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Annual Report
of the
Correctional
Investigator
1981-1982



The Correctional Investigator
Canada

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of the
Correctional
Investigator

U.S. Department of Justice 90294
National Institute of Justice

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1981-1982



The Correctional Investigator
Canada

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L'Enquêteur correctionnel
Canada

C.P. 2324, Station D
Ottawa (Ontario)
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February 28, 1983

The Honourable Robert Kaplan
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Sir:

As Correctional Investigator appointed to investigate and report upon complaints and problems of inmates in Canadian penitentiaries, I have the honour of submitting to you the ninth annual report on the activities of this office covering the period June 1, 1981 to May 31, 1982.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Canada

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AUG 1 1983
ACQUISITIONS

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Appointment and Terms of Reference

On June 1, 1973 pursuant to Part II of the Inquiries Act a Commissioner was appointed to be known as the Correctional Investigator and the office was thereby established and has been in continuous operation since that date.

The Correctional Investigator is charged with the responsibility to investigate complaints of inmates and to report upon these to the Solicitor General of Canada.

My appointment to the position was on November 15, 1977 and a copy of Order in Council, P.C. 1977-3209 describing that appointment and the terms of reference is fully reproduced and appears as Appendix "A" hereto.

Organization and Operation

The complement of staff remained the same during this reporting year and consisted of four inquiries officers, an administrative assistant and two secretaries. One change was made however and I was pleased to contract the services of Mr. E. McIsaac to fill a vacant investigative position.

The number of complaints received during the past twelve months was 1346, a slight decrease of less than 2%. During the course of our investigations we made 263 visits to institutions, 134 of which were to maximum security institutions, 105 to medium security institutions and 24 to minimums. The number of interviews held this year with inmates was 782 about the same as last year and I would estimate the number of interviews or meetings with staff during the same period, to be three times that number.

Our resolution rate was a little better than 8% of the number of complaints actually considered and completed. In order to reach that figure it is necessary to subtract from the total number of complaints those that were premature or withdrawn, those for which we have no mandate and those that are still pending. Although the resolution rate was down slightly from last year our assistance given rate climbed to 71%.

It has always been the policy of this office to request that inmates take all reasonable steps to exhaust available legal or administrative remedies before we become involved with a complaint. This of course includes the use of the complaint grievance system.

If our resolution rate should appear to be low it must be remembered that The Correctional Service of Canada has usually had an opportunity to resolve complaints before they reach our office.

STATISTICS

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TABLE A**COMPLAINTS RECEIVED AND PENDING — BY CATEGORY**

	1981-82	1980-81
Transfer	234	19
Medical	113	8
Visits and Correspondence	82	8
Claims	82	11
Staff	70	9
Financial Matter	69	4
Sentence Administration	62	1
Dissociation	61	9
Discipline	50	3
Temporary Absence Programs	42	0
Grievance Procedure	42	3
Information on File	28	5
Cell Effects	24	0
Diet/Food	23	1
Work Placement	18	0
Education	18	1
Cell Change	11	0
Use of Force	10	0
Discrimination	8	0
Canteen	8	1
Hobbycraft	4	0
Other	4	0
	103	7
<u>Outside Terms of Reference</u>		
Parole	62	0
Provincial Matter	13	2
Court Procedure	6	0
Court Decision	5	1
	5	1
Sub-total	1253	93
Total		<u>1346</u>

TABLE B**COMPLAINTS — BY MONTH**

Pending from previous year	93
1981	
June	107
July	79
August	83
September	154
October	130
November	95
December	52
1982	
January	78
February	121
March	168
April	103
May	83
	<u>1346</u>

TABLE C
COMPLAINTS — BY INSTITUTION

	Psychiatric Centre	William Head	Mountain	Matsqui	Mission	Kent	Other	Saskatchewan Annex	Stony Mountain	Saskatchewan	Drumheller	Bowden	Edmonton	Psychiatric Centre	Other	Rockwood	Psychiatric Centre
1981																	
June					1			17		10	2	3	1	3			
July		1	3	1	7	2				1	14		12	1			2
August		1				2			1	2	4				1		1
September		15	3			24	1	1	5	17	1	1	1				1
October		3			1	3		1	4	17	6	3	15		1		
November	8		10	2		4			22	3	2	1			2		1
December				3			1			5	4	2	4	1			
1982																	
January	1				3	1		2	5	5	4		1	1		8	
February	3		9	8	12	7		11	11	17	2	1					
March	2	2	1		1	2	1	5		58	4	8					8
April			2	7	2	15		2	17		2		1	2			
May	1	2				6		2	10	19			1				2
Sub-total	15	24	28	21	27	66	3	41	75	154	45	19	32	5	11	8	15
Total	1253																

