TOWARDS A JUST, PEACEFUL AND SAFE SOCIETY:

THE CORRECTIONS AND CONDITIONAL RELEASE ACT FIVE YEARS LATER

Consultation Paper

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LEGISLATIVE REQUIREMENT FOR CCRA REVIEW

"Three years after the coming into force of sections 129 to 132, a comprehensive review of the operations of those sections shall be undertaken by such Committee of the House of Commons as may be designated or established by the House of Commons for that Purpose". (CCRA, Section 232)

"Five years after the coming into force of this Act, a comprehensive review of the provisions and operation of this Act shall be undertaken by such Committee of the House of Commons, or of both Houses of Parliament as may be designated or established by Parliament for that purpose". (CCRA, Section 233)

Foreword

As Solicitor General, I have three key priorities: ensuring public safety, combating organized crime and making Canada's correctional system as effective as possible.

Effective corrections means distinguishing between those offenders who need to be separated from society, and those who could be better-managed in the community. It recognizes that offenders come from the community and almost all will return there, so the best way of protecting Canadians is by preparing offenders for their release. That's the business of corrections: to help offenders successfully reintegrate into the community. It's also one of the best ways I know to help keep our homes and our communities safe.

This is a year of opportunity for Canadian corrections. After a period of relentless growth the number of federal inmates is leveling-off. Nineteen ninety-eight also marks the year that Parliament will be reviewing the *Corrections and Conditional Release Act*. The *CCRA* is the foundation of the federal correctional system and generally the Act is working as intended. However, I am committed to fostering an open and frank dialogue about the *CCRA*, and I am ready to propose improvements to the legislation where the need for change is clear.

Canada is recognized around the world for its modern and fair correctional system. I want to preserve these qualities, while exploring how we can continue to enhance public safety. I am therefore inviting concerned Canadians to read this document and reflect on the key issues. Whatever our views on the *CCRA*, we all share a common goal of safer communities, which can only be achieved through an effective correctional system.

All Canadians are welcome to join in this dialogue. I look forward to hearing your views on the *CCRA* and I thank you for participating in the consultations.

The Honourable Andy Scott, M.P.
Solicitor General of Canada

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Glossary

INTRODUCTION

When the first *Penitentiary Act* was created in 1868, Canada's correctional system looked very different than it does today. Three penitentiaries -- Kingston, St. John, and Halifax -- housed some 1,013 inmates serving a range of sentence lengths, while local jails and a handful of reformatories held those offenders serving shorter sentences or accused persons awaiting trial. Custodial conditions were harsh, programs almost non-existent, and parole unknown.

As the country grew, so too did the number of penitentiaries, totaling five by the turn of the century. It was also in 1899 that the predecessor of the modern parole system, the "ticket of leave", came into being. Notwithstanding the continuing growth of the correctional system and a number of extensive reviews of its operation, the next major change to the legislative framework did not occur until 1959 with the enactment of the *Parole Act*.

These two statutes, the *Penitentiary Act* and the *Parole Act*, were subject to piecemeal reforms in the years that followed but remained substantially the same. Many amendments were placed in Regulations, rather than in the Acts themselves. In addition, the Office of the Correctional Investigator was established in 1973 pursuant to Part II of the federal *Inquiries Act* to allow for the independent investigation of inmate complaints. With a dramatic increase in litigation in the 1980's, the courts often effectively became the legislators, and it was a constant effort to keep the Acts and Regulations up to date.

Beginning in 1984, the government embarked on an ambitious program of criminal justice reform. The Correctional Law Review was central to that process, and over a period of years issued a series of nine discussion papers covering all issues from victims rights to inmate responsibilities, from procedural protections to conditional release to inmate work programs.

Consultations during that period, and following the release of the government green paper "Directions for Reform", were extensive. Over 7,500 copies of the latter documents were distributed, and eighty public consultation meetings involving some 1200 participants were held. The bill which resulted and created the *Corrections and Conditional Release Act (CCRA)*, was also subject to extensive scrutiny as it passed through Parliament, attracting some 100 motions to amend at the House of Commons Standing Committee stage alone.

The New Act

The *Act*, which was proclaimed in force November 1, 1992, marked a significant achievement. It completely replaced the old *Penitentiary Act* and *Parole Act* with a modern, comprehensive framework for corrections and conditional release. It also incorporated the long-standing office of the Correctional Investigator as an Ombudsman within Part III of the legislation. Court judgments over the years were incorporated in its provisions, solid research was used as building blocks, *Charter* rights and responsibilities were articulated, and the rule of law was affirmed.

The voices of all Canadians are heard in the *Act*: victims rights and concerns are reflected, and the special needs of female offenders, Aboriginal offenders and others were recognized. The sense of common purpose was emphasized through statements of fundamental purposes and principles with respect to both corrections and conditional release. Fairness was balanced with firmness, rights with responsibilities. A framework was designed to enable sentences of the court to be carried out in a way which would create a better tomorrow for all Canadians.

The *Act* is structured in three Parts. Part I is entitled "Institutional and Community Corrections", and addresses primarily those matters, administered by the Correctional Service of Canada (CSC), pertaining to the custodial portion of the sentence. For the first time in law, it sets out a statement of purpose and principles of the correctional system. This is followed by provisions respecting escorted temporary absences, work release, investigations, sharing of information, placement and transfer of inmates, administrative segregation, discipline, search and seizure, living conditions, programs, health care, grievance procedure, release of inmates, and special measures for Aboriginal inmates. This Part is supplemented by additional details found in Regulations to the *Act*.

Part II, "Conditional Release and Detention", also begins with a statement of purpose and principles of conditional release. This Part deals with aspects of conditional release under the jurisdiction of the National Parole Board as well as provincial parole boards, where they exist (Quebec, Ontario, British Columbia). It includes details respecting eligibility and review processes for unescorted temporary absences, day parole, full parole, accelerated day and full parole review, statutory release, and detention. Like Part I, Part II is also supplemented by additional details in the Regulations.

Part III, "Correctional Investigator" establishes an ombudsman for federal corrections and clarifies the authority and responsibility for the office within a well defined legislative framework. The specific function of the Office is "to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for or on behalf of the Commissioner that affect offenders either individually or as a group".

Your Input

The title of this paper -- *Towards A Just, Peaceful and Safe Society* -- reflects the fact that the process of law reform is exactly that, a journey. With over five years of experience now behind us, there is an opportunity to take stock, to reflect in a collaborative way, and to make any adjustments which are necessary. To this end, research and evaluation studies were undertaken by the Ministry of the Solicitor General, and their key findings are summarized in this paper. A more detailed 175 page report may be obtained on the Internet at http://www.sgc.gc.ca/eccra, or on CD-ROM or printed copy from the address noted below.

This paper has been prepared to provide you with background information about key aspects of the operation of the *CCRA*. Your comments on these or any related issues are sought. In reviewing this material, it is useful to consider whether improvements that may be required are those in the statutory framework or are those which speak to implementation of those provisions. The *CCRA* has been amended twice since its creation (once in 1996 with comprehensive sentence calculation improvements ("C-45"), and again in 1997 with changes to day parole eligibility ("C-55")), and it remains open to positive and progressive improvements. Our common goal is just, peaceful and safe communities. We may have many different points of view as to how that goal can be best achieved, but what is certain is that it is only through an open and frank dialogue that we can reach it.

We look forward to hearing from you. Please address your comments or questions by April 30, 1998, to:

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A. PUBLIC SAFETY AND REINTEGRATION

1. INFORMATION ABOUT OFFENDERS

Section 23 of the *CCRA* requires that Correctional Service Canada (CSC) make all reasonable efforts to obtain specific pieces of information for all offenders sentenced, committed or transferred to penitentiary as soon as practicable. Section 726.2 of the Criminal Code requires a sentencing court to give reasons for sentence and Section 743.2 also requires the court to forward to CSC its reasons and recommendation relating to the sentence, any relevant reports, and any other information relevant to administering the sentence.

Collection and sharing of information about offenders has been a long-standing issue. Difficulties have been observed with information sharing across jurisdictions, and among system components (e.g. police and corrections). There have also been problems with information sharing between CSC and the National Parole Board (NPB). The need for better information on the criminal history of offenders was identified in the 1994 report of the Auditor General, and restated in the 1996 report.

FINDINGS

- ➞ Formal information sharing agreements have been signed with 9 provinces and informal arrangements have been made with other jurisdictions. CSC annual costs for information sharing agreements have been in the $500,000 range, with most of these costs being for photocopying and computer access.

