

FORUM

on Corrections Research

May 1994, Volume 6, Number 2

Featured issues

Special Needs Offenders

Research in brief

Feature articles

Assessment and
programming

Legal perspectives



Correctional Service
Canada

Service correctionnel
Canada

FORUM ON CORRECTIONS RESEARCH is published three times a year in both English and French for the staff and management of the Correctional Service of Canada.

FORUM reviews applied research related to corrections policy, programming and management issues. It also features original articles contributed by staff of the Correctional Service of Canada and other correctional researchers and practitioners.

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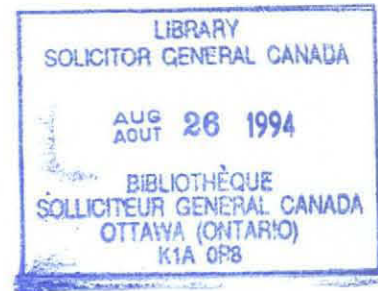
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FORUM

ON CORRECTIONS RESEARCH



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Style

Articles should be written in plain language. Complicated research and statistical terms should be avoided; however, if they are unavoidable, a clear explanation of the meaning of the term should be provided. FORUM reaches about 5,000 individuals in more than 35 countries, including academics, the public, journalists, corrections staff (from front-line staff to senior managers) and members of the judiciary. Our goal is to present reliable research to a **lay audience**.

Length

Ideally, articles should be 1,500 words in length (six double-spaced pages). Feature articles must be no longer than 3,000 words.

Figures and Tables

Figures and tables should be on separate pages at the end of the article. When an article has more than one figure or table, these should be numbered consecutively. Graphs, if possible, are preferred over tables.

References

References will appear as endnotes in published articles, but when submitting an article, do not use the footnote or endnote feature of WordPerfect. Instead, type the notes in numerical order at the end of the article. All that should appear in the article is the superscript number of the endnote. Please note that author-date reference citations, e.g., Andrews (1989), should **not** appear in the text. All references must include the following items.

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Buyer beware: A consumer's guide to reading and understanding correctional research (Part II)

by Travis Gee¹

Research and Statistics Branch, Correctional Service of Canada

In the September 1993 issue of FORUM, we presented an article looking at some important, but often neglected, questions that we should ask about correctional research. That article wasn't the end of the story. There are other issues we should be aware of when reading about correctional research. Some of these issues are presented here, in the second article in this series.

What is the question being answered?

In his book *Technopoly*, social critic Neil Postman relates a tale of two priests who write to the Vatican for advice on smoking and praying at the same time. One priest asks whether it is all right to smoke while praying. The answer he receives is "No, because one's whole attention should be upon prayer." The other priest then asks whether it is all right to pray while smoking. The answer he receives is "Yes, because it is always appropriate to pray."²

In research, the question asked greatly affects the answer given. If we ask, for example, whether a certain program reduces recidivism (defined here as a reconviction), we can look at two groups — one consisting of offenders who were involved in the program and the other consisting of comparable offenders who were not — and compare the incidence of recidivism among members of each group.

If, however, we ask whether this program reduces crime among its graduates, we cannot get the answer simply by counting reconvictions. The reconviction rate tells us only about offenders who got caught and reconvicted. It provides no information about offenders who may have successfully continued their criminal career or who "beat the system" at some point

after arrest. Further, if the reconviction rate goes down or stays the same, it could be the result of either intended or unintended effects of the program on any number of offenders — or not.

Of course, the nature of the program has a lot to do with the plausibility of alternative interpretations, but this illustration points out the fine distinctions that must be made when interpreting a research finding.

The problem of measuring what we can't see

To take the above analysis one step further, there really is no perfectly reliable way to determine whether program X reduces crime among its graduates. The only crimes we know about are those for which there were convictions.

Even if we followed up released offenders for 20 years, we would not likely get them to admit to crimes they got away with. Indeed, it is hard enough getting offenders to admit to the crimes for which they have been convicted.

But the problem is not simply crimes remaining hidden to researchers.

Our theories of criminal behaviour require us to measure some things that, for various reasons, are not easily measured. If something is required for a theory but cannot be observed directly, we call it a "construct" and try to measure it indirectly.

Intelligence is such a construct. We often want to explain the differences we observe among various individuals' problem-solving abilities. But, unlike shoe size, age, or number of convictions,

We often want to explain the differences we observe among various individuals' problem-solving abilities. But, unlike shoe size, age, or number of convictions, intelligence cannot be measured directly.

intelligence cannot be measured directly. In fact, there is great controversy among psychologists about whether intelligence can be measured at all.

Therefore, if we, as consumers of research, put any faith in a study that uses an intelligence quotient (commonly known as IQ) as a predictor of anything, we are implicitly buying into one side of a rather heated controversy.³

Interpreting measurements of constructs

A popular saying among psychologists goes something like "Intelligence is what intelligence tests measure." We must, therefore, be very careful in interpreting the results of studies of this construct.

Certain skills are required to perform well on an IQ test, and others are not. For example, a test that measures the ability to remember and use complicated numbers may leave us uninformed about the subject's ability to remember a complicated musical score. Is musical ability not at least an indication of intelligence? If it is, shouldn't we test for it? If it is not, then why do we regard Beethoven and Mozart as geniuses?

We would not naturally assume that an outstanding physicist would also be an outstanding pianist. By the same token, we should not naturally assume that an offender who lacks the ability to read would also lack the ability to crack a safe. The skills required for one activity may or may not be useful for another. Testing for one type of skill is not the same as testing for all.

Researchers are human, however, and some have been seduced into judging a person's intelligence solely by his or her score on an IQ test. We must remember that what the data show will be limited by the question(s) asked, and our conclusions must be limited to the context of the question(s) — nothing broader. Unfortunately, this sometimes does not prevent researchers from trying to use the answer to one question as though other questions had been asked.

Surveys: Where the question really counts

Surveys and opinion polls take researchers' questions directly to the people being studied. Therefore, the precise phrasing of survey questions is critical, and the questions must be understandable to people answering them.

Consider the difference between "Who would be the best prime minister?" and "Which party would you vote for if an election were held today?" These two questions would elicit two different answers from most people. Yet, the newspaper headline would read "The XYZ Party leads in poll," regardless of which of these questions had been asked.

To borrow an example from Postman's *Technopoly* (modifying the content to suit the present topic), let's assume that controversy erupts over the sentencing of an offender convicted of manslaughter. The individual is sentenced to 10 years' incarceration, and a ban is placed on the publication of trial information. However, the homicide was particularly grisly and many people are calling for a life sentence.

Given the outcry, we would likely soon hear about a poll indicating that something like "80% of Ontarians favour a review of this case and the imposition of a life sentence."

But our imaginary poll results could also have indicated that, of the 80% favouring a life sentence,

- 60% knew what the offender had been charged with;
- 10% knew what the average sentence for manslaughter is;
- none knew what evidence had been presented;
- none were aware of the judge's reasons for the sentence; and
- 40% knew the difference between murder and manslaughter.

Unfortunately, this information would probably not even be obtained, much less reported, because the questions would never have been asked.

We must remember that what the data show will be limited by the question(s) asked, and our conclusions must be limited to the context of the question(s) — nothing broader.

As Postman writes, "Were pollsters to provide such information, the prestige and power of polling would be considerably reduced."⁴ Pollsters do not, as a matter of course, provide such information, but when they do, it does not make the headlines. However, responsible readers should ask the questions that would help to clarify survey results. The only way to improve the reporting of surveys is to make reporters and pollsters aware of our expectations.

So, what can we say?

Given the cautions cited above (and the list is far from complete), you may wonder whether anything can definitively be said in a research context. But, while the outlook may seem bleak, it is not entirely so.

Where something has been "left hanging," other researchers can pick up the thread. That is how we progress — further research on a topic is almost always necessary. The illusion that scientists can conduct a definitive study and answer all relevant questions within a specific time period is usually just that, an illusion.

From a purely administrative perspective, a good

study might be one that answers a limited number of questions once and for all, within a specific time frame and budget. Calls for "further study" might be viewed with suspicion, as a means of leaving the door open for another research proposal — and further funding.

However, from a researcher's perspective, a good study raises more questions than it answers.

What we can say for sure is that there is an art to choosing questions wisely and there are difficulties in attempting to measure the unobservable, not the least of which is proving that something unobservable is actually present and not just a figment of our imagination. ■

The illusion that scientists can conduct a definitive study and answer all relevant questions within a specific time period is usually just that, an illusion.

¹ Travis Gee, Research and Statistics Branch, Correctional Service of Canada, 4B-340 Laurier Avenue West, Ottawa, Ontario K1A 0P9.

² N. Postman, *Technopoly: The Surrender of Culture to Technology* (New York: Vintage Books, 1993): 125–126.

³ For an insightful discussion of this topic, interested readers should see S.J. Gould, *The Mismeasure of Man* (New York: W.W. Norton & Co., 1981).

⁴ Postman, *Technopoly*: 135.

The more things change, the more they stay the same

Hopefully, you have noticed that FORUM now has a different look. We hope that it will make the magazine more attractive to the eye and, most importantly, easier to read. FORUM also has different editors (Larry Motiuk and Ted Murphy) and a new editorial board, working together to publish an informative and interesting magazine. However, FORUM's commitment to making reliable correctional research accessible to a lay audience has not changed. We will continue to attempt to make our articles as accessible to as many people as possible. Something else that hasn't changed is that we still encourage our readers to submit articles to us for potential publication. These submissions can be in either English or French. One of the members of the editorial board is Francophone, so please don't be shy in forwarding French articles to us.

Raising awareness of persons with disabilities in Canadian federal corrections

by L.L. Motiuk¹

Research and Statistics Branch, Correctional Service of Canada

A major survey of persons with disabilities in Canada and an examination of staff and offenders in the Correctional Service of Canada suggest that the provision of specialized or technical aids or services may be one of the new challenges facing federal corrections. This is becoming particularly evident as the number of offenders serving long-term sentences and the average age of the institutional population continue to rise.

In 1991, long-term offenders (10-year sentences or more) represented 26.4% of all federal inmates.² More importantly, there was a 41.5% increase in the number of long-term offenders under federal jurisdiction between 1981 and 1991 (from 2,672 to 3,782). Further, an offender population forecast indicates that over the next two decades, the greatest increase in admissions (into the federal correctional system) will be from the "over-40" population.³

This trend reflects the projected change in the age structure of the Canadian population — the bulk of population growth (from 1991 through 2011) will occur in the "over-50" category. Taken together, these leading indicators suggest that the Correctional Service of Canada may need to increase specialized programming and services for offenders with disabilities.

Persons with disabilities in Canada

Based on their responses to questions about disability on the 1991 Census questionnaire, individuals were asked by Statistics Canada to participate in a more detailed survey about their limitations in daily living. The responses to the *Health and Activity Limitation Survey*,⁴ therefore, reflected the participants' perception of their situation and are considered subjective in nature. However, the survey revealed some remarkable facts about the age and gender of Canadians with disabilities and about the prevalence, nature and severity of their disabilities.

The survey defined disability according to the World Health Organization definition: "any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being." Among the adult Canadian population (age 15 to 64), 12.7% reported some level of disability relating to mobility, agility, sight, hearing, speaking or other in 1991.⁵ The "other" category included respondents who perceived themselves as limited because of a learning disability, a mental health condition, a mental handicap or labelling by others.

As expected, the prevalence and severity of disabilities increased with age. Of the respondents who were 65 or older, nearly half reported some level of disability and one third reported a severe disability.

The survey also indicated that 93.7% of persons with disabilities lived in private households, while 6.3% lived in health care institutions (such as hospitals, nursing homes, senior citizens residences, psychiatric institutions, and treatment facilities for individuals with physical disabilities). It should be

noted that persons living in penal institutions and correctional facilities were excluded from the survey for operational reasons.

In a more focused look at the prevalence, nature and severity of disabilities among the adult (age 15 to 64) Canadian population,⁶ Table 1 indicates that the most prevalent disability is related to mobility (the ability to walk, move or stand), at 6.6%. The rate of disability related to agility (the ability to bend, dress or handle small objects) is 6.4%; hearing, 3.1%; sight, 1.2%; and speaking, about 1%.

The survey defined disability according to the World Health Organization definition: "any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being."

Table 1

Disability Rates for Adult Men and Women (Ages 15–64) in Canada

Type	Men (%)	Women (%)	Total (%)
Mobility	5.68	7.59	6.64
Agility	5.99	6.71	6.35
Sight	0.95	1.39	1.17
Hearing	3.85	2.42	3.13
Speaking	1.19	0.78	0.99
Other	4.10	4.18	4.02

Total population with and without disabilities: 18,156,165.

Total men: 9,045,720; total women: 9,110,445.

Interestingly, total population disability rates are almost the same for adult men and women, at 12.5 and 12.7%, respectively. However, a different pattern emerges when distribution of disabilities is broken down by gender. Men are more likely than women to perceive themselves as having hearing and speaking disabilities, while women are more likely than men to perceive themselves as having mobility, agility and sight disabilities.

Correctional Service of Canada employees with disabilities

In recent years, an increased public awareness of disability has resulted in a number of studies being conducted in the workplace. Of particular interest are the employment and education data on the 2.3 million Canadians who reported some level of disability in the 1991 *Health and Activity Limitation Survey*.⁷

In 1991, the unemployment rate of persons with disabilities in the labour force was 14%, while the unemployment rate among Canadians without disabilities was 10%. Overall, 48% of working-age persons with disabilities were employed, and 35% had some post-secondary education.

It is important to note that while this survey comprehensively enumerated persons with disabilities, its findings may (at least in part) reflect the willingness of people to report the

limitations and barriers encountered in their daily lives. Accordingly, any change in survey methodology could result in a wide variation in the reporting of disabilities. Caution is advised, therefore, in drawing conclusions from the various surveys reported here.

