

BACKGROUND

- 5.1** The Nova Scotia Department of Justice is responsible for the administration of justice in Nova Scotia. This includes administering court-imposed sentences in criminal cases. The Department is authorized to incarcerate offenders and enforce community-based sentences in accordance with the federal Prisons and Reformatories Act, the federal Youth Criminal Justice Act and, at the time of our audit, the Nova Scotia Corrections Act. The stated purpose of the Nova Scotia Corrections Act is “to provide for the safe custody and security and the rehabilitation of offenders and for the integration of offenders into the community while at the same time providing adequate safeguards for the community.” (The Nova Scotia Corrections Act was replaced by the Correctional Services Act on July 1, 2006, after the completion of audit field work.)
- 5.2** There are two types of court sentences: community-based and custody-based. Community-based sentences consist primarily of probation and conditional sentence orders, both of which may include conditions such as community service and/or house arrest. Custody-based sentences require an offender to be incarcerated in a correctional facility. Such sentences may be for a period of consecutive days or be intermittent (e.g., time served on weekends).
- 5.3** In Nova Scotia, responsibility for adult custodial sentences is split between the federal and Provincial governments. Adult offenders sentenced to a custodial term of two or more years fall under federal jurisdiction, whereas offenders sentenced to less than two years are the responsibility of the Province. The Province is also responsible for the temporary detention of adults on remand (court-ordered detention of a person awaiting further court appearances), and other forms of temporary detention such as immigration holds. Responsibility for the administration of youth (ages 12 to 17) community and custody-based sentences is also the responsibility of the Province. In Nova Scotia, adult parole services for offenders in Provincial correctional facilities are administered by the federal National Parole Board.
- 5.4** The Correctional Services Division of the Department of Justice is assigned responsibility for the administration of community and custody-based sentences. Accordingly, Correctional Services is divided into two core program areas: community corrections and correctional facilities. Correctional Services also has a program services section to support the two core program areas.
- 5.5** In addition to administering court-imposed sentences, Correctional Services serves the court by preparing pre-sentence reports, providing alternative justice measures to assist the court in diverting minor adult offenses from the court process, and by providing programs to assist offenders in reintegrating into the community. The

majority of these and related activities are part of the 22 community corrections offices located throughout the Province.

- 5.6** The average daily number of offenders under the supervision of community corrections staff in Nova Scotia in 2005-06 was 4,000 adults and 650 youths. The average daily cost for the supervision of a community-based sentence in that year was \$5.
- 5.7** Correctional Services operates five adult correctional facilities with a total capacity of 402 males and 48 females, and two youth correctional facilities with a total capacity of 100 males and 13 females. Exhibit 5.1 provides information on facility location, capacity and staffing levels. During 2005-06, the average daily occupancy of Nova Scotia correctional facilities was 340 adults and 60 youths. The average daily cost to incarcerate an adult in 2005-06 was \$178, while the average daily cost for a youth was \$349.
- 5.8** Operating costs for Correctional Services for the year ended March 31, 2006 totaled \$41.1 million. Expenditures by major program were:
- community corrections activities - \$7.6 million
 - youth correctional facility operations - \$8.4 million
 - adult correctional facility operations - \$21.9 million
 - head office activities - \$3.2 million
- 5.9** As at March 31, 2006 there were 582 full time equivalent staff employed in Correctional Services operations as follows:
- community corrections - 119
 - youth correctional facilities - 118
 - adult correctional facilities - 325
 - head office activities - 20

RESULTS IN BRIEF

- 5.10** The following are our principal observations from this audit.
- Performance information currently prepared by Correctional Services is inadequate to assess the efficiency and effectiveness of its programs and services. Correctional Services is in the process of addressing these deficiencies.
 - Pre-sentence investigations and reports are generally completed in compliance with Departmental policies and procedures. However, they are not always completed within the timeframe set out in policy.
 - There is inadequate compliance with policies and procedures for monitoring and enforcing community-based sentences. We identified instances of

inappropriate offender reporting schedules being used and offender risk assessments not completed as required by the policy. We also identified several instances where breaches of the terms and conditions of a community-based sentence occurred but breach proceedings were not initiated. Support for the decision to exercise discretion in these instances was not included in the case files.

