible for responding to identical or similar grievances.

In March 2017, EXCOM approved the level of temporary funding expected to allow the ORD to clear the existing final level grievance backlog by the third quarter of fiscal year 2018/19. The ORD had prepared an estimate of the annual number of responses required to meet this target date. In addition, each ORD manager had prepared an action plan to demonstrate how their respective teams would contribute to achieving the required number of responses. Each action plan identified an expected total response output per team, as well as response strategies which included prioritizing older grievances as well as those identified as being of greater urgency (i.e. "high priority").

While the plans in place supported the objective of eliminating the backlog of final level grievances, the audit team could not identify any such documented plan to improve complaint and grievance resolution capabilities at the site level. This is of particular importance, given that in order to prevent future backlogs at the final level, the audit expected to find a plan in place to augment the capability of sites to better manage complaints and grievances at the lowest possible level and therefore better prevent escalation to the final level.

As previously mentioned, while the Commissioner's Directive indicates that the "Assistant Commissioner, Policy has the authority to develop guidelines that must be followed with reference to the complaint and grievance process", the Directive does not clearly assign responsibility or accountability for the Service-wide Process to any single group. The result is a fragmented process, where the ORD is responsible for response activities at the national level and each site is responsible to manage their own respective process, resulting in potentially dozens of varying complaint and grievance processes across the Service, and no cohesive plan in place to resolve complaints and grievances at the lowest possible level. This ultimately increases the likelihood of diminished response capabilities, impacting offender confidence in the institutional process and resulting in re-occurring backlogs at the national level.

Conclusion

With respect to the third objective, the audit found that mechanisms were in place to oversee and plan for the remediation of the grievance backlog at the national level.

However, the audit did identify some challenges which include the following:

- performance reporting did not demonstrate progress against pre-established performance targets; and
- there was no Service-wide plan in place to improve complaint and initial grievance resolution capabilities at the lowest possible level of the Process.

Recommendation 1

The Assistant Commissioner, Policy should lead a comprehensive review of the entire complaints and grievance process Service-wide, providing various options for consideration by EXCOM. At a minimum, the results of the review should ensure that:

- a. accountability for the Process is clearly assigned, with specific responsibilities including continuous monitoring and oversight of the Process Service-wide;
- b. complaint and initial grievance resolution capabilities are improved, including strengthening efforts to resolve matters informally;
- c. procedures are developed and implemented to help address offender misuse of the Process; and
- d. direction and support is available to continuously improve the use and analysis of complaint and grievance-related data.

Management Response

The Assistant Commissioner, Policy welcomes and agrees with the recommendation. In collaboration with the regions, the Rights, Redress and Resolution Branch will complete a review of the offender redress process and its governing policy framework to ensure that roles, responsibilities, and accountabilities for process-wide monitoring, support and oversight are clearly articulated; develop and implement procedures to address vexatious grievors, as well as strengthen and support efforts to resolve matters informally at the lowest possible level. Also, the Assistant Commissioner, Policy, in collaboration with the Assistant Commissioner, Human Resources Management and the regions, will lead the development and mobilization of resources for staff who are working at all levels of the offender redress process.

In order to fully respond to this recommendation, the Offender Redress Division has already allocated resources to establish a small project team of senior members. The team will lead the review of the Offender Redress Process, in collaboration with the regions, appropriate sectors at NHQ, and other stakeholders, as needed. Included in the work of the team will be efforts to review and update existing policy, implement informal resolution in collaboration with the regions/institutional and community sites, implement procedures for dealing with vexatious grievors, and provide knowledge management resources to the sites.

Recommendation 2

The Regional Deputy Commissioners should ensure that Institutional Heads in their respective regions provide for the following:

- a. mechanisms exist to confirm that for offenders in segregation, complaints and grievances are collected and reviewed on a daily basis, including on weekends and holidays;
- b. appropriate practices are in place to protect the integrity of the complaint and grievance process;
- c. institutional staff make every effort to resolve complaints and grievances informally through discussion; and
- d. responses to offender complaints and grievances are being written in accordance with the Guidelines, clearly articulating the rationale for the decision made.

Management Response

We agree with this recommendation. The Regional Deputy Commissioners will ensure that the integrity of the grievance and complaint process is maintained and that actions are taken to ensure that every offender has complete access to the offender grievance process.

4.0 OVERALL CONCLUSION

Overall, while significant work has been on-going to manage grievances at the final level, the audit found opportunities for improvement at the institutional level.