⁽¹⁾Correctional Development Centre
⁽²⁾Federal Training Centre

	Kingston Penitentiary	Warkworth	Joyceville	Collins Bay	Frontenac	Beaver Creek	Millhaven	Prison for Women	Other	Reception Centre	C.D.C. ⁽¹⁾	Comwansville	Montée St. François	Archambault	F.T.C. ⁽²⁾	Leclerc	Laval	La Macaza	Other	Dorchester	Springhill	Westmorland	Other	
	10	1	4	2		4	12	2	1	1	2	14	4		2	8				1		1	1	
	6		3				3			10	2		1							9	1			
	1	2	2	1			9		1		3	2	32		2	9		1		5	1			
	11		4	2			19				15	3	1	5	1	5	9			7	1	1	1	
	5		11	7			9		1		6	2		2	2	1	4			22	4			
	3	4	2	4	3		3				2	5		1			6	1	4	1				
	1		5				14				1						3	2	1	2	2		1	
	5	2	1	4			8	2	1		1	1	4		1					16			1	
	1		2				3	14	1		4	4	2				2	1		5			1	
	13	11	7				4				8	4	1		4	3				8	12	1		
	4	1	2	7			3				2	3	3	1	18	4				5				
	1	4	4	1			5	1			2	1	1	1		6	1			11	1			
	61	25	47	28	3	4	92	19	5		11	48	39	1	56	5	33	54	4	7	92	22	4	4

TABLE D
COMPLAINTS — BY REGION

INMATE POPULATION BY CLASSIFICATION AT 25 May, 1982	MARITIME REGION 1055				QUEBEC REGION 3292				ONTARIO REGION 2600				PRAIRIE REGION 2105				PACIFIC REGION 1350			
	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other
	435	424	196		1283	1360	649		821	1379	400		661	1066	378		290	888	172	
1981																				
June	1	0	1	1	15	16	0	0	24	7	4	1	11	5	17	3	0	1	0	0
July	9	1	0	0	13	0	0	0	11	3	0	0	14	14	0	0	2	12	0	0
August	5	0	0	0	44	4	0	1	11	5	0	1	2	6	0	1	24	18	0	1
September	7	1	1	0	29	9	1	0	31	6	0	0	18	7	1	0	3	4	0	0
October	22	4	0	0	12	5	0	0	14	18	0	1	32	13	1	1	12	12	0	0
November	1	0	0	1	9	5	1	0	7	10	3	4	3	25	0	2	0	3	0	1
December	2	2	0	1	4	0	2	1	15	5	0	0	9	6	0	1	0	3	0	1
1982																				
January	16	0	1	0	5	2	0	0	15	7	0	1	6	9	10	1	2	3	0	0
February	5	0	0	1	8	4	0	1	18	2	0	1	17	14	11	0	10	29	0	0
March	8	12	1	0	12	8	0	0	25	18	0	0	58	12	5	0	4	4	0	1
April	5	0	0	0	9	22	0	0	7	10	0	0	1	19	2	2	15	11	0	0
May	11	1	0	0	9	2	1	0	9	9	0	0	20	10	2	0	7	2	0	0
Sub-total	92	21	4	4	169	77	5	3	187	100	7	9	191	140	49	11	81	100	0	3
Total	1253																			

TABLE E
INSTITUTIONAL VISITS

<u>MAXIMUM</u>	NUMBER OF VISITS
Saskatchewan	18
Psychiatric Centre (Pacific)	5
Psychiatric Centre (Prairie)	2
Reception Centre (Ontario)	5
Reception Centre (Quebec)	2
Correctional Development Centre	15
Dorchester	14
Millhaven	12
Prison For Women	5
Archambault	15
Laval	17
Edmonton	5
Kent	10
Kingston Penitentiary	9
	<hr/>
Sub-total	134
<u>MEDIUM</u>	
Stony Mountain	19
Drumheller	6
William Head	9
Mountain	8
Matsqui	8
Bowden	4
Springhill	5
Warkworth	8
Joyceville	8
Collins Bay	6
Cowansville	4
Federal Training Centre	3
Leclerc	8
Mission	9
La Macaza	1
	<hr/>
Sub-total	106
<u>MINIMUM</u>	
Saskatchewan Farm Annex	8
Rockwood	2
Ferndale	2
Elbow Lake	1
Robson Centre	1
Westmorland	1
Pittsburg	1
Frontenac	3
Beaver Creek	1
Montgomery Centre	1
Bath	1
Pandora Centre	1
	<hr/>
Sub-total	23
	<hr/>
9	Total
	263

