

The impact of the Corrections and Conditional Release Act on community corrections

Many institutional staff seem to feel that the Corrections and Conditional Release Act (*which came into force on November 1, 1992*) restricts or prohibits actions previously permissible under the old Penitentiary Act. This feeling surfaces most often as frustration with a perceived expansion of inmate rights, entitlements and privileges.

The Corrections and Conditional Release Act also replaced the Parole Act in governing community corrections, although there were fewer obvious changes to traditional practices. Still, the same staff frustration seems to surface.

Overall, the alleged expansion of inmate legal rights and interests is seen as narrowing the powers and range of discretion available to correctional decision makers. However, this article demonstrates that the opposite is true. The Corrections and Conditional Release Act has, in reality, enhanced both the institutional and community aspects of corrections. The principles behind the Corrections and Conditional Release Act did not simply materialize out of the ivory tower of government bureaucracy. Those who drafted the legislation first reviewed the actual front-line correctional operations for several years. Obviously, not all correctional workers agree on the appropriate course of action for every (or any) situation. However, there are some widely shared convictions about the fundamental principles needed to guide corrections.

The Act reflects one such consensus, developed during a recent ordeal of sensational incidents and inquests - the protection of society must be the paramount consideration in both institutional and conditional release processes.

The *Corrections and Conditional Release Act* also reflects the social and legal realities of the *Canadian Charter of Rights and Freedoms*.⁽²⁾ However, the protection of society is not undermined by closer attention to and respect for the guaranteed rights of all individuals, including offenders. One of the best measures of a society's strength is found in the way it treats those who violate its accepted standards of behaviour.

To both of these ends, the *Corrections and Conditional Release Act* states that the purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by the following measures:

- carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and
- assisting the rehabilitation of offenders and their reintegration into the community as law abiding citizens through the provision of programs in penitentiaries and in the community.⁽³⁾

Enhancing community corrections An understanding of the principles and purposes behind correctional decision making enhances an understanding and appreciation of what might otherwise appear to be ambiguous or illogical action.

Therefore, the *Corrections and Conditional Release Act* authorizes the disclosure of all relevant information to offenders (subject to certain limited exceptions) when a decision is being made that may adversely affect their liberty interests.

The Act also allows for the disclosure of some information to victims. This openness should lead to greater awareness of the legitimate reasons behind decisions that may appear arbitrary, inappropriate or even unfair.

The Act also places great emphasis on stronger information gathering and on the reporting of offences or incidents that could affect conditional release determinations.

From pre-sentence reports, to the development of correctional plans, to release planning, the quantity and quality of information are improving - offenders can now be more effectively assisted and monitored during the critical community supervision phase of their sentence.

As well, an important new provision of the *Corrections and Conditional Release Act* authorizes a parole supervisor to require offenders who are released on the condition that they abstain from alcohol or drugs to submit to regular urinalysis.⁽⁴⁾ This monitoring tool enhances the ability of supervisors to detect and deter offenders whose substance abuse may be problematic.

Although this procedure had previously been available in a roundabout way through a special condition that could be imposed by the National Parole Board under the *Parole Act*, the *Corrections and Conditional Release Act* has shifted the power to demand urinalysis directly into the hands of parole supervisors and, consequently, has established more detailed standards and criteria governing the exercise of this authority.

The *Corrections and Conditional Release Act* also provides improved guidance to the National Parole Board in carrying out its mandate. If the Board becomes more consistent and straightforward in its functioning as a result, this will certainly have a positive effect on community corrections.

Finally, one of the major obstacles in community corrections is the difficulty in balancing the demands of paper work and people work. Every facet of the correctional system is operating with finite resources meant to satisfy ever-expanding expectations, and in some respects, the *Corrections and Conditional Release Act* has had a negative effect in this area.

However, most of these problems appear to be merely transitional - new procedures and systems generally create greater time, money and energy demands in their infancy than they do after they are up and running. Changes are very rarely easy. A step in the right direction The legal impact of the *Corrections and Conditional Release Act* is quite limited. Some specific issues that marginally affect community corrections (involving the calculation of sentences) have been encountered, but otherwise the Act should improve conditional release supervision. After all, clarity of purpose and definition of principles enhance all human endeavours.

(1) Legal Services, Correctional Service of Canada, 4th Floor, 340 Laurier Avenue West, Ottawa, Ontario K1A 0P9.

(2) An integral part of the *Constitution Act*, 1982.

(3) Section 3, *Corrections and Conditional Release Act*.

(4) Section 55, *Corrections and Conditional Release Act*.