

Yukon Corrections: Adult Custody Policy Manual

Section:	F Complaints, Investigations and Inspections	Effective Date:	September 17, 2020
Number:			
Item:	F 1.2 Director of Investigations and Standards		
Approved by Director, Corrections:		Revised:	October 28, 2020

STATEMENT OF POLICY

This policy describes the legal authority of the Director of Investigations and Standards and the associated obligations of the Whitehorse Correctional Centre where the Director of Investigations and Standards conducts an inspection of a correctional centre or part of a centre, investigates a matter respecting the administration of the *Corrections Act*, 2009, reviews a decision and penalty or corrective measure imposed following a disciplinary hearing, or reviews a response to an complaint.

AUTHORITIES

Corrections Act, 2009: ss. 1, 5(1)(b), 36 – 42
Corrections Regulation: ss. 35, 41

DEFINITIONS

PROVISIONS

Legal Authority of the Director of Investigations and Standards

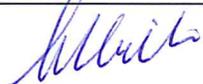
1. The Director of Investigations and Standards is appointed by the Minister of Justice and has the authority to perform four distinct functions under the *Corrections Act*, 2009 and the Corrections Regulation.

As per the legislation, the Director of Investigations and Standards may delegate in writing one or more of the Director's powers and duties to an employee of the Investigations and Standards Office.

Inspections

2. Under s. 36 of the *Corrections Act*, 2009, the Director of Investigations and Standards must inspect a correctional centre or part of a centre on such periodic basis as the Minister considers appropriate in the circumstances.
3. When conducting an inspection under s. 36 of the *Corrections Act*, 2009, the Director of Investigations and Standards may:
 - 3.1. Enter a correctional centre at any time;
 - 3.2. Access any part of the centre at any time; and,

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- 3.3. Examine anything or any record, except a medical record of an inmate, in the correctional centre.
 - 3.3.1. Where the Director of Investigations and Standards requests to examine a thing or record under this paragraph, these materials will be provided by the Whitehorse Correctional Centre in a manner set out by the Director of Corrections.
4. A person, or a person who aids or assists another person, who obstructs, impedes, or refuses to admit the Director of Investigations and Standards in conducting an inspection under s. 36 of the *Corrections Act*, 2009 commits an offence and may be liable to punishment as set out in s. 42(3) of the *Act*.

Investigations

5. Under s. 37 of the *Corrections Act*, 2009, the Director of Investigations and Standards has the authority to investigate a matter respecting the administration of the *Act*:
 - 5.1. On the written request of the Assistant Deputy Minister; or,
 - 5.2. On the Director of Investigations and Standards' own motion.
6. In conducting an investigation under s. 37 of the *Corrections Act*, 2009, the Director of Investigations and Standards is entitled to access, at any time, to:
 - 6.1. A correctional centre and an inmate;
 - 6.2. A staff member; and,
 - 6.3. A file or document under the custody and control of the Department of Justice.
 - 6.3.1. Where the Director of Investigations and Standards requests access to a file or document under this paragraph, these materials will be provided by the Whitehorse Correctional Centre in a manner set out by the Director of Corrections.
7. In conducting an investigation under s. 37 of the *Corrections Act*, 2009, the Director of Investigations and Standards may make an order requiring a person to:
 - 7.1. Attend, in person or by electronic means, before the Director to answer questions on oath or affirmation, or in any other manner; and/or,
 - 7.2. Produce for the Director a record of thing in the person's possession or control.

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8. The Director of Investigations and Standards may apply to the Supreme Court for an order directing a person, or any directors and officers of a person to cause the person, to comply with an order set out above in paragraph 7.
9. Failure or refusal of a person to comply with an order made under the above paragraphs 7 or 8 makes the person liable to be committed for contempt.
10. A person, or a person who aids or assists another person, who obstructs, impedes, or refuses to admit the Director of Investigations and Standards in conducting an investigation under s. 37 of the *Corrections Act*, 2009 commits an offence and may be liable to punishment as set out in s. 42(3) of the *Act*.