- There is general compliance with policies and procedures for enforcing custodial terms and conditions of intermittent sentences. We did, however, identify instances of non-compliance with offender admittance and release policies and procedures.
- Due to inadequate file documentation and a need to clarify certain policies, we were unable to assess whether conditional release policies and procedures had been fully complied with. However, we concluded terms and conditions of conditional releases are monitored and enforced in accordance with policy.
- Roles and responsibilities within Correctional Services are generally clearly defined, assigned and communicated.

AUDIT SCOPE

- 5.11** In May 2006 we completed a broad scope audit of the Correctional Services Division of the Department of Justice. The audit was conducted in accordance with Section 8 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants, and included such tests and procedures as we considered necessary in the circumstances.
- 5.12** Our audit focused on performance information for Correctional Services and on policies and procedures for adult correctional programs and services. However, we noted for conditional releases, Correctional Services applies the same policies and procedures to both youth and adult offenders, with modifications as required. As a result, our observations in this area are applicable to all offenders.
- 5.13** The objectives of the audit were to assess:
- the adequacy of performance information prepared and reported;
 - compliance with policies and procedures used to ensure pre-sentence investigations and reports are properly completed on a timely basis; and
 - compliance with policies and procedures used to administer, monitor and enforce community-based sentences, intermittent sentences and conditional releases.
- 5.14** Audit criteria were used to assist in the planning and performance of the audit. For the audit of performance information, criteria were obtained from the CCAF-

FCVI Inc. publication *Public Performance Reporting - Reporting Principles*. Criteria for the other audit areas were developed based on past audits completed by this Office and other legislative audit offices. All criteria were discussed with and accepted as appropriate by senior management of Correctional Services.

PRINCIPAL FINDINGS

Performance Information

- 5.15** Our objective for this section of the audit was to assess the adequacy of performance information prepared and reported by Correctional Services. We concluded that performance information currently available does not provide sufficient, relevant and appropriate information to help users of the information assess the efficiency and effectiveness of Correctional Services operations. However, the Department of Justice, including Correctional Services, is currently developing new performance measures, indicators and targets, as well as updating existing ones. A Justice Indicators Committee has been created to oversee this process. The Department has also been working with other jurisdictions to develop and refine performance measures and indicators for the criminal justice system. We noted significant progress on the Department's initiatives.
- 5.16** Correctional Services has defined its mission as "to contribute to the maintenance of a just, peaceful and safe society..." It has identified the critical aspects of its operations as ensuring safety and security in the workplace and encouraging positive change in offender attitudes and behaviors. The quality and effectiveness of Correctional Services programs and services, including the custody, rehabilitation and reintegration of offenders are critical elements affecting the safety of society.
- 5.17** Performance information within Correctional Services is limited. Internally produced information consists primarily of average daily and monthly inmate counts, cost information, staffing levels, number of escapes, number of incidents (e.g., violent acts), as well as information on various activities. We were advised by management that this information is analyzed and compared internally, as well as compared to information from other jurisdictions, with corrective action taken as required. However, because the review and analysis were not documented, we could not verify this statement. We noted that data collected is not linked to program outcomes and there is inadequate information to assess the efficiency and effectiveness of programs and services.
- 5.18** We also examined Correctional Services performance information included in the Department's 2004-05 Accountability Report. These reports are required of all government departments by Provincial legislation. We noted weaknesses in information provided, such as inadequate performance measures and indicators, performance measures and indicators without clear linkages to stated outcomes, absence of comparative information from other jurisdictions, and lack of performance information on key activities such as community corrections operations. We concluded that the performance information included in this

report is inadequate to enable its users to assess the efficiency and effectiveness of Correctional Services programs and operations.