With respect to the first objective, while some elements of a management framework were in place, the audit found that the framework requires additional work to help improve the effectiveness of the complaint and grievance process. The audit found that responsibility for the oversight of the Process was not assigned to a specific group; and that practices in place did not sufficiently address offender misuse of the Process.

The second objective of this audit focused on whether CSC was meeting its statutory obligations pertaining to the Process, noting a number of areas where improvements can be made. More specifically, expediency of responses continued to be a challenge, especially at the final level; and at the institutional level, access controls over the complaint and grievance collection process were not always in place and submissions were not always collected from segregation on the weekends and holidays.

The third and final objective focussed on whether CSC had a strategy in place for the effective and efficient resolution of final level grievances, identifying opportunities to further improve the efforts that had already been undertaken. More specifically, the audit noted that there was no Service-wide plan in place to improve complaint and grievance resolution capabilities at the lowest possible level of the Process, thereby increasing the likelihood of continued backlogs at the final level as fewer matters are resolved within institutions.

Recommendations have been issued in the report based on areas where improvements are required.

5.0 MANAGEMENT RESPONSE

Management agrees with the audit recommendations overall. Work will be undertaken to strengthen overall oversight and support for the offender redress process, including the development of training and knowledge management products to be used by staff at all levels involved in the offender redress process. Measures will also be taken to address concerns raised by the audit with respect to fair and complete access to the complaint and grievance process (i.e. methods for submitting, informal resolution, vexatious grievors, grounding of decision in policy framework, etc.). The Offender Redress Division has established a project team to complete the work outlined in the Management Action Plan (MAP). The MAP is scheduled for full implementation by March 2019.

6.0 ABOUT THE AUDIT

6.1 Approach and Methodology

Audit evidence was gathered through a number of methods:

Interviews

A total of 95 interviews were conducted with senior management and staff primarily at the national and at the institutional level. At the national level, interviews were conducted with senior executives, including sector heads; the ORD's management team as well as the ORD's grievance analysts. At the institutional level, interviews were conducted with decision makers, including institutional heads, division heads and correctional officers; as well as with complaint and grievance personnel. In addition, a total of 38 interviews were conducted with offenders, including with the Inmate Welfare Committee of each respective institution visited. Note that the offenders interviewed were pre-selected by the audit team from a system-generated list of offenders who had made complaint and/or grievance submissions in the in-scope audit period.

Review of documentation

Relevant documentation including legislation, policies, procedural documentation, job descriptions, plans, performance reporting and other relevant corporate documentation were reviewed.

Testing

The audit included a sampling and review of responses to offender complaints and grievances. The purpose of this review was to determine the degree to which decision-makers' responses were addressing all of the offender's documented concerns; whether decisions were substantiated with reference to CSC policies or other authoritative documents; and whether the response was written in an objective, professional manner. A sample size of roughly 30 files⁷ were selected from each respective site visited using primarily a random sampling methodology, with a smaller judgemental sample selected to ensure sufficient coverage of responses at all three decision levels (i.e. complaint, initial grievance and final grievance). The total sample size for all 10 sites visited was 288.

Site Selection

The goal of the site selection methodology was to choose a varied mix of institutions in order to obtain a comprehensive appreciation of institutional complaints and grievances processes across the Service. To this end, the site selection included institutions with relatively high and relatively low rates of complaint and grievance escalation to the next decision level; a measure which may be indicative of the effectiveness (or lack thereof) of institutional complaint/grievance practices. In addition to this site selection criterion, the audit team chose sites from each of CSC's five regions, at all security levels (minimum, medium and maximum), including clustered sites. **Annex B** identifies the sites visited.

Observations

While on-site at each institution visited, the audit team conducted a walk around of the institution to determine whether complaint/grievance submission boxes existed; the degree to which these boxes were accessible to offenders; and the process followed by institutional staff to collect and deliver submissions to the administrative branch of the institution for processing.

⁷ Note that the term 'file' refers to any and all complaint and grievance level(s) that are associated with the offender's original submission. Some files involved just one decision level (a complaint for example) whereas others involved multiple decision levels, such as a complaint, initial and final level grievance.

6.2 Past Audits and Reviews Related to the Offender Redress Process

Past CSC internal audits and external assurance work were used to assist in scoping the audit work, including the following.