- ➞ Difficulties have been experienced with the timeliness of information received, and in some instances with the verification of the existence of information. In one snap-shot survey, four months following admission to penitentiary the completeness of information received was as follows:

Type of Information	% Available
Post Sentence Community Assessment	86%
Judge's Comments	84%
FPS Record	51%
Police Reports	94%

- ➞ Although CSC has been experiencing difficulty with the timeliness of information, findings indicate that information from external sources is usually timely for NPB decision making.

- ➞ Young offender information, which is important for risk assessment, continues to present some difficulties. In 28% of the cases reviewed, existing young offender records were not on file.

2. SECURITY CLASSIFICATION OF INMATES

Section 30 of the *CCRA* requires the classification of offenders into 3 categories (maximum, medium, minimum) based on individual risk assessment. It also requires that offenders be given written reasons for their classification and any changes to it.

Offender classification represents one aspect of CSC's work over the last decade to introduce standardized assessment instruments and related protocols to guide correctional decisions from offender admission to sentence expiry. Offender security classification is grounded in the belief that measurable differences exist among offenders. It is also supported by growing evidence that offenders can be grouped into distinct categories according to their ability to adjust in institutions, their escape risk, and their risk to public safety, should they escape.

FINDINGS

- ➞ All offenders are assigned a security classification on admission to penitentiary.
- ➞ Research on the security rating scale used by CSC indicates that the scale has performed well in assessing risk for incarcerated offenders as high, medium or low on entry.
- ➞ Three quarters of inmates are placed in an institution with a security level consistent with their custody rating scale classification.
- ➞ Further work is required on the refinement of the security rating scale in order to apply it effectively to Aboriginal and women offenders.
- ➞ Development of research-based tools for subsequent security reclassification based on institutional performance is underway.

3. JUDICIAL DETERMINATION OF PAROLE ELIGIBILITY

Section 203 of the *CCRA* created a new authority (Section 743.6 Criminal Code) to allow judges to lengthen the time that offenders who have committed violent crimes, serious drug offences, or criminal organization offences (added in 1997) must serve in custody prior to parole eligibility. Judges have the authority to set parole eligibility for these offenders at one-half of sentence or ten years whichever is less, rather than at one-third of sentence.

If a serious drug offender's parole eligibility is set through "judicial determination", then he/she becomes ineligible for accelerated parole review (APR) and directed release to full parole at one-third of sentence. Judicial determination of parole eligibility also excludes those offenders from APR and day parole at one-sixth of sentence.

FINDINGS

- ➞ Since the implementation of the *CCRA*, judicial determination has been applied in less than 4% of potential cases.

- ➞ It is being used primarily to target violent offenders, as defined by schedule I of the *CCRA*.

- ➞ It is being used to a lesser degree, for serious drug offenders as defined by schedule II of the *CCRA*.

USE OF JUDICIAL DETERMINATION BY OFFENCE TYPE SINCE 1992			
Offence Type	**Judicial Determination**	**No Judicial Determination**	**Total**
Schedule I	559 (3.9%)	13,653 (96.1%)	14,212 (100%)
Schedule II	73 (1.8%)	3,886 (98.2%)	3,959 (100%)
Total I and II	632 (3.5%)	17,539 (96.5%)	18,171 (100%)

Source: OMS

- ➞ Offenders who had their parole eligibility set through judicial determination were less likely to be released on parole and more likely to be released on statutory release.

- ➞ Offenders with judicial determination of parole eligibility were twice as likely to be detained at statutory release date as those without judicial determination.

- ➞ Aboriginal offenders represent 17% of the judicial determination group, compared to 15% of the incarcerated population.

4. TEMPORARY ABSENCES

Temporary absences (TAs) allow offenders to leave the penitentiary under conditions for limited and specific purposes. The *CCRA* specified 6 purposes for TAs: medical; compassionate; administrative; community service; family contact; and personal development. The *CCRA* introduced changes related to the decision making authority, purpose, duration, frequency and criteria for granting temporary absences. TAs may be either escorted (ETA, s.17 or unescorted (UTAs, ss. 115-118).

FINDINGS

- ➞ TAs have been used to support correctional planning and reintegration.

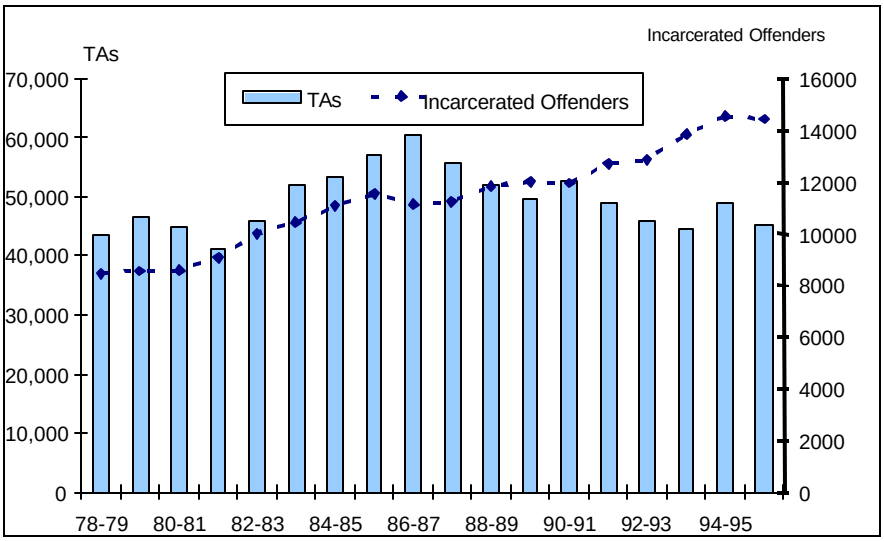
- ➞ There is a positive correlation between success on TA and success on subsequent conditional releases.

- Offenders released on both ETAs and UTAs are lower risk offenders. Approximately, two-thirds of offenders on reintegration TAs were serving their first federal term. Reintegration TAs include community service, family contact, and personal development TAs.

- Success rates for TAs are very high, about 99%.

- While the offender population has been increasing steadily, there has been a general decline in the number of offenders granted TAs.

NUMBER OF TA's AND THE INCARCERATED POPULATION



- TA use began to decline before the *CCRA*, and this trend continued in the post-*CCRA* years. From 1990/91 to 1995/96, ETAs decreased by 22%, and UTAs decreased by 46%.

- UTAs from medium security institutions decreased by 70% between 1990/91 and 1995/96.

- TAs for family contact have declined and parental responsibility TAs are unused.

- APR provisions of the *CCRA* may have influenced the TA program. APR reduced the number of low risk offenders in institutions, and the amount of time these offenders are incarcerated until first release. This may have affected the extent to which these offenders participated in TA programs.

- Another factor influencing the TA program appears to be the violent offence profile of the offender population. In 1986/87, 58% of the incarcerated population were serving a sentence for a violent offence. By 1995/96, almost 8 of every 10 incarcerated offenders were in custody for a violent offence (schedule I, murder).

➞ Aboriginal offenders are under-represented in TA participation. While accounting for 15% of the incarcerated population, they receive 9% of reintegration TAs and only 5% of reintegration UTAs.

5. WORK RELEASE

Work release (Section 18 of the *CCRA*) provides opportunities for inmates to work away from the institution, but generally requires a return to custody, or halfway house each night. Authority for work releases rests with CSC. The criteria for work releases make them similar to temporary absences while the length of work releases (up to 60 days with opportunity for renewal) make them similar to day parole. Work release is intended to provide inmate participation in a structured program of work or community service.

FINDINGS

➞ Based on information for 1994/95 and 1995/96, there were about 800 work releases involving approximately 300 offenders each year. Prior to the *CCRA*, there were about 350 day paroles each year for purposes similar to work releases.

➞ Inmates on work release programs represented about 2% of the incarcerated population.

WORK RELEASES AND OFFENDERS GRANTED WORK RELEASES

	Work Releases	Offenders	% of Incarc. Pop.
1994/95	742	286	2%
1995/96	844	315	2%

Source: OMS

➞ Most work releases provided work opportunities for unskilled labour in a variety of community settings.

➞ Women offenders accounted for 1% of offenders on work releases, and Aboriginal offenders accounted for 8%, suggesting under-use of work release for these groups based on their representation in the incarcerated population (women 2%, Aboriginal offenders 15%).

➞ The point at which offenders receive a work release in terms of day and full parole eligibility is as follows:

- 1 in 6 offenders granted work release had their first work release prior to day parole eligibility date

- 1 in 4 offenders granted work release had their first work release between day parole eligibility date and full parole eligibility date
- 1 in 4 had their first work release between full parole eligibility date and 50% of sentence
- 4 in 10 received their first work release after the 50% point in their sentence.