In order to implement the federal government's policies of equal access to employment, training, development and career progression for all of its employees, employment equity personal information databases are maintained for statistical purposes.⁸

Disability rates for Correctional Service of Canada employees can be established by examining staff response to questions on employee

identification forms (as retrieved from the databases). These self-identifying questions are checked off by individuals who consider themselves disadvantaged by a persistent and severe disability.

Overall, the disability rate among Service staff is estimated to be 2%. This disability rate applies to all staff categories: scientific, professional, administrative, technical, administrative support and operational.

Table 2 displays the disability rates for 11,269 full-time, part-time and term Service employees in five categories of disability: mobility, agility, sight, hearing and speaking. Although data are available for learning, psychiatric and mental health disabilities (as well as for an "other" category), this information is not reported here.

Men are more likely than women to perceive themselves as having hearing and speaking disabilities, while women are more likely than men to perceive themselves as having mobility, agility and sight disabilities.

Table 2

Disability Rates for Correctional Service of Canada Employees

Type	Number	Rate (%)
Mobility	63	0.56
Agility	28	0.25
Sight	45	0.40
Hearing	46	0.41
Speaking	7	0.06

Total Correctional Service of Canada population with and without disabilities: 11,269.

The most prevalent disability among Correctional Service of Canada staff is related to mobility. This is followed by hearing and sight disabilities (which are present in almost identical numbers) and then agility and speaking disabilities. Of those reporting hearing disabilities, 11% (5) are deaf, while of those reporting difficulties with sight, 13% (6) are blind.

Inmates with disabilities

There were no available data on the prevalence of disabilities among incarcerated offenders. Therefore, the Research and Statistics Branch conducted an in-house Special Needs Survey to gather information on offenders who, for health-related reasons, are limited in their day-to-day activities.

Using the *Health and Activity Limitation Survey — 1991 User's Guide* as a model, research staff designed a short survey instrument. Three penitentiaries (a maximum-, a medium- and a minimum-security-level penitentiary) were then selected in the Correctional Service of Canada's Ontario region, and disability data were gathered through a systematic review of each institution's health care files.⁹

The disability rate for the institutional population (according to this survey) is 4.1%. Interestingly, the disability rate for the maximum-security population is the highest (4.9%), followed by the rates of the medium-security (4.1%) and minimum-security (3.3%) populations. Overall, 49 offenders in the three institutions accounted for a total of 69 disabilities. The most prevalent disability was again related to mobility (1.85%) (see Table 3).

Table 3

Disability Rates for Institutions by Security Level

Type	Maximum		Medium		Minimum		Total	
	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)
Mobility	4	0.81	16	2.63	2	6.64	22	1.85
Agility	3	0.61	1	0.16	0	0.00	4	0.34
Sight	2	0.41	0	0.00	0	0.00	2	0.17
Hearing	2	0.41	4	0.66	1	1.11	7	0.59
Speaking	1	0.20	0	0.00	0	0.00	1	0.08
Other	14	2.85	18	2.30	1	1.11	33	2.77

Total institutional population: 1,191.

Total maximum-security population: 492; total medium-security population: 609; total minimum-security population: 90.

Table 4 lists assistive devices used by inmates to facilitate their daily living. The range of specialized equipment used to help inmates with disabilities is fairly broad.

Table 4

Technical aids used by inmates with disabilities

Type of disability	Technical aid
Mobility	Special shoe lifts Back or leg brace Artificial leg Wheelchair Cane Crutches Orthopaedic footwear
Agility	None noted
Sight	Glass eye Computer assisted
Hearing	Hearing aids
Speaking	None noted

A basic understanding of the cause of inmate disabilities was arrived at by reviewing offenders' health care records. The major causes of their conditions are best described as disease or illness (51%), the natural aging process (17%), motor vehicle accidents (11.3%) and other accidents (9.4%).

Additional descriptive analyses of offender characteristics yield some interesting findings about federal inmates with disabilities. These offenders are more likely to be older than 40 (57%), serving sentences longer than 10 years (51%), admitted since 1991 (70%), serving their first federal term (62%), and violent (83%). Of the 38 violent offenders with disabilities, 47%

were convicted of a homicide(s) and 34% are sex offenders.

Offenders with disabilities under community supervision

There is little information on the prevalence of disabilities among offenders on conditional release. The only known source of data on this topic is the offender needs assessment that is systematically administered by case managers (parole officers) in the Correctional Service of Canada's Ontario region.

To estimate the prevalence of disabilities among offenders under community

supervision, a sample of 604 federally sentenced adult offenders (573 men and 31 women) released from institutions in the Ontario region over a six-month period was gathered for study.

These offenders were under the supervision of 22 different parole offices (including one community correctional centre) and 7 private agency offices. From information contained in the Case Needs Identification and Analysis protocol, it is estimated that about 12% of the community supervision population have physical disabilities.¹⁰

Interestingly, the presence of a physical disability was unrelated to the likelihood of failure or success on conditional release.

What does it all mean?

This examination of disability among Canadians, among federal correctional staff

and among federal offenders yielded important information on a topic that has received little attention.

The practice of systematically identifying staff and offender needs for specialized or technical aid(s) and services is clearly warranted. The increasing number of persons with disabilities in both the Canadian workforce and the offender population will make it a worthwhile, and perhaps necessary, correctional strategy.

Hopefully, a systematic approach to assessing and reassessing special needs, coupled with an awareness of the limitations and barriers experienced by persons with disabilities, will improve the Correctional Service of Canada's provision of services. As a result, we may need specialized programming and services for staff and offenders with disabilities. ■

¹ Research and Statistics Branch, Correctional Service of Canada, 4B-340 Laurier Avenue West, Ottawa, Ontario K1A 0P9.

² J.R. Weekes, "Long-term Offenders: Who Are They and Where Are They?" *Forum on Corrections Research*, 4, 2 (1992): 3-7.

³ Correctional Service Canada, *CSC Offender Population Forecast for 1990 to 2000* (Ottawa: Research and Statistics Branch, Correctional Service of Canada, 1990).

⁴ Statistics Canada, *Health and Activity Limitation Survey — 1991 User's Guide* (Ottawa: Statistics Canada, 1991).

⁵ Statistics Canada, *1991 Health and Activity Limitation Survey — The Daily* (Ottawa: Statistics Canada, 1992).

⁶ This information was provided in January 1994 by Statistics Canada for comparative analysis. A note of appreciation is extended to Bernice Campbell of the Post-censal Surveys Program, who provided the specialized data from the Health and Activity Limitation Survey.

⁷ Statistics Canada, *1991 Health and Activity Limitation Survey: Employment and Education — The Daily* (Ottawa: Statistics Canada, 1993).

⁸ A note of appreciation is extended to Joce-Lyn Hamel and Steven Statham at Correctional Service of Canada national headquarters. They provided employee data from the Personnel Management System in January 1994.

⁹ January 25, 1994. Much appreciation is extended to Sue Seguin and Colette Cousineau of the Research and Statistics Branch and to the health care staff on site in the Ontario region, who gathered and then collated the disability data from health care files.

¹⁰ L.L. Motiuk and S.L. Brown, *The Validity of Offender Needs Identification and Analysis in Community Corrections — Research Report* (Ottawa: Research and Statistics Branch, Correctional Service of Canada, 1993).

More numbers . . .

Of 250 offenders assessed at Millhaven Institution between February 1, 1993, and January 17, 1994,

- *three are deaf or hard of hearing*
- *two are blind or have a visual impairment*
- *one uses a wheelchair*

Older offenders in the Correctional Service of Canada

by Brian A. Grant¹ and Linda Lefebvre¹

Research and Statistics Branch, Correctional Service of Canada

A great deal has been written about the aging Canadian population and the consequences this may have for pension plans, health care and other government services. The same trend is evident in the correctional population. The Correctional Service of Canada's offender population is getting older, and offenders over 50 years of age constitute the fastest growing group.²

Older offenders may require different treatment programs, specialized accommodation, and different types of treatment and health care. Further, because they are usually serving long sentences, older offenders are more likely to face the prospect of living the rest of their life in prison or under supervision in the community. In either case, older offenders present unique challenges because of increasing mobility problems, sensory impairment, and likelihood of life-threatening illnesses such as heart disease and cancer.

Who is an older offender?

Defining the category of "older offender" is problematic. Although "older offender" might be more appropriately defined by ability, chronological age is sufficiently useful for the present purpose. In mainstream society, "older" is about 60 or 65, the age of retirement from the workforce and the age when the physical effects of aging start to become apparent.

However, the effects of aging may begin much earlier and may be exacerbated by substance abuse, poor diet and an unhealthy lifestyle — all of which are often characteristic of offenders. In addition, offenders can remain under the Correctional Service of Canada's jurisdiction for a very long time. Therefore, the definition of "older" used here is 50 years of age and older.

The following data were obtained from the Offender Population Profile System, which is an historical database containing information on offenders under the jurisdiction of the Service. Offenders are classified either as in an institution or as in the community under supervision

(following release on day parole, full parole or statutory release). Data describing the institutional and community supervision populations were extracted for each June 30th from 1990 to 1993. Admissions data are presented by fiscal years 1990–1991, 1991–1992 and 1992–1993.

Age distribution

Approximately 1,100 inmates (8% of the institutional population) and 1,300 offenders on community supervision (13% of the supervision population) are 50 years of age or older (see Table 1). Close to half of these 2,400 offenders are between the ages of 50 and 54, and an additional 25% are between 55 and 59 years old. The institutional population includes 316 inmates (2%) who are at least 60 years of age, while the supervision population includes approximately 400 offenders (4%) in the same upper age bracket.

Table 1

Age Distribution in the Institutional and Community Supervision Populations

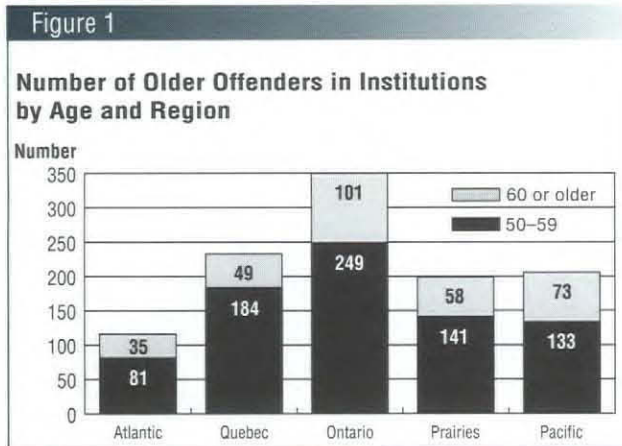
Age (years)	Institutional population			Community supervision population		
	Number	% of population	% of the 50 or older population	Number	% of population	% of the 50 or older population
50 or younger	12,021	91.6	N/A	8,457	86.8	N/A
50–54	524	4.0	47.5	531	5.4	41.1
55–59	264	2.0	23.9	346	3.5	26.8
60–65	200	1.5	18.1	233	2.4	18.0
65+	116	0.9	10.5	182	1.9	14.1

Note: Data from June 1993.

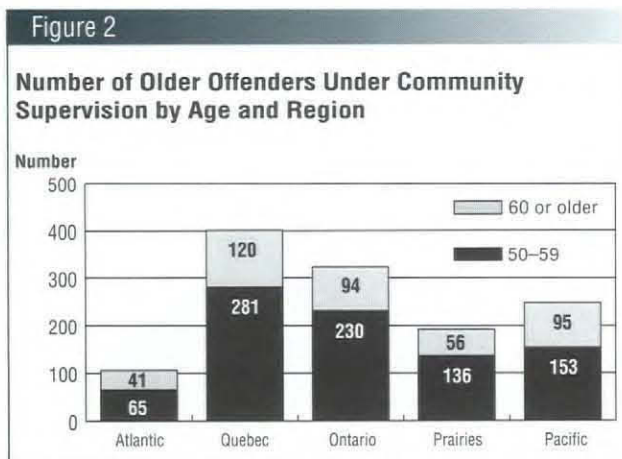
Regional distribution

In the Pacific region, 12% of the inmates are older inmates, while about 10% of the Ontario and Atlantic regions' institutional populations are older inmates. Only about 7% of the Quebec and

Prairie regions' institutional populations are older inmates. More specifically, Ontario has the largest number of older inmates (350), followed by Quebec with 233 (see Figure 1). Only the Atlantic region has fewer than 200 older inmates. The Pacific region also has the highest proportion of inmates aged 60 or older (4%).



The proportion of older offenders in the community supervision population, ranging from 9% in the Atlantic region to 22% in the Pacific region, is higher than in the institutional population. Quebec has the largest number of older offenders under supervision, with approximately 400 (see Figure 2). The Pacific region again has the highest proportion of supervision population aged 60 or older (8%).



Institutions and security

Older offenders are more likely to be in minimum-security institutions than younger offenders and are less likely to be in medium- or maximum-security institutions. In fact, the oldest inmates (aged 60 or older) are twice as likely to be in a minimum-security institution than offenders younger than 50.

There were 207 inmates 50 years of age or older in maximum-security institutions in June 1993, and 46 of these inmates were 60 or older.

In most institutions, about 10% (or fewer) of the inmates are 50 years of age or older. However, seven institutions have close to a 20% population of older offenders, and in these institutions 6% (or more) of the inmates are 60 or older. In fact, in two of the institutions, more than 10% of the population is 60 or older.

Risk factors

Term of incarceration

Each admission to a federal prison is counted as a new term of incarceration. The term being served is, therefore, an indicator of the seriousness of the criminal history of the offender, although it does not reflect admissions to provincial prisons (for sentences of less than two years).

Fifty-six percent of the institutional population younger than 50 and 59% of the inmates between 50 and 59 are serving their first federal prison term (see Table 2). However, almost three quarters (72%) of the inmates 60 years of age and older are serving their first term. Similarly, the percentage of inmates serving at least their fourth term is almost the same for those younger than 50 and those between 50 and 59 years of age (15% versus 14%). But in the over 60 group, only 7% are serving at least their fourth term.