- 5.19** Performance information included in the Department's 2004-05 Accountability Report was manually compiled from various sources. Management advised us that the new Justice Enterprise Information Network system will be used to produce future performance information once information needs have been fully defined.
- 5.20** Correctional Services monitors and reports annually on the number of escapes from custody. This measure indicates the degree of protection provided to society through secure custodial systems and provides an indication of the effectiveness of Correctional Services' policies and procedures. However, because the average period of incarceration is less than 60 days, protection of society by incarceration is only a short-term measure. The ultimate measure of Correctional Services' success in achieving its objective of contributing to a just, peaceful and safe society is whether it has been able to effect positive change in offender attitudes and behaviors so that the safety of society will not be threatened when the offender is in the community.
- 5.21** A common measure of change in offender attitudes and behaviors is the rate of reoffending, referred to as recidivism. Recidivism rates provide an indication of the effectiveness of government-supported personal development activities and rehabilitation programs. Correctional Services has defined the rate of recidivism as the percentage of offenders who reoffend within one year of release from custody. Our audit of Departmental performance information noted that recidivism rates for youth in custody are measured and reported, but adult recidivism rates are not. Management advised us that recidivism rates for adults in custody will be reported in 2008.
- 5.22** Our audit also found that recidivism rates are not measured for offenders given community-based sentences. This information could assist in assessing the safety of society as a result of community-based sentencing of offenders. Without reliable recidivism rates for all offenders, Correctional Services is not able to fully evaluate and report the effectiveness of programs and services in changing offender attitudes and behaviors. We believe the rate of recidivism for community-based sentences is an important performance indicator for Correctional Services due to the significance of these sentences as shown by the ratio of community-based sentences to incarceration sentences. For the year ended March 31, 2006, the ratio of community-based sentences to incarceration sentences was 12 to 1 for adults and 11 to 1 for youths.

Recommendation 5.1

We recommend Correctional Services develop, implement and report performance measures, indicators and targets for all key programs and services to enable an assessment of the efficiency and effectiveness of the Division.

- 5.23** We assessed the linkages of the goals and objectives of Correctional Services to the goals and objectives of government and the Department of Justice. We concluded that the Division's goals and objectives are clearly defined and communicated, and are consistent with the goals and objectives of government and the Department. We also examined senior management roles and responsibilities and found they were clearly defined, assigned and communicated in most of the areas we audited. We identified a deficiency in this regard related to responsibilities for performance information and reporting.

Recommendation 5.2

We recommend Correctional Services clearly define, assign and communicate staff roles and responsibilities for performance information and reporting.

- 5.24** Section 83 of the Provincial Finance Act requires the Minister of Finance to table a report on outcomes in the House of Assembly for the fiscal year ended March 31 by December 31 of that year. This required report is currently named the Government Accountability Report. It is prepared by Treasury and Policy Board based on departmental accountability reports prepared in accordance with guidelines established by the Board. The 2004-05 Accountability Report for the Department of Justice was prepared and submitted to Treasury and Policy Board as required and in accordance with the target date. However, Government Accountability Reports for 2004-05 and prior periods were not tabled in the House of Assembly as required by legislation. We brought this matter to the attention of Treasury and Policy Board. The Board tabled the reports and indicated future reports will be tabled by December 31, as required by the Act. We confirmed that the 2004-05 and prior period reports had been tabled in the House of Assembly.

Pre-sentence Reports

- 5.25** We assessed compliance with the policies and procedures used by Correctional Services to ensure pre-sentence investigations and reports (PSRs) are completed in accordance with established policies and procedures. We concluded there is general compliance with policies and procedures. However, we found reports were not always provided to the courts within the timeframe stated in the policy, which is at least three days prior to sentencing. In addition, we also concluded review and approval procedures for PSRs were inadequate.
- 5.26** PSRs provide the courts with information on an offender. The reports include information on the offender's criminal, education and employment history, community and family ties, finances, and health, as well as information on the offender's character, attitude and personality. The reports are used by the courts in determining offenders' sentences after they have been convicted of an offense. PSRs are not mandatory. They are prepared only when requested by the court.

