

## Evaluation of the Independent Chairpersons Program

*The disciplinary process is one of the Correctional Service of Canada's major policies for managing the risk posed by offenders in institutions. Under this process, inmates may be disciplined when they commit one or more prescribed infractions. One element of this disciplinary process is the Independent Chairpersons Program.*

*During 1991-1992, the Evaluation Branch of the Correctional Service of Canada evaluated the Independent Chairpersons Program.<sup>(3)</sup> This evaluation was an assessment of the program and how it works; it was not an evaluation of the effectiveness of the program in terms of its impact on inmates and on the system's ability to manage risk in institutions.*

*The assessment tried to determine the extent to which the Independent Chairpersons Program was in accordance with the Correctional Service of Canada's mission. It was particularly important to examine whether or not the disciplinary process was impartial, equitable and timely.*

## History of the Program

Independent chairpersons (ICPs) are appointed by the Solicitor General of Canada on the recommendation of the Correctional Service of Canada. ICPs are usually members of the legal community, although this is not a prerequisite. Once or twice a week, institutions have ICPs independently chair disciplinary court for inmates who have committed major offences in the institution.<sup>(4)</sup>

The idea of having an independent person chair disciplinary hearings in institutions was first proposed in 1975 by Dr. Jim Vantour, in a study on dissociation. In 1977, the parliamentary committee on the Canadian penitentiary system recommended such a change, and by the end of 1977, the Solicitor General of Canada proceeded with the nomination of independent chairpersons. The program was implemented on a pilot basis in maximum-security institutions, and in 1980, the Correctional Service of Canada implemented the ICP in medium-security institutions as well.

## Study Methodology

Information for the evaluation of this program was collected using both qualitative and quantitative methods. A questionnaire was administered in the 28 institutions where an ICP was in place. There were 339 respondents. 32 were ICPs, 30 were managers, 32 were federal corrections staff assisting ICPs, 119 were employees, 111 were inmates and 15 were legal advisers who represented the inmates.

Information was also collected on disciplinary processes that had taken place during the first week of September 1991. Data on 234 cases were provided.

In addition, institutions from each region (18 in all) were visited and informal interviews were conducted with management, the union executive, the inmate committee, the ICPs' assistants, the ICP (when

available), legal advisers (when available) and other persons who might have an interest in the program (e.g., Native elders).

In each of the facilities, the evaluation team gathered data from 144 disciplinary files. In addition, the 28 institutions were asked to provide information on the number of cases heard, the number of days the ICP attended the institution and program expenses incurred from 1 April 1990, to 30 September 1991.

### Costs of the Program

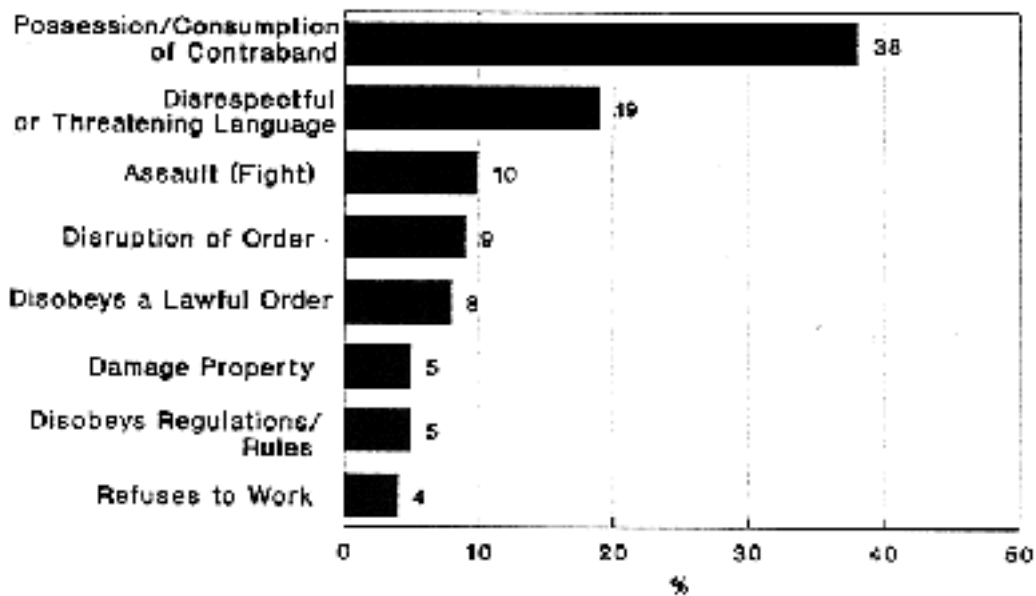
The ICP Program cost \$537,659 for the 1990-1991 fiscal year and \$257,069 for the first six months of the 1991-1992 fiscal year. These figures do not include staff time. The daily allowance ICPs received to chair the disciplinary court represented 87% of the cost. On average, each institution held one disciplinary court per week, with an average of 11 cases heard.