Table 2
Distribution of Offenders in the Institutional and Community Supervision Populations by Term of Incarceration and Age

Term	Institutional population (%)			Community supervision population (%)		
	Younger than 50	50-59 years old	60 or older	Younger than 50	50-59 years old	60 or older
1st	55.5	58.6	72.5	68.7	68.5	74.7
2nd	19.1	17.6	15.2	15.7	15.7	14.0
3rd	10.4	9.5	6.0	7.7	7.5	6.3
4th or more	15.0	14.2	6.6	7.9	8.2	5.1

Total institutional population younger than 50: 12,021; 50-59: 788; 60 or older: 316.
Total supervision population younger than 50: 8,457; 50-59: 877; 60 or older: 415.

Community supervision

There are three types of community supervision: day parole, full parole and statutory release (formerly referred to as mandatory supervision); lower risk offenders are more likely to be released on day parole or full parole. About 56% of younger offenders (under 50) are released on full parole, but 73% of offenders between 50 and 59 years of age are released on full parole, with the percentage increasing to 81% for those 60 or older.

Younger offenders are more likely than older offenders to be released on day parole (20% versus 11%) and statutory release (25% versus 13%). The higher percentage of releases on full parole suggests that, as a group, older offenders are viewed as less of a risk to the community.

Revocation rates

Revocation of parole or statutory release occurs when the offender fails to meet the conditions of his or her release or commits a new offence(s). It appears that older offenders are slightly less likely to have their conditional release revoked (14% than offenders who are younger than 50 (18%). However, when revocation of conditional release occurs because of a new offence, there is almost no difference between the younger and older offenders (8% versus 7%).

Type of offences

The major admitting offence can be defined as the offence with the longest sentence for which an offender is under Correctional Service of Canada jurisdiction. While only 13% of younger offenders in the institutional population are admitted for a sexual offence, almost one third (32%) of inmates 50 to 59 years old and almost half (48%) of those 60 and older are admitted for a sexual offence (see Table 3).

Homicide is also more likely to be the major admitting offence for older offenders (22%) than for younger offenders (16%) in the institutional population. Other types of violent offences and non-violent offences like break-and-enter or theft are less common for older offenders.

The major admitting offence for older offenders under community supervision is most commonly homicide (39% for those 60 or older), with a sexual offence the next most common.

Trends

From 1973 to 1984, the average age (arithmetic mean) of men admitted to federal prisons remained around 29, but it then began to increase steadily. Between 1973 and 1993, the average age increased from 29 to 32. Although the increase in average age may not seem significant, the number of older offenders has increased significantly.

Over the last three fiscal years (1990–1991 to 1992–1993), admissions of older offenders increased from 233 to 323 per year, a 39% increase, while admissions for younger offenders increased by only 14%. The 60 and older age group has shown the largest proportional increase (although the absolute numbers are small), from 60 in 1990–1991 to 91 in 1992–1993.

The increasing age trend is also evident in the institutional and supervision populations (see Figure 3). During the four-year period between 1990 and 1993, the largest percentage increase in the institutional population was for the oldest group (49% for offenders older than 65), similar to the admissions results. The largest absolute increase was for the 50 to 54 age group, whose numbers increased from 374 to 524 inmates, a 40% increase in four years.

Increases were steady for each of the other over 50 age groups and exceeded the percentage increases for the inmates under 50. The pattern of increases in the community supervision population was similar to that of the institutional population, although the changes were not as dramatic (see Figure 4).

Table 3

Percentage of Offenders by Major Admitting Offence and Age of Offender

Major admitting offence	Institutional population (%)			Community supervision population (%)		
	Younger than 50	50–59 years old	60 or older	Younger than 50	50–59 years old	60 or older
Homocide	16.4	22.2	21.5	11.4	30.4	39.0
Violent offence	36.0	18.5	13.9	28.9	15.2	13.0
Sex offence	13.1	31.7	47.8	7.9	15.6	18.1
B&E – Theft	19.0	9.9	6.0	19.1	8.2	8.0
Drug offence	7.9	10.2	6.0	17.0	16.6	10.6
Other	7.6	7.5	4.7	15.7	13.9	11.3

Total institutional population younger than 50: 12,021; 50–59: 788; 60 or older: 316.

Total supervision population younger than 50: 8,457; 50–59: 877; 60 or older: 415.

Figure 3

Number of Older Offenders in Institutions by Age Group (1990–1993)

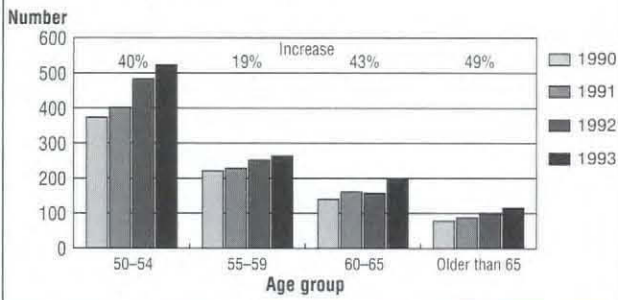
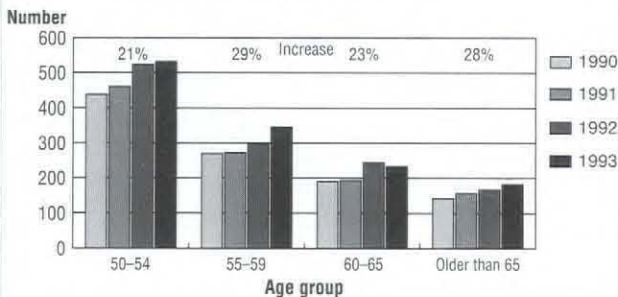


Figure 4

Number of Older Offenders Under Community Supervision by Age Group (1990–1993)



Discussion

Three conclusions can be drawn from this descriptive analysis:

- The number of older offenders (both those older than 50 and those older than 60) is increasing faster than the number of younger offenders.
- Older offenders are more likely (than younger offenders) to have been convicted of more serious violent offences, such as homicide or a sexual offence.
- Older offenders, in most cases, present a lower risk to the community (than younger offenders), given their higher proportions in minimum-security institutions, their greater likelihood of release on full parole, and their lower rate of revocation of conditional release.

Older offenders are not highly concentrated in one region, although the Pacific region does have a higher percentage of older offenders. Further, institutional data indicate they are distributed throughout the institutions within each region, although a few institutions do have a slightly higher percentage of older offenders than others.

The research literature suggests that the older offender's need for medical services, the effect of the older offender on the prison population, and the older offender's need for specialized treatment programs may all need to be carefully considered.

Medical costs rise with the patient's increasing age, so the increasing number of older offenders (particularly those older than 60) may put a serious strain on correctional medical budgets. It has been argued that older, "experienced" offenders have a calming influence on other inmates, but will there still be this calming influence with the large number of older inmates who are "new" offenders? Finally, older offenders may have problems adapting to the rigours of prison life because of mobility and sensory limitations, physical problems, and a lack of relevant treatment and recreational programming. Rather than programming to help with job skills, older offenders may need programs to address the needs of retirement and the effects of aging.

Older offenders and younger offenders under supervision in the community will also have different needs. Assessing the risk of re-offending in the community is likely to be quite different for older offenders. Physical limitations may reduce the likelihood of some types of crimes, but the data on major admitting offences suggest that older offenders are still capable of homicide and other crimes that do not require excessive physical force. In addition, as with those in institutions, older offenders may have less need for help in job searches and training but more need for help in learning how to navigate the world of pensions and services for the elderly.

There are clearly significant numbers of older offenders under the jurisdiction of the Correctional Service of Canada, and their age defines a unique group. More detailed analyses are needed to determine whether these offenders present programming and treatment problems within the Service. ■

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² Work on this article was initiated following a request for information from Dr. Armstrong-Esther at the University of Lethbridge, who is conducting a study of crime and the elderly, funded by the Alberta Law Foundation.

The effects of neuropsychological impairment on offender performance in substance abuse treatment

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and **John R. Weekes**¹

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A recent mental health survey² of Canadian federal offenders indicated a 4.3% lifetime prevalence rate of "organic brain syndrome" (a type of neuropsychological impairment).³ However, little empirical research has been done to define the treatment implications for this group of special needs offenders. Further, many offenders who suffer from some type of neuropsychological impairment also need treatment for other problems, such as substance abuse, related to their criminal behaviour.⁴

For example, a recent substance abuse survey of Canadian federal offenders revealed that approximately 18% of those who abused multiple substances also demonstrated possible organic brain deterioration — due perhaps to their alcohol and drug use.⁵

It has been argued that offenders with some level of neuropsychological impairment have special needs that extend beyond those normally met by substance abuse treatment programs.⁶ Research with non-offender populations of substance abusers indicates that (in general) neuropsychological impairment is related to poorer treatment outcomes.⁷

This study examined the effect of neuropsychological impairment (defined broadly as psychological or physiological problems caused by injury or damage to the brain) on offenders who completed the Offender Substance Abuse Pre-Release Program.⁸

The Offender Substance Abuse Pre-Release Program (OSAPP)

This program provides cognitive-behavioural substance abuse treatment designed specifically for offenders identified as having moderately severe drug or alcohol problems. Treatment modules address alcohol and drug education, self-management, problem-solving, cognitive and behavioural skills training, social skills, jobs skills

refresher training, leisure and lifestyle planning, relapse prevention and pre-release planning.⁹

The program is delivered over 26 three-hour group sessions and 3 individual sessions (with a trained program facilitator). A detailed description of the program contents, selection criteria and assessment procedures can be obtained from the authors.

Treatment modules address alcohol and drug education, self-management, problem-solving, cognitive and behavioural skills training, social skills, jobs skills refresher training, leisure and lifestyle planning, relapse prevention and pre-release planning.

Description of program participants

The study sample consisted of 122 offenders who completed the program at Bath Institution (a minimum-security federal institution) between January 1990 and August 1992.

Almost 34% of those in the sample were incarcerated for a violent crime; 36.1%, for a non-violent offence; and 30.3%, for a drug- or alcohol-related crime. About 20% were serving their first federal term of incarceration. The average sentence length was 39.4 months, and only two offenders were serving a life sentence.

Assessment of neuropsychological impairment

The Trail Making Test¹⁰ was used as a screening instrument for possible neuropsychological impairment. Although the test has been found to be a highly sensitive instrument for detecting brain dysfunction,¹¹ a complete neuropsychological assessment is recommended to fully explore the extent and nature of an individual's disability.¹²

In all, 26.2% (32) of the offenders in the sample exhibited signs of possible neuropsychological impairment according to standard scoring

criteria.¹³ Specifically, 4.1% indicated general problems with basic motor and spatial skills and the ability to count; 13.1% had either spatial problems or dominant-hand motor problems; 7.4% had problems handling verbal material or with planning and flexibility skills; and 1.6% of the offenders were suspected of suffering from massive damage to one hemisphere of the brain.

Owing to the relatively small numbers of offenders in these different categories, offenders who demonstrated possible neuropsychological impairment were grouped together and compared with offenders (73.8%) who did not exhibit any form of brain dysfunction.

The two groups of offenders were compared in relation to their offence characteristics, the severity of their substance abuse problems, their pre- to post-program change, and their rate of readmission into incarceration.

Offence characteristics

The offenders in the two groups did not differ with respect to offence type, number of previous federal incarcerations, or sentence length. The lack of difference in offence types was somewhat surprising, since other research has found neuropsychological impairment in some groups of murderers and assaulters.¹⁴

Substance abuse severity

The extent of the offenders' drug and alcohol problems was assessed using the Drug Abuse Screening Test,¹⁵ the Alcohol Dependence Scale¹⁶ and the modified Michigan Alcoholism Screening Test.¹⁷ Average scores on each of the three substance abuse tests did not differ significantly between the offenders with and those without neuropsychological impairment.

Both groups did, however, have serious substance abuse problems — 78.1% of the offenders with neuropsychological impairment exhibited moderate to severe substance abuse

problems, as did 82.6% of the offenders without such a disability.

Intermediate treatment outcomes

A battery of assessment measures¹⁸ was administered to offenders before and after their participation in the program. The measures were designed to assess alcohol and drug knowledge, attitudes toward alcohol and drug use, effective communication skills, assertiveness, responsibility, problem-solving abilities, and employment.

Both groups demonstrated significant improvement on all but one of the measures (which assess knowledge increase, attitude change and skills development) and the groups had identical patterns of pre- to post-program improvement. In other words, there was no difference between the two groups based on their improvement as measured by these assessment measures.

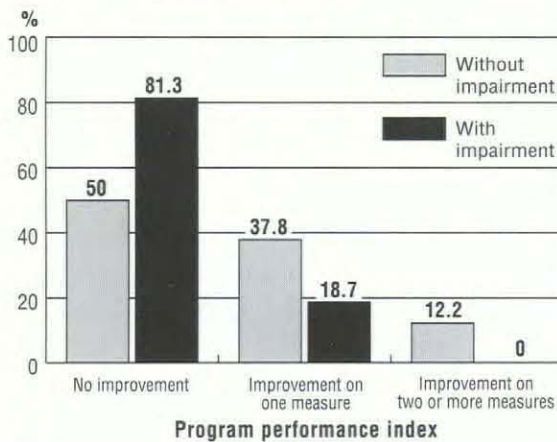
Program performance was also assessed using a statistically derived index.¹⁹ Specifically, selected measures from the assessment battery (which relate generally to substance abuse knowledge, attitudes, and problem-solving and behavioural skills) were included in a performance index. Earlier analyses suggested that improvement on these measures is linked to a reduced readmission (into the correctional system) rate. Offenders' program performance was then classified on a scale of 1–3 according to the number of measures on which they improved: 1 = no improvement, 2 = improvement on one measure, and 3 = improvement on two or more measures.

This analysis showed that the offenders with no indication of neuropsychological impairment performed significantly better in the program than the offenders who exhibited signs of such impairment (see Figure 1). In fact, none of the offenders who showed evidence of possible neuropsychological impairment improved on two or more measures.