TABLE F
INMATE INTERVIEWS

<u>MONTH</u>	<u>NUMBER OF INTERVIEWS</u>
June	58
July	67
August	34
September	86
October	98
November	54
December	41
January	39
February	84
March	101
April	68
May	52
Total	782

TABLE G
DISPOSITION OF COMPLAINTS

<u>ACTION</u>	<u>NUMBER</u>
Pending	83
Declined a) Not within mandate	75
b) Premature	340
c) Not justified	114
Withdrawn	103 ⁽¹⁾
Assistance, advice or referral given	530
Resolved	61
Unable to Resolve	40
Total	1346

⁽¹⁾Occasionally complaints are withdrawn by inmates, especially on release, however if such a complaint has general implications the investigation may continue.

TABLE H
COMPLAINTS RESOLVED OR ASSISTED WITH — BY CATEGORY

<u>CATEGORY</u>	<u>RESOLVED</u>	<u>ASSISTANCE GIVEN</u>
Canteen	0	1
Cell Change	0	2
Cell Effects	3	5
Claims	13	46
Diet/Food	0	6
Discipline	4	15
Discrimination	0	5
Dissociation	2	23
Education	0	5
Financial Matter	5	47
Grievance Procedure	7	15
Hobbycraft	0	3
Information on File	2	10
Medical	1	49
Programs	2	17
Sentence Administration	3	44
Staff	2	27
Temporary Absence	3	44
Transfer	0	16
Visits and Correspondence	5	37
Work Placement	1	6
Other	7	46
<u>Outside Terms of Reference</u>		
Court Procedures	0	2
Parole	1	17
Provincial Matter	1	2
Total	61	530

RECOMMENDATIONS

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Outstanding Recommendations 1980-81

In my report of last year where I made fifteen formal recommendations there were two which although accepted by The Correctional Service of Canada required additional monitoring beyond the reporting period ending May 31, 1981.

The first of these involved the question of when benefits should commence under the Penitentiary Inmates Accident Compensation Terms and Conditions. The complainant in this instance had suffered an injury in an industrial shop accident resulting in some permanent disability and claimed compensation. Information in a brochure prepared by Labour Canada indicated that benefits could commence on release on mandatory supervision however in a reply from an official of that department the inmate was informed that benefits could only begin after legal discharge and that the brochure was under revision. Obviously the complainant thought he was getting the run around.

Our investigation of the matter confirmed the inmate's situation but a review of the Order in Council establishing the terms and conditions for compensation found that benefits could only commence after a legal discharge. However, further digging uncovered two similar cases where compensation payments had in fact been received prior to the completion of mandatory supervision.

My recommendation that an amendment be made to include that an inmate on mandatory supervision be eligible for benefits was accepted.

On April 1, 1982 the previous Penitentiary Inmates Accident Compensation Order was revoked and new regulations substituted therefore. The amendment recommended was incorporated allowing compensation payments to be paid to an inmate discharged on mandatory supervision.

The second matter not completely resolved during the 1980-81 reporting year had to do with the denial of requests for diets on religious grounds prompting my recommendation that The Correctional Service of Canada review its Divisional Instruction on the subject with a view to amending the present policy. As indicated in my last report the problem had also been brought to the attention of the Canadian Human Rights Commission and that The Correctional Service of Canada was awaiting the results of its study.

In July 1981 I was advised by the Inspector General that some delays had been incurred but that the Conciliator from the Canadian Human Rights Commission had been in contact with the Commissioner of Corrections. On January 19, 1982 I received a copy of a proposed settlement on the matter and a copy of a draft Divisional Instruction.

I next received from the Inspector General a copy of a letter dated February 16, 1982 from the Chief Commissioner of the Canadian Human Rights Commission to the Commissioner of Corrections approving the terms of a negotiated settlement with respect to religious diets and outlining the commitment of The Correctional Service of Canada to forward final directives to the Commission by June 30, 1982.

Unfortunately this issue will not be resolved during this reporting year but I would like to note that it has been more than seventeen months since my recommendation on this matter was made.