Review of Decision and Penalty or Corrective Measure Imposed Following a Disciplinary Hearing

11. Under s. 35 of the Corrections Regulation, the Director of Investigations and Standards has the authority to review a decision and the penalty or corrective measure imposed following a disciplinary hearing at the request of the Person in Charge or an inmate.
 - 11.1. All requests for review under s. 35 of the Corrections Regulation must be made in writing and within seven days of a decision being made following a disciplinary hearing.
 - 11.2. Where the Person in Charge makes the request, he/she/they will ensure that the written request for review clearly sets out:
 - 11.2.1. The circumstances and any other relevant particulars of the matter;
 - 11.2.2. The grounds for the request; and,
 - 11.2.3. The relief being requested.
 - 11.3. On receipt of a request for review, the Person in Charge must immediately provide the Director of Investigations and Standards with a record of the disciplinary hearing and information used in the hearing.
 - 11.3.1. The Person in Charge will provide these materials in a manner set out by the Director of Corrections.
12. Pending completion of his/her/their review under s. 35 of the Corrections Regulation, the Director of Investigations and Standards has the authority to suspend a penalty or corrective measure imposed following a disciplinary hearing.

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13. Upon completion of his/her/their review of a decision under s. 35 of the Corrections Regulation, the Director of Investigations and Standards has the authority to:
 - 13.1. Confirm the decision made and the penalty or corrective measure imposed;
 - 13.2. Confirm the decision made and substitute any penalty or corrective measure that the person presiding over the hearing could have imposed; or,
 - 13.3. Rescind the decision made and the penalty or corrective measure imposed and, either:
 - 13.3.1. Direct that the Person in Charge change the inmate's record to reflect the rescission; or
 - 13.3.2. Direct that a new disciplinary hearing be convened and presided over by a person appointed by the Assistant Deputy Minister.
14. Following the completion of a review of a decision under s. 35 of the Corrections Regulation, the Person in Charge will, as soon as practicable but within two weeks, take all necessary action to comply with the outcome of the review.
 - 14.1. Where the Whitehorse Correctional Centre is unable to implement the totality of a penalty or corrective measure substituted by the Director of Investigations and Standards, the reason(s) for this inability will be clearly and thoroughly documented in an inmate's Daily Observation Report.
 - 14.1.1. For greater clarity, the correctional centre may be unable to implement the totality of a penalty or corrective measure substituted by the Director of Investigations and Standards if, for instance, an inmate's daily routine and/or individualized care plan make implementation impossible. This may occur where, for example, the penalty or corrective measure substituted is placement in conditions that amount to segregation and an inmate's court attendance and/or professional, medical, or clinical visits result in a situation where he/she/they necessarily cannot be held in conditions that meet the definition of segregation.

Review of Response to a Complaint

15. The Director of Investigations and Standards has the authority to review a response to a complaint made by an inmate.
16. On receipt of a request for review, the Person in Charge must immediately provide the Director of Investigations and Standards with:
 - 16.1. The inmate's written complaint;

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- 16.2. The manner in which the complaint was resolved; and,
- 16.3. The written advice given to the complainant as a result of the investigation of the complaint.
17. The Person in Charge will provide the materials outlined above in paragraph 16 in a manner set out by the Director of Corrections.
18. Upon completion of his/her/their review of a response to a complaint under s. 42 of the Corrections Regulation, the Director of Investigations and Standards has the authority to:
 - 18.1. Confirm the decision;
 - 18.2. Direct the Person in Charge to reconsider his/her/their decision taking into account the reasons set out in the review report; or,
 - 18.3. Substitute their own decision for that of the Person in Charge.
19. The authority of the Director of Investigations and Standards upon completion of his/her/their review of a response to a complaint under s. 42 of the Corrections Regulation is limited to the three options set out above in paragraph 18. The Director of Investigations and Standards does not have the authority to make recommendations flowing from a review of a response to a complaint under s. 42 of the Corrections Regulation.
20. Following the completion of a review under s. 35 of the Corrections Regulation, the Person in Charge will, as soon as practicable but within four weeks, take all necessary action to comply with the outcome of the review.

RELATED POLICIES & DIRECTIVES

B 4.1 Inmate Disciplinary Process

E 1.1 Staff Conduct: Authority

F 1.1 Inmate Complaints

2020.10.28 – Memo - Directive re: Information Sharing with the Director of Investigations and Standards and Responses to Reviews under s. 42 of the Corrections Regulation

HISTORY

Formerly Policies F 1 2 – Investigations and F 1 3 – Inspections