The offenders in the two groups did not differ with respect to offence type, number of previous federal incarcerations, or sentence length. The lack of difference in offence types was somewhat surprising, since other research has found neuropsychological impairment in some groups of murderers and assaulters.

Figure 1

Neuropsychological Impairment and Performance in OSAPP



Post-release outcomes

Almost 95% (115) of the offenders who completed the program were subsequently released from incarceration. The two offender groups did not differ in their average time remaining until release, the type of release granted, or their risk level as assessed by the Offender Risk/Needs Management Scale.²⁰

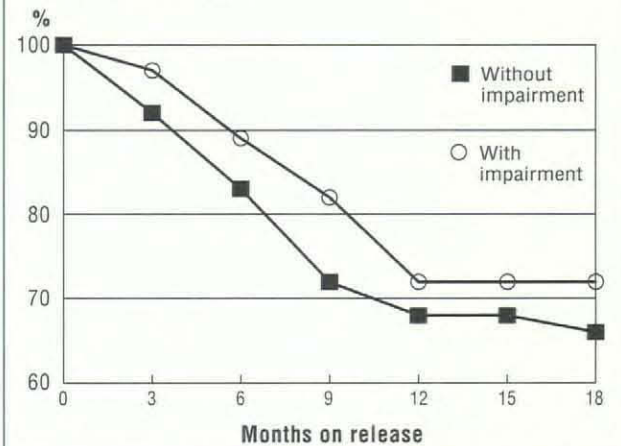
Offenders with a possible brain dysfunction did have a readmission rate of 26.7%, compared with a rate of 32.9% for offenders with no such disability. However, this difference was not statistically significant.

The rate at which the two groups remained in the community (survival rate) was also examined. The offenders who exhibited signs of neuropsychological impairment were also slightly more successful at remaining in the community than the offenders with no signs of such impairment, although again, the difference was not statistically significant (see Figure 2).

In earlier work,²¹ the authors found that offenders who improved in this substance abuse program (according to the performance index) recidivated (committed a further criminal offence) and were readmitted into the correctional system at a lower rate than offenders who did not improve. Unfortunately, attempts to examine the relationship between neuropsychological impairment

Figure 2

Neuropsychological Impairment and Survival Rates



and program performance were limited by the small number of offenders exhibiting signs of such a condition who improved.

The offenders who exhibited signs of neuropsychological impairment were also slightly more successful at remaining in the community than the offenders with no signs of such impairment, although again, the difference was not statistically significant.

Discussion

Two major findings emerged in this study. First, even though the offenders with neuropsychological impairment and those without did not differ in pre- to post-program improvement (as indicated by the individual assessment measures), the offenders with neuropsychological problems did perform comparatively poorly according to the performance index (which combines various assessment measures).

Second, readmission rates did not differ significantly according to the presence or absence of possible brain dysfunction. This finding is important because although the intermediate program performance of offenders with neuropsychological impairment was below that of the offenders without such a disability (according to the performance index), success on release was unaffected.

Although the poor performance during treatment of offenders with neuropsychological impairment is consistent with findings in the literature,²² the fact that there were no differences in readmission rates suggests that

the Offender Substance Abuse Pre-Release Program holds promise for addressing the substance abuse treatment needs of these offenders.

Of course, these findings are preliminary, and more research needs to be done in this area. Future research should perhaps attempt to

discover why the performance of offenders with neuropsychological impairment was poorer on the performance index and to examine the interactive effects of neuropsychological impairment and program performance on post-release outcomes. ■

¹ Research and Statistics Branch, Correctional Service of Canada, 4B-340 Laurier Avenue West, Ottawa, Ontario K1A 0P9. We wish to thank Diane Black and Lee Marchildon (contracted to deliver the OSAPP program at Bath Institution) and Dr. Lois Rosine (psychologist at Bath Institution) who provided us with the data that was analysed to generate the results for this article.

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Under-identification of hearing loss in the Canadian federal inmate population

by Marilyn Dahl¹

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Hearing loss is one of the most prevalent chronic disabilities in Canada, affecting about 7% of the population — more than two million Canadians.² Within this group, about 20,000 are profoundly deaf, of which about 75% are “late deafened” (they have acquired deafness as adults).³ The largest group of people with a hearing disability have only partial hearing loss. However, the hard of hearing are more difficult to identify as hearing impaired because of the relatively hidden nature of their loss.

It has been demonstrated that the prevalence of hearing loss in Canada is increasing because the population is aging, and some degree of hearing impairment tends to accompany aging.⁴ Further, society in general is becoming increasingly noisy, and noise is a major cause of hearing loss.

Marilyn Dahl, who is herself hard of hearing, is currently preparing her doctoral thesis on partial hearing impairment and deviant behaviour. This article focuses on how the under-identification of offenders with some hearing loss may lead to their being mislabelled as “problem inmates” and to institutions failing to adequately address their programming needs.

Defining hearing impairment

Hearing impairment is a term covering all degrees of hearing limitation and refers to the inability to both hear and understand speech.⁵ There are degrees of hearing impairment, but this general definition focuses on how a person communicates in daily life.

A person who is “deaf” may be defined as one whose primary mode of communication is sign language, while a person who is “hard of hearing” may be defined as someone with any

level of hearing loss whose primary mode of communication is speech. Given such a functional definition, the “late deafened” are often grouped with the “hard of hearing.”

More specifically, hearing loss early in life affects how one acquires and develops language and emotional and social skills. Commonly, someone with this type of hearing impairment is assessed as socially immature or as a poor academic performer.

Effects of hearing impairment

The problems resulting from early or congenital hearing loss are developmental; those from acquired hearing loss are traumatic.⁶ More specifically, hearing loss early in life affects how one acquires and develops language and emotional and social skills. Commonly, someone with this type of hearing impairment is assessed as socially immature or as a poor academic performer.

The onset of hearing impairment during adulthood has a pervasive negative effect on interactive and verbal communication,⁷ and this factor greatly influences how a person is perceived, interpreted, and defined by others.⁸

Hearing impairment and the Correctional Service of Canada

During the late 1980s, the Correctional Service of Canada conducted a survey of its regions to determine the variety of services available to offenders with disabilities (both those in institutions and those in the community).⁹

Correctional staff found that there were 5 inmates with hearing impairment in the Pacific region, 4 in the Prairie region, 10 in Ontario, 7 in Quebec, and 6 in the Atlantic region. Since

these figures are well below the national average for hearing impairment in the general population, it would appear that these findings are suspect. Further, although no Canadian study has examined partial hearing impairment in correctional institutions, studies in the United States from 1970 to 1983 indicate that between 36 and 48% of the prison populations surveyed suffer from some form of hearing disorder — compared with only 7% of the general population.¹⁰

Hearing screenings are not part of offenders' health assessments on admission to a correctional institution.¹¹ Institutional staff encourage inmates to undergo a hearing test only if staff identify or suspect a hearing problem — in all the regions surveyed, the Correctional Service of Canada dealt with hearing needs on this type of individual basis.

This means the Service may address the special needs of only profoundly deaf inmates (those who usually use sign language as a form of communication). Therefore, there is apparently insufficient knowledge of hearing impairment within the Canadian federal correctional system, particularly with respect to individuals with partial hearing impairment, who are not readily identified.

Hearing impairment in Pacific region institutions

In 1992–1993, a study was conducted in eight federal institutions in British Columbia, with the assistance of the chiefs of health care of the institutions.¹² Of 1,439 inmates receiving survey forms, 219 agreed to participate and 189 returned completed questionnaires, providing self-reports of hearing as well as data that could be used for demographic analysis.

The hearing of 144 of these inmates was tested with a portable audiometer (an instrument for measuring hearing ability) in acoustically

quiet rooms in each institution. Sixty-nine percent of this group of inmates had some degree of hearing loss, which was confirmed by follow-up testing. This is more than nine times the rate (7%) of hearing loss in the general Canadian population.

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Of 42 inmates with partial hearing loss interviewed, almost half (48%) had complained of their hearing loss to institutional staff.

Approximately two thirds (70%) of these offenders were told on examination that their outer ear canal looked clear and that no follow-up examination was needed.

Two facilities did have a hearing screening device, but it was to be used only if an inmate's behaviour indicated hearing loss. Hearing screening is therefore clearly not a part of the health assessment of offenders on admission to federal institutions, and offender health files at these institutions contained no notes on hearing ability, unless the inmate already had a hearing aid or later experienced a severe hearing loss.

Of the 42 inmates interviewed in the British Columbia study, 81% believed or knew they had some hearing loss; 17% did not know

they had some loss until the study was undertaken; and 69% believed their hearing impairment made their incarceration worse than it had to be.

Implications...

Some researchers suspect that hearing disorders contribute to criminal behaviour or, at least, to authorities' perception of a criminal profile. The results of a 1973 U.S. national survey of 200 state and federal correctional administrators indicated that 77% of those polled believed that the psychological and communication problems arising from hearing impairment led to criminal behaviour.¹³

U.S. studies also indicate that many offenders who failed hearing screenings had a previously unidentified hearing loss. Therefore, this hidden factor may have played a significant part in the mislabelling of these offenders as "problem offenders," affecting their consequent treatment or care.

The British Columbia study indicates that many institutional staff are unable to recognize behaviour indicative of hearing impairment. Further, when 41 prison officials were asked to explain the meaning of specific behaviours (within the context of their work experience), the officials tended to have a negative perception of behaviours typical of the hard of hearing.

For example, when asked to describe a particular behavioural trait characteristic of a person who is hard of hearing, the officials chose a negative label approximately 86% of the time (on average).

Put another way, staff were five times more likely to perceive behaviours relating to inmate behavioural or personality problems as deviant than to perceive them as indicative of a hearing problem.

Further, inmates with hearing impairment felt they were misunderstood by officials. The inmates believed officials discriminated against prisoners with partial hearing impairment largely because the officials were unaware of the condition. Fifty-five percent of the inmates with partial hearing loss expressed concern about being misjudged or mislabelled.

Officials were also asked which general inmate behaviours created the most problems during staff—inmate interaction. Sixty-nine percent of the officials specified "defiant" behaviours, such as aggression, rule breaking, anti-authoritarianism, irresponsibility and lack of effort. Nineteen percent of the officials identified physical or personality defects or

mental illness as the most problematic. Thirteen percent noted that inmate education, intelligence or social skill problems negatively affect the officials' interaction with these inmates.

Therefore, many officials' frame of reference through which they view interaction with inmates could potentially have adverse consequences for offenders with hearing impairment.

Given this frame of reference and institutional staff's general lack of awareness of partial hearing loss and its implications, it is not surprising that officials interpreted typical hard-of-hearing behaviours in negative terms.

Hearing impairment has implications not only for the quality of interaction between prison officials and inmates but for the individual inmate's performance in, and benefit from, programming. The hard-of-hearing inmate may do well in a one-to-one interview in a quiet room but do poorly in group settings, at a parole hearing, in court, or when taken into custody.

The British Columbia study further revealed a lack of assistive communication devices for offenders who are hard of hearing or deaf in correctional institutions. There was an absence of amplified telephones, hearing-aid-compatible receivers,

teletype (TTY/TDD) phones, television closed-captioning decoders, or individual or group listening systems. Perhaps more important is the finding that there was little, if any, staff awareness of the existence of, or the need for, such devices.

Discussion

Given the scope of difficulties in the identification of offenders with hearing impairment and in the provision of care and services to them, it is reasonable to generalize these findings to the Canadian inmate population.

Further, inmates with hearing impairment felt they were misunderstood by officials. The inmates believed officials discriminated against prisoners with partial hearing impairment largely because the officials were unaware of the condition.

The extent of hearing loss among federal offenders is clearly greater than officially recognized thus far. The problems discussed indicate that institutional budgets should take account of the need for hearing aids and

assistive communication devices and that staff should receive training so that they will better understand the behavioural indicators of hearing loss and its implications for rehabilitation. ■

¹ For further information, contact Marilyn Dahl, 1457 Morrison Street, Port Coquitlam, British Columbia V3C 2N6. For general information, contact the Canadian Hard of Hearing Association, the Canadian Association of the Deaf, or the Canadian Deaf and Hard of Hearing Forum; all can be reached at 2435 Holly Lane, Suite 205, Ottawa, Ontario K1V 7P2.

² Health and Welfare Canada, *The Health of Canadians: Report of the Canada Health Survey* (Ottawa: Supply and Services Canada, 1981).

³ These statistics are American but probably valid for Canada. See J.D. Schein, "The Demography of Deafness," *The Deaf Community and the Deaf Population*, eds., P. Higgins and J. Nash (Washington: Gallaudet College, 1982).

⁴ Health and Welfare Canada, *Acquired Hearing Impairment in the Adult* (Ottawa: Supply and Services Canada, 1988).

⁵ J.D. Schein, *Canadians with Impaired Hearing* (Ottawa: Statistics Canada Publications, 1992).

⁶ A.J. Thomas, *Acquired Hearing Loss: Psychological and Psychosocial Implications* (London: Academic Press, 1984).

⁷ M.A. Harvey, "Between Two Worlds: One Psychologist's View of the Hard of Hearing Person's Experience," *Journal of Self Help for Hard of Hearing* (May/June 1985): 4-5.

⁸ A.H. Hastorf, D.J. Schneider and J. Polefka, *Person Perception* (Reading: Addison-Wesley, 1970).

⁹ Survey conducted by the Correctional Service of Canada in the late 1980s (unpublished).

¹⁰ T. Belenchia and T. Crowe, "Prevalence of Speech and Hearing Disorders in a State Penitentiary Population," *Journal of Communication Disorders*, 16, 4 (1983): 279-285.

¹¹ J. Konrad, written communication, 1989.

¹² M. Dahl, *Partial Hearing Impairment and Deviant Behaviour: A Study of Federal Prisons in British Columbia*, Ph.D. thesis, University of British Columbia. (In progress).

¹³ *American Speech and Hearing Association Task Force Report on Speech Pathology and Audiology Service Needs in Prison* (Washington: American Speech and Hearing Association, 1973).