Recommendations 1981-82

Fourteen formal recommendations were made during the reporting year, June 1, 1981 to May 31, 1982. These were presented to the Commissioner of Corrections through the Inspector General as a result of complaints from inmates that dealt with issues which we felt sufficiently strongly about but which we were not able to resolve at other management levels or which because of their subject matter could only be resolved at National Headquarters.

Of the fourteen considered by The Correctional Service of Canada seven were accepted and implemented, six were accepted in principle and were either still under review at the end of the reporting year or were reviewed and partially accepted and one was withdrawn by me because of independent action being taken.

Reading of Inmate Correspondence

It was brought to my attention that in at least two penitentiaries inmate correspondence was being read by Visits and Correspondence personnel. The complaints although unrelated really dealt with the same issue, that being an allegation of a breach of the provisions of the Commissioner's Directive dealing with the subject.

In the one instance a member of the institutional staff advised me that Visits and Correspondence personnel were deciding what non-privileged mail was to be read and that this was subsequently sanctioned by the Warden but not necessarily in writing. At another institution I was informed by the Warden that written authorization had been given to the effect that all non-privileged mail to and from newly arrived inmates was to be read for a period of sixty days.

A review of the relevant Commissioner's Directive makes it quite clear that the reading of general correspondence shall be undertaken only by authorized institutional staff with the written approval of the Director and that the contents of correspondence shall be confidential.

It was apparent that the procedure described in the first case was contrary to the directive by the admission that authorization was not always in writing. With regard to the second situation I was prepared to question the blanket authority given by the Warden to read all non-privileged mail for the sixty day period. I recommended:

That action be taken by The Correctional Service of Canada to ensure that the provisions of the Commissioner's Directive 219 are complied with.

I was subsequently advised that the Wardens concerned were instructed to implement The Correctional Service of Canada policy as written.

Access to Security Information

A problem which I was assured had been resolved arose again in the Prairie Region some sixteen months later and deals with our need to have access to and retain copies of security documents pertaining to any investigation.

In May, 1981 one of my Inquiries Officers was refused a copy of a security document while at Drumheller Institution although it was read to him by the security officer. The matter was referred to the Regional Manager of Preventive Security and after several telephone calls and some difference of opinion a copy of the document was finally released with reluctance.

Section 11 of Commissioner's Directive 240 states that "The Correctional Investigator and his staff shall be provided with all information that they request that pertains to any investigation; this includes the provision of copies of documents for retention". My recommendation

That the parties involved be advised as to the policy in Commissioner's Directive 240

was quickly responded to and all security staff in the Region were instructed to cooperate with the Correctional Investigator and to follow the policy contained in Commissioner's Directive 240.

Searching of Male Inmates by Female Staff

I received the same complaint from two inmates at different institutions about being searched by a female custodial officer. The type of search referred to in each instance was a "frisk" or "pat-down" search which requires the touching of an inmate as opposed to a "skin" or "strip" search which requires all clothing to be removed and does not involve touch, except for head hair, but merely observation.

A review of the search policy contained in Commissioner's Directive 249 indicates discrepancies in the treatment afforded male and female persons. First of all it allows a male inmate to be "strip" searched by a female staff member in an emergency situation but no such restriction is found concerning "frisk" searches of a male inmate by female staff. On the other hand a female inmate can neither be "frisk" nor "strip" searched by male staff. It is interesting to note however that a male staff member should normally be frisk searched by a member of the same sex and strip search shall not be conducted by members of the opposite sex. Finally visitors can only be searched by a person of the same sex. Obviously, there is not only different treatment afforded to male as opposed to female inmates but male inmates are also treated differently from male staff and male visitors. Both complainants were concerned that the Commissioner's Directive affronts the dignity of a male inmate by creating a potentially embarrassing situation not only for him but also for the female staff member involved. I was less concerned about the embarrassment than the discriminatory nature of the policy and so recommended:

That Directive 249 be amended to accord the male inmate the same standard of dignity that is afforded all other individuals liable to be searched.

I was notified that the matter was discussed at the Senior Management Committee in late October and that a recommendation was made to modify The Correctional Service of Canada's policy,

"to ensure that searches on persons should be made by persons of the same sex, or in extreme emergency, by persons of the other sex under supervision".

It was also recommended that the Penitentiary Service Regulations be modified.

The following month I was advised that after considerable discussion of the ramifications of various courses of action the Senior Management Committee decided to maintain the status quo.

I later learned that the Public Service Commission had ordered a study done presumably as a result of the 1977 Report to Parliament by the Sub Committee on the Penitentiary System in Canada in response to Recommendation 17 of that report which called for

"women to be employed on the same basis as men in the Penitentiary Service".