Offender Complaint and Grievance System Audit Report (June 2002)

The audit found that institutional and regional grievance coordinators had been assigned to the position with little or no formal training and expected to learn on the job, hence, there appeared to be a number of interpretations with respect to acknowledgements, expectations from the respondents and timeframes. In addition, the audit noted that there was no official regional or national support system in place for the coordinators; they often depended on their counterparts from other institutions for advice and guidance.

Audit of Offender Complaint and Grievance Process (May 2009)

With respect to the management framework, the audit found that the definition and intent of the multiple grievor status was unclear. More specifically, staff questioned the need for the status, as it did not limit the offenders' ability to submit complaints and grievances. Lack of training for grievance personnel and the need for better performance measurement and monitoring of the grievance process were also flagged as issues. With respect to compliance with legal and policy requirements, the audit noted that there were challenges in meeting timelines for response to complaints and grievances; clarification was needed with respect to the requirement to collect and review complaints and grievances on weekends and holidays from inmates on segregation/cell-confinement status; and improvements could be made with respect to the completeness and quality of grievance file content, including the documentation of corrective action taken.

Review of Practices in Place to Prevent/Respond to Death in Custody (February 2012)

The review found that consistent with a past internal audit recommendation, CSC had updated the Commissioner's Directive to indicate that complaints and grievances submitted by segregated offenders must be collected and assessed daily including weekends and holidays. However, the review determined that 60% of the applicable sites visited did not have a process in place to collect and review these complaints and grievances on weekends and holidays.

External Review of Correctional Service of Canada Offender Complaints and Grievance Process (July 2010)

The external review recommended that CSC commit more resources to the resolution of complaints and grievances at the institutional level, including appointment of a Grievance Coordinator at every institution as well as a Mediator at every maximum and medium security institution. In addition, the report noted the need for a significant enhancement in the training provided to correctional officers, other staff, and management in the operations of the complaints and grievance process. There was also discussion of the need to remove the second level of the process, given its limited utility in resolving grievances. Lastly, the report recommended that the process of designating an offender a 'Multiple Grievor' be simplified and that there be greater restrictions placed on the filing of complaints and grievances flowing from this designation.

6.3 Statement of Conformance

In my professional judgment as Chief Audit Executive, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the opinion provided and contained in this report. The opinion is based on a comparison of the conditions, as they existed at the time, against pre-established audit criteria that were agreed on with management. The opinion is applicable only to the area examined.

The audit conforms to the Internal Auditing Standards for Government of Canada, as supported by the results of the quality assurance and improvement program. The evidence gathered was sufficient to provide senior management with proof of the opinion derived from the internal audit.

Sylvie Soucy, CIA
Chief Audit Executive

GLOSSARY

The following are definitions of common terms used to describe offender misuse of the complaint and grievance process, as outlined in the Commissioner's Directive 081 (*Offender Complaints and Grievances*):

Frivolous: Where the decision-maker concludes on the balance of probabilities that the complaint or grievance was submitted with no serious purpose.

Vexatious or not made in good faith: Where the decision-maker concludes on the balance of probabilities that the overriding purpose of the complaint or grievance is:

- a. to harass
- b. to pursue purposes other than a remedy for an alleged wrong, or
- c. to disrupt or denigrate the complaint and grievance process.

The following is a summarized description of all complaint/grievance decision types, which are fully described in CSC Guidelines 081-1 (*Offender Complaints and Grievances Process*):

Upheld: When a complaint/grievance is justified on the grounds that the treatment of the offender or the procedure was unfairly or arbitrarily applied, or contrary to guiding legislation or policy.

Upheld in part: A complaint/grievance will be upheld in part when several issues are grieved and/or elements are addressed in the response but not all are upheld (i.e.: other elements are denied, rejected, no further action).

Denied: After reviewing the complaint/grievance and conducting the analysis, the issue is considered unfounded or the decisions or actions of staff members were deemed appropriate.

Resolved: If an offender no longer wishes to pursue a complaint/grievance through the redress process, he/she must submit a written explanation indicating how the matter was resolved.

No further action: When it is deemed that the action taken at previous level(s), or since the submission of the complaint/grievance, rectified the situation in accordance with law and policy, the issue therefore requires no further action. Though the action may not be to the offender's satisfaction, the issue is nonetheless deemed to have been appropriately addressed.

Beyond authority: A complaint/grievance is beyond authority when the decision maker establishes that the issue must be addressed at the next level (is beyond the authority of the current level to address).