Looking at long-term inmates . . .

Of 557 long-term inmates (serving life sentences, with a parole restriction for 15 years — therefore including many current and future older offenders) selected to fill out a 1990-1991 questionnaire, 495 completed it. These inmates were, on average, 36 years old, and two thirds were being held in maximum security institutions.

Approximately 17% of these offenders had no previous convictions, 71% had no record of violent behaviour during incarceration, 62% had no more than seven years of formal education, and 18% had a history of self-mutilation. Yet, 50% of these inmates had not received a psychological assessment, 71% had not received a psychiatric assessment, and 69% had never taken part in correctional programming.

Forum on Corrections Research, 4, 2 (1992): 25-29.

Rating the accessibility of Ontario's federal institutions to people in wheelchairs

by Tom French¹

In-reach worker, LifeLine, St. Leonard's House

When I was asked to write an article about the accessibility of federal institutions, I immediately thought, "But I don't really have a disability." Although I happen to be in a wheelchair, and have been for six years, I don't consider it a handicap any more.

I spend a lot of time in Ontario's various federal institutions as an in-reach worker, trying to motivate inmates serving life sentences (I am a lifer myself). The following article is my view of Ontario's federal institutions — the perspective of somebody who gets around on four wheels instead of on two feet.

Millhaven Institution

Millhaven Institution has two parking spots reserved for people with disabilities but, unfortunately, they are only the size of normal parking spots. This presents a problem for somebody like myself, who is in a wheelchair but drives everywhere. The lift on my van opens and lowers from the side, so I need an extra four feet on one side of a parking spot to allow me to lower myself on the lift, roll off the lift, wheel to the front of the van, and close the lift.

These designated parking spots are usually taken, but the two times I used them, somebody parked beside me and I was unable to get back into my van. I now park beside the curb at the front entrance of the institution. I can get in and out with my lift, and nobody can park beside me. If the normal width of three parking spots were divided into two spots, persons with disabilities would have the necessary space for effective parking.

Once out of my van, I am also unable to enter the building and sign in where everybody else

does because there is a step at the entrance. I have to go to the side door, and the officer on duty brings the sign-in book out to me. I then proceed to the side gate and roll on into the institution.

These designated parking spots are usually taken, but the two times I used them, somebody parked beside me and I was unable to get back into my van. I now park beside the curb at the front entrance of the institution. I can get in and out with my lift, and nobody can park beside me.

Further, after a recent snowfall, the long walkway and steps leading from the registry office to the institution had been shovelled, but the two ramps that provide access for those in wheelchairs had not. The fellows doing the shovelling were not in wheelchairs, so I'm sure the ramps weren't uppermost in their minds. An officer had to push me up the ramp because the snow was too deep for my tires to get any traction.

I also have to make sure that I go to the bathroom just before leaving for Millhaven, since the washrooms in the institution are not easily accessible to people in wheelchairs. In case of an emergency, I would have to travel the excessive distance to the institution hospital to find an accessible washroom.

Another problem is entering the units to conduct interviews (as I often do) because the interview rooms are not accessible to people in wheelchairs. Mind you, at six-foot-one and more than 400 pounds prior to becoming a wheelchair user, I might always have been prevented from walking into one

of those little rooms because the entrances are so small. Consequently, I have to conduct my interviews in the common room.

Despite these problems, Millhaven is, on the whole, a pretty accessible institution. On a scale of excellent to good to fair, Millhaven would fall into the good category, unlike some of the public buildings I have had to work in.

Bath Institution

Although the visiting area is being remodelled, Bath Institution already has excellent facilities for people with disabilities. There are designated parking spaces of the proper size, a portable aluminum ramp that can be moved to make any entrance accessible, and easily accessible washroom facilities. Overall, Bath Institution rates as excellent on my scale.

Kingston Penitentiary

Kingston Penitentiary recently designated (for the first time) several parking spaces for people with disabilities. The entrance was remodelled, and a ramp was added to give people in wheelchairs access to the back of the penitentiary. The washrooms are accessible, and the interview rooms are large and have wide doorways.

I would also give Kingston Penitentiary an excellent rating. Although Millhaven is a much newer facility, the renovations and redesign of Kingston Penitentiary provide wheelchair accessibility.

Prison for Women

The only way I can access the Prison for Women is through the sallyport: the gates where large vehicles normally enter the grounds. I then have to wheel around the building and go in through a back door. There is a ramp inside that will allow me to go to the gym, but that's as far as I can get within the institution. To the best of my knowledge, none of the washrooms in the Prison for Women are accessible to people in wheelchairs. There are, however, two designated parking spots of the proper size close to the sallyport.

I would still rate the Prison for Women as good, but I hope institutional officials will consult an organization representing persons with disabilities before beginning any renovations.

Collins Bay Institution

The parking at Collins Bay Institution is excellent, and a ramp provides easy access to

the institution. There are also good sized interview rooms and a washroom that is accessible to people in wheelchairs. Getting around the institution is easy — I can even visit the shop areas and the school. Collins Bay Institution rates as excellent on my scale.

Frontenac Institution

Although this institution has come a long way, it is one of the newest institutions, so it is disappointing that full wheelchair accessibility is taking so long. It is only recently that a ramp was put in, and there is now one designated parking spot for people with disabilities.

However, there is still no washroom that is accessible to someone in a wheelchair. Once again, I have to be sure to answer "nature's call" before entering the institution. Frontenac Institution rates only as fair.

Joyceville Institution

This institution really has no proper parking facilities. I usually have to park illegally so nobody can park beside my van. Again, I have to enter through the sallyport because the main entrance has a high step that is big trouble for a wheelchair.

Once inside, someone in a wheelchair will find the interview rooms and a washroom fully accessible. I would rate this institution as good — the parking problem prevents me from giving my top rating.

Pittsburg Institution

Pittsburg is an older institution and, unfortunately, I can gain access only to its visiting area. The main area, where the offices are located, is simply inaccessible to anybody in a wheelchair, as are the washrooms. At least the designated parking area is first rate. However, rating this institution overall is difficult because I cannot get around inside.

Warkworth Institution

Warkworth Institution recently put in four excellent parking spaces for people with

I then have to wheel around the building and go in through a back door. There is a ramp inside that will allow me to go to the gym, but that's as far as I can get within the institution.

disabilities — they are huge, and they are right at the front of the institution. There is also a ramp providing access to the main entrance, and the interview rooms are completely accessible.

However, there are no washrooms accessible to people in wheelchairs. A lot of the main blocks within the institution are also inaccessible to me (or anyone in a wheelchair).

The problem I run into at Warkworth Institution, far more than at any other, is that when I come out of the institution in the afternoon, the parking spaces for people with disabilities are always full. It seems that when the late afternoon shift arrives, some people park in these spots because they are closer to the front door. In all fairness, it is probably difficult to find a parking spot anywhere at that time of day because the staff from two shifts are parked there at the same time.

I don't get really upset when I see this (or at least not for long), because I figure that it is just an example of people not thinking. They see a spot and they park. I don't believe that people are trying to be vindictive or offensive by parking in these spots any more than I believe that people deliberately make washrooms inaccessible. Unless you are in a difficult situation, you don't even think about it.

Another problem at Warkworth is a two-inch curb that you have to wheel over to get from the sidewalk to the parking lot. Most people can just step over it, but it is very awkward to manoeuvre a wheelchair over it — you could very easily tip yourself out of the chair.

I would rate Warkworth Institution as fair, keeping in mind that some of the staff "need

some educating" about their parking habits. It probably wouldn't hurt for all institutions to send the same message to their staff.

Beaver Creek Institution

All of the buildings at Beaver Creek Institution are fully accessible, as are the washrooms and interview areas. The parking is also excellent. Beaver Creek certainly rates as excellent.

Regional Headquarters

Since Regional Headquarters was renovated about three years ago, it has been very accessible. There is an excellent ramp at the main entrance, and an elevator provides easy access to all levels.

What can be done?

I want to make the point that the staff at these institutions have always been very helpful and considerate toward me. I also understand why I cannot get into or around some buildings. Most of them were designed by people who could walk, so it is perhaps only natural that they failed to consider those who can't. The biggest hurdle designers need to overcome to make facilities accessible is the tendency to see things from only one perspective. Something I would like to see done, if the

Correctional Service of Canada is truly concerned about making its institutions more accessible, is to have management and staff try to negotiate their way around the institutions in wheelchairs for an hour or so. To become aware of the obstacles a person in a wheelchair faces daily, you must actually experience being in a wheelchair, even for just a short period of time. ■

Something I would like to see done, if the Correctional Service of Canada is truly concerned about making its institutions more accessible, is to have management and staff try to negotiate their way around the institutions in wheelchairs for an hour or so.

¹ Tom French, In-reach worker, LifeLine, P.O. Box 246, Station A, Kingston, Ontario K7M 5E0.

Issues relevant to correctional staff with disabilities

by Lynn Stewart¹

District Psychologist, Correctional Service of Canada

It is difficult for me to attempt to speak for staff with disabilities, even though I am a wheelchair user. Persons with disabilities are not a homogeneous population. In 1986, Statistics Canada estimated that 7.3% of the Canadian working-age population identify themselves as having some sort of disability. However, many of these people might not appear to be disabled.

Further, even when disabilities are apparent (such as some physical disabilities) a wide variety of problems can restrict, to varying degrees, individuals' productivity, career mobility or their comfort on the job.

The role of the Correctional Service of Canada's National Advisory Committee for Persons with Disabilities is to advise the Commissioner on issues relevant to staff with disabilities. The committee members are also active in regional advisory groups. Last year, the committee held focus groups across Canada to draw out ideas and recommendations for action on priority issues. Three key areas were emphasized: physical barriers and accessibility, awareness training, and recruitment and career development.

Physical barriers and accessibility

The Correctional Service of Canada (as well as other federal departments) is required to comply with the Treasury Board policy on accessibility, which applies to all "real property" owned or leased by the federal government.

In practical terms, "accessible" property (according to this policy) enables persons with disabilities to access federal government services. The standard not only applies to easy physical access for wheelchair users, but also requires accommodation for persons with visual and hearing disabilities.

The Treasury Board's directive allowed five years for the completion of all modifications. Therefore, most federal government establishments should be accessible by March of 1995. Accessibility will be achieved by investing in adaptations to existing buildings when they are renovated and by observing the Barrier-free Design Standard when planning any new construction. Specifics on aspects of building planning and design that accommodate all kinds of disabilities are fully laid out in the standard. Each individual's

experience of disability is unique, so it is clearly not enough to ask a particular staff member if renovations are suitable for his or her needs and then from this generalize the needs of all.

However, close compliance with the standards is monitored only if the costs of renovation exceed \$100,000. This could affect some correctional staff because the construction or renovation costs of parole offices, community correctional centres and agency-sponsored facilities are usually far less than for institutions and may not reach the \$100,000 "minimum."

For example, recent renovations to a community correctional centre had to be reworked after it was discovered that there was limited wheelchair access to the shower and that use of the kitchen was potentially unsafe for residents or staff with disabilities.

Some facilities, on the other hand, have adopted standards beyond the bare minimum set by legislation and policy. The William Head Institution in British Columbia is an excellent example of how barrier-free design can be arrived at through consultation with user

Each individual's experience of disability is unique, so it is clearly not enough to ask a particular staff member if renovations are suitable for his or her needs and then from this generalize the needs of all.

groups and compliance with standards. The National Advisory Committee for Persons with Disabilities is available to assist regional Technical Services departments in ensuring architectural accessibility in accordance with the Treasury Board requirements.

By and large, many offices and facilities in the community could improve access and, thus, the comfort of staff by making minor inexpensive physical changes to their facilities or by coming up with some operational solutions. Physical changes could include adequate parking with conscientious snow removal; doors that are not too heavy to open from wheelchairs; washroom mirrors placed at the appropriate height for anyone in a wheelchair; elevators that don't have buttons too high to reach (from a wheelchair) and do not require special keys that have to be requested from staff, who are not always available; and hallways and corridors free of clutter. Operational solutions could be as simple as relocating conference rooms and services to more accessible floors.

Another way of accommodating employees with disabilities is to provide them with technical aids that will enable them to work to their full potential. Assistive devices are available for temporary use from the Technical Aid Loan Bank (Public Service Commission of Canada). There have not yet been funds allotted for purchasing assistive devices for the permanent use of staff.

Expert advice on accommodating individuals with disabilities is available from the Job Accommodation Network (funded through Employment and Immigration Canada). In some circumstances, employees with disabilities may wish to arrange work assignments so that they can sometimes work at home, or work part-time or on a flexible schedule.

Reference material in an alternative format (such as sound recordings and large-print

material) and Telecommunication Devices for the Deaf (TDDs) should also be available in each region. Attendant services can be made available on a contractual basis for employees who require assistance with daily activities, especially for occasions when duties or training require travel.

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Awareness

The National Sub-Committee on Persons with Disabilities acknowledges that both overt discrimination and more subtle discrimination arising out of lack of awareness can be an obstacle for employees with disabilities. Discrimination can directly obstruct career development when, for example, employees with disabilities are passed over for assignments, training or conferences because their supervisors believe these employees would be too limited by their disabilities or when employees who become disabled are discouraged from returning to work because managers are unaware of how these employees can now fit into the work environment.

Further, a lack of awareness on the part of managers or colleagues who use insensitive or offensive terms, labels or humour may cause distress to employees with disabilities.

Members of job selection boards should be aware of ways to accommodate candidates with disabilities during job competitions. Members should also be familiar with recruitment programs that facilitate the hiring of qualified candidates with disabilities, such as the ACCESS program or Special Measures Program (funded by the Public Service Commission).

In the coming months, the National Advisory Committee for Persons with Disabilities will be working with regional staff colleges to develop an awareness training program on issues related to disability. This program could then be delivered in conjunction with other employment equity awareness training. Training

programs such as these teach participants to value diversity by providing a fair recruitment process and a supportive environment in the workplace.