I also learned that the Canadian Human Rights Commission participated fully in that pilot study following which I received a copy of the report made by the Canadian Human Rights Commission related to the question of the employment of female officers in male institutions.

On further questioning into the reason for the decision by The Correctional Service of Canada not to change the present policy on searches, I was advised that the basis for that decision was in essence that the searching of male inmates by female staff is seen as socially acceptable whereas the converse is not true. I was further advised that with female police and correctional officers performing the same duties as male staff in almost every jurisdiction in North America, the questions of personal dignity and sexual harassment simply have not arisen as major issues.

Having received only two complaints on the matter it was difficult to disagree with the explanation given however at a meeting later with the Commissioner of Corrections he advised me that further studies were ongoing by the Canadian Human Rights Commission and that hopefully the issue raised could be resolved down the road. I received no further correspondence on the matter prior to the end of the reporting year and consequently it will continue to be monitored until a final decision is reached.

Special Handling Unit

Complaints were received from several inmates housed in the Special Handling Unit at Millhaven Penitentiary who had protective custody status. They alleged that they were not receiving the same privileges as others in the unit who were not protective custody inmates. Specifically they complained of a lack of movies even though they were contributing to the Inmate Welfare Fund; not enough access to the exercise room and sports equipment; the denial of common room privileges; and the amenities associated with a common room such as coffee and the use of a kettle. They also questioned the delay in installing television sets on their range especially when on other ranges sets had been installed in cells.

The problem was discussed with the CX in charge of E unit who informed us that he simply did not have the facilities to provide all the privileges to which they were entitled. There had been a plan to extend the Special Handling Unit facilities at Millhaven however this was cancelled when the decision was made to move the unit to Saskatchewan Penitentiary in the Prairie Region.

The situation did not look too hopeful however, in an attempt to assist the complainants with this dilemma I referred the matter to the Inspector General with the request that:

The situation be reviewed to see if something can be done to alleviate the problem.

The matter was referred to the Acting Warden, Millhaven who stated that:

"It seems that when the Special Handling Unit was conceived at Millhaven no one took into account that there was a possibility of inmates in this unit requesting protection".

The Regional Director General Ontario responded by saying that:

"The Special Handling Unit was not designated to house protective custody inmates nor was its programme designed to handle them".

Although not much could be done under the circumstances we were advised that the contract for the installation of television sets was proceeding. However out of this did come a recommendation that plans for the new Special Handling Unit facility take into account the needs of the protective custody population.

National Special Handling Unit Review Committee Semi-Annual Reviews

Inmates in the Special Handling Unit at the Correctional Development Centre in the Quebec Region complained that the National Special Handling Unit Review Committee was in breach of Section 17 of Commissioner's Directive 274 requiring that a review be held every six months. Our investigation of the matter found that in fact seven months had elapsed between reviews thus substantiating the complaint. I recommended:

That the provisions in Section 17 of Commissioner's Directive 274 concerning scheduling of reviews be complied with or amended to allow more flexibility.

This recommendation was accepted and a draft amendment prepared before the end of the reporting year. However before leaving this particular recommendation and the circumstances prompting it let me say that to some the matter will appear to be somewhat trivial. But to an inmate incarcerated in a regimented environment and obliged to live within a myriad of rules and regulations it is important that The Correctional Service of Canada personnel also be required to adhere to the provisions of the Commissioner's Directives and Divisional Instructions governing their actions. In this case the Commissioner's Directive was not followed and consequently it was very necessary to bring forward the recommendation in order to correct the non-compliance.

Segregation

A complaint was received from an inmate that he had been transferred from general population at Saskatchewan Penitentiary to Dorchester Penitentiary where upon arrival he was segregated and had remained so for some two months. The reason for the transfer was as a result of the conversion of Saskatchewan Penitentiary to a protective custody facility.

During the course of our investigation we were advised by the Assistant Warden Socialization that due to the inmate's past record at Dorchester they were not prepared to release him from segregation unless ordered to do so by the Commissioner. It appeared that the inmate was being treated less than fairly and that perhaps a solution to the problem would be for another transfer. I recommended:

That consideration be given to moving the inmate to another maximum security institution where he would be given an opportunity to function in a general population.

A few days later I received an acknowledgement of my recommendation indicating actions being taken in response thereto.

At a point somewhere between completing our investigation at Dorchester and receiving a response to my recommendation the inmate was in fact released to normal association population where he functioned for approximately one week after which information was obtained by staff confirming his involvement in security problems and consequently at the Commissioner's order he was transferred to Laval Penitentiary and placed in segregation there.