6. DAY PAROLE

Day parole (Sections 99, 119, and 122 of the *CCRA*) has been a release option for federally sentenced offenders since 1969. It was amended by the *CCRA* in three major ways:

1. Previous legislation permitted a variety of purposes for day parole, including community work. The *CCRA* required day parole to be used to prepare offenders for full parole or statutory release.

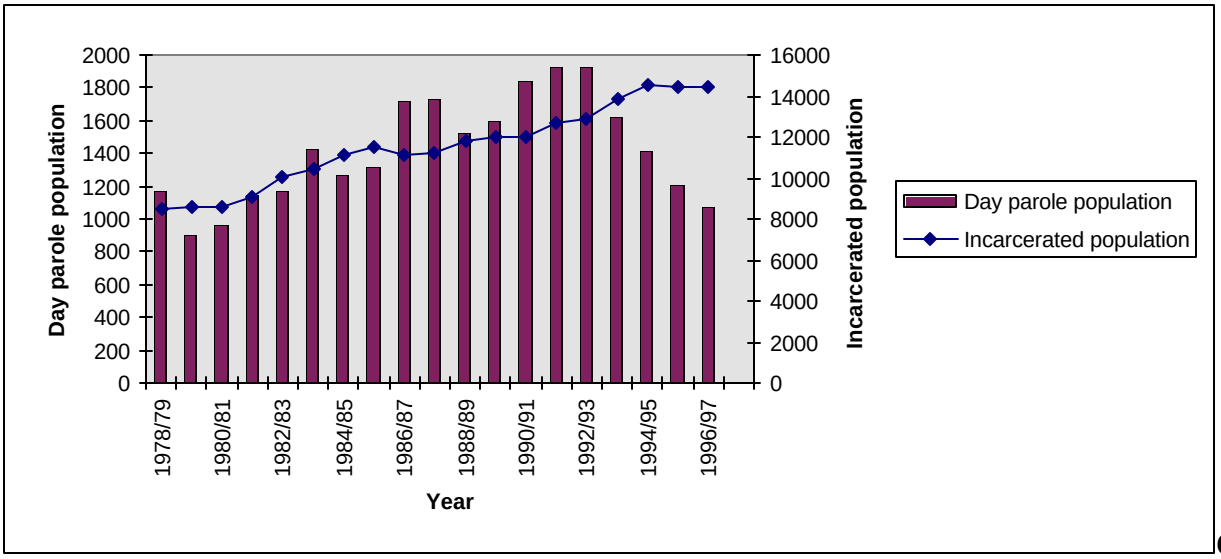
2. Eligibility for day parole was revised from one-sixth of the sentence to 6 months before full parole eligibility. Offenders with sentences longer than 3 years become eligible for day parole later now than before the *CCRA*.

3. Automatic review by NPB for day parole ceased. Offenders now have to apply in writing. Bill C-55, which became law in 1997, extended the APR process to the day parole population and does allow for automatic review for those offenders who meet the criteria in s. 125.

FINDINGS

→ While the penitentiary population has increased, the number of offenders released on day parole has declined. By 1996/97, the incarcerated population had reached about 14,500 - 71% higher than 1978/79, and 12% higher than 1992/93, the year of introduction of the *CCRA*.

→ The day parole population peaked in 1992/93, and declined in subsequent years, dropping to 1079 in 1996/97. This was 13% lower than in 1978/79.



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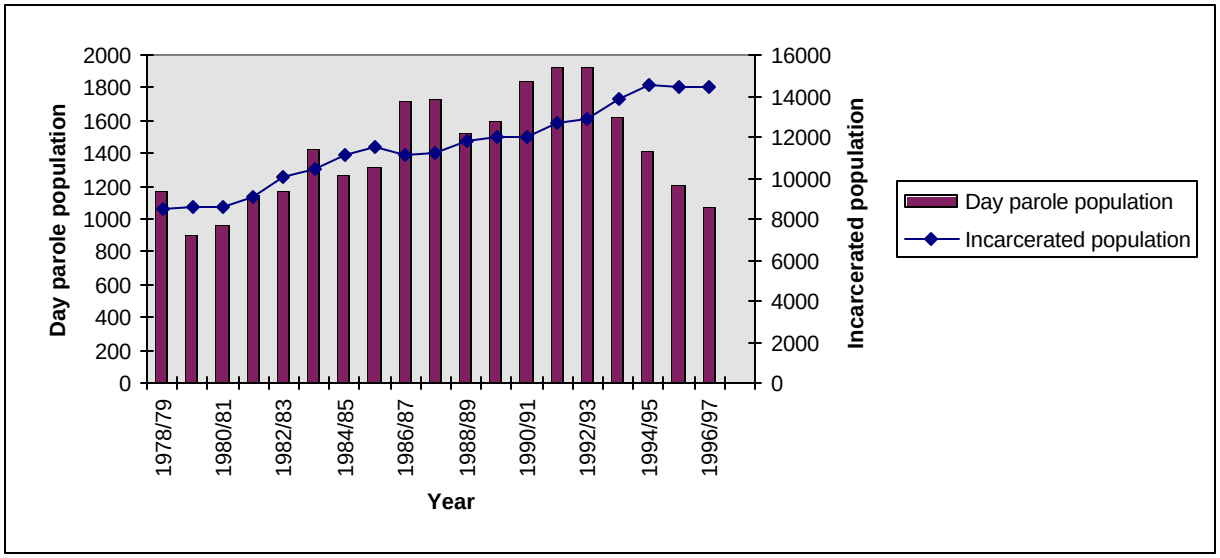
OMPARISON OF FEDERAL DAY PAROLE AND INCARCERATED POPULATIONS



➞ Between April 1990 and March 1996 there was a 46% decline in annual day parole reviews by the Board. Possible explanations for the decline include:

- Significant numbers of offenders eligible for APR chose not to apply for day parole.
- The introduction of work releases and 60 day UTAs reduced annual day parole releases.
- Change in day parole eligibility, and reductions in the day parole grant rate.

➞ There is a positive correlation between participation in day parole and success on subsequent releases. The best predictors of outcome on day parole were the SIR scale score (SIR scale is an instrument used to measure criminal history risk), having a temporary absence (TA) and attendance at recommended community programs.

➞ Over three-quarters of the offenders who had TAs were successful on day parole, while fewer than two-thirds of the offenders who did not have TAs were successful.

➞ Offenders on day parole who participated in recommended community programs had success rates that were up to five times higher than offenders who did not attend recommended programs.

➞ Approximately 90% of offenders identified as low risk by the SIR scale, were successful on day parole.

➞ On average, offenders are serving slightly longer periods of incarceration before first release on day parole. This was expected, in part, as the *CCRA* shifted day parole eligibility from one-sixth of sentence to 6 months before full parole eligibility.

➞ Day parole is contributing to public safety and reintegration. Success rates for day parole have increased steadily since the introduction of the *CCRA* (from 92% in 1992/93 to 96% in 1996/97), and rates of recidivism, including violent recidivism have declined.

Release Type	**Success Rate** (1996/97)
Day Parole	96%
Full Parole (Regular)	92%
Full Parole (APR)	85%
Statutory Release	87%

Note: Success rates have been defined to include*:*

- completions - releases in which the offender remains under supervision in the community until the end of the release period or to warrant expiry, and
- revocations for violation of release conditions - interventions to reduce risk to the community, these revocations are categorized as elements of success for the above release programs.

Failure (recidivism) is defined as any release that results in revocation for a new offence.

7. FULL PAROLE

Full Parole (*CCRA* Section 120-124, 128) was designed to provide an opportunity for offenders to gradually reintegrate into the community under supervision and support. Reform of full parole through the *CCRA* reflected widespread concerns for public safety, and the need to focus efforts on high risk, violent offenders. Rigorous, case-specific risk assessment was re-emphasized in consideration of parole

for violent offenders. For non-violent offenders, however, an alternative was developed - accelerated parole review (APR). APR was designed to provide a more efficient parole review process. The APR provisions (Section 125-126) did not provide for earlier eligibility for parole, but rather provided a process intended to ensure that offenders who were good candidates for release would be released on full parole at their full parole eligibility date (FPED) rather than several months later due to administrative delays.

Most offenders (other than those serving a life or indeterminate sentence) continue to be eligible for full parole at one-third of their sentence. All offenders serving their first federal sentence who have not been sentenced for a violent offence (schedule I, murder), or for a serious drug offence (schedule II) for which the judge set the parole eligibility at one half of sentence must have their parole reviewed by the Board using the APR process. The APR process differs from the regular process in two ways:

- There is no parole hearing initially. The APR process calls for a file review rather than a hearing with members of NPB and the offender.
- The criteria used to determine if the offender should be released differ from regular parole. Criteria for regular parole involve an assessment of whether the offender presents an undue risk of reoffending, and whether release will facilitate reintegration in the community. The APR criteria is more focused. APR assesses whether or not the offender is likely to commit a violent offence prior to WED. If there is no information to indicate that violence is likely, the Board must direct release.