Rejected: A complaint/grievance may be rejected for several reasons including if, for example, the issue being grieved is not under the jurisdiction of the Commissioner.

ANNEX A: AUDIT CRITERIA

The following table outlines the audit criteria developed to meet the stated audit objective and audit scope:

| Objective | Audit Criteria | Met/ Met with Exceptions/ Partially Met/ Not Met |
|---|---|--|
| 1. An adequate framework is in place to support the offender complaints and grievance process. | <u>1.1 Accountability</u> a. Authority, responsibility and accountability are clear and communicated. b. Personnel have been provided with the training, tools and information required to carry out their respective responsibilities. | Partially Met |
| | <u>1.2 Prevention of misuse</u> The design and implementation of the complaint and grievance process sufficiently prevents misuse of the system by offenders. | Not Met |
| | <u>1.3 Monitoring and Reporting</u> A mechanism exists at all levels to collect and analyze complaint and grievance related data, and management uses the resulting information to make decisions. | Partially Met |
| 2. CSC is meeting its statutory obligations pertaining to the complaint and grievance process as outlined in the <i>CCRA</i> and <i>CCRR</i> . | <u>2.1 Legislative Framework</u> a. CSC is fairly and expeditiously resolving offenders' grievances; b. Offenders have complete access to the grievance procedure; c. Efforts are being made by staff members and offenders to resolve matters informally; and d. Offenders are provided with a written copy of the decision. | Partially Met |
| 3. CSC has appropriately planned for and implemented a strategy for the effective and efficient resolution of grievances filed at the national level. | <u>3.1 Oversight</u> Oversight of backlog remediation activities has been established and effectively implemented. | Partially Met |
| | <u>3.2 Project Management</u> CSC has appropriate project management plans, tools and resource allocations in place to eliminate the backlog of grievances and prevent it from reoccurring. | Partially Met |

ANNEX B: SITE SELECTION

| Region | Sites |
|-----------------|--|
| Atlantic | <ul style="list-style-type: none">• Atlantic Institution• Nova Institution for Women |
| Quebec | <ul style="list-style-type: none">• Federal Training Centre• La Macaza Institution |
| Ontario | <ul style="list-style-type: none">• Bath Institution• Joyceville Institution |
| Prairies | <ul style="list-style-type: none">• Saskatchewan Penitentiary• Stony Mountain Institution |
| Pacific | <ul style="list-style-type: none">• Mountain Institution• Pacific Institution |

ANNEX C: MOST FREQUENTLY GRIEVED SUBJECT MATTER

The following table ranks the top five areas that were most frequently grieved by offenders over the period from fiscal years 2014/15 to 2016/17.

| Rank | Complaint/Grievance Subject | Number of Complaints and Grievances Received | Percentage of Total Complaints and Grievances Received |
|--|--|--|--|
| 1 | Staff Performance | 12,122 | 15.2% |
| 2 | Correspondence / Telephone Communication | 8,249 | 10.3% |
| 3 | Amenities – Food and Diet | 6,005 | 7.5% |
| 4 | Personal Effects | 5,636 | 7.1% |
| 5 | Non-Urgent Health Services | 3,261 | 4.1% |
| Total Number of Complaints and Grievances Received | | 79,771 | |

ANNEX D: KEY EXCERPTS FROM LEGISLATION

Corrections and Conditional Release Act:

Grievance procedure

90 There shall be a procedure for fairly and expeditiously resolving offenders' grievances on matters within the jurisdiction of the Commissioner, and the procedure shall operate in accordance with the regulations made under paragraph 96(u).

Access to grievance procedure

91 Every offender shall have complete access to the offender grievance procedure without negative consequences.

Frivolous complaints, etc.

91.1(1) If the Commissioner is satisfied that an offender has persistently submitted complaints or grievances that are frivolous, vexatious or not made in good faith, the Commissioner may, in accordance with the prescribed procedures, prohibit an offender from submitting any further complaint or grievance except by leave of the Commissioner.

Review of prohibition

(2) The Commissioner shall review each prohibition under subsection (1) annually and shall give the offender written reasons for his or her decision to maintain or lift it.

Corrections and Conditional Release Regulations:

Offender Grievance Procedure

74(1) Where an offender is dissatisfied with an action or a decision by a staff member, the offender may submit a written complaint, preferably in the form provided by the Service, to the supervisor of that staff member.

