

ISO

INVESTIGATIONS & STANDARDS OFFICE

Annual Report

2018

ISO MANDATE AND MISSION

The Investigations and Standards Office (ISO or the Office) was established in 2010 to provide independent oversight of the Whitehorse Correctional Centre (WCC) through investigations of inmate complaints, appeals of inmate discipline and inspections of identified areas of correctional practice.

ISO has full authority to access the Whitehorse Correctional Centre, interview inmates and staff, and review documents and policies.

Our team is committed to achieving investigative excellence, impartiality and fairness.

ACCOUNTABILITIES

ISO reports directly to the Deputy Minister of Justice. ISO independently carries out its mandate as reflected in the *Corrections Act* and *Corrections Regulation*. ISO reports on administrative, financial and human resources related areas. ISO may make written submissions to the Deputy Minister with respect to concerns or proposals related to mandated duties.

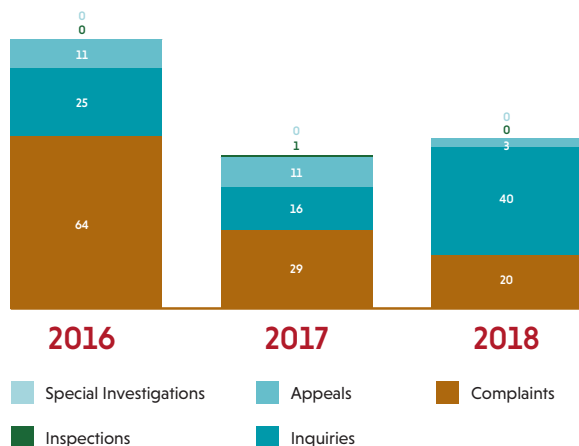
ISO's work is reviewable by the Yukon Ombudsman's Office. In 2018, one ISO appellant requested the Ombudsman's Office investigate their concern with respect to ISO's response to an appeal of a disciplinary hearing. ISO provided all the digital and paper documentation related to the appeal. The Ombudsman's Office has since informed ISO that their investigation has found that ISO acted in accordance with the Office's obligations and they found no unfairness in ISO's review of the disciplinary hearing. If an ISO appellant or complainant indicates that they feel ISO's response was unfair, ISO will refer them to the Ombudsman's Office.

ISO investigative files may also be requested by the Yukon Human Rights Commission (YHRC) as part of an investigation they conduct under Yukon's *Human Rights Act*. In 2018, ISO received no requests for ISO investigative files from YHRC.

As a member of the Forum of Canadian Ombudsman (FCO), ISO strives to meet the ethical principles of FCO, which include Independence, Impartiality, Fairness, Confidentiality, and Credibility.

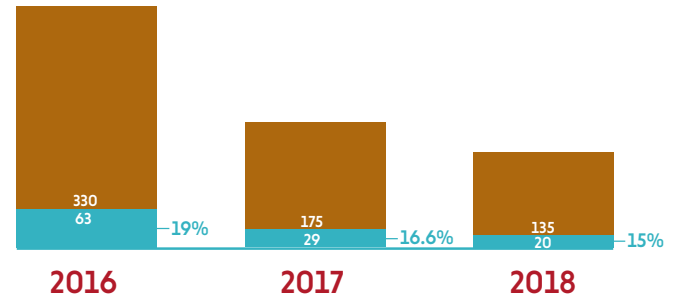
Caseload

In 2018, ISO received 20 complaints and 40 inquiries. ISO heard three appeals from disciplinary hearings.



COMPLAINTS

WCC received 135 complaints. Of those, 20 complaints (15 per cent) came to ISO.



Early case resolution process

ISO has established a process for the Early Case Resolution (ECR) of complaints. The intention of using ECR is to provide for a more timely resolution to WCC client concerns. While ISO has always utilized early resolution in its work, the first use of a more defined process was in June of 2018. Initial feedback on the results of the process from WCC clients and WCC Managers is positive.

Early Case Resolution (ECR) of complaints	2018
ECRs proposed since June 2018	4
ECRs accepted by both WCC and their client since June 2018	3
ECRs not accepted by a WCC client	1
ECRs not accepted by WCC	0

Complaint/Inquiry categories

Upon intake each complaint and inquiry is assessed and assigned a category. Examples of common categories include: classification and placement, medical access, staff, the WCC complaint process, disciplinary hearings and food services.