Recruitment and career development

The proportion of staff in the Correctional Service of Canada who identify themselves as having a disability increased from 0.2% in 1984–1985 to 2.0% in 1992. Nevertheless, the numbers still fail to match the proportion of persons with disabilities in Canadian society (estimated at 7.3%).

Employment equity programs and programs that successfully integrate new recruits into the Service (such as the ACCESS program mentioned earlier) have helped increase the number of staff members with disabilities. Also, a recent Public Service Commission report outlines practical suggestions for recruiting qualified staff with disabilities.² Once recruited, however, employees with disabilities do not seem to be promoted as quickly as employees without disabilities. Certainly, as a group, staff with disabilities are under-represented in high-level decision-making positions.³ However, programs such as a mentoring system and inter- and intra-departmental exchanges that provide developmental opportunities have been successfully implemented in other federal departments.

The ultimate goal

When one employee with disabilities was asked what the ideal work environment would be, he described a workplace where his performance is not limited by physical barriers, where co-workers with disabilities are not uncommon and where colleagues without disabilities are comfortable with his limitations and yet acknowledge his contribution.

The Advisory Committee recognizes that policies of fiscal restraint tend to restrict employment equity initiatives. However, given the core values that the Correctional Service of Canada upholds, the goals of fair representation of persons with disabilities in the workforce and the provision of a reasonable, comfortable and supportive environment for all employees are defensible under any social and economic conditions. ■

¹ Dr. Lynn Stewart, District Psychologist, Correctional Service of Canada, Main Floor, 330 Keele Street, Toronto, Ontario M6P 2K7.

² *Creative Recruitment Practices for Persons with Disabilities* (Ottawa: Public Service Commission, June 1992).

³ Consultation Group on Employment Equity for Persons with Disabilities, *Looking Beyond What You See: Report to the Deputy Ministers' Advisory Committee on Employment Equity* (Ottawa: April 1992).

The Canadian Clearinghouse on Disability Issues is a federal government department that provides information on various groups that work with people with disabilities or special needs and on proper terminology and phrasing in the context of disability.

Canadian Clearinghouse on Disability Issues

Human Resources Development

25 Eddy Street, Suite 100

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A centralized approach to managing special needs offenders

by *Judy Briscoe*¹

*Chair, American Correctional Association Task Force on Offenders with Special Needs;
Director of Prevention, Texas Youth Commission*

One approach to the better management of special needs offenders is the use of a central agency to initiate change throughout the various levels and components of a correctional system. The Texas legislature responded to the unique challenges presented by special needs offenders (in particular, those with mental health disabilities) by creating a central council whose work affects all components of the state's correctional system. This article looks at how that council was formed and how it is attempting to carry out its leadership role in programming for special needs offenders.

How was the council created?

More and more of today's offenders have at least one of the following conditions:

- developmental disability
- emotional disturbance
- mental health disability
- terminal illness
- physical disability
- advanced age

Obviously, it can be difficult to program for inmates with these special needs.

For this reason, the Texas legislature initiated a study on offenders with mental health and developmental disabilities. The study eventually identified a large number of these offenders within the criminal justice system and recommended increased cooperation and collaboration among mental health, law enforcement and correctional agencies.

In 1987, the legislature responded to this recommendation by setting aside funds and

drafting legislation to create the Texas Council on Offenders with Mental Impairments. The council has since evolved into a centralized body that responds, primarily through innovative programming, to an increasing variety of offenders' special needs.

The council is made up of nine appointed members with expertise in managing special needs offenders, plus representatives from various state agencies — for example, the Commission on Alcohol and Drug Abuse, the Department of Mental Health and Mental Retardation, and the Department on Aging² — and from advocacy groups involved with offenders with mental health disabilities.

The council is unique in that every state agency and advocacy group that has responsibility for, or interest in, offenders with mental health disabilities is a legislatively mandated member. Therefore, cooperation and collaboration are guaranteed, at least to some extent.

The Texas legislature also defined the council's function in dealing with these special needs offenders. The Texas Council on Offenders with Mental Impairments identifies offenders with mental health and developmental disabilities and the services these offenders need. The council further develops community-based alternatives to incarceration to deliver these services, and it

develops an overall state plan for meeting the treatment, rehabilitative and educational needs of offenders with mental health disabilities.

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Project CHANCE

The central council established its first pilot project in 1988. Project CHANCE, operated by the Association for Retarded Citizens, is a diversion program providing community-based and cost-effective alternatives to incarceration for offenders with some level of mental retardation or developmental disability (who have not committed aggravated offences).

Offenders remain in the program until they meet certain goals or are discharged from the criminal justice system. Case-management services are provided for 100 offenders at a time, and approximately 175 offenders go through the program in a typical year.

In a nutshell, Project CHANCE offers the offender the opportunity to obtain needed life skills while remaining in the community.

Intensive case management helps participants identify needs and establish goals. Further, the development of an individual justice plan emphasizes community support services that can help maximize appropriate social behaviour and enhance independent living skills.

Project CHANCE, therefore, provides a vital and consistent link between the criminal justice and social service systems.

In the 1993 fiscal year, 180 offenders participated in Project CHANCE, and most of these participants either successfully completed the program, are still involved in it, or were discharged from the criminal justice system.

Project CHANCE's success is evaluated primarily on recidivism, but participation in Project CHANCE enhanced the lives of virtually all participants, primarily because correctional programs and services are adapted (through the program) to suit the offenders' needs.

Project ACTION

Project ACTION, also an intensive case-management program, was the council's second pilot project. Like Project CHANCE, Project ACTION is designed to divert (non-aggravated) offenders with general mental health disabilities away from the criminal justice system and reduce their rate of recidivism. However, Project ACTION places a greater emphasis on programming.

Project ACTION can serve no more than 120 offenders at any given time, but it also provides on-going technical assistance to other offenders or agencies. Thus far, almost 400 offenders have been involved in Project ACTION. The maximum length of stay in the program for each offender is two years.

However, if the offender is stable for a significant period, case managers are encouraged to discharge them before the end of the two years. Project ACTION evaluates its success partially on the basis of recidivism rates and reports quarterly to the council. Recidivism rates are measured by arrests, new convictions and (or) incarcerations, as well as by noncompliance with probation and parole conditions.

Program success is also measured by the offenders' subsequent ability to obtain a job, secure income, reestablish social skills, maintain a stable home, and comply with medication requirements.

A 1993 study undertaken by the Texas Criminal Justice Policy Council reviewed the pre- and post-program arrest rates of both Project CHANCE and Project ACTION participants. The study revealed a 63% reduction in arrest rates — both projects, therefore, appear to be working.

Expansion...

Because the two pilot projects not only kept offenders with special needs in the community

A 1993 study undertaken by the Texas Criminal Justice Policy Council reviewed the pre- and post-program arrest rates of both Project CHANCE and Project ACTION participants. The study revealed a 63% reduction in arrest rates — both projects, therefore, appear to be working.

but also attracted federal funding for eligible offenders, the Texas legislature broadened the council's responsibilities. To maximize entitlement to federal funding, legislative changes were made allowing for the early release of special needs offenders in three new categories: the elderly, the terminally ill, and persons with physical disabilities.

The council then set up intensive case-management and placement services for inmates eligible for this "special needs parole." The target population for the special needs parole program is inmates who have not been convicted of an aggravated offence, who are elderly, significantly or terminally ill, or physically disabled, and whose medical condition qualifies them for a nursing home, hospice or other similar care.

Once released from incarceration, the special needs parolee remains in the program for life or until he or she is reincarcerated for a new offence. To date, 50 inmates have been approved for special needs parole.

The intent of this program is to reduce the state's correctional health care costs — federal medical funding reimburses nursing homes or other givers of health care services. Further, 80% of the special needs parolees have been placed in their family homes. Since there are no residential fees, state costs are limited to case management and the state's share of Medicaid-reimbursed medications or treatments.

Discussion

A centralized approach to managing special needs offenders allows correctional systems to make effective programs that are already in place accessible and relevant to this previously excluded group.

Independence and access to funding further allow the central body to move outside accepted treatment categories and to develop programs

and policies that are more relevant and helpful to special needs offenders.

As well, cooperation among agencies has been significant in Project CHANCE, Project ACTION and the special needs parole program. For example, the Pardons and Paroles Division of the Department of Justice, the Department of Mental Health and Mental Retardation, the Social Security Administration, and private nursing homes (among others) all collaborated in the special needs parole program.³

Further, although the pilot projects have been a focal point, there has been a subtle, but just as significant, increased general cooperation among agencies and advocacy groups.

For example, the Texas Council on Offenders with Mental Impairments recently helped prepare the training curriculum for law enforcement officers. This training increases participants' awareness of mental health disability and shows them how to respond appropriately. Some sheriffs' departments have even hired specialized mental health deputies.

The Texas legislature also recently passed legislation requiring the criminal justice and mental health systems to strategically plan and jointly develop funding requests for special needs offenders. At the same

time, the Pardons and Paroles and the Community Justice Assistance divisions of the Department of Criminal Justice have each created specialized caseloads of offenders with special needs.

These are just some of the very positive advancements and working relationships that have developed through the work of the central council.

However, the following statement, made 176 years ago, still rings true today:

But the insane criminal has nowhere any home, no age or nation has provided a place for them. They are everywhere unwelcome

Independence and access to funding further allow the central body to move outside accepted treatment categories and to develop programs and policies that are more relevant and helpful to special needs offenders.

and objectionable. The prisons thrust them out, the hospitals are unwilling to receive them, the law will not let them stay at home and the public will not permit them to go abroad. And yet, humanity and justice, the sense of common danger, and a tender regard for a deeply degraded individual all agree that something should be done — that some plan must be devised, different from and

better than any that has yet been tried, by which they may be properly cared for, by which their malady may be healed, and their criminal propensity overcome.⁴

We are still searching for answers. The above statement, although meant to describe offenders with mental health disabilities, could apply today to any offender with special needs. ■

¹ This article is just a brief overview. For additional information, contact Judy Briscoe, Director of Prevention, Texas Youth Commission, P.O. Box 4260, 4900 North Lamar Blvd., Austin, Texas 78765; or contact Dee Kifowit, Director, Texas Council on Offenders with Mental Impairments, 8610 Shoal Creek Blvd., Austin, Texas 78759.

² The following is the complete list of organizations represented on the council: Commission on Alcohol and Drug Abuse; Council of Community Mental Health and Mental Retardation Centers; Department of Mental Health and Mental Retardation; Department of Criminal Justice (Institutional Division, Pardons and Paroles Division, and Community Justice Assistance Division); Education Agency;

Commission on Jail Standards; Criminal Justice Policy Council; Rehabilitation Commission; Association for Retarded Citizens; Department of Human Services; Parents Association for the Retarded; Mental Health Association; Youth Commission; Juvenile Probation Commission; Alliance for the Mentally Ill; Commission on Law Enforcement Officer Standards and Education; Planning Council on Developmental Disabilities; and Department on Aging.

³ The Veterans Administration, AIDS Foundation, United States Probation, Harris County Jail System and Harris County Court System also collaborated in the program.

⁴ E. Jarvis, *American Journal of Insanity*, 13, 3 (1817).

How can our correctional systems and institutions respond to the unique and varied needs of special needs offenders?

The bad news is that many times the response will have to be fuelled, at least in part, by money. The good news is that more often than not, ingenuity, imagination and professionalism will go further toward addressing these challenges than money. At any rate, the single most critical factor will be the ability of correctional professionals to pool their knowledge and experience. After all, the problems of accommodation and accessibility are not new — they are just arising more frequently.

Adapted from Herbert A. Rosefield, "Issues to Consider in Meeting Handicapped Offenders' Needs," *Corrections Today*, 54, 7 (1992): 110–114.

Training staff to work with special needs offenders

Correctional programs, services and supervision must be designed or modified to fit the diverse needs of special needs offenders. Staff will need to be knowledgeable, sensitive, creative and flexible in finding new ways to manage special needs offenders.

In many cases, this means correctional professionals trained and educated to handle the general population of inmates will be forced to assume new responsibilities.

An examination of a training program recently conducted by the South Carolina Department of Corrections demonstrates how an agency can prepare staff to work with special needs offenders. In this case, the training focused on working with older offenders and offenders with significant physical disabilities.

Program planning

An evaluation conducted by the health services staff of the South Carolina Department of Corrections identified a need to train staff to better manage special needs offenders. The central office designed a training program after consulting institutional administrators, program specialists, community service providers and representatives from advocacy groups.

Staff Training Program Basics

- The training workshops were tailored to fit each institution's particular needs. Specific examples used in exercises were therefore based on actual problems encountered by special needs inmates in the institutions.
- The warden and other upper-level administrative and support staff participated in the training. The chief medical, security, food service, industries, classification and social work officers, as well as all staff members involved in managing special needs offenders, were encouraged to attend.
- The wardens decided on the training location (two wardens chose to hold the workshop at their institution, and one chose a correctional training academy).
- Thirty to thirty-five staff from each institution participated in the five-hour workshop, and the recommendations arising out of the session were recorded. Staff will now use this report to improve the management of the special needs population in their institution.

To ensure the training was tailored to each institution's specific needs, the trainers then met with the warden and key staff from each of three correctional institutions that would be offering the training to their staff. The existing training program was then modified to meet their needs (see the table).

Warm-up exercise

The training workshop begins with a warm-up exercise. Following a review of the workshop objectives, participants are paired up and spend a few minutes talking with their partners about some skill or experience they have that is relevant to the management of special needs offenders. Participants then introduce their partners to the group. Pairs should be chosen beforehand to guarantee that everyone has a partner with a different job.

This warm-up exercise has several benefits. First, even though staff work in the same facility, they sometimes do not know each other well. This exercise helps to break the ice. Second, it allows staff to identify previously unrecognized skills they acquired from former jobs, family experiences and elsewhere — skills that might help them manage special needs offenders.

