

Investigation & Standards Office (ISO)

Manual of Operations

1. INTRODUCTION

This manual is a reference source of the authorities, standards and processes under which the Investigation & Standards Office (ISO) and its staff operate. Due to the diversity of issues that ISO handles, this manual does not define specific instructions to perform those tasks.

1.1. *PERSONNEL*

The ISO director and deputy director lead a team of inspectors and administrative staff. The inspector group includes a specialized health care inspector and a rotational duty inspector. The administrative staff group includes an administrative support clerk and an office manager.

1.2. *BUSINESS STREAMS*

ISO has two primary business streams – investigations and disciplinary hearing reviews, and one secondary business stream – inspections. Investigations are divided into two sub-streams – general complaints and critical incidents/significant events.

1.3. *STAKEHOLDERS & CLIENTS*

ISO provides services to the Corrections Branch – Ministry of Justice, the Court Services Branch – Ministry of Justice, the Youth Custody Programs – Ministry of Children and Families, and their respective clients.

Legislation, policy and/or agreement determine the services that ISO provides those government agencies and their clients.

2. AUTHORITY

2.1. STAKEHOLDERS & CLIENTS

2.1.1 Corrections Branch

1. Legislative authority under section 28 of the *Correction Act* allows the director of ISO to investigate a matter or a complaint respecting the administration of this Act within the Adult Custody Division and the Community Corrections Division.
2. Legislative authority under section 29 of the Correction Act Regulation (CAR) allows the director of ISO to review a decision made in a disciplinary hearing held at an Adult Custody Division correctional centre.

2.1.2 Court Services Branch

1. A memorandum of understanding allows the director to investigate a matter or a complaint regarding the administrative processes within the Sheriff Services and the Court Administrative Services upon request from senior management.
2. The memorandum of understanding also allows the director to inspect branch facilities and programs upon request from Court Services Branch management.

2.1.3 Youth Custody Services

1. A memorandum of understanding and Youth Custody Services policy allow the director to investigate a matter or a complaint regarding the administrative processes within Youth Custody Services upon request from senior management.
2. The memorandum of understanding also allows the director to inspect youth custody facilities and programs upon request from Youth Custody Services management.

2.2. DELEGATION OF AUTHORITY

ISO staff require written authority from the director to conduct investigations, disciplinary hearing reviews and/or inspections for the Corrections Branch, Court Services Branch and Youth Custody Services.

3. STANDARDS

3.1. *SERVICE STANDARDS*

1. ISO staff are expected to meet the internal service standards timelines for concluding investigations, disciplinary hearing reviews and inspections with written reports.
2. Inspectors will consult the director for matters that may likely exceed the respective internal service standards timelines.

4. INVESTIGATIONS

4.1 DEFINITION

Investigations are divided into two sub-streams:

- General complaints; and,
- Critical incidents/significant events.

4.2 PURPOSE

The primary purposes of an investigation are:

- Establish matters of fact concerning the circumstances and the events surrounding the complaint or incident;
- Evaluate staff compliance with policies, procedures and standards;
- Evaluate the appropriateness of staff actions before, during and after the matter in question;
- Evaluate the adequacy and effectiveness of policies, procedures and standards; and,
- Evaluate the integrity and effectiveness of service delivery systems, as well as their compliance with policies, procedures and standards.

4.3 REPORTS

Investigation reports include:

- Steps taken to investigate the matter in question;
- Context of the matter;
- Findings and conclusions based on the evidence gathered; and,
- Recommendations deemed necessary based on the findings and conclusions.

4.4 ROLES

1. Investigations are often conducted in conjunction with critical incident reviews (CIRs). The assistant deputy minister responsible, or designate, appoints a manager of the respective agency to chair and lead a CIR, and may request ISO to join the CIR team as a participant/observer.

2. The assistant deputy minister responsible, or designate, may also request ISO lead an investigation or assist an appointed manager as an advisor.
3. Where ISO has not led the investigation, it may draft a separate report to address issues that are not included in the ministry-appointed manager's report.

4.5 TRIGGERS

4.5.1 Corrections Branch – Adult Custody Division

The primary triggers for initiating an investigation are:

- A written complaint from an inmate or a person subject to a conditional sentence order;
- A written complaint from legal counsel or advocate representing an inmate or a person subject to a conditional sentence order;
- A written complaint from a third party submitted on behalf of an inmate or a person subject to a conditional sentence order;
- A written request from the assistant deputy minister or designate; or,
- The director's own motion.