This turn of events of course made our recommendation inactionable and it was withdrawn.

Involuntary Transfer

On July 8, 1981, sixteen inmates were transferred involuntarily to Dorchester Penitentiary from Saskatchewan Penitentiary due to a national policy decision that that facility be converted to a protective custody institution. Some of these regular population inmates complained to my office about being moved so far away from their home area and the effect that would have on visits, access to lawyers and release programs.

Our investigation included a visit to Saskatchewan Penitentiary where we were assured that every effort had been made to accommodate as many general population inmates in the west as possible but that unfortunately some had to be moved east because of the lack of cell space.

Acknowledging the disruptive effect such transfers cause and knowing the problem with regard to overcrowding in maximum security institutions to be true, it seemed to me that perhaps some consideration could be given to these inmates. I therefore recommended:

That priority be given to returning certain transferees back to the Prairie Region as soon as cell space becomes available.

My proposal was circulated to various branches of the Correctional Service and I was advised that the Deputy Commissioner Security, who is responsible for inmate population movement, confirmed that maximum security inmates were being transferred out of the Prairie Region because of the lack of cell space at Edmonton Institution and that cell space there was not likely to become available. He suggested that the inmates should submit requests for transfer in the normal way and that the Prairie Region could then, if considered appropriate, earmark future vacancies for them and give them priority over other penitentiary inmates being received into the Service.

The response from the Regional Director General Atlantic was also encouraging in that after discussion with Prairie Region specified conditions were set out under which they would consider each of the men referred to them for medium security. This of course was contingent on availability of medium security cell space at that time and also on the behaviour of the inmates while at Dorchester. It was also noted that should maximum security cell space become available in the meantime that the cases I had recommended would be given consideration along with others similarly relocated as a result of national policy.

Finally the reply from the Assistant Regional Director General Prairies stated that there was virtually no chance that the inmates in question could be transferred to Edmonton Maximum as the institution was unable to fulfill existing needs. However, he went on to add that should the inmates become involved in an Individual Program Plan designed to cascade them to reduced security that they could later be accepted at either Stony Mountain or Drumheller where there were at that time sixty vacant cells.

We advised the inmates concerned of the information we received and indicated that we would continue to monitor the cell vacancy rate on their behalf as well as the status of their transfer applications.

Essential Services in both Official Languages

A complaint was received from an inmate at Kingston Penitentiary alleging that he was not being provided with a Classification Officer who spoke French. The fact that he was a unilingual francophone was creating additional difficulties for the inmate.

Commissioner's Directive 237 and in particular section 6 thereof, enunciated The Correctional Service of Canada policy on the matter. It states that

"no Inmate is to be denied essential services in his preferred official language whatever the level of demand in an operational unit".

Further on in the directive "essential services" is defined to include classification services.

Considering that there were other francophone inmates at this institution also being deprived of their language rights I recommended:

That immediate consideration be given by The Correctional Service of Canada to providing classification services in the French language at Kingston Penitentiary in compliance with Commissioner's Directive 237.

The matter was referred to the Ontario Region which responded promptly by advising that a bilingual Case Management Officer was due to report for duty shortly and would be able to provide classification services to the Francophone population at Kingston Penitentiary.

Medical

An inmate complained to my office that he had been denied elective surgery for a bone fusion operation on one of his fingers. We advised him to grieve the matter which he did but he was not satisfied with the response received. The problem was compounded by the fact that he was due to be released on mandatory supervision in four months time and wanted the work done before being released.

Our subsequent investigation confirmed that he had been scheduled for this surgery on three separate occasions but unfortunately, these had all been cancelled. The first because of a lack of hospital bed space, the second because of a lock down situation following a riot in which the complainant was actively involved and the third was deferred due to a lack of resources in the form of escort personnel. I should add that we were advised that the operation would require an overnight hospital stay.

The response to the grievance was that there was still a shortage of security personnel and hospital beds for elective procedures and that no improvement was expected for at least two months. Another appointment was to be arranged as soon as possible.

However shortly thereafter the Commissioner of Corrections faced with the concern of an over consumption in his current overtime budget issued a telex to all Regional Directors

General directing certain corrective steps to curb the problem. One of these steps was that "Efforts should be made to examine the possibility of more efficiently scheduling medical Temporary Absences wherever possible". In a memorandum issued in response to that telex, the Warden at Kent Institution interpreted "more efficient scheduling" by cancelling all elective surgery incurring overtime until further notice. He went on to indicate that his decision was an executive order to implement the directive by the Commissioner to reduce overtime.