FINDINGS

➞ Full parole is a critical element of conditional release, accounting for 50% to 60% of offenders in the community each year.

➞ Federal full parole reviews have declined steadily since the implementation of the *CCRA*. Between 1992/93 and 1996/97, federal full parole reviews decreased from 7200 to 4600 (i.e., by 36%).

➞ During the same period, the federal full parole population declined by 9%, while the incarcerated population increased by 12%. By region, declines in federal full parole reviews ranged from 18% in Ontario to 49% in Quebec.

FEDERAL FULL PAROLE REVIEWS[1] (PRE-RELEASE)

	ATL.	QUE.	ONT.	PRA.	PAC.	CAN.
1992/93	850	2753	1447	1479	714	7243
1993/94	897	2477	1712	1485	739	7310
1994/95	921	2235	1757	1570	679	7162
1995/96	769	1872	1533	1326	592	6092
1996/97	512	1421	1186	1119	394	4632

[1] Includes only reviews where the Board made a decision to grant/direct or deny/not direct full parole. Source: OMS

➞ Both regular full parole and APR cases demonstrate high levels of success. In 1996/97, the overall success rate for regular full parole was 92% compared with 85% for APR.

➞ Data demonstrate some differences in the outcomes of regular full parole and APR cases.

- In 1996/97 offenders released on regular full parole were more likely (72%) to complete their period of supervision than offenders directed to full parole following APR (56%).

- Regular full parolees were less likely to be revoked for a technical violation (20%) than APR cases (29%).
- Offenders released on regular full parole were also less likely to be revoked for a new offence (8%) than APR cases (15%).

➞ Levels of violent re-offending by APR cases and by regular full parolees are low (1% to 2%).

➞ APR cases comprise a growing proportion of NPB reviews for federal full parole in the post-*CCRA* period.

COMPARISON OF APR AND TOTAL FULL PAROLE REVIEWS (PRE-RELEASE)

	1992/93	1993/94	1994/95	1995/96	1996/97
Total Reviews	7243	7310	7162	6092	4632
APR Reviews	516	1645	1935	1720	1685
Percentage	7%	23%	27%	28%	36%

Source: OMS

➞ From 1993/94, the first full year of implementation of the new *Act*, to 1996/97, APR cases grew from 23% to 36% of all full parole reviews (pre-release).

➞ APR accounts for 36% of full parole reviews, and 54% of full parole releases.

➞ APR has resulted in the movement of significant numbers of low risk offenders to the community, about 1,100 per year.

➞ APR offenders have had high rates of release. More than 8 of every 10 offenders eligible for APR have been directed to release on full parole. In comparison, about 2 in 10 offenders reviewed for regular full parole were granted a release.

➞ APR was designed to ensure the release of low risk offenders on full parole on, or close to their full parole eligibility date (FPED).

- Post-*CCRA*, APR cases were, on average, released within 15 days of full parole eligibility date.
- Prior to the *Act*, APR type cases were released 114 days after full parole eligibility date.

➞ Aboriginal offenders accounted for 15% of the incarcerated population, but only 7% of offenders eligible for APR.

8. STATUTORY RELEASE

The *CCRA* abolished remission in the penitentiary system. Prior to 1992, inmates could earn up to 1/3 of the sentence remitted. Under the *CCRA*, all penitentiary inmates (other than those serving life or indeterminate sentences) are subject to statutory release at the 2/3rd point if they have not already been paroled. These offenders are subject to supervision and other conditions. In January 1996, Bill C-45 amended the *CCRA* to include provisions which support risk management through the use of residency as a condition for statutory release.

FINDINGS

➞ In 1996/97, statutory release accounted for 60% of annual releases, and 33% of offenders in the community.

➞ Offenders on statutory release are less likely than offenders on parole to successfully complete their period of supervision in the community, and are more likely to be revoked for a new offence. Nonetheless, success rates for statutory release have been consistently over 80%. The success rate for statutory release in 1996/97 was 87%. Of the 13% with new offences, 3% were for violent offences.

➞ Approximately 40% of offenders who succeed on statutory release have been released within 6 months of warrant expiry date (WED).

➞ Statutory release with residency has become a frequently used provision, involving over 800 cases in 1996/97.

➞ The incarcerated population grew by about 30% from 1986/87 to 1996/97, while the number of offenders remaining incarcerated to statutory release date grew by 58%, with the sharpest growth occurring in the years following the *CCRA*. Offenders reaching statutory release date increased to 36% of the incarcerated population, after remaining stable in the 30% range prior to the *CCRA*.

INCARCARATED POPULATIONS AND STATUTORY RELEASE			
	Incarcerated	**Reaching SR Date[1]**	**Reaching SR Date**

	#	% change	#	% change	% of incarcerated
1986/87	11,129	-	3,316	-	30
1989/90	12,035	+ 8	3,645	+ 10	30
1990/91	11,961	- .6	3,711	+ 2	31
1991/92	12,719	+ 7	3,729	+ .5	29
1992/93	12,877	+ 1	3,872	+ 4	30
1993/94	13,864	+ 8	4,183	+ 8	30
1994/95	14,539	+ 4	4,847	+ 16	33
1995/96	14,459	- .5	4,920	+ 2	34
1996/97	14,420	- .3	5,225	+ 6	36

Source: EIS, OMS. [1] May include offenders who have been revoked on SR and reached release date again.

➞ Since the *CCRA*, day parole and full parole releases have declined in number, and as a proportion of total conditional releases.

- Day parole releases have declined to 2,693 (28% of releases).
- Full parole releases declined to 1,737 (18% of releases).
- Releases on statutory release have grown steadily to a total of 4,801, or 50% of all releases.
- Warrant expiry releases (e.g. offenders detained) have ranged from 3% to 7% of all releases.

ANNUAL RELEASES FROM INSTITUTIONS										
	DAY PAROLE[1]		FULL PAROLE		SR.		WED		TOTAL	
	#	%	#	%	#	%	#	%	#	%
1990/91	3,807	38	2,082	21	3,445	34	681	7	10,015	100
1991/92	4,204	39	2,258	21	3,491	33	746	7	10,699	100
1992/92	4,755	41	2,575	22	3,639	32	569	5	11,538	100
1993/94	4,294	40	2,609	24	3,518	33	282	3	10,703	100
1994/95	3,834	37	2,232	22	3,915	38	370	3	10,351	100
1995/96	3,184	32	1,997	20	4,459	44	418	4	10,058	100
1996/97	2,693	28	1,737	18	4,801	50	445	4	9,676	100

[1]Accurate information on day parole releases is not available prior to 1993/94. Source: EIS, OMS.

9. DETENTION

As noted above, offenders are eligible for statutory release at the 2/3rd point in their sentence. However, through detention (*CCRA* Sections 129 to 132) an offender may be held in custody until the end of the sentence. Detention was first introduced in 1986. Offenders may be detained to expiry of sentence based on a three-step test:

1. determination that the offender is serving a sentence for an offence on Schedule I (violent offences) or Schedule II (serious drug offences);

2. determination that the offence caused death or serious harm; and/or
3. establishment of reasonable grounds to believe that the offender is likely to commit, before the expiry of sentence, an offence causing death or serious harm, or a serious drug offence.

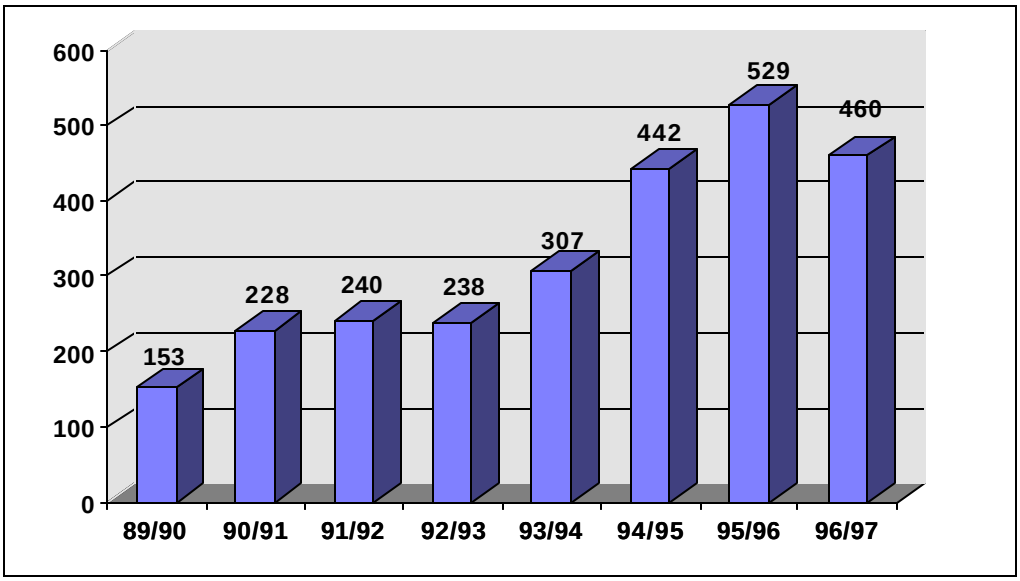
Offenders serving sentences for a sexual offence involving a child may be detained if there are reasonable grounds to believe they will commit a further such offence - the "serious harm" components of steps two and three are not applicable in such cases. The *CCRA* expanded Schedule I to include additional sexual offences, and added Schedule II (serious drug offences) to the *Act* as grounds for referral for detention.