- 5.27** **Policies and procedures** - Correctional Services has formal policies and procedures for the completion of pre-sentence investigations and reports, and we found they provide adequate guidance to assist staff in the preparation of the reports. Correctional Services estimates there were in excess of 3,000 PSRs prepared between April 1, 2005 and March 31, 2006. The actual number of PSRs is not tracked.
- 5.28** Our examination of the PSR process included a review of 60 reports. We found all reports were prepared in accordance with established policies and procedures. However, 25 % (15 of 60) of the reports were not submitted to the court at least three days prior to the sentencing date, as required by the policy.
- 5.29** PSRs also require the probation officer to provide financial information on the offender, which is used by the courts in determining fines and other sentences. We found that this information is obtained from the offender and is generally not verified. We advised that financial information on offenders be subject to a verification process to enhance the credibility of information submitted to the court.
- 5.30** Correctional Services' policies define preparation of PSRs as the top priority of probation officers. However, as a result of an initiative by Correctional Services to more evenly distribute workloads, probation officers are generally limited to 5 PSRs and 75 cases per month. Thus, a large portion of the PSRs are prepared by assistant probation officers hired on a contract basis. We were advised by management that only reports prepared by new full-time and assistant probation officers are reviewed and approved, but we were unable to substantiate this since the review and approval is not documented. Also, there is no review of PSRs prepared by more experienced probation officers prior to submission to the court. Since the court relies on PSRs in determining sentences, accuracy of the reports is critical. In our view, PSRs should be subject to a review and approval process prior to submission to the court to reduce the risk of errors and omissions in the reports. A review and approval process could also help to address our concern over timeliness of PSRs by ensuring reports are provided to the court within three days, as required by the policy.
- 5.31** **Systems** - We found that scheduling and tracking of pre-sentence investigations and reports are done informally. The court requests a PSR and provides the date by which it is required. The task is assigned to a probation officer or assistant probation officer, who becomes solely responsible to ensure it is completed and delivered to the court by the required date. There is no system to schedule and track PSRs. As a result, Correctional Services is unable to provide statistics on the number of investigations and reports completed or the timeliness of the reports. We advised management that a formal tracking and scheduling system could provide useful information to improve operational efficiencies and ensure all reports are completed and submitted to the court by the required dates.

Recommendation 5.3

We recommend Correctional Services modify its policies and procedures to include a requirement for formal, documented review and approval of pre-sentence reports. We further recommend that a scheduling and tracking system be implemented to ensure reports are prepared and submitted to the courts in accordance with policy.

- 5.32** **Roles and responsibilities** - We reviewed staff position descriptions, as well as policies and procedures related to pre-sentence investigations and reports and concluded that roles and responsibilities were clearly defined, assigned and communicated. Our survey of staff indicated that adequate pre-sentence investigation and report training has been provided.
- 5.33** **Survey results** - We also surveyed Provincial judges, crown prosecutors and legal aid lawyers to determine whether PSRs were meeting their needs and being provided on a timely basis. Both the crown prosecutors and legal aid lawyers responded to our survey and indicated PSRs were generally timely and meeting their needs. We received one response from a Provincial judge which stated PSRs were of interest, but no comments were provided as to whether or not PSRs were meeting judges' needs, or if there were any concerns related to timeliness.
- 5.34** We were advised by management that they are reviewing the current PSR process and will be updating their policies and procedures as a result. Management further indicated any additional training needs will be identified and addressed as part of this review.

Community-based Sentences

- 5.35** As an alternative to incarceration, the courts can impose a community-based sentence on an individual found guilty of a criminal offense. Community-based sentences consist primarily of probation and conditional sentence orders. Community service and house arrest are some of the conditions that may be attached to probation and conditional sentence orders. An objective of our audit was to assess compliance with the policies and procedures used to monitor and enforce community-based sentences. We concluded there is inadequate compliance with these policies and procedures.
- 5.36** **Policies and procedures** - Correctional Services has formal policies and procedures to guide staff in monitoring and enforcing community-based sentences. The policies provide direction to assist staff in identifying instances of non-compliance with the terms and conditions of a community-based sentence and actions to be taken in such instances. The policies also clearly define and assign staff roles and responsibilities. We surveyed community corrections staff and found they generally believe adequate staff training is being provided.
- 5.37** Our audit of community-based sentences included an assessment of 60 case files for compliance with policies and procedures. We identified one or more instances

of non-compliance in 17 of the files. Accordingly, we concluded policies and procedures were not adequately adhered to. We were also unable to conclude on certain aspects of the monitoring and enforcement process due to a lack of documentation to support compliance.

5.38 During our testing, we noted the following findings:

- When breach proceedings were initiated, they were reported to the appropriate authorities on a timely basis.
- The reporting requirements for an offender serving a community-based sentence are based on an offender risk assessment. High-risk offenders are required to report to a probation officer once every two weeks. We identified two cases where an inappropriate offender reporting schedule was being used for a high-risk offender.
- Eleven instances were identified where an offender risk assessment was not completed or updated within the required timeframes.
- There were ten instances where a breach of the terms and conditions of the community-based sentence were identified, but breach proceedings were initiated in only five cases. Breach proceedings involve a recommendation to Public Prosecutions Services to lay charges against an offender for non-compliance with the terms and conditions of a community-based sentence. The breaches we noted included failures to report for meetings, incomplete community service, and a failure to pay restitution. Section 3.2 of the Breach of Probation Policy of Correctional Services provides guidance on when to initiate breach proceedings, however support for the decision to exercise discretion in these instances was not included in the case files. As a result, we were unable to conclude if the policy had been complied with.

