

CCRA 5 YEAR REVIEW

INFORMATION TO OFFENDERS

February 1998

Ce rapport est disponible en français

This report is part of a series of 24 research/evaluation reports (listed below) that were prepared as background to the Consolidated Report of the Working Group studying the provisions and operations of the Corrections and Conditional Release Act and related Consultation Paper.

The Working Group is composed of representatives from the following agencies:

Correctional Service Canada
National Parole Board
Correctional Investigator
Justice
Department of the Solicitor General

Research/Evaluation Reports:

Information about Offenders
Security Classification of Inmates
Judicial Determination
The Temporary Absence Program: A Descriptive Analysis
Personal Development Temporary Absences
Work Release Program: How it is used and for what purposes
Day Parole: effects of the CCRA (1992)
Case Management: Preparation for Release and Day Parole Outcome
Accelerated Parole Review
Statutory Release and Detention Provisions
Community Supervision Provisions
Provisions Relating to Victims
Observers at National Parole Board Hearings
The National Parole Board Registry of Decisions
CSC Human Resources
Administrative Segregation
Search, Seizure and Inmate Discipline
Offender Grievance System
Urinalysis Testing Program
Inmate's Input in Decision-making
Information to Offenders
Aboriginal Offenders
Health Services
Women Offenders

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CCRA REVIEW

INFORMATION TO OFFENDERS

INTRODUCTION

Prior to the introduction of the CCRA, the rights of the offender regarding personal information were enshrined only within the Privacy Act. While many of these provisions had previously been incorporated within CSC policy, they are now defined as well in the following sections of the CCRA:

Section 23(2) requires that the Correctional Service of Canada (CSC) provide offenders with the documents which were collected and written at the time of admission to a penitentiary if they request the information in writing. They are described in section 23(1) and include such areas as court information, offence details, social histories and related information.

Section 27(1) requires that CSC provide to offenders all the information, or a summary of the information, which is to be considered in making decisions about offenders, within a reasonable period of time before the decision is to be taken. Section 141 requires that the National Parole Board (NPB) provide offenders all information which is to be considered in decision-making at least 15 days before the review is to occur unless the offender waives this requirement.

Finally, section 27(2) requires that CSC provide offenders with the information that was considered by CSC when making decisions about offenders, forthwith after the decision is taken.

This subject has been assessed in terms of :

- a) a review of the types of policies and procedures in place nationally and regionally to ensure the requirements are met;
- b) an assessment of the numbers and trends in Privacy Act requests received at ATIP at NHQ;
- c) reference to the NPB/CSC controls over sharing of information with offenders prior to Board decisions.

POLICIES AND PROCEDURES

CSC has established a number of policies and procedures directed at the provision of information to offenders. These include:

Commissioner's Directive #095 - Information Sharing With Offenders

This policy provides the framework for sharing personal information, as defined in Section 3 of the Privacy Act, with the offender. The offender's rights to be informed of decisions and the information to be used in those decisions are defined in the CCRA, in the principles of common law of the duty to act fairly, and within the constitutional guarantees provided under section 7 of the Canadian Charter of Rights and Freedoms. The policy defines:

- the offender's rights to an interpreter,
- criteria for sharing information,
- requirements for handling written reports,
- procedures related to offender's concerns as to accuracy of information.

The policy includes specific Guidelines on the role of persons designated to assist the offender in information sharing, and on the procedures for informal access to information. CSC has identified, within each facility, the person or position responsible for providing this assistance.

Commissioner's Directive #205 - Access to Information and Privacy Acts

CSC policy and procedures related to this process are contained in Commissioner's Directive #205, Access to Information and Privacy Acts. It specifies that

The Use and Disclosure Code and Exemptions document shall be used within the CSC as reference material to interpret and apply disclosure and exemptions legislation as contained in the Privacy Act.

The policy also provides direction on how such records, which become the personal property of inmates, shall be handled in CSC facilities, given the sensitive nature of their contents.

Commissioner’s Directives #081 - Inmate Complaints and Grievances, and #082 Parolee Complaints and Grievances

These policies define the principles of the redress mechanisms available to offenders. In addition to the emphasis on the duty to act fairly respecting complaints and grievances, these policies stress the requirement to inform the offender in writing of the decisions, the reasons for the decisions, and the options and mechanism for appeal to higher levels. These policies are applied at the institutional and community level by operational staff.

Offender Information

The policies for managing the many facets of the term of incarceration are contained in the Commissioner’s Directives by subject. Each of the policies reflects, where applicable, the requirements contained in the Act and / or the Regulations, to share case management information with offenders. These are incorporated into a number of directives on the management of the offender, as follows:

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

These policies specify that information be shared according to the circumstances of the respective processes. An example of this is found in Commissioner’s Directive #500, Reception and Orientation of Inmates, paragraph 13, which reflects Section 11 of the Regulations, in requiring that an inmate be given the reasons in writing for placement and an opportunity to respond, prior to any transfer to an assigned penitentiary.

The implementation of national policy at the regional level often requires a clarification of the process to be followed. Regional Instructions are therefore provided, as required, to ensure the appropriate application of policy within the region. Procedures for the implementation of policy at the operational level are established in the facility’s Standing Orders.

ATIP DATA

The Access to Information and Privacy Division of CSC responds to all formal requests of offenders filed under the Privacy Act. Since the inception of the CCRA, the annual number of formal requests for personal information under the Privacy Act have varied as follows:

1992-93	1993-94	1994-95	1995-96	1996-97
8129	6434	6137	6272	6124

Source: Annual Reports, 1995-96 and 1996-97, ATIP Program, CSC

The decline in requests in 1993-94 from the previous year is attributed to the emphasis placed by CSC on informal access to information available at the institutions through local staff. The greatest majority of requests are from offenders; however, the above figures include a small number of cases which originate each year from staff (e.g. requests related to staff complaints or grievances).

NPB DATA

The availability to offenders of information on which Board decisions will be based, constitutes an important element of the new Act. The Memorandum of Understanding between the Board and CSC has provided the basis upon which various issues of mutual interest are agreed upon. One of these areas is the process to ensure that information is shared with the offender as required. These procedures have been an established component of the Case Management process for many years. The detailed arrangements at the operational level are based upon similar agreements between the CSC regions and the NPB regional boards.

In addition, CSC and NPB jointly introduced, in 1995, a new control mechanism, a Sharing of Information Checklist. Introduced within each region, it identifies all reports received by the Board for an upcoming case decision, and is reviewed and confirmed by the offender. Arrangements must then be made for any missing reports to be made available, with the option to the offender of deferring the review or decision to allow sufficient time for study of the documents. The checklist must then be forwarded to the NPB, and a copy placed on the Case Management file in the institution. A need has been identified to make some revisions to this checklist, and a revised form is currently being developed.

FINDINGS

- 1) Policies and procedures have been implemented which address the information sharing requirements of the CCRA.
- 2) Redress mechanisms for the offender are in place.
- 3) Although the NPB/CSC Sharing of Information Checklist has been implemented, there is no requirement identified within CSC for monitoring of the process, or for compilation and reporting of results, upon which corrective action, if required, might be considered.

CONCLUSION

The Offender Reintegration division will undertake to develop with the OMS team and implement, over the next twelve months, a means of automating the process for monitoring the sharing of this information with offenders.