It was really the contents of the Warden's memorandum that concerned me and for two reasons. Firstly, it gave the impression that the Warden was saying that it was really the Commissioner who was cancelling the elective surgery. As I understood the telex of the Commissioner he was not cancelling any program but directing that some twenty two areas be examined including more efficient rescheduling of medical Temporary Absences, in order to curb overtime expenditures. The second reason was that the inmate would not get his surgery. I therefore recommended:

(a) That elective surgery incurring overtime be reinstated for inmates at Kent Institution.

(b) That an appointment be made for the inmate as soon as possible and that the necessary escort service be provided.

In the response received I was advised that the former Warden at Kent Institution did not cancel all elective surgery incurring overtime and that the specific surgery recommended was elective and of low priority and "could be most easily carried out after release". At this point in time the inmate's mandatory supervision date was three weeks away.

I was somewhat disturbed with the reply finding it unacceptable for not dealing completely with the issues. I wrote back to the Inspector General indicating to him that the documentation received from the Pacific Region in support thereof dwelt almost entirely on the points that the surgery in question was elective and of low priority, two issues which were never in dispute. I challenged the facts that from the time of the last cancellation for surgery, some five months earlier, nothing had been done; that the reason given to me why nothing could be done was because elective surgery incurring overtime had been cancelled; and finally that after all this time had elapsed and the inmate was close to release that it could quite reasonably be suggested that the surgery could most easily be carried out after release.

I summed up by asking the following questions:

1. What efforts if any were made to reschedule the surgery after the last cancellation?
2. Do you agree that the contents of the Warden's memorandum misinterpreted and overstepped the Commissioner's intent in the matter?
3. If elective surgery incurring overtime was not cancelled by the Warden what became of the executive order to do so? Was it challenged, retracted or simply ignored?

Within a week I received a very indepth and lengthy reply giving some additional information and detailing circumstances of other situations requiring escorts which put a further strain on the overtime budget.

No attempt had been made to reschedule the surgery in question but a case was made by the Service showing that there was no medical priority and that there was a lack of security escort staff available for elective surgery Temporary Absences.

With respect to the Warden's memorandum it was suggested that the cancellation of elective surgery until further notice was appropriate. I was advised however, that that prohibition only remained in effect for approximately one week while giving the institutional administration time to reassess its priorities.

Finally it would appear that there was no official cancellation of this executive order nor any written further notice on the matter, at least none that I was able to find. By this point in time the inmate had been released on mandatory supervision. The important point however is that elective surgery was resumed.

Claims Against the Crown

There has not been a year go by since my appointment that the Correctional Investigator has not made some recommendation on the subject of Claims Against the Crown for loss of personal effects. The matter unfortunately is one that still is a source of problems and it was necessary again this year to bring our concerns to the attention of The Correctional Service of Canada.

In a letter to the Inspector General I outlined some of the legitimate criticisms of the present system which were addressed to us by a great many inmates. I mentioned that because there are no time limits for completing inquiries, that these are quite often unreasonably delayed especially at the institutional level. In some cases such delays are caused because the person designated to do the work considers it to be of relatively little importance or to be an extra job for which there is not sufficient time. This has been observed at both institutional and regional levels. I indicated that inmates are not being advised of the appeal procedure and that we found instances where institutions were attempting to settle claims over \$100.00 with no authorization. Also that inmates were often not given reasons for denial of a claim or in cases where they were transferred they were not always notified of the result within a reasonable time.

In order to attempt to finally resolve these and other problems, I recommended:

That time limits be set for the completion of inquiries and for final notification of any decisions to inmates.

Discussions were initiated by finance personnel at National Headquarters dealing with the areas of complaint compiled by us, some of which were also causing them concern. The matter later came before the Senior Management Committee, was approved, and an interim authority issued to implement same. The directive was issued before the end of our reporting year.

It is hoped that these amendments to the procedure calling for specific time frames for inquiries and for notification of decisions will go a long way to solving the problems previously encountered and thereby reduce the complaints in this area.

Inmate Pay

After the introduction of the new Inmate Pay Program on 20th April, 1981 there was as could be expected with any large sweeping change an aftermath of discontent and a great roar of complaint from inmates and to a lesser extent from staff as well. Although, most of the criticism

centered around only a few issues the negative response to those issues was such that I was obliged to incorporate these into recommendations in an attempt to reverse or at least soften the repercussions.