4.5.2 Corrections Branch – Community Corrections Division

The primary triggers for initiating an investigation are:

- A written complaint from a person on probation or parole, or subject to a conditional sentence order;
- A written complaint from legal counsel or advocate representing a person on probation or parole, or subject to a conditional sentence order;
- A written complaint from a third party submitted on behalf of a person on probation or parole, or subject to a conditional sentence order;
- A written request from the assistant deputy minister or designate; or,
- The director's own motion.

4.5.3 Court Services Branch - Sheriff Services and Court Administrative Services

The primary trigger for initiating an investigation is:

- A written request from the assistant deputy minister or designate.

4.5.4 Youth Custody Services

The primary triggers for initiating an investigation are:

- A written or verbal complaint from a young offender;
- A written complaint from a parent or guardian of a young offender;
- A written complaint from legal counsel or advocate representing a young offender;
- A written complaint from a third party submitted on behalf of a young offender; or,
- A written request from the assistant deputy minister or designate.

4.6 *LIMITATIONS OF JURISDICTION*

ISO has no authority to investigate complaints regarding the following:

- Parole Board of Canada decisions or its members;
- Criminal Justice Branch or its staff;
- The judiciary or its staff;
- Police;
- Labour relations matters;
- Human rights; or,
- Canadian Charter of Rights and Freedoms.

5. DISCIPLINARY HEARING REVIEWS

5.1 *PURPOSE*

The primary purposes of a disciplinary hearing review is to ensure that the accused has received a fair hearing subject to the rules governing administrative law and that the correctional centre has administered the hearing in accordance with legislation and policy.

5.2 *TRIGGERS*

The primary triggers for initiating a disciplinary hearing review include:

- A written request for review from an inmate; and,
- A written complaint from legal counsel or advocate representing the inmate.

5.3 *REVIEW CHECKLIST*

ISO follows a standardized checklist for all disciplinary hearing reviews.

5.4 *REPORTS*

Disciplinary hearing review reports include:

- Steps taken to review the matter in question;
- Context of the matter;
- Findings and conclusions; and,
- Review decision.

5.5 *REVIEWER QUALIFICATIONS*

ISO staff must have written authority from the director to conduct disciplinary hearing reviews. The director may grant that authority to qualified staff that can demonstrate a sound knowledge of administrative law and the Correction Act Regulation (CAR), and a sound understanding of the Corrections Branch disciplinary hearing process.

6. INSPECTIONS

6.1 *PURPOSE*

The primary purpose of inspections is to ensure that facilities and programs are operated safely and efficiently.

6.2 *TRIGGERS*

The primary trigger for initiating an inspection is a written request from the assistant deputy minister responsible or designate. The assistant deputy minister, or designate, may request ISO lead the inspection or assist the ministry-appointed manager as an advisor.

6.3 *REPORTS*

1. Where ISO has not led the inspection, it may draft a separate report to address issues that are not included in the ministry-appointed manager's report.
2. Inspection reports include:
 - Scope of the inspection;
 - Steps taken to review the matter in question;
 - Findings and conclusions; and
 - Recommendations deemed necessary based on the findings and conclusions.

Ministry of Justice

Investigation & Standards Office

Protocol for the Handling of Healthcare Related Complaints from Adult Custody Centres

Updated: May 2012

The purpose of this protocol is to confirm the steps taken by the Investigation & Standards Office (ISO) health care (HC) inspector (and designated back-up inspector) upon receiving a complaint regarding health care services. The HC inspector must be a registered nurse licensed in the province of British Columbia.

The procedures described in this protocol must be reviewed annually, or at any time, at the request of ISO, the Corrections Branch medical consultant, director of health services and/or the director, mental health services.

All health care related complaints will be referred to the HC inspector.

Health Care Complaints Received by Telephone

The ISO HC inspector will:

- Determine if the complaint is within the mandate of ISO as per the ISO Internal Procedures Manual (IPM). If not, direct the complainant to the appropriate authority.
- Determine how to proceed with the complaint after considering the specific details and the following criteria:
 - a) Is there an indication of urgency? When in doubt the HC inspector will err on the side of urgency.
 - b) Is there an indication of risk to safety or health of the individual, staff or other inmates?
- Decide to accept the verbal complaint and/or to advise the complainant to confirm the complaint in writing to ISO.
- Advise the complainant on the action he/she should take and on the action ISO will take in response to the call.
- Enter the complaint into the duty inspector call log.
- If elements of the concerns are current:
 - a) Immediately notify the health care manager for the correctional centre in question of the complainant's call/concerns including the details of the complaint and the advice given. As a best practice, notification is done in writing via email and, if urgent, by a follow-up phone call to the health care department.
 - b) The director of health services, the medical consultant and/or the director, mental health services will be copied if the following circumstances exist:
 - exigent risk to health or safety

- conflicting diagnosis or treatment plans between physicians
- substantiated denial of access to care or to certain treatments/ medications
- cases that are without resolution after initial notification/discussion with health care personnel and client remains dissatisfied
- medically complex
- Office of the Ombudsperson involvement
- legal involvement
- suspected/alleged misconduct of health care providers
- apparent breach in policy

Where the medical consultant, director, health services or the director, mental health services is notified, notification will occur as soon as is practical and immediately where there is exigent risk to health or safety.