### Offences, Decisions and Sanctions

As Figure 1 shows, the most frequent offence reported was "possession and consumption of contraband" (38%). In 58% of the cases, the inmate pleaded guilty.

**Figure 1**

**Figure 1  
Most Frequent Types of Disciplinary  
Offences\***

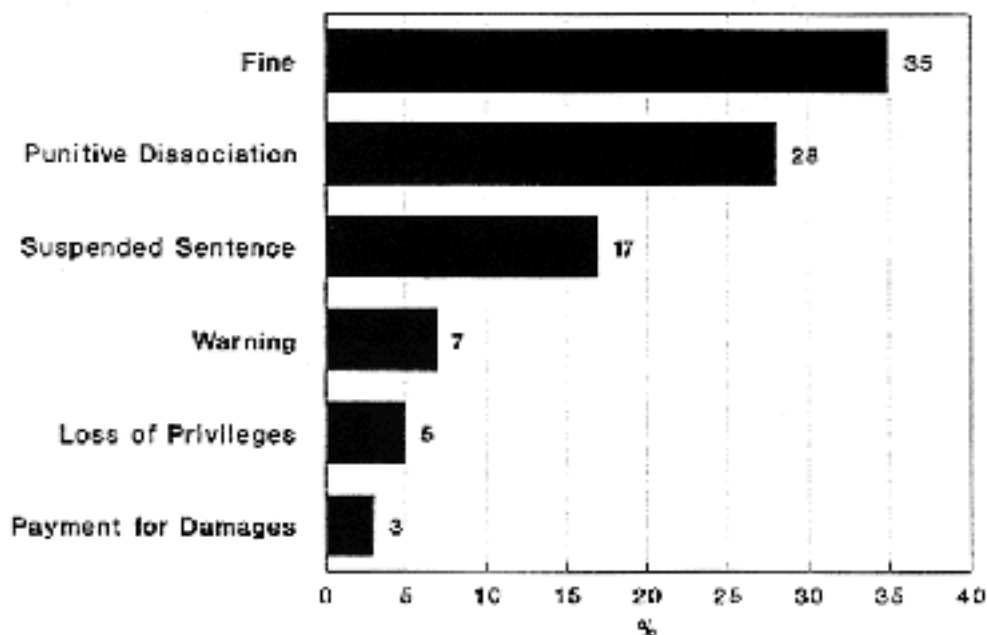


\* Other offences not listed here comprise less than 1% of all offences.

As shown in Figure 2, a fine was the sanction most often imposed (35%).

Figure 2

Figure 2  
Most Frequent Types of Sentences\*



\* Other sentences not listed here comprise less than 1% of all sentences.

Three quarters of those who responded to the questionnaire considered themselves to be sufficiently aware of the goals, principles and rules governing the disciplinary process. A majority also said that the disciplinary process seemed to offer them guarantees of impartiality and equity. While 62% of respondents believed that the ICP was the best person to chair the disciplinary court when it involved major and intermediate offences, it is interesting that only 13% of respondents indicated that they would like to see an ICP deal with minor offences.