5.39 We also reviewed three internal quarterly reports for the Division's central region and noted nine instances where breaches of the terms and conditions of a community-based sentence occurred but breach proceedings had not been initiated. When breach proceedings are not initiated, the offender's criminal record is unaffected, resulting in the court not being aware of the breach should the offender appear before the court at a later date.

Recommendation 5.4

We recommend Correctional Services develop and implement controls to ensure compliance with policies and procedures related to community-based sentences.

5.40 We also identified one case in which an offender was determined by Correctional Services to be unsuitable for monitoring by community corrections staff due to the offender's offense history. As a result, a court's community-based sentence could

not be enforced by Correctional Services' staff due to safety and security concerns. We noted Correctional Services' policies and procedures provide for the safety of staff, but they do not provide guidance to address the inability to enforce the terms and conditions of a court-imposed community-based sentence due to safety considerations. However, a protocol dated June 12, 2006 between Correctional Services, the police and Public Prosecution Services has been drafted to address situations where the terms and conditions of a community-based sentence cannot be enforced. We advised management to include such guidance in Correctional Services' policies and procedures.

- 5.41** **Systems** - We reviewed the Justice Enterprise Information Network system, which is used to record and track all community-based sentences and the related terms and conditions. The system is also used to document all activities related to each case. We concluded that the system is adequate to record and track community-based sentences.

Intermittent Sentences

- 5.42** Our objective was to assess compliance with the policies and procedures used to monitor and enforce the terms and conditions of intermittent sentences. Our work focused on the custody portion of intermittent sentences and examined compliance with the policies and procedures to admit and release intermittent offenders, as well as those used to address situations where offenders do not report to the correctional facility as required by the terms and conditions of the sentence. We concluded there was general compliance with policies and procedures used to monitor and enforce the custodial terms and conditions of intermittent sentences. We did, however, identify instances of non-compliance with offender admittance and release policies and procedures.
- 5.43** Intermittent sentences are court-ordered incarceration sentences which are not for a continuous span of time. A common intermittent sentence is one that incarcerates an offender on weekends so the offender can remain employed and support his or her family. According to Correctional Services, for the period April 1, 2005 to March 31, 2006 there were 294 admissions to intermittent sentences. During this period 13 offenders failed to report to the correctional facility to commence their sentences and 75 individuals were charged for failing to report for one or more portions of their intermittent sentences.
- 5.44** **Policies and procedures** - There are detailed policies and procedures to guide staff in the admittance and release of offenders serving intermittent sentences. They also include guidance to assist staff in identifying instances of non-compliance with the terms and conditions of an intermittent sentence and action to be taken in these situations. Weekly directives are also used to provide additional guidance to staff.
- 5.45** Our audit focused on the policies and procedures used to admit and release intermittent offenders, and monitor and enforce the terms and conditions of intermittent sentences. We tested compliance with policies and procedures at

the Antigonish Correctional Facility and Central Nova Scotia Correctional Facility (Burnside). We examined the admittance and release processes at these two correctional facilities and noted differences in policies and procedures due to differences in facility size.

- 5.46** We observed 23 offenders being admitted and released, and assessed the process for compliance with the policies and procedures of the facility. We concluded Correctional Services is not in full compliance with admittance and release policies and procedures. We did, however, conclude terms and conditions of an intermittent sentence are monitored and enforced. We also noted that instances of non-compliance with the terms and conditions of an intermittent sentence are reported to the appropriate authorities on a timely basis.
- 5.47** The following instances of non-compliance with admittance and release policies and procedures were noted.
- Offenders were not required to shower upon admittance.
 - Three offenders and their property were not thoroughly searched and metal detectors were not used.
 - Offender property was not subject to an x-ray process due to lack of equipment.
 - Bed space was not assessed for damage or prohibited items in the case of three offender discharges.
 - Documentation deficiencies were noted in all cases we examined.
- 5.48** We also noted several instances where current practice differed from Correctional Services' policies and procedures. We advised management that current practices should be reviewed and, where appropriate, policies and procedures updated or current practices modified to ensure compliance with documented policies and procedures. Management advised us they have reviewed the intermittent sentence process and will be updating policies and procedures based on the results of the review.