FINDINGS

➞ Following implementation of the *CCRA*, the number of detention referrals each year rose steadily to a high of 529 in 1995/96.

➞ In 1996/97, the number of referrals decreased by 13%, to 460. The major factor in the decrease appears to be Bill C-45 which provided NPB with authority to impose residency as a condition of statutory release, without having to proceed through detention referral. In 1996/97, statutory release with residency was used for over 800 cases.

NUMBER OF DETENTION REFERRALS



Source: NPB-OMS 97-04-30

➞ Detention referrals grew not only in absolute numbers, but also as a proportion of all offenders entitled to statutory release annually. From 1989/90 to 1995/96, the rate of referral increased from 4.2% to 10.7%. The proportion declined in 1996/97 to 8.8%.

REFERRAL RATES BY YEAR			
YEAR	**NO. OF REFERRALS**	**OFFENDERS ENTITLED TO SR**	**RATE (%)**
1989-90	153	3645	4.2
1990-91	228	3711	6.1
1991-92	240	3729	6.4
1992-93	238	3872	6.2
1993-94	307	4183	7.3
1994-95	442	4847	9.1
1995-96	529	4920	10.7
1996-97	460	5225	8.8

Source: NPB-OMS 97.04.30 & CSC-OMS 97.02.02

➞ The increased number of referrals can be explained, in part, by the rapid growth in the federal sex offender population. Detention referrals tend to target sex offenders (e.g. about 60% of offenders referred had at least one sex offence). Between 1989/90 and 1994/95, annual admissions of sex offenders to penitentiary increased by 39%.

➞ Aboriginal offenders are over-represented in detention referrals, however, once referred, they are detained at the same rate as non-Aboriginals.

B. OPENNESS AND ACCOUNTABILITY

10. ROLE OF VICTIMS

The *CCRA* formally recognized the role of victims in the corrections and conditional release process (*CCRA* Sections 23, 25, 26,101,125, 132,142). The *Act* requires CSC and NPB to disclose information about an offender when victims, as defined by the *Act*, request it, and permits disclosure of other information which would ordinarily be protected by the *Privacy Act*. Both NPB and CSC must ensure that available victim information is obtained and used in decision making.

FINDINGS

➞ Victims contact the Board 5500 to 6500 times a year. Most contacts are in Ontario (80%) but other regions have been showing increases in recent years. Victims of sexual assault are most likely to contact CSC/NPB, followed by victims of non-sexual violent offences.

➞ Victims contact CSC/NPB most often in writing, or by telephone. Contacts most often involve the direct victim who is seeking general information or information involving hearings or decisions for conditional release.

➞ Victim information is frequently used in conditional release decision-making, however, difficulties have been encountered obtaining victim impact statements that were used in court.

➞ Feedback from victims indicates that they are generally satisfied with information and assistance provided by CSC/NPB.

- 91% reported that the person they contacted was helpful;
- 79% reported receiving the information they requested;
- 71% of victims said the information received was timely, and 78% said it was easy to understand;
- 81% of respondents said they provided CSC or NPB with information about their victimization, and 36% provided formal victim impact statements.
- Some victims want more information, in particular, information on offender participation in treatment and related outcomes.
- Some victims would like to be able to speak at NPB hearings.

11. OBSERVERS AT HEARINGS

The observer provisions of the *CCRA* (Subsections 140 (4)-(6)) are intended to promote the openness and accountability of conditional release decision-making, and increase public understanding of the decision-making process. Before the *CCRA*, NPB hearings were usually only attended by NPB and CSC participants, the offender, and any assistant designated by the offender. The *CCRA* allowed the general public, including victims, the media, and other interested parties to apply to attend NPB hearings.

FINDINGS

➞ Applications to observe hearings increased considerably from 1993/94 to 1995/96, before declining in 1996/97. Most applications to attend hearings originated in the Ontario region.

➞ The actual number of observers at hearings rose sharply from 1994/95 to 1995/96 before declining in 1996/97. The majority of observers were in Ontario.

OBSERVERS AT HEARINGS												
	ATLANTIC		QUEBEC		ONTARIO		PRAIRIES		PACIFIC		NATIONAL	
	#	%	#	%	#	%	#	%	#	%	#	%
1994/95	91	17	28	5	236	43	118	23	50	10	523	100
1995/96	243	22	72	7	640	59	113	10	26	2	1,094	100
1996/97	61	9	91	13	357	51	140	20	56	8	705	100

➞ Victims and victims groups have represented 40% of all observers at hearings. The media have accounted for 7% of the total number of observers. The remainder of observers (53%) includes students, judges, MPs and other interested parties.

12. NATIONAL PAROLE BOARD DECISION REGISTRY

The *CCRA* (Section 144) requires the Board to allow public access to its decisions through a registry. The registry is a means for increasing the openness and accountability of NPB decision-making, and for building public understanding of conditional release. The *Act* permits access to specific decisions, and to decisions for research purposes.

For case specific applications, any person who demonstrates an interest in a case may, on written application to NPB, have access to the contents of the registry relating to the specific case. Information which would jeopardize the safety of a person, reveal the source of information obtained in confidence, or adversely affect the reintegration of the offender into society is excluded.

FINDINGS

➞ NPB makes approximately 30,000 decisions annually, all of which are potentially subject to a decision registry access request.

➞ Requests for case specific access to the registry have increased annually, and now exceed 1,600 per year.

➞ Almost half (47%) of case-specific requests involve victims. The media account for 31% of requests.

➞ Over 70% of all requests are processed by NPB within 10 days.

13. EMPLOYEE PROFESSIONALISM

The *CCRA* (para 4(j)) recognizes the crucial role of qualified, well-trained and motivated employees in efforts to achieve excellence in corrections and conditional release. For CSC, the *Act* requires that staff members be properly selected and trained, and be given:

- appropriate career development opportunities;
- good working conditions, including a workplace environment that is free of practices that would undermine a person's sense of personal dignity; and
- opportunities to participate in the development of correctional policies and programs.

With respect to NPB, the *Act* emphasizes the need for appropriate policies to support decision making by Board members, and the training necessary to implement these policies. These requirements have generated extensive activity in CSC and NPB to ensure effective processes for selection of employees, training and continuous learning, performance assessment, and enhanced quality of worklife.

FINDINGS

- ➞ CSC and NPB have taken steps to develop and sustain professionalism in the workforce. Rigorous selection processes accompanied by post-selection training, development and continuous learning characterize the human resource strategies for both organizations.

- ➞ CSC has launched its career management program as a key measure for enhancing professionalism. This program is supplemented by work in CSC staff colleges to provide meaningful, relevant training in key areas such as risk assessment and risk management.

- ➞ In NPB, extensive work has been completed to improve the selection process and criteria for Board members.

- ➞ Board member training was reviewed and adapted to ensure greater focus on risk assessment.

- ➞ The Board also developed a Code of Conduct for Board members and implemented an annual performance appraisal process for members which focuses on quality of decision making.

C. FAIR PROCESSES, EQUITABLE DECISIONS

14. ADMINISTRATIVE SEGREGATION

Sections 31 to 37 of the *CCRA* provide CSC with the authority to use administrative segregation as a means of keeping inmates from associating with the general inmate population where there is evidence that association would jeopardize the safety and security of the institution or of any individuals (staff and inmates). Administrative segregation may be either voluntary or involuntary. The *Act* highlights the procedural safeguards which must be in place for admission, review, and discharge from administrative segregation. The *CCRA* also indicates that the use of administrative segregation should be minimized, and that efforts must be taken to return the inmate to the general population at the earliest appropriate time.