Concerning ICP decisions, two thirds of respondents felt that ICPs generally applied the rules of the disciplinary process appropriately, while 29% thought the rules were applied appropriately only sometimes or rarely.

Just over half the respondents (54%) thought that the ICPs' decisions were generally appropriate, as opposed to 43% who thought the decisions were appropriate only sometimes or rarely.

Finally, regarding sentences imposed by ICPs, just over half the respondents (53%) thought the sentences were generally appropriate, while 21% thought they were too lenient and 20% thought they were too severe. Almost three quarters of respondents (74%) agreed that there were differences among the sentences imposed on inmates, but half of these respondents thought the inconsistencies were justified.

Although the disciplinary process does not stipulate the length of time in which a dispute must be resolved, three quarters of respondents thought the offences were dealt with within reasonable time frames. In more than three quarters of the cases examined (77%), less than 20 days had passed from the date of the offence to the completion of the disciplinary court process.

## Regional Situation

The Atlantic region had the highest proportion of respondents (71%) who thought the ICPs were the best-suited people to preside over the disciplinary court. The Atlantic region also had the highest rate of satisfaction with decisions made by the ICPs.

Of the five regions, Quebec's average annual cost, by institution, of operating the ICP Program was the highest. This higher cost was the result of holding an average of 1.4 courts per week in each institution, compared with the 1.1 courts per week held in the other regions. However, offences in the Quebec region were resolved more quickly than in any other region.

The Ontario region differed considerably from the others in that a legal adviser to the inmate was regularly present (60% of the time compared with 10 to 25% elsewhere) during disciplinary courts. The percentage was higher because Queen's University in Kingston offers such services.

The Prairie region, like the Atlantic region, had a high rate of satisfaction with ICP decisions. The evaluation team met with Native leaders and found that their perceptions of the ICP program were also positive.

Although the average number of courts held each week in the Pacific region was the same as in other regions (except Quebec), this region had the longest disciplinary court process (more than 20 days for 64% of cases). It should also be noted that unlike in other regions where only a minority of inmates (38%) pleaded not guilty, the Pacific region had a very high percentage of not-guilty pleas (61%).

## Conclusions

In general, respondents felt that the current process seemed to provide guarantees of impartiality and fairness. The evaluation team also agreed with this assessment. However, according to the inmates and their legal counsel, the legal rules relating to the disciplinary process were inadequate.

Perceptions of the present program were largely influenced by the attitudes and procedural methods of those responsible for administering the disciplinary system in the institution. Since the ICPs have discretion, the way they exercise their role depends on their own knowledge and what they perceive their role to be. While a number of inmates complained that the rules were insufficiently applied, some employees thought the disciplinary court had become too legalistic. We noted that the legal underpinnings and the evolution of the disciplinary court were still vague for some people, leaving the door open to different interpretations.

Some ICPs relied more than others on the opinions of assessors in making their decisions. This seemed to result from the different ideas the ICPs had concerning the assessor's role, but could also be because no guidelines had been established and no resource persons had been identified for their referral. The new *Corrections and Conditional Release Act* stipulates that the Minister will nominate a Senior Independent Chair person who will, among other duties, act as adviser to the other ICPs. This will undoubtedly make

the process more consistent.

The evaluation also showed that the Independent Chairpersons Program does not have a centralized information system to record information relevant to the processing of offences. Some institutions are better than others at registering the information and tracking cases.

Although basic principles and rules do exist, controversial practices remain and influence individuals' perceptions of the program. However, this is not the fault of the program itself, and corrective measures can be taken. We do not believe that major changes are needed.

It remains, then, to determine whether the expenses incurred are reasonable and warranted. As far as costs are concerned, they are closely related to local administrative decisions. Is there a less expensive alternative that would be impartial, equitable and administratively efficient? As a result of this evaluation, a working group has been formed to find ways to improve the program.

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*(3)Because this evaluation was finalized in May 1992, the provisions contained in the new Corrections and Conditional Release Act have not been taken into account.*

*(4)At the time of the evaluation, ICPs were also dealing with intermediate offences. This category does not exist under the new Corrections and Conditional Release Act.*