Recommendation 5.5

We recommend Correctional Services complete its update of intermittent sentence policies and procedures on a timely basis. We further recommend Correctional Services develop and implement controls to ensure compliance with intermittent sentence policies and procedures.

- 5.49** **Systems** - Intermittent sentences are recorded in the Justice Enterprise Information Network system, which is in the process of being implemented. We reviewed the system and found it is adequate to record and track intermittent sentences. We

identified the need to implement controls to prevent and/or detect errors. We also identified the need for additional staff training on the system. Management advised us that additional staff training is planned and controls would be improved as the system is implemented.

- 5.50** **Infrastructure** - The Antigonish Correctional Facility houses intermittent sentence offenders with the general inmate population in double occupancy cells. This is not in accordance with Correctional Services policy because it increases the risk of intermittent sentence offenders bringing contraband items to other inmates, and the potential for other inmates to pressure the offenders to do so. Upon enquiry, we were informed all other Provincial adult facilities separate intermittent sentence offenders from other inmates.
- 5.51** In addition, cells at the Antigonish facility are approximately 30.5 square feet in size. The standard established by Correctional Services is 80 square feet and cells are to be single occupancy. We also reviewed a report of the Nova Scotia Fire Marshal that indicated this facility does not meet current fire code standards. These conditions present a risk to the safety of offenders and staff. In June 2006, Executive Council provided approval for preliminary site selection and costing for a new correctional facility. As of the date of this report, replacement of the Antigonish facility had not been approved. Correctional Services is also seeking approval to replace the Cumberland Correctional Facility.
- 5.52** **Roles and responsibilities** - We reviewed staff position descriptions, policies and procedures, and surveyed staff to determine if roles and responsibilities related to intermittent sentences are clearly defined, assigned and communicated. We concluded that roles and responsibilities are clearly defined, assigned and communicated.

Conditional Releases

- 5.53** Our objective for the audit of conditional releases was to assess compliance with policies and procedures used to administer conditional releases, including those used to ensure the terms and conditions of a conditional release are adhered to. Due to inadequate file documentation and a need to clarify certain policies, we were unable to conclude as to whether or not conditional release policies and procedures had been fully complied with. However, we did conclude terms and conditions of conditional releases are monitored and enforced in accordance with policy.
- 5.54** A conditional release is a temporary leave of absence from a correctional facility granted to an offender for medical, humanitarian or rehabilitative purposes. Eligibility is determined by Correctional Services. For adult offenders, conditional releases can be issued for a maximum period of fifteen days if approved by head office, or for a maximum of one day if approved by the superintendent of a correctional facility. For youth, the maximum length of a conditional release is thirty days. A conditional release can also take the form of a daily release where the offender returns to the correctional facility each day.

- 5.55** Each conditional release has terms and conditions attached to it. The terms and conditions are determined by Correctional Services. Typical terms and conditions include, but are not limited to, keeping the peace, acceptance of telephone checks from Correctional Services staff, curfews, and date and times to return to the correctional facility.
- 5.56** **Policies and procedures** - There are detailed policies and procedures to guide staff in the administration of conditional releases, though they do not address daily releases. The policies and procedures provide guidance to assist staff in identifying instances of non-compliance with the terms and conditions of the conditional release and action to be taken in such instances.
- 5.57** We focused on the administration of conditional releases, including temporary absences. Temporary absences are approved by the superintendent of the correctional facility and must begin and end within a calendar day. Conditional releases also include daily releases which are daily temporary absences issued for periods in excess of one calendar day. The offender is required to return to the facility each day. We tested 36 conditional release applications, of which 19 were approved and 17 were denied or withdrawn. Head office approved 14 and the superintendent of the correctional facility where the offender was incarcerated approved 5.
- 5.58** The following observations were made during our testing.
- All approved conditional releases were for authorized purposes.
 - All offenders issued a conditional release were eligible to receive it.
 - Six of the conditional releases were for periods in excess of the maximum period allowed by the conditional release policy. Included in the six were five daily releases which are not specifically addressed by the current policy.
 - Correctional Services' policy requires input from the crown prior to the approval of a conditional release for a restricted offender. Due to a lack of documentation, we were unable to determine if input from the crown had been obtained in seven instances where a restricted offender was granted a conditional release.
 - We also noted other documentation deficiencies in all 19 approved conditional releases. As a result we were unable to determine if policy had been fully complied with.
- 5.59** During our testing, we identified five temporary absences for restricted offenders which were approved by the superintendent of the correctional facility. The temporary absences were for a one-day period and were escorted. Policies do not specifically provide the authority for superintendents to approve temporary absences for restricted offenders even when escorted. Senior management of Correctional Services advised us that superintendents have the authority to approve temporary absences for restricted offenders provided the offender is escorted. We

advised Correctional Services to clarify the authority of superintendents as it relates to restricted offenders.