The criteria for segregation are not punitive, but preventive in nature. Segregated inmates must be given the same rights, privileges and conditions of confinement as the general inmate population except for those that can only be enjoyed in association with other inmates, and that cannot reasonably be provided because of the limitations specific to the administrative segregation area, or because of security requirements.

In April 1996, the Arbour Commission Report concluded that CSC had a culture that did not respect the rule of law, and that the management of administrative segregation be subject to judicial supervision, or as an alternative, to independent adjudication. In response to the Arbour Report, CSC established the *Task Force to Review Administrative Segregation*. The recently released Task Force Report also addresses issues relevant to the *CCRA* 5-Year Review.

FINDINGS

- A snapshot survey found that as of February 2, 1997, there were 722 inmates in administrative segregation. Of these, 113 (15.7%) were Aboriginal males and 5 (0.7%) were women (including 3 Aboriginals).

- Half of the inmates were in voluntary segregation (49.6%) while the rest were in involuntary segregation (50.4%).

- Over half (54%) of the inmates in administrative segregation were placed there for their own safety. A further 42% were segregated out of concern for the security of the penitentiary or the safety of any person. The remaining 3% were segregated to prevent interference with an investigation that could lead to a criminal charge or a charge of a serious disciplinary offence.

- Over three-quarters (76%) of the inmates in administrative segregation had been there for less than 90 days. For the 24% who had spent more than 90 days in segregation, research found that the only alternative to that confinement was a transfer to another penitentiary.

- Some inmates (12%) did not wish to be reintegrated into the general inmate population.

15. SEARCH, SEIZURE AND INMATE DISCIPLINE

The *CCRA* (Sections 38-44, 46-53, 58-67) provides an enabling framework, definition, and guidelines for search, seizure and inmate discipline in federal institutions. The *Act* establishes the mandate for inmate discipline, describing the purpose of the disciplinary system as being to encourage inmates to conduct themselves in a manner that promotes the good order of the penitentiary. The *Act* places an overall emphasis on providing a disciplinary system that is fair, objective and geared to the resolution of disciplinary issues in the least restrictive manner, consistent with safety of the institution.

The *CCRA* defines the various types of searches including routine, non-intrusive searches, frisk, strip and body cavity searches, prescribing circumstances and procedures for the conduct of searches. The *Act* also authorizes the search of cells, visitors, vehicles, and staff members, provides the power to seize evidence and contraband, to search community residential centres, and creates a requirement to prepare reports on searches and seizures.

FINDINGS

➞ A very small proportion (less than 1%) of searches resulted in a complaint or grievance by the offender. For those searches that did result in a complaint or grievance, 80% were not upheld.

➞ Data indicate that CSC deals with the disciplinary process in a timely manner. Most cases (80%) are resolved in 30 days or less, with cases resulting in a finding of not guilty taking about 7 days more than guilty findings.

➞ Nationally about 4 in 10 charges are designated as serious. Regional rates of serious charges range from 30% (Pacific) to 58% (Atlantic).

➞ The proportion of charges resulting in a guilty finding for serious offences ranges from 62% (Ontario) to 88% (Quebec). Aboriginal offenders are somewhat more often found guilty of a serious charge than non-Aboriginal offenders.

➞ For minor offences, guilty rates range from 76% (Pacific) to 91% (Quebec).

➞ Less than 1% of disciplinary actions resulted in a complaint or grievance, and less than one tenth of 1% of disciplinary actions resulted in a successful complaint or grievance.

16. OFFENDER GRIEVANCE SYSTEM

The *CCRA* (Sections 90 to 91) requires fair and expeditious procedures for resolving offenders' complaints on matters within the jurisdiction of the Commissioner of CSC, and complete access to these procedures by offenders, without negative consequences. The *Act* also provides the conditions under which CSC must deliver and manage its offender redress system. The intent of the legislation is to ensure that the core elements of fairness, timeliness and effectiveness are given the required focus in the inmate redress system.

FINDINGS

➞ There were 23,370 complaints or grievances recorded in 1996. More than 7 of every 10 actions (73%) did not proceed to the complaint stage i.e. before they progressed to a formal grievance action. An additional 13% and 9% of actions did not proceed at the institutional and regional levels respectively. The national level was involved in responding to 4% of complaints/grievances.

COMPLAINTS AND GRIEVANCES SUBMITTED IN 1996					
	Complaints Institutional	**1st Level Institutional**	**2nd Level (Regional)**	**3rd Level (NHQ)**	**TOTAL**

Atlantic	1,753	261	174	85	2,273
Quebec	5,827	1,216	801	337	8,181
Ontario	4,557	723	599	231	6,110
Prairies	2,442	511	330	197	3,480
Pacific	2,447	434	305	140	3,326
National	**17,026**	**3,145**	**2,209**	**990**	**23,370**
Aboriginal	1,310	217	159	72	1,758
Women	345	38	22	4	409

Source: OMS

- ➞ Approximately 5% of the inmate population account for almost 70% of complaints and grievances.

- ➞ Aboriginal inmates accounted for 7% of all complaints/grievances but represent 15% of the incarcerated population.

- ➞ In 1996, offenders submitted only 413 complaints (2% of the total 23,370 complaints and grievances) about the grievance process per se.

- ➞ Significant improvement has been made in response times. In January 1996, it took an average of 41 working days to respond to a grievance at National Headquarters. By March 1997, this time had been reduced to 17 days.

- ➞ For priority grievances, National Headquarters took an average of 16 working days to respond in April 1996. By March 1997, this had been reduced so that "priority" grievances were addressed in 9 days.

- ➞ At the institutional level, offenders received responses to their complaints and grievances in an average of 12 working days for the month of December 1996. Responses to grievances at the regional level were received by offenders in an average of 17 days.

17. URINALYSIS

Sections 54 to 57 of the *CCRA* introduced provisions that provide CSC with the necessary authority for urinalysis and related testing programs for offenders in custody and under supervision in the community. The *Act* provides guidance for staff and inmates to ensure that the individual's rights are protected, consistent with the *Charter*.

FINDINGS

- In 1992, there were approximately 250 urine samples per month. In 1997, the volume of samples per month had risen to 3700.

- The rate of positive test results declined in the last 4 years. In 1993/94, the positive rate for random testing was 37% in institutions and 37% in the community. In 1996/97, the positive rate for random testing in institutions was 12%, and in the community the rate was 21%.

- Nationally, drug seizures increased by 30% between 1995/96 and 1996/97, reflecting CSC's policy of zero tolerance for drug abuse in federal institutions.

- Findings do not suggest a move from soft drugs to hard drugs (cocaine, opiates) in order to avoid detection through urinalysis in institutions; however, hard drugs are more prevalent in maximum security institutions.

18. INMATE INPUT INTO DECISIONS

The *CCRA* (Section 74) requires CSC to provide inmates with the opportunity to contribute to decisions affecting the inmate population as a whole, or affecting a group within the inmate population, except decisions relating to security matters.

FINDINGS

- The role of offenders as informed participants in corrections is inherent to good decision making.

- Offenders are expected, and encouraged to be active participants in the management of their sentence; the correctional plan is developed in conjunction with the offender.

- Inmate committees exist in all institutions and these committees are generally provided with the opportunity to be informed of, and comment on, issues affecting the inmate population. Inmate committees act as the link between management and the inmate population.

- Input is routinely sought from inmate committees. Recently, inmate committees were consulted on four policy issues: Inmate Employment; Inmate Pay; Non-Smoking Policy; and Bleach Kits.

- Between August 1995 and December 1996, inmate input was sought on an average of sixteen policy issues. The extent of inmate input varied by region (between eleven and twenty-three) since some issues are specific to only a portion of the inmate population (e.g., Aboriginal offenders, women offenders).

➞ When a policy is "new" or when CSC anticipates that the impact of a change to existing policy will be controversial, input is sought from all inmate committees.

19. INFORMATION TO OFFENDERS

The *CCRA* (Sections 23(2), 27, 101(f) and 141) requires CSC to provide offenders with all information collected at the time of admission to penitentiary, if so requested in writing. These include court information, offence details, social histories and reports used at trial or sentencing.

The *Act* also requires CSC to give offenders all information, or a summary of the information to be considered in making decisions about offenders, within a reasonable period of time before the decision is taken. Similarly, the *Act* requires CSC to provide offenders with the information that was considered by CSC when making decisions about offenders after the decision is taken. The *Act* also requires NPB to provide offenders all information to be considered in decision-making, at least 15 days before the decision is to occur, unless the offender waives this requirement. NPB must also provide information about the decision after it has been taken.

FINDINGS

➞ The Board and CSC have developed policies and processes to support effective information sharing.