Investigations carried over to 2019

During 2018, four investigations were commenced that required conclusion in 2019.

Recommendations flowing from complaint investigations

From complaint investigations concluded in 2018, 11 recommendations were made to WCC.

Upon ISO submitting recommendations, WCC must make one of the following decisions. Those decisions, including results of 2018 recommendations, are as follows:

Disagree with recommendation	0
Accept with modification	2
Accept recommendation	1

ISO is awaiting WCC's response to eight recommendations stemming from an investigation concluded in late 2018.

Implementation of Recommendations

ISO has some concerns with Corrections' follow-through on implementing some past agreed to actions. This is an area for development that ISO is committed to and actively working with Corrections in addressing.

INQUIRIES

Through inquiries by phone, ISO is able to use an informal process to assist WCC clients in resolving concerns. This work is reflected in the 40 inquiries ISO fielded in 2018. That number represents the most inquiries since 2015 and more than twice that of 2017. ISO believes resolving issues at their onset provides better outcomes to clients, facilitates the development of client conflict management skills and utilizes investigative resources effectively.

APPEALS

WCC Disciplinary Hearings and Appeals to ISO 2016 to 2018	2016	2017	2018
WCC disciplinary hearings	128	88	133
Appeals to ISO	11	11	3
Per cent of total hearings appealed to ISO	8.6%	12.5%	2.3%

Outcomes of ISO Appeal Decisions 2016 to 2018	2016	2017	2018
Confirmed decision and disposition	7	5	1
Confirmed decision and substitute alternate disposition	3	3	0
Rescinded the decision and disposition	0	1	1
Directed a new hearing be convened	1	2	1

INSPECTIONS

ISO and the independent inspection

In his final report of the independent inspection of the Whitehorse Correctional Centre (WCC), Mr. David Loukidelis made two recommendations related directly to ISO. ISO has taken action in order to address the ISO related content of the report. The areas identified for improvement had also been identified by ISO and in some cases actions had been taken prior to Mr. Loukidelis's inspection.

The actions taken include:

- The Department of Justice posted all past ISO Inspection Reports to the ISO webpage on June 20, 2018.
- In November 2018, the Department of Justice created the position Correctional Investigator of Yukon from the existing Deputy Correctional Investigator position. That action was taken in order to provide clarity and assurances related to the independence and reporting lines of the Office. This position reports directly to the Deputy Minister and works in the role of the Director of The Investigations and Standards Office in accordance with the *Corrections Act*.
- ISO initiated working on new and improved programming and service materials to be made available to Corrections clients and to be posted on the ISO webpage.
- ISO began to utilize the Early Case Resolution (ECR) procedure in order to meet the needs of complainants and provide reviews in a timelier manner.
- ISO is looking to provide the public a more comprehensive and transparent view of the Office's work. This is being accomplished through adding significantly more detailed and relevant content to this and future annual reports.

ISO and the independent inspection implementation working group

During the course of his inspection, ISO communicated with Mr. David Loukidelis on a number of occasions. This was done in order to provide him with ISO's perspective in having been responsible for the independent oversight of WCC since 2010.

It is worth noting that in the past, going back to the 2014 and 2016 inspections, ISO had made recommendations that are similar to that which Mr. Loukidelis made in his inspection.

Since the release of the Loukidelis inspection report, ISO has had the opportunity to be part of the Implementation Working Group. The group includes senior officials from the departments of Justice and Health and Social Services, the Investigations and Standards Office, the Council of Yukon First Nations and the Kwanlin Dün First Nation. This group is assigned to provide input to the department in shaping how the recommendations flowing from the report will be turned into actions and results. ISO will continue to provide input into this process as it moves forward. Based on participating in the groups work, it is evident that the Department is taking a forward looking and progressive approach. With that said, the changes necessary will require resources and time in order to implement.

SPECIAL INVESTIGATIONS

Special investigations can be requested by the Assistant Deputy Minister responsible for Corrections, or on the Director of ISO's own motion.

TRAINING AND MEMBERSHIPS

In 2018, ISO took part in a number of training and professional development opportunities.