- 5.60** Our examination of conditional releases identified instances of non-compliance with policies and procedures, and areas needing improvement. We believe a review of policies and procedures is required.

Recommendation 5.6

We recommend Correctional Services develop controls to ensure there is appropriate compliance with its conditional release policies and procedures, and adequate documentation is maintained to support compliance. We further recommend that policies and procedures be updated to address all types of conditional releases and staff authorities.

- 5.61** **Monitoring and enforcement** - Each conditional release has terms and conditions attached to it. Offenders must adhere to these restrictions. The primary method of enforcing terms and conditions of a conditional release while the offender is in the community is for Correctional Services staff to place phone calls to the offender. The offender is required to be at the location to answer or return the call within a defined period of time. Correctional Services also has processes to address the risk that offenders will have calls forwarded to another location. Our testing of monitoring and enforcement practices found that staff is complying with policies and procedures.
- 5.62** **Roles and responsibilities** - We reviewed staff position descriptions, policies and procedures, and surveyed staff to determine if roles and responsibilities related to conditional releases are clearly defined, assigned and communicated. We concluded that roles and responsibilities are clearly defined, assigned and communicated; except as noted in paragraph 5.59.
- 5.63** **Systems** - Conditional releases are recorded in the Justice Enterprise Information Network system, which is currently in the process of being implemented. We reviewed the system and found it was adequate to record and track conditional releases. We did, however, identify the need to implement controls to prevent and/or detect errors.

CONCLUDING REMARKS

- 5.64** Performance information currently available is inadequate to assess the efficiency and effectiveness of Correctional Services programs and services. Correctional Services needs to ensure its current performance measurement initiative leads to the development and implementation of adequate performance measures, indicators and targets for all its key activities. Such information should enable an assessment of the efficiency and effectiveness of Correctional Services' programs and services in contributing to a just, peaceful and safe society. We acknowledge the Department has made significant progress in this area.

5.65 Correctional Services has developed numerous policies and procedures to help ensure safety and security for both staff and offenders, as well as for the public. Our audit identified inadequate file documentation and inadequate compliance with policies and procedures in several areas. We concluded there is a need to review and update existing policies and procedures in a number of areas. We also noted the need to improve controls to ensure compliance with policies and procedures so the safety and security of staff, offenders and the public are not compromised. We encourage Correctional Services to address the concerns identified in our report in a timely manner.

Correctional Facility Locations, Capacities and Staffing Levels

Correctional Facility	Location	Capacity		Staffing levels	
		Male	Female	Full-time	Part-time
Adult Facilities:					
Cape Breton Correctional Facility	Gardiner Mines (near Sydney)	96	--	60	35
Central Nova Scotia Correctional Facility	Dartmouth	224	48	143	47
Antigonish Correctional Facility	Antigonish	17	--	13	7
Cumberland Correctional Facility	Amherst	27	--	17	8
Southwest Nova Scotia Correctional Facility	Yarmouth	38	--	26	6
Sub-total - Adult		402	48	259	103
Youth Facilities:					
Nova Scotia Youth Centre	Waterville	96	12	101	45
Cape Breton Youth Detention Facility (note 1)	Glace Bay	4	1	1	9
Sub-total - Youth		100	13	102	54

Note 1 - The Cape Breton Youth Detention Facility is a short-term detention facility.

DEPARTMENT OF JUSTICE'S RESPONSE

The Correctional Services Division, Department of Justice appreciates the analysis which was conducted by the Auditor General with respect to Correctional Services operations. Constructive recommendations have been made and action plans to address those recommendations are in process. Correctional Services does not agree with a few of the recommendations which were made and the reasons for this disagreement are identified in the response to the recommendations and findings as outlined below.

Recommendation 5.1

We recommend that Correctional Services develop, implement and report performance measures, indicators and targets for all key programs and services to enable an assessment of the efficiency and effectiveness of the Division.