➞ CSC's policies respecting the sharing of case management information with offenders are incorporated into a number of directives:

	Commissioner's Directives
CD 500	Reception and Orientation of Inmates
CD 540	Transfers of Inmates
CD 541	Interjurisdictional Agreements
CD 580	Discipline of Inmates
CD 590	Administrative Segregation
CD 700	Case Management (and Case Management Manual)
CD 770	Visiting
CD 782	Sharing Offender Related Information
CD 784	Information Sharing between Victims and the Service
CD 790	Temporary Absences

➞ These policies specify that information be shared according to the circumstances of the respective processes. An example of this is found in Commissioner's Directive #500, Reception and

Orientation of Inmates: … *the inmate shall be given the reasons in writing for placement and an opportunity to respond prior to the transfer to the assigned penitentiary.*

➞ CSC and NPB have jointly introduced a new control mechanism, a Sharing of Information Checklist. It identifies all reports received by the Board for an upcoming case, and is reviewed and confirmed by the offender.

➞ In over 95% of Board cases sampled, information was shared with the offender as required.

D. SPECIAL GROUPS, SPECIAL NEEDS

20. ABORIGINAL OFFENDERS

Sections 79 to 84 of the *CCRA* recognize the unique circumstances and special needs of Aboriginal offenders and require CSC and NPB to develop policies and programs which are sensitive to these circumstances and needs. The *Act* requires CSC to ensure that Aboriginal spirituality, spiritual leaders and elders are accorded the same status as other religions and religious leaders. The *Act* also requires CSC to maintain a National Aboriginal Advisory Committee. The *CCRA* enables Aboriginal communities to be involved in the release plans of offenders seeking parole or statutory release in an Aboriginal community and enables the Minister to make formal arrangements with Aboriginal communities for the care and custody of Aboriginal offenders.

FINDINGS

➞ On March 31, 1997, the federal offender population, including those in the community, totaled about 23,200. Of this total, about 2,900 or 12% were Aboriginal offenders. In comparison, Aboriginal people comprise about 3% of Canada's population.

➞ While Aboriginal offenders represent 12% of the total federal offender population, they make-up only about 9% of the conditional release population. They comprise 15% of the incarcerated population.

➞ There is significant variation in the number and proportion of Aboriginal offenders across the regions, ranging from 4% in the Atlantic to 64% in the Prairie region. Most Aboriginal offenders (81.5% or 2,346) are in the Prairie and Pacific regions.

➞ Aboriginal offenders are more likely to be serving their sentence in institutions than in the community. Almost three-quarters (73%) of Aboriginal offenders were incarcerated compared to 61% of non-Aboriginal offenders. While 31% of non-Aboriginal offenders were on some form of conditional release only 21% of the Aboriginal population were in the community.

➔ Aboriginal offenders are released on day parole at about the same proportion as non-Aboriginals; however, they are less likely to be released on full parole, and more likely to be released on statutory release.

Conditional Release Population

	Aboriginal	Non-Aboriginal
Day Parole	14%	12%
Full Parole	38%	59%
Statutory Release	48%	29%

➔ Aboriginal offenders are granted full parole later in their sentence and are more likely to be returned to imprisonment for a violation of supervision conditions.

➔ Aboriginal offenders are more likely to be referred for detention, however, once referred, they are detained at the same rate as non-Aboriginals.

➔ Twice as many Aboriginal (12%) as non-Aboriginal (6%) releases were at warrant expiry.

➔ Aboriginal offenders had higher risk/need assessment scores, more serious offences, and more terms of federal incarceration than did non-Aboriginal offenders.

➔ CSC and NPB have worked on initiatives to address the serious challenges surrounding Aboriginal involvement in federal corrections and conditional release. A national policy on Aboriginal programming has been developed and core programs (i.e. programs to address criminogenic factors) identified as a priority, have been implemented.

➔ NPB has developed and implemented policies and alternate decision models which respect Aboriginal cultural and values. In 1992, the Board initiated elder-assisted hearings based on restorative approaches with panels comprised of Aboriginal and non-Aboriginal Board members.

➔ CSC has established an Aboriginal Advisory Committee with a broad mandate to examine any correctional matter it deems relevant.

➔ Work has begun on the implementation of Section 81 and Section 84 agreements, i.e. agreements paving the way for Aboriginal communities to take responsibility for Aboriginal offenders. The policy framework for Section 81 agreements is currently the subject of internal and external consultation. To date, only one Section 81 agreement has been implemented.

21. WOMEN OFFENDERS

The *CCRA* (Section 77) requires CSC to provide programs designed to address the needs of women offenders, and to consult regularly about these programs with appropriate women's groups and other

groups with experience and expertise in working with women offenders. The *Act* also requires NPB to develop and implement policies which are responding to the special needs of women.

FINDINGS

There has been a shift in the profile of women offenders between 1994 and 1997:

- ➞ Single offenders have increased as a proportion of the total populations.
- ➞ The proportion of women Aboriginal offenders and visible minority offenders has increased while the proportion of Caucasian women offenders has decreased.
- ➞ Offences involving personal violence have increased.
- ➞ Non-scheduled offences have decreased significantly as a proportion of total offences from 16% to 11%.
- ➞ There has been a decrease in sentences under 6 years (from 62% to 59%) and an increase in life/indeterminate sentences (from 16% to 21%).
- ➞ There has been a decrease in the proportion of offenders on day parole and an increase in the proportion on full parole. Most women on conditional release are on full parole.

Women Offender Profile

Profile	% of Offenders [1] 1994	% of Offenders [2] 1997
Age 20-34 years	51.7	48.0
Single (includes separated, divorced, widowed, not stated)	57.3	67.0
Common-law	18.0	23.2
Married	13.3	9.8
Serving a sentence for		
Murder	15.5	20.9
First-degree murder	4.6	4.8
Second-degree murder	10.8	15.8
Schedule I offence	47.4	53.3
Schedule II offence	21.1	20.0
Non-Schedule offence	16.1	10.9
Community Release Type		
Day Parole	15.8	14.7
Full Parole	75.3	77.6

Statutory Release	8.9	7.8

[1] Basic Facts About Corrections in Canada - 1994

[2] EIS - Execu-view Report - May 27, 1997 & Offender Management System, CSC, May 27, 1997.

- ➞ Programming has been redesigned to address women-specific needs and implementation of this programming is underway.

- ➞ CSC has developed core programs that specifically address factors which play a role in criminal behaviour. CSC's core programs for women are:
    - living skills program;
    - substance abuse programs;
    - literacy and continuous learning programs; and
    - survivors of abuse and trauma programs.

- ➞ Given the high representation of Aboriginal women in prison, specific programs to meet the needs of women are being developed and offered. The Okimaw Ohci Healing Lodge exemplifies the focus placed on responding to the needs of Aboriginal women.

- ➞ Programming for maximum security women housed in male institutions is more limited, however, most essential programs are offered. The goal of programming in the maximum security units is to assist women to successfully reintegrate into the regional facilities.

- ➞ Some women inmates have mental health needs that are not able to be addressed in the regional facilities. CSC established an Intensive Healing Program at the Regional Psychiatric Centre (Prairies) to address behaviors associated with borderline personality disorder.

22. HEALTH SERVICES

Health care within the *CCRA* (Sections 85 to 89) means medical, dental and mental health care provided by registered health care professionals. The *CCRA* defines mental health care as the means of care of a disorder of thought, mood, perception, orientation or memory that significantly impairs judgment, behaviour, the capacity to recognize reality or the ability to meet the ordinary demands of life. The *CCRA* requires CSC to provide inmates with essential health care and reasonable access to non-essential mental health that will contribute to rehabilitation and successful reintegration in the community. The *Act* also requires that a registered health care professional visit the administrative segregation unit at last once a day.

FINDINGS

- The *CCRA* provided the impetus, with program review, for redesign of the delivery of health services in CSC. The *Act* requires CSC to provide universal access to essential health services by inmates. Previously, CSC provided health services on demand.

- In the new primary health care model, delivery of services has been rationalized to ensure that the proper professional is hired and employed to do the proper job.

- Significant responsibility for health care now rests with the offender. The offender is expected to make pro-health choices.

- Redesign of health care services has reduced cost and enhanced the quality of service delivery. Work is currently underway to continue the process of improvement.

E. OFFICE OF THE CORRECTIONAL INVESTIGATOR

The Correctional Investigator was initially appointed as a Commissioner pursuant to Part II of the *Inquiries Act* in 1973 with a mandate to independently investigate inmate complaints and to report upon the problems of inmates that come within the responsibility of the Solicitor General.