The purpose of notification to the health care manager is to ensure health care staff are aware of a complainant's concerns, the advice ISO provided to them, and ISO's level of involvement. In most cases, the complainant is required to confirm his/her complaint to ISO in writing; however, notice and initial enquiries may be made in advance of receiving the written complaint.

Health Care Complaints Received in Writing

The role of the HC inspector when processing a written health care complaint is the same as above, other than those steps particular to telephone complaints.

ISO will send the complainant a letter acknowledging receipt of his/her written complaint.

Written complaints sent directly to the director of health services, medical consultant and/or director, mental health services may be forwarded to ISO for investigation and reply.

Investigating and Concluding Complaints

The complaints investigation mandate for ISO within the Corrections Branch is found in sections 28 and 29 of the *Correction Act*. Among other things, it entitles ISO to access staff members and documents under the custody and control of the ministry.

ISO also has desktop access to the Corrections Network (CORNET), the Adult Custody Policy, the Health Care Services Manual and the Primary Assessment and Care (PAC) electronic health information system.

A complete description of the various steps taken by ISO staff when investigating a complaint can be found in the ISO Internal Procedures Manual on Complaints Investigation (Appendix A). For purposes of this protocol, the following are the key steps:

1. When investigating a complaint the HC inspector examines all relevant portions of CORNET, including the policies or directives relative to the issue in question. The HC inspector accesses the appropriate sections of PAC and speaks to staff and/or others providing services within the correctional centre that may have pertinent information.
2. The HC inspector's main role is to examine and investigate issues concerning adequate access to medical, mental health and dental services within correctional centres. When a health care complaint is received, the HC inspector will first determine whether it concerns treatment, access to health care or the quality of care.
3. The HC inspector will refer complaints involving complex treatment issues to the medical consultant, director of health services and/or the director, mental health services. The HC inspector will obtain the necessary information and submit a summary of findings to the appropriate director for advice about the adequacy of the treatment. The medical consultant or director of health services' opinion/advice is sought for complex complaints.
4. When necessary, ISO reserves the right to seek additional medical, nursing or mental health expertise.
5. At the conclusion of an investigation, the HC inspector will write to the complainant informing them of the outcome of the investigation. Responses provided by the director of health services, medical consultant or the director, mental health services are included in the reply to the complainant and copied to the respective director. Care will be taken to ensure the response accurately reflects the director's advice and indicates the information being provided is the director's opinion. In most instances, direct quotes from the opinion are used. The closing letter is copied to the health care manager of the centre, the health services contractor, the director of health services, the medical consultant or the director, mental health. The correctional centre physician involved in the complaint may be copied as deemed appropriate.

Closing letters are not copied to the assistant deputy minister, the provincial director or the wardens of the Corrections Branch to protect medical confidentiality. They will, however, be provided with quarterly statistics (identifying the centres, number of complaints and whether they are substantiated or unsubstantiated).

Additional Responsibilities of the Health Care Inspector

The HC inspector will:

- review health care statistics quarterly, discuss trends and areas of concern with the ISO director/team, raise findings and provide recommendations
- ensure there is a designated back-up in his/her absence
- ensure when she/he is on site but not immediately available to answer a call, that the inspector who speaks with the client, records the information in the call log and advises the HC inspector as soon as possible

- ensure the back-up inspector communicates directly to the centres when the HC inspector's absence is more than one day
- ensure the back-up inspector errs on the side of caution when considering notification to the director of health services /medical director/director of mental health services
- attend the Corrections Branch Health Care Committee monthly meetings and communicate relevant issues to the ISO team

The director of the ISO will ensure any designated back-up is knowledgeable of, and proficient in, the application of this protocol. Where there is any extended HC inspector absence/ vacancy, the director will consider instructing inspectors to notify the medical director/director of mental health services in all cases.

Approved by: Sydney Swift

Sydney Swift, Director
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Date: May 31, 2012