- **Essentials for Ombuds Certification** – Osgoode Hall Law School Professional Development – 5 days
- **Yukon First Nations History, Culture, Agreements and Self Government** – Public Service Commission (PSC) – 4 days
- **Practice and Procedures for Decision Makers (Administrative Law)** – Yukon College – 3 days
- **Advanced Decision Writing** – Yukon College – 2 days
- **Use of Force Theory and Practice** – Private Contractor – 1 day
- **Evaluation Essential Skills** – PSC – 4 days

In 2018, ISO was invited to contribute as a member of the International Prisons and Corrections Association (ICPA) External Prison Oversight and Human Rights Network. ISO is currently an Institutional Member of the Forum of Canadian Ombudsman (FCO).

ISO Team

The Correctional Investigator Eric Stevenson leads ISO. ISO is physically located within the Public Safety and Investigations (PSI) Branch of the Department of Justice. PSI provides ISO administrative and intake support as required and seconded investigative support upon request. ISO will be assessing the Office's capacity and requesting a measure of additional support in the coming year.

EXAMPLES OF OUR WORK

Early Case Resolution – complaint systems must be barrier free and readily accessible.

ISO received concerns related to access to the WCC complaint process. These concerns came in relatively quick succession, in the form of phone inquiries and one written complaint. The issue at hand presented that a small number of staff were placing requirements on accessing complaint forms. That is a process not reflected in WCC Policy, the Corrections Regulation or Corrections best practices.

In order to address what ISO assessed was a trend, ISO approached the Acting Director of Corrections in order to inform them of the issue and seek a resolution. After looking into ISO's concerns, Corrections directed that WCC provide written guidance to staff that stated clients will not be denied the opportunity to submit complaints. The written guidance also set out detailed information on the appropriate approach for the complaint process. This resolution came promptly within five days of ISO receiving the complaint. Subsequent to that resolution, ISO has not received any concerns about access to the complaints process.

Inquiry – a simple solution

A WCC client called ISO in order to express concerns about using the phone system to make calls aimed at planning for their release back into the community. The issue with the

phone was a technical difficulty and unfamiliarity with the system. The individual may have filed a formal complaint at that time with WCC and subsequently ISO. With agreement from the WCC client, ISO expressed the client's concerns to a WCC Senior Manager who agreed to ensure he was able to make the necessary calls. The Manager subsequently delegated staff to both look into his concerns and provide supervised free calls on a WCC phone line. ISO followed up with the WCC client who confirmed they were able to make their arrangements and appreciated the effort on both WCC and ISO's part.

Complaint Investigation – it is not just the decision itself, but also the process that matters.

Upon request for review from a complainant, ISO investigated four complaint issues stemming from one overall incident. Of the four complaint issues, ISO found that three decisions or actions by WCC were reasonable and lawful. The fourth where ISO found WCC did not make the right decision initially or react to the complainants' concerns appropriately was less serious in its implications than the others.

ISO found some gaps in the internal WCC process used to review separate confinement placements and the documentation kept to assess clients in separate confinement. When their practice in this case was compared to what is prescribed in both their own policy and the understood requirements of reviews of that nature, room for remediating those identified issues was apparent. ISO also found that WCC took reasonable steps in ensuring the placement conditions were only as restrictive as they needed to be for the circumstance.

The investigation resulted in eight recommendations being made by ISO. These recommendations were largely aimed at improving the procedural fairness of restrictive placements, in keeping with the *Corrections Act's* principles that Corrections use the least restrictive measures possible consistent with safety and that their clients have access to an effective review procedure.

NEW INSPECTION FRAMEWORK

The Investigations and Standards Office is in the early stages of developing a new inspection standards framework. The ISO standards will draw upon various territorial, national, international correctional, and human rights based policies, laws and instruments.

These standards will be tailored to meet the needs of Yukon and to do so, input from Yukon First Nations governments, the Yukon Human Rights Commission, WCC clients and stakeholders will be required. The new inspection framework will be preventative in nature, examining a broad range of correctional practices and policies. Findings will be applied against set standards and indicators. This framework is not currently used in Canada, and is generally based on best practices from correctional inspectorates in Great Britain and Australia.