Part III of the *CCRA*, while not significantly altering either the authority or role of the Office, did clearly establish the function of the Correctional Investigator as that of an Ombudsman for federal corrections and clarify the authority and responsibility of the Office within a well defined legislative framework.

The specific function of the Office as detailed at section 167 is "to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for or on behalf of the Commissioner that affect offenders either individually or as a group".

A central element of any ombudsman function, in addition to independence and unfettered access to information in conducting its investigations mandatorily is that they act by way of recommendation and public reporting, as opposed to decisions that are enforced.

The authority of the Office, within this legislative framework, lies in its ability to thoroughly and objectively investigate a wide spectrum of administrative actions and present its findings and recommendations initially to CSC. In those instances where CSC has failed to reasonably address the Office's findings and recommendations, the issue is referred to the Minister and eventually to Parliament and the public through the vehicle of an Annual or Special Report.

The Correctional Investigator in attempting to ensure administrative fairness and accountability within correctional operations is dependent in large part on the willingness of CSC to approach the findings and recommendations of the Office in an objective, thorough and timely fashion.

FINDINGS

➞ Madame Justice Arbour in commenting on the function of the Correctional Investigator stated:

> It is clear to me that the Correctional Investigator's statutory mandate should continue to be supported and facilitated. Of all the outside observers of the Correctional Service, the Correctional Investigator is in a unique position both to assist in the resolution of individual problems, and to comment publicly on the systemic shortcomings of the Service. Of all the internal and external mechanisms or agencies designed to make the Correctional Service open and accountable, the Office of the Correctional Investigator is by far the most efficient and the best equipped to discharge that function. It is only because of the Correctional Investigator's inability to compel compliance by the Service with his conclusions, and because of the demonstrated unwillingness of the Service to do so willingly in many instances, that I recommend greater access by prisoners to the courts for the effective enforcement of their rights and the vindication of the Rule of Law.
>
> (Commission of Inquiry into Certain Events at the Prison for Women in Kingston, April, 1996).

➞ The Auditor General's Report on the Correctional Investigator released in December of 1997 concluded:

> We noted that the Office started with a loosely defined mandate under the *Inquiries Act* in 1973. It has since accumulated a set of practices that had not been subjected to any kind of review prior to our audit. We found that while these practices are often helpful in resolving individual complaints, they are not conducive to efficient and consistent handling of cases and have contributed to its adversarial relationship with Correctional Service of Canada.
>
> The Office operates in an environment where demand for its service is incessant and its relationship with Correctional Service Canada needs careful balancing. Our audit has led us to conclude that the Office needs to improve its strategies, policies and practices in order to effectively manage its workload, communicate with inmates, investigate inmates' problems thoroughly and maintain a balanced relationship with Correctional Service.
>
> Although we call attention to a number of problems in the organization, we would emphasize that the Office plays an important role in ensuring fairness for those serving sentences and in reducing the potential for unrest in Canada's prisons. The problems we have noted can and should be fixed so that the Office of the Correctional Investigator can better play its role within the Canadian criminal justice system.

The Office of the Correctional Investigator is currently reviewing its policies and operational procedures to ensure that the concerns raised by the Auditor General are addressed. For specific details of the Report's findings and the undertaking of the Correctional Investigator, refer to Report of the Auditor General of Canada, chapter 33, The Correctional Investigator Canada, December, 1997.

The Auditor General further noted that both the workload and areas of responsibility of the Correctional Investigator had increased since the coming in force of the *Corrections and Conditional Release Act*. Below find tables detailing operational changes and areas of complaint raised by offenders with the Correctional Investigator.

WORKLOAD FOR THE OFFICE OF THE CORRECTIONAL INVESTIGATOR		
	1990/91	**1996/97**
Incarcerated Population	11,961	14,420
Complaints	4,520	6,320
Inmate Interviews	1,450	2,090
Days at Penitentiaries	270	360
FSW Population	130	300
S. 19 investigation reviews (*CCRA*)		100 plus
IERT/Cell Extraction Reviews	---	120
Outgoing Correspondence	3,600	9,200

Source: OCI Data Base. 1) S.19 - Investigations into death and serious bodily injury. 2) IERT - Institutional Emergency Response Team. 3). FSW- Federally Sentenced Women - In 1991 involved 1 institution in 1 region. In 1997, involved 11 institutions in 4 regions.

OFFICE OF THE CORRECTIONAL INVESTIGATOR COMPLAINTS – 1996/97			
TYPE	**#**	**TYPE**	**#**
Administrative Segregation		Information	
a) Placement	305	a) Access	103
b) Conditions	65	b)Corrections	251
Case Preparation		Mental Health	
a) Parole	399	a) Access	27
b) Temporary Absence	106	b) Programs	6
c) Transfer	379	Other	54
Cell Effects	350	Pen Placement	91

Cell Placement	108	Private Family Visiting	243
Claims		Programs	235
a) Decisions	68		
b) Processing	51	Request for Information	289
Correspondence	73	Security Classification	110
Diet		Sentence Administration	65
a) Food Services	32		
b) Medical	21	Staff	281
c) Religious	18	Temporary Absence Decision	90
Discipline		Telephone	127
a) ICP Decisions	43		
b) Minor Court Dec.	22	Transfer	
		a) Decision	312
c) Procedures	143	b) Involuntary	254
Discrimination	19	Use of Force	42
Employment	121	Visits	263
Financial Matter			
a) Access to Funds	67	Outside Terms of Reference	
b) Pay	242	National Parole Board Decisions	176
Grievance Procedure	173	Outside Court	24
Health Care		Provincial Matter	24
a) Access	258		
b) Decisions	236	Total	6366

Source: OCI Database

GLOSSARY

ACCELERATED PAROLE REVIEW (APR): Sections 119.1, 125, 126, 126.1. For non-violent, first-time penitentiary offenders, APR was designed to provide a more efficient parole review process. It is intended to ensure that good candidates are released at their parole eligibility date (PED) without undue administrative delays. APR applies to both full and day parole. "ADPR" is the term used to refer to the latter.

ADMINISTRATIVE SEGREGATION: Sections 31 - 37. A physically separate form of confinement to keep inmates from associating with the general inmate population where there is evidence that association would jeopardize the safety and security of the institution or of any individuals (staff and inmates). The criteria for administrative segregation are not punitive, but preventive in nature, and segregation may be either voluntary or involuntary.

CORRECTIONAL INVESTIGATOR (CI): Part III. An Ombudsman for offenders in the penitentiary system.

DAY PAROLE (DP): Sections 99, 119, and 122. Release with return to custody at night or from time to time, to prepare offenders for full parole or statutory release. Except for offenders eligible for ADPR at one-sixth of sentence, eligibility is normally at 6 months before full parole eligibility.

DETENTION; Sections 129-32. An offender eligible for statutory release after serving two-thirds of the sentence may be held in custody until warrant expiry if it is determined that he or she is serving a sentence for an offence on Schedule I (violent offences) or Schedule II (serious drug offences) which caused death or serious harm, and/or it is established that the offender is likely to commit, before the expiry of sentence, an offence causing death or serious harm, a serious drug offence or a sex offence involving a child.

DECISION REGISTRY: Section 144. The public is provided access to NPB decisions through a registry for both specific decisions and broader data for research purposes.

FULL PAROLE (FP): Sections 120-124, 128. Full-time, supervised and supported conditional release in the community. Offenders (other than those serving life or indeterminate sentences, or subject to judicial determination) normally become eligible for full parole consideration after serving one-third of their sentence or seven years, whichever is less.

JUDICIAL DETERMINATION OF PAROLE ELIGIBILITY: Criminal Code of Canada section 743.6. Allows judges to lengthen the time that offenders who have committed violent crimes, serious drug offences, or criminal organization offences must serve in custody prior to parole eligibility. Judges have the authority to set parole eligibility for these offenders at one-half of sentence or ten years whichever is less, rather than at one-third of sentence.

STATUTORY RELEASE (SR): Section 127. All penitentiary inmates (other than those serving life or indeterminate sentences) are subject to statutory release at two-thirds of sentence if they have not already been paroled. These offenders are subject to supervision and other conditions. Also see Detention.

TEMPORARY ABSENCES (TAs): Sections 17, 115-18. Allow offenders to leave the penitentiary either escorted (ETA) or unescorted (UTA) under conditions for limited and specific purposes: medical; compassionate; administrative; community service; family contact; and personal development.

WARRANT EXPIRY DATE (WED) is the last day of an offender's court-imposed sentence.

WORK RELEASE: Section 18. Provides opportunities for eligible inmates to work away from the institution, under supervision, but generally requires a return to custody or a halfway house each night. Authority for work releases rests with CSC. Work release is intended to provide inmate participation in a structured program of work or community service.