Inmate comparison

Participants are then asked to describe characteristics of a typical inmate, an older inmate, and an inmate with a disability. As characteristics are suggested, they are placed in three separate groups (typical, older, inmate with a disability) and are discussed. When the three lists are complete, the trainers then compare characteristics across the different groups.

During the discussion, participants explore myths and commonly held stereotypes about special needs offenders. For example, participants almost always see older people as frail, dependent and inflexible. The trainers then ask the group to think about older people they know, such as parents,

grandparents and friends, and about how they function. This helps participants to understand the range of differences among older people and among those with disabilities.

As well, this discussion provides an opportunity to begin addressing two of the major problems faced by staff in working with special needs offenders.

First, staff often have personal misgivings about growing older or having a disability. Many participants have fears and prejudices about these conditions and need to resolve their own feelings before they can work effectively with special needs offenders.

Second, with limited resources available in many communities, staff with family members or friends who cannot get badly needed services sometimes resent either offenders receiving these services or offenders receiving higher quality services than offered outside the institution.

The trainers simply emphasize that while these feelings are natural and normal, correctional staff are responsible for caring for people under their jurisdiction, not for people in the community.

Policy explanation

Next, a senior correctional official goes over the legal mandates for service provision and the agency's policies and practices relevant to special needs offenders.

In South Carolina, most older and disabled inmates are "mainstreamed" into the general population. Inmates with two or more conditions impairing their functioning are placed in a special needs unit. Medical staff are responsible for making this assessment.

Following this review, representatives from various state agencies explain their roles in working with both the correctional agency and offenders and then answer participants' questions.

Sensory-deprivation exercise

The sensory-deprivation exercise is the longest part of the workshop and the key component in sensitizing participants to some of the problems faced by special needs offenders.

First, participants are given latex gloves and then asked to do simple tasks such as light a match, pick up a penny or tie their shoelaces.

Participants are then paired with their previous partner and given walkers, wheelchairs, crutches, arm slings, blindfolds, and fogged or scratched glasses. After everyone has at least one simulated disability, they receive cotton balls to place in their ears to simulate hearing loss.

The pairs are then sent to eat lunch while maintaining their disability. (Additional sensory deprivation, including loss of the senses of taste and smell, can be simulated at lunch by grinding or puréeing bland food and using nose plugs).

After lunch, each pair is assigned a common institutional task to complete, such as being sent to the infirmary to bring back a signed "sick-slip." By previous arrangement, the groups encounter difficulties — the infirmary closes as they reach the window, or the person needed to sign the form is busy or away from the institution.

Once the first set of tasks is complete, the pair exchange their simulated disabilities. Those who pushed wheelchairs now ride in them; those who were blindfolded now lead their blindfolded partner. The teams then complete another set of assignments.

After the exercise, participants are asked to describe their feelings and observations. Feelings of anger, frustration, fear and fatigue are common. Many recognize barriers they had been previously unaware of and comment on the time and planning it took to complete a simple task. Long distances between buildings, a lack of comfortable

The trainers then ask the group to think about older people they know, such as parents, grandparents and friends, and about how they function. This helps participants to understand the range of differences among older people and among those with disabilities.

places to rest, weather conditions, and questions about who to trust suddenly become important. Participants tend to express appreciation for the helpful people they encountered and amazement at the callous, insensitive nature of others.

During this discussion, the trainers suggest strategies for addressing some of the problems the participants encountered and talk about the appropriate etiquette for helping people with special needs. They also demonstrate the proper ways of talking to inmates who are hard of hearing or are wheelchair users, of helping inmates with vision problems, of securing wheelchair users in vans for safe transportation, and other strategies for working with special needs offenders.

Specific issue session

The final exercise is designed to allow participants to identify issues or problems in working with special needs offenders in **their** facilities and to begin forming strategies for managing these offenders more effectively.

Participants are divided into small groups of six or seven and are asked to list problems they experienced during the sensory-deprivation exercise. Each group then presents its list, and there is open-ended discussion of potential solutions. Most of the problems identified can generally be resolved without investing additional resources; they simply require increased communication, sensitivity and flexibility.

This part of the workshop is recorded. A report is prepared for distribution to the participants, to be used as a guide for future staff management of their institution's special needs offenders. Wardens are also encouraged to resolve the problems and issues identified during the workshop.

After the exercise, participants are asked to describe their feelings and observations. Feelings of anger, frustration, fear and fatigue are common. Many recognize barriers they had been previously unaware of and comment on the time and planning it took to complete a simple task.

Wrap-up and evaluation

In a brief wrap-up, trainers review the workshop objectives, summarize the day's activities and answer questions. Participants and trainers then talk over unresolved issues. Finally, everyone completes a detailed evaluation of the training program and makes suggestions for future sessions.

The program is generally well received. It is designed to build on existing knowledge and skills and to increase sensitivity to the needs of older inmates and those with disabilities. The discussions before, during and after this training indicate that to manage these offenders effectively, institutions need to modify both physical structures and the routine practices and procedures used within the institution. ■

Adapted from J. Morton, "Training Staff to Work with Elderly and Disabled Inmates," *Corrections Today*, 55, 1 (1993): 42-47.

Coming up in *Forum on Corrections Research*...

The theme of the next issue of FORUM is "Enhancing Community Corrections."

Incarceration alternatives: A special unit for elderly offenders and offenders with disabilities

The South Carolina Department of Corrections has attempted to address the increasing numbers and unique problems of special needs offenders by housing elderly offenders and offenders with disabilities in a specialized unit. Specialized units or institutions are one means of addressing the special needs of an increasing number of offenders.

The department has been aware of older offenders' increasing numbers and special needs since 1970, when it opened a minimum-security institution designed to be an "old folks' home" for male inmates. Some male inmates with physical disabilities also came to be housed in this institution. With the number of elderly inmates growing, this population was moved to the State Park Correctional Center in 1983.

The State Park Correctional Center is a minimum-security facility designed to house more than 400 male and female inmates of all ages. It currently operates a specialized unit for geriatric offenders and offenders with disabilities within the facility.

Special needs offenders...

The South Carolina Department of Corrections has defined disability to include offenders with physical or intellectual impairment(s) that substantially limit their ability to function independently in the general prison population. According to the definition, inmates classified as having a disability must suffer from at least two of the following limitations:

- inability to provide self-care
- inability to provide self-direction
- vision, hearing or speech problems
- limited capacity for learning
- social and emotional maladjustment
- limited mobility

- chronic medical problems
- acute medical problems
- a need for close medical supervision

However, inmates with disabilities continue as part of the mainstream population as long as they can function in that environment. They are transferred to the special unit only when they can no longer cope with the normal prison environment.

As well, inmates with disabilities who present greater security concerns can be housed in a special unit in a medium/maximum-security facility.

Programming

Although housing men with women and young inmates with old can present some problems, it also provides a more normal environment. Staff respect residents' dignity and treat them with respect, referring to them as "Mr." or "Ms." Inmates respond in the same manner.

The atmosphere is low key and informal, but there is a definite structure or routine to daily life. Inmates are required to get up and remain dressed throughout the day, to care for their rooms, and to go to meals, sick call and activities.

Individualized programming is vital because the offenders have diverse

interests and abilities. The administrative staff has to be creative in assigning jobs, and often those jobs must be adapted to meet certain inmates' limitations.

However, all inmates work within their medical limitations. Inmates who are 65 or older can retire, but work credits (a way to reduce an offender's sentence) can be earned only by those who have jobs.

Individualized programming is vital because the offenders have diverse interests and abilities. The administrative staff has to be creative in assigning jobs, and often those jobs must be adapted to meet certain inmates' limitations.

Instead of traditional inmate vocational activities, leisure activities that can later be translated into a cottage industry, part-time work or a recreational outlet are emphasized. The inmates are involved in gardening, woodworking, basketry and other crafts.

Medical care

Medical care is provided 24 hours a day and is a very costly component of the specialized unit. The inmates have many health problems requiring medical appointments, hospitalization, medication and therapy.

Death and loss must be dealt with on a daily basis. Aging and the resulting medical difficulties serve as constant reminders of the frailty of life, and the inmates' loss of freedom presents a special challenge in dealing with death and illness.

Reintegration into the community

Release planning is extremely difficult, since many of the offenders are incapable of holding full-time jobs, which is often a stipulation of parole or probation. Staff are assigned to assist special needs offenders in working toward release and try to modify release criteria to meet the offenders' limitations.

Reintegration into the community is further complicated because elderly offenders often have no family or have lost contact with them and, as a result, have no place to live. They also often have little or no income, since they have not been able to pay into either Social Security or a retirement fund. ■

Adapted from J. Anderson and R.D. McGehee, "South Carolina Strives to Treat Elderly and Disabled Offenders," *Corrections Today*, 53, 5 (1991): 124-127.

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Designing for offenders with disabilities: An architectural perspective

by Jennifer Stykes

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Correctional institutions have evolved in response to the social need to remove certain individuals from the community and restrict their freedom. Yet, from a humane perspective, a major problem with these institutions is that their architecture has (not without reason) evolved around the requirements of custodial care, instead of focusing on inmate characteristics and needs.

If institutional services are not easily accessible to an individual with some type of physical disability, then progress toward rehabilitation of that individual will be restricted. It is, therefore, crucial that correctional institutions be built in such a way that disabled offenders can receive the maximum benefit of prison services. Obviously, the correctional services offered have to be accessible before all inmates can use them for personal improvement.

Disability, accessibility and building codes

Many of us have the ability to adapt to our environments. However, persons with physical disabilities may have a limited ability to adapt to architectural design. Therefore, Canada has laws specifying design criteria to ensure accessibility to new and existing facilities.

The degree to which a person with a physical disability can function independently in an environment determines accessibility. It is now federal government policy that all new and existing facilities are to be made accessible.²

The *Canadian Human Rights Act* defines physical disability as

A physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and... includes epilepsy, any degree of paralysis, amputation,

lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment.³

The degree to which a person with a physical disability can function independently in an environment determines accessibility. It is now federal government policy that all new and existing facilities are to be made accessible.

This definition must be taken into account by architects, whose challenge is to resolve the design problems arising from the inability of persons with disabilities to participate fully in a so-called normal life (or in this case, normal prison life). The issues of accessibility can become rather complex. Many life situations must be anticipated and provided for through the design of the space in which they occur.

Apart from questions concerning accessibility, most design problems are fairly common. Most building types have evolved over time, adapting to suit the activities they house. This allows many new buildings to be built from a basic plan without having to repeatedly research basic problems.⁴ Unfortunately, this ready availability of plans does not always promote creative solutions to "new" problems, such as the need for full accessibility.

Further, the codes and legislation governing architectural accessibility (such as the National Building Code of Canada, various provincial building codes, and the *Canadian Human Rights Act*) have been applied as if they are state-of-the-art standards for building design, when they were in fact intended simply to provide a minimum legal requirement. For example, the codes primarily address the problems of people in wheelchairs who have good use of their arms.⁵

Fortunately (in some ways), the building codes are sometimes relatively vague about some

specifications for existing buildings. This necessitates, and provides room for, discretion on the part of designers in obtaining adequate accessibility through minimal building modification (for example, in the addition of wider doors and elevators — although new ramps must strictly conform to the code).⁶ This does not devalue the problem of accessibility, but sometimes leeway in the application of building codes makes finding solutions to many problems a little bit easier and faster.

Some typical problems

Far more issues arise in the design of a correctional institution than can be described in this short article, but the following examples illustrate the complexity of the issues.

Consider, for instance, that the aims of accessibility and security requirements may occasionally conflict. Grills, grates and manhole covers can impede mobility for persons with disabilities⁷ and should, therefore, not be located in walkways or courtyards where heavy traffic is routed. However, moving these impediments may reduce their visibility, so security (such as locking mechanisms) must then be provided for these potential escape routes. As well, “open” stairs that have no risers at the back are marvellous for security but hazardous for the blind, who may misjudge a step at any time.

Space allocation is also an issue. Since persons with physical disabilities may need more room to move, their cells should be larger than average. There may then be psychological issues to consider: correctional officers must be prepared for the friction among inmates that jealousy over additional space could cause.

The everyday use of design features is also critical. The fittings around toilets must be very strong, easy to grip, and installed securely enough to hold a person’s weight, if need be. Other fixtures, such as sinks, “hanger bars” in

closets and perhaps even beds, may need modification if they are too high to be accessible.

The conflict between accessibility and security is not the only conflict that might arise when a building is being redesigned for ease of access. Different persons with disabilities may require conflicting designs. For example, a person who is blind requires an environment that reflects sound easily, while a person who is hard of hearing needs a “dead sound” area to muffle confusing background noise.

Finding solutions

Today’s improvements are tomorrow’s basic features. Designers should, therefore, see the task of modifying existing institutions as an opportunity to find creative solutions to the sometimes conflicting demands of accessibility and security. Most importantly, whether modifying an existing institution or creating a new one, the designer has an opportunity to genuinely improve the building so that it is more comfortable for everyone.⁸

Design issues can be clarified through an institutional statement of needs, functions, aims, policy and methodology. A design team, consisting of architects, correctional staff, and both able-bodied inmates and inmates with disabilities could draft this statement. With a clear set of goals, designers are better able to create a functional, safe and convenient environment that facilitates rehabilitation.

Special features required for accessibility should be viewed not as concessions to a minority population, but as useful design features that help satisfy the overall needs of the group.

Offender participation in daily life is a primary correctional goal, and if we can help achieve this by ensuring that **all** offenders are included in as much of prison life as possible, then everyone will benefit. ■

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² G. Haber and T.O. Blank, eds., *Building Design for Handicapped and Aged Persons* (Tall Buildings and Environment Series) (New York: McGraw-Hill, 1992): 50.

³ Haber and Blank, *Building Design for Handicapped and Aged Persons*: 51.

⁴ K. Bayes, *Designing for the Handicapped* (London: George Godwin Ltd., 1971): 12.

⁵ Haber and Blank, *Building Design for Handicapped and Aged Persons*: 52.