(2) Where a complaint is submitted pursuant to subsection (1), every effort shall be made by staff members and the offender to resolve the matter informally through discussion.

(3) Subject to subsections (4) and (5), a supervisor shall review a complaint and give the offender a copy of the supervisor's decision as soon as practicable after the offender submits the complaint.

(4) A supervisor may refuse to review a complaint submitted pursuant to subsection (1) where, in the opinion of the supervisor, the complaint is frivolous or vexatious or is not made in good faith.

(5) Where a supervisor refuses to review a complaint pursuant to subsection (4), the supervisor shall give the offender a copy of the supervisor's decision, including the reasons for the decision, as soon as practicable after the offender submits the complaint.

75 Where a supervisor refuses to review a complaint pursuant to subsection 74(4) or where an offender is not satisfied with the decision of a supervisor referred to in subsection 74(3), the offender may submit a written grievance, preferably in the form provided by the Service:

- a. to the institutional head or to the director of the parole district, as the case may be; or
- b. if the institutional head or director is the subject of the grievance, to the Commissioner.

76(1) The institutional head, director of the parole district or Commissioner, as the case may be, shall review a grievance to determine whether the subject-matter of the grievance falls within the jurisdiction of the Service.

(2) Where the subject-matter of a grievance does not fall within the jurisdiction of the Service, the person who is reviewing the grievance pursuant to subsection (1) shall advise the offender in writing and inform the offender of any other means of redress available.

78 The person who is reviewing a grievance pursuant to section 75 shall give the offender a copy of the person's decision as soon as practicable after the offender submits the grievance.

80(1) If an offender is not satisfied with a decision of the institutional head or director of the parole district respecting their grievance, they may appeal the decision to the Commissioner.

(3) The Commissioner shall give the offender a copy of his or her decision, including the reasons for the decision, as soon as feasible after the offender submits an appeal.

80.1 A senior staff member may, on the Commissioner's behalf, make a decision in respect of a grievance submitted under paragraph 75(b) or an appeal submitted under subsection 80(1) if the staff member:

- a. holds a position equal to or higher in rank than that of assistant deputy minister; and
- b. is designated by name or position for that purpose in a Commissioner's Directive.

ANNEX E: COMPARISON OF FINAL LEVEL COMPLIANCE WITH COMMISSIONER'S DIRECTIVE (CD) REQUIRED TIMEFRAMES (FOR EACH IN-SCOPE FISCAL YEAR)

| FY 2014/15: | | | | |
|--|---------------------------|----------------------|--------------------|---|
| Priority Level | CD Timeframe Requirements | Results | Rate of Compliance | Average Response Time for Delayed Responses |
| High | 60 working days | 97 / 1,231 | 8% | 270 days |
| Routine | 80 working days | 5,475 / 8,229 | 67% | 328 days |
| Overall Results (For both High and Routine Priority): | | 5,572 / 9,460 | 59% | N/A |

| FY 2015/16: | | | | |
|--|---------------------------|----------------------|--------------------|---|
| Priority Level | CD Timeframe Requirements | Results | Rate of Compliance | Average Response Time for Delayed Responses |
| High | 60 working days | 486 / 1,338 | 36% | 177 days |
| Routine | 80 working days | 913 / 2,172 | 42% | 249 days |
| Overall Results (For both High and Routine Priority): | | 1,399 / 3,510 | 40% | N/A |

| FY 2016/17: | | | | |
|--|---------------------------|----------------------|--------------------|---|
| Priority Level | CD Timeframe Requirements | Results | Rate of Compliance | Average Response Time for Delayed Responses |
| High | 60 working days | 559 / 809 | 69% | 113 days |
| Routine | 80 working days | 837 / 1,453 | 58% | 137 days |
| Overall Results (For both High and Routine Priority): | | 1,396 / 2,262 | 62% | N/A |

| | | | | |
|---|--|-----------------------|------------|---|
| Combined Results (FY 2014/15 to 2016/17 For both High and Routine Priority): | | 8,367 / 15,232 | 55% | High – 217 days Routine – 281 days |
|---|--|-----------------------|------------|---|

Overall, for high priority grievances improvements have been noted in complying with the required timeframes. For routine priority grievances, although the compliance rate remains low, there has been noted improvement in the overall timeframe of delayed responses as it has decreased from 328 days in 2014/15 to 137 days in 2016/17.