Comment - Agree with recommendation.

The identification of recidivism rates is part of a national initiative which will provide comparative measures between jurisdictions. It is intended that these recidivism measures will be in place by 2008.

Recommendation 5.2

We recommend Correctional Services clearly define, assign and communicate staff roles and responsibilities for performance information and reporting.

Comment - Agree with recommendation.

Greater clarity will be provided with respect to staff responsibility for performance information and reporting.

Recommendation 5.3

We recommend Correctional Services modify its policies and procedures to include a requirement for formal, documented review and approval of pre-sentence reports. We further recommend that a scheduling and tracking system be implemented to ensure reports are prepared and submitted to the courts in accordance with policy.

Comment - Agree with recommendation as stated.

Correctional Services does not agree with finding 5.29 which states that financial information provided by offenders be subject to a verification process to enhance the credibility of the information submitted to the court. It would be extremely difficult and time-consuming to verify this information and the end result would be of little use to the court. Offenders do not overstate

their income. Indeed, they tend to understate their financial means in order to avoid financial penalties. No jurisdiction in Canada undertakes the verification of offender assets, cash flow and financial commitments. Again, the end result would not be of use to the court, particularly when the court can establish, with the assistance of defence counsel, an arrangement for restitution payments or a fine penalty. Failure to comply with financial penalties ultimately results in a verification process in order to prove wilful failure.

Finding 5.30 suggests that pre-sentence reports which are prepared by experienced staff should be subject to review and sign-off by a supervisor. Although it is agreed that reports which are prepared by senior staff should be reviewed on a random basis, it would be inappropriate to require that senior staff reports be vetted by a supervisor in all cases. Such a process would be counter-productive from a staff trust perspective and unnecessary if a random audit process, as proposed, is in place. Approximately 3,000 pre-sentence reports are prepared by probation officers in Nova Scotia each year. It is noted in finding 5.33 that both crown prosecutors and legal aid lawyers indicated that pre-sentence reports are generally timely and meet their needs.

Recommendation 5.4

We recommend Correctional Services develop and implement controls to ensure compliance with policies and procedures related to community-based sentences.

Comment - Agree with recommendation.

Correctional Services will review and update compliance processes as required.

There is not agreement, however, with finding 5.39 which suggest that charges be laid in each instance where a breach of a condition of probation is identified.

Probation officers in Nova Scotia, similar to other provinces, lay a large number of breach charges against probationers, but they do so with discretion. Probationers are cautioned or warned by probationers when minor technical violations of an order occur and these warnings are identified to the court when repeated violations ultimately result in a breach charge.

The court expects probation officers to use discretion, similar to the expectation that police officer will not bring charges forward in each instance where a person has been found to be driving over the speed limit by two kilometres per hour. The court would not accept a zero tolerance approach to technical violations and is also not resourced for that purpose.

Recommendation 5.5

We recommend Correctional Services complete its update of intermittent sentence policies and procedures on a timely basis. We further recommend Correctional Services develop and implement controls to ensure compliance with intermittent sentence policies and procedures.

Comment - Agree with recommendation.

Recommendation 5.6

We recommend Correctional Services develop controls to ensure there is appropriate compliance with its conditional release policies and procedures, and adequate documentation is maintained to support compliance. We further recommend that policies and procedures be updated to address all types of conditional releases and staff authorities.

Comment - On July 1, 2006 the new *Correctional Services Act* came into force. The new Act provides an update framework for Corrections programs, services and operations including conditional releases. Since July 1, 2006 the Division has been updating its policies and procedures to align them with the new legislation. Up to date policies and procedures for conditional release will be in place early in 2007.

Clarification pertaining to findings 5.57 and 5.58 are provided as follows:

5.57 Conditional sentences are authorized by the Manager, Policy and Programs for continuous, uninterrupted periods up to the statutory limits for daily release. Superintendents only have the authority to release offenders up to one day, with limitations. This process is adhered to.

5.58 Correctional Services does not release offenders for periods which exceed the maximum period allowed by conditional release policy. Continuous releases within the maximum time frame are approved on a day-to-day basis and require a new authorization certificate each day that the offender is released. Consequently, Correctional Services does not exceed the maximum allowed in the policy and the practice is in compliance with the *Prison Reformatories Act* and the *Youth Criminal Justice Act* for adult and youth offenders respectively.