⁶ Public Works Canada, *Barrier-free Design: Access to and Use of Buildings by Physically Disabled People* (Ottawa: Public Relations and Information Services, 1985): 3.

⁷ R. Sorensen, *Design for Accessibility* (New York: McGraw-Hill, 1979): 20.

⁸ J. Hefferlin and M. Redden, *New Directions for Higher Education: Assuring Access for the Handicapped* (San Francisco: Jossey-Bass Inc., 1979): 62.

The legal context of accessibility issues

by Carolyn Kobernick¹

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In 1989, the federal government issued a Treasury Board policy on "real property accessibility." The objective was to ensure that persons with disabilities could gain access to and use property owned or leased by the federal government.

The policy clearly states that the provisions of the Canadian Charter of Rights and Freedoms² and the Canadian Human Rights Act³ make it a discriminatory practice for federal organizations to deny persons with disabilities access to property owned or leased by the federal government.

This policy, along with relevant human rights legislation and the Corrections and Conditional Release Act, set out the internal and legal accessibility requirements that the Correctional Service of Canada must meet in managing its special needs offenders.

Application of the Treasury Board policy

Government departments may exercise some discretion in conforming to the minimum accessibility requirements of the Treasury Board policy on "real property accessibility," but they must not violate the general intent of the policy — making federal government property accessible to all people. The term "accessible" refers to easy physical access for persons with disabilities affecting mobility, particularly individuals who use wheelchairs. The term also covers access requirements for people with visual or hearing disabilities.

To that end, the Correctional Service of Canada developed a set of accessibility guidelines for correctional facilities.⁴ March 1995 is the target date for full implementation of the policy.

In general, the Correctional Service of Canada attempts to provide equality of access so that inmates with disabilities are adequately housed at their correct security level, in the region and, as much as possible, in an institution that provides access to the programs and services deemed necessary to their rehabilitation and wellbeing.

The guidelines stipulate that all minimum- and medium-security institutions and all special-purpose facilities (such as protective custody and psychiatric centres) must eventually have several accessible beds and cells, as well as program areas to accommodate inmates with disabilities.

Legal standards

Each region is further required to designate at least one institution at each security level as an institution accessible to inmates with disabilities. However, the designation of only specific institutions as fully accessible may not protect the Service from being sued by an inmate alleging discrimination under section 15 of the *Canadian Charter of Rights and Freedoms*. Section 15 guarantees "equality before and under the law... without discrimination." An inmate with a disability could argue that discrimination occurred if he or she was denied a place at an institution with more appropriate programming (for his or her needs) or at an institution closer to his or her home community because that institution was not fully accessible.

Government departments may exercise some discretion in conforming to the minimum accessibility requirements of the Treasury Board policy on "real property accessibility," but they must not violate the general intent of the policy — making federal government property accessible to all people.

Further, section 28 of the *Corrections and Conditional Release Act* requires the Service to take all reasonable steps to place an inmate in an institution that provides the least restrictive environment for that offender, taking into account security requirements; accessibility to the inmate's home community; a compatible cultural and linguistic environment; and the availability of appropriate programs and services.

An inability to appropriately place (according to these various guidelines) an inmate with a disability may put the Correctional Service of Canada in breach of the Treasury Board policy, Correctional Service of Canada guidelines, the *Canadian Charter of Rights and Freedoms* and the *Corrections and Conditional Release Act*, unless the Service can demonstrate that it took all reasonable steps to accommodate the inmate.

Inmate challenges

Very few inmates with disabilities have launched legal action thus far. The courts have, therefore, not yet addressed the responsibilities of the Correctional Service of Canada with respect to inmates with disabilities. The following will illustrate the types of situations that led some inmates with disabilities to take or consider taking action through the legal system.

In *Baird v. The Queen*,⁵ an inmate at Collins Bay Institution filed a sentence appeal, relying on his disability and the Correctional Service of Canada's alleged inability to accommodate him as grounds for a reduction in his sentence. Baird (who is confined to a wheelchair) was convicted of second-degree murder in 1988 and sentenced to life imprisonment with no eligibility for parole for 14 years.

However, the Service submitted evidence demonstrating that Baird had been provided access to the same services and programs offered to the other inmates at the institution, and the appeal was dismissed with no comment by the court on the Service's responsibilities.

In *Harris v. The Queen*,⁶ an inmate at Warkworth Institution filed an action seeking damages for alleged discrimination contrary to section 15 of the *Canadian Charter of Rights and Freedoms*, as well as damages for cruel and unusual punishment under section 12 of the *Charter*.⁷ Harris is a double amputee and claims that the facilities and services at the institution are inadequate for persons with disabilities. The matter has not yet proceeded past the early stages of litigation.

In *Ratte v. The Warden of Kingston Penitentiary*,⁸ the Ontario Court of Justice (General Division) determined that the continued detention in isolation of an HIV-positive inmate who was volatile, uncooperative and dangerous to staff did not constitute discrimination based on physical disability contrary to section 15 of the *Charter*.

The court held that Ratte had been isolated because he was a potential threat to the discipline and good order of the institution — he had threatened to bite and stab staff members — and not because he was HIV positive.

Finally, the Correctional Service of Canada's Legal Services section recently received correspondence from the lawyer of an inmate suffering from a condition known as multi-chemical sensitivity. The lawyer alleged that his client was being discriminated against, even though the Service had made attempts to accommodate the

inmate's disability within the institution, including a commitment to construct a specially vented cell. It remains to be seen whether the inmate will pursue legal action.

However, the issue of multi-chemical sensitivity was recently analyzed in *McCleary v. The Ministry of Health*.⁹ McCleary lost her appeal to have the Ontario Ministry of Health pay medical costs she incurred in the United States without prior approval of the ministry. More importantly, the court ruled that treatment for multi-chemical sensitivity is not a recognized medical service in Ontario. This distinction could potentially impact on any legal action taken by an offender with this condition.

However, the Service submitted evidence demonstrating that Baird had been provided access to the same services and programs offered to the other inmates at the institution, and the appeal was dismissed with no comment by the court on the Service's responsibilities.

Responsibilities

The responsibilities of the Correctional Service of Canada to inmates with disabilities have been clearly articulated in the Treasury Board policy, the Service guidelines and the relevant federal legislation. The goal of the Service is, therefore, to provide inmates with disabilities, to the extent possible, the same access to

institutions and programs available to inmates without disabilities.

The Correctional Service of Canada seems to be meeting those responsibilities, if the limited litigation in the area is an accurate reflection of the level of dissatisfaction among federal inmates with disabilities. ■

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² Section 15(1) of the *Canadian Charter of Rights and Freedoms* states that "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

³ Section 3(1) of the *Canadian Human Rights Act* states that "For all purposes of this Act, race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted are prohibited grounds of discrimination."

⁴ *Guidelines for Implementing Treasury Board's Policy on Accessibility in Correctional Service of Canada Owned and Leased Correctional Facilities* (unpublished).

⁵ Alberta Court of Appeal, No. 900 3 0807 A.

⁶ Federal Court, No. T-1273-92.

⁷ Section 12 of the *Canadian Charter of Rights and Freedoms* states that "Everyone has the right not to be subjected to any cruel and unusual treatment or punishment."

⁸ Ontario Court of Justice (General Division), court file No. 6729.

⁹ Ontario Divisional Court, No. 455/92.

Making Correctional Service of Canada facilities accessible

by *Habib Chaudhry*

Senior Director, Construction Policy and Services, Correctional Service of Canada

The Construction Policy and Services Branch is responsible for all planning, design and construction of all Correctional Service of Canada facilities, as well as for subsequent retrofit or redevelopment. The branch strictly complies with the Treasury Board policy on accessibility and has developed Service guidelines on accessibility to help implement this policy.

We continually evaluate every Correctional Service of Canada facility to ensure that the guidelines on accessibility are met. Small changes, such as modifying washrooms, are made as quickly as possible; major changes, such as installing elevators, are made as part of regularly scheduled renovations.

Fortunately, many of the older facilities (which are usually the furthest from meeting accessibility

guidelines) are undergoing major retrofits. All recently built facilities meet federal accessibility guidelines. The goal of the Construction Policy and Services Branch is to have most Correctional Service of Canada facilities meet the accessibility guidelines by the Treasury Board's deadline of March 1995.

Accessibility is very difficult to actually measure, so the accessibility of our institutions, or areas within them, may be debated. But, there are clearly accessible areas in every institution — it is merely a question of degree.

I am very comfortable with our progress in making Correctional Service of Canada facilities fully accessible, and I am proud that we have been able to coordinate these changes with regularly scheduled renovations, keeping costs down.

Improving access to the criminal justice system through legislative change

by Carole Théberge¹

Counsel, Criminal Law Policy Section, Department of Justice

The Department of Justice is currently reviewing the Criminal Code and the Canada Evidence Act to improve access for persons with disabilities to the criminal justice system.

To this end, the department released a consultation paper in May 1993, discussing areas where improvements to the legislation could be made. This article briefly highlights some of these proposals for legislative reform.

The department has benefited from the input of many groups representing persons with disabilities, particularly the Canadian Disability Rights Council. The council is a community-based umbrella organization to which more than 25 community groups belong. Designed by persons with disabilities to advance their equality rights, the council is coordinating the response to this review of federal legislation from persons with disabilities across Canada.

However, the Department of Justice is seeking further views from persons with disabilities and from other involved groups (such as police, defence lawyers and provincial attorney generals) on issues raised by the consultation paper.

Copies of the complete paper are available from the Department of Justice² — in regular print, large print or as a sound recording.

A starting point...

In 1990, the Standing Committee on Human Rights and the Status of Disabled Persons called on the federal government to review and, where necessary, amend legislation to ensure persons with disabilities full participation in the criminal justice system.

In 1991, the federal government responded by announcing a five-year strategy on disability. The first step in the National Strategy for the Integration of Persons with Disabilities was the adoption of Bill C-78.³ This was the first piece of federal legislation dealing exclusively with the concerns of persons with disabilities. The provisions of Bill C-78 were intended to improve the access of persons with disabilities to, for example, Canada's national transportation system,

government records and personal information (through alternative formats such as sound recordings), and the courts. Key provisions of the bill came into force in June 1992.

The Department of Justice consultation paper

Bill C-78 contained just one amendment to the Criminal Code, which related to section 486 (2.1): "...in the case of certain sexual offences, evidence may be given behind a screen or outside the court room by a person whose mental or physical disability, coupled with the trauma of testifying, renders his or her communication of evidence difficult." However, the Department of Justice is considering further legislative changes to increase access for people with disabilities to the criminal justice system and has prepared a consultation paper discussing several potential changes.

Hearsay

Hearsay evidence is court testimony based on the statement(s) made by another person, rather than on the firsthand knowledge of the witness. Hearsay evidence is usually inadmissible in court. But a 1990 Supreme Court of Canada decision, *R. v. Khan*,⁴ relaxed restrictions against hearsay testimony somewhat, allowing witnesses to repeat what a child has told them if the child is unable (for various reasons) to testify. This can occur only when it is absolutely necessary and when the information is deemed reliable.

The consultation paper questions whether it would be appropriate to extend this exception to adults with disabilities if that would be the only way to accurately bring information into court. Vulnerable adults can face many of the same problems as children in attempting to communicate in the often confusing environment of a courtroom.

Identification of the accused

The department is also considering whether it would be appropriate to change legislation to deal with the difficulties victims with disabilities experience in identifying the accused. Many persons with disabilities feel that police officers and Crown prosecutors sometimes decide not to charge alleged offenders because a victim with a disability may have difficulty identifying the accused in the "usual" manner.

Legislation authorizing the wide acceptance of alternative ways of identifying an alleged offender, such as voice identification and voice line-ups, may be required to address situations where witnesses are blind or have very poor vision and cannot simply point out the accused.

Videotaped evidence

Section 715.1 of the *Criminal Code* represents one of the most significant recent legislative changes concerning the testimony of children. This section allows, in cases of alleged child sexual abuse, the use of the child's videotaped testimony. Soon after the alleged offence, a videotape is made, in which the child describes the acts complained of to help preserve his or her recall until the trial takes place.

The assumption that children have limited and inaccurate recall often renders their testimony vulnerable to attack. Preserving testimony on videotape close to the time of the incident improves the likelihood that the court will consider their testimony credible, reliable and useful. The consultation paper suggests that perhaps videotaped testimony should also be an option for persons with disabilities affecting their ability to recall. Should this opportunity not be available to any witness who, for one reason or another, is vulnerable in dealing with the criminal justice system?

Disqualification of jurors

At the heart of the jury process is the belief that juries represent the community. Yet, community groups representing disabled persons claim that people with disabilities are systematically disqualified from serving on juries. This therefore prevents juries from being fully representative of the community.

The consultation paper identifies a number of possible roads to reform in this area. For example, some groups have called for a statement of principle to be added to the *Criminal Code*, similar to the already existing statement concerning gender discrimination, prohibiting the disqualification of jurors on the basis of a disability.

Another option could be to modify section 638(1)(e) of the *Criminal Code*, which allows either the Crown prosecutor or the defence lawyer to challenge (for cause) prospective jurors "physically unable to perform properly the duties of a juror." Should this section be changed to prevent the interpretation that disability, in and of itself, is sufficient to disqualify a prospective juror? Should the provision instead ensure that if assistance would allow persons with disabilities to serve as jurors, the disability becomes unchallengeable?

Discussion

The Department of Justice has not concluded that legislative reform is the only, or even the best, approach to making the criminal justice system more accessible to people with disabilities. Change can often be achieved more quickly through other channels.

For example, the *R. v. Khan* decision could simply be broadly interpreted by the courts to include people with disabilities in the exception to the hearsay rule.

Clearly, legislative reform is not the absolute cure for accessibility problems in the criminal justice system. Legislative reform is, however, one of several fronts on which change can occur. ■

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³ *An Act to amend certain Acts with respect to persons with disabilities.*

⁴ (1990) 2 S.C.R. 531.

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