I recommended to the Commissioner that consideration be given to the following proposals:

That the present policy of 25% compulsory savings as it relates to long term inmates be amended to more fairly regulate spending especially in the early years of sentence.

That inmates be allowed to send money gifts to other than family members.

That the bonus system be reintroduced to provide needed incentive to inmates.

That there be a reduction in the amount presently required in savings (\$350.00) before funds can be transferred to the current account in order that new inmates not be discriminated against.

That a review be made of deductions for recreational and entertainment purposes, as they pertain to segregated inmates and those in Special Handling Units who get little value for this charge.

That the present policy concerning absences from work with full pay for reasons of sickness or for approved visits be amended to allow inmates to accumulate this time in the same manner that staff accumulate sick and vacation leave.

The Commissioner indicated that he would review the proposals I had made but unfortunately nothing in the way of any firm decision on any of the points raised was made prior to the end of the reporting year. The review is ongoing and the matter will have to be dealt with in the next annual report.

Inmate Access to Confidential Information

Concern was raised by protective custody inmates and legitimately so, that on being transferred to another institution, inmate clerks at the receiving end may have access to documents which would reveal the transferee's protective custody status. Having two institutions in the system housing only protective custody cases, the knowledge of just the name of the sending institution is a potentially damaging piece of information. I recommended:

That The Correctional Service of Canada review its procedures to ensure that sensitive or other incriminating information is kept confidential and is not accessible to inmate clerks.

My recommendation was acknowledged and sent to the Deputy Commissioner Offender Programs for response however, no more correspondence was received in my office on this matter prior to the end of the reporting year and consequently this item will also be dealt with in the next annual report.

Cell Contents

An inmate who was attempting to prepare his own case for appeal was not permitted to have in his cell documents related to that appeal. He complained to my office about the unfairness of this denial and the lack of clear policy on the matter. To prove his point he informed me that he

had such documentation forwarded to his lawyer who in turn mailed this back to him. It was delivered to his cell according to the directive which showed the inconsistency of the policy.

Commissioner's Directive 204 which deals with the subject matter states that legal documents mailed to an inmate by his lawyer must be transmitted forthwith to the inmate. It also states that an inmate may not have his Warrant of Committal in his cell which is acceptable because it prevents one inmate from pressuring another to reveal why he was sentenced. However, the directive is silent as to the disposition of other legal documents resulting in very inconsistent rules across the system as to what an inmate may or may not have in his cell. The recommendation was made

That The Correctional Service of Canada review and amend Commissioner's Directive 204 in order to provide national policy concerning the retention by inmates of legal and other documents in their cells.

The matter was referred to the Deputy Commissioner Offender Programs for a review and I was assured that the pertinent Commissioner's Directive would be amended to give national guidance on the matter. I was also informed that in the interim the Warden would be asked to permit the inmate to have his documents in his cell.

Documentation on Personal Files

While reviewing an inmate's personal file for some information we found a number of documents containing reference to complaints and grievances. Section 67 of the Inmates' Grievance Manual states that:

All complaints and grievances are considered confidential and are seen only by those required to be directly involved in handling, investigating and answering them. Separate complaint and grievance files will be used. Your personal file will *not* contain any reference to any complaint or grievance. There are special procedures when you consider that your problem is particularly sensitive.

The situation was brought to the attention of the Warden and was also discussed with the Director of Inmate Affairs and a correction made. I did not however know if this was an isolated incident so recommended:

That instructions be issued by the Commissioner to all institutions indicating that any material on inmate personal files referring to grievances or complaints be removed and that future filing practices comply with the confidentiality requirement of Section 67 of the Inmates' Grievance Manual.

My recommendation was accepted and on May 31, 1982 a memorandum was sent by the Commissioner to the field implementing the proposals made.

Conclusion

Although I am pleased with the performance of the office during the past year, it is necessary to review our efforts on a continuing basis in order to improve our level of service to those incarcerated in federal institutions. Only by so doing can we continue to play an important and effective role in corrections in this country.

My thanks are extended to a hard working office staff and an acknowledgement made of the cooperation and assistance rendered by the men and women of The Correctional Service of Canada. Thanks are especially extended to the Inspector General for his understanding and thoroughness in processing our recommendations.

Appendix A

P.C. 1977-3209

Certified to be a true copy of a Meeting of the
Committee of the Privy Council, approved by
His Excellency the Governor General on
the 15 November, 1977

WHEREAS the Solicitor General of Canada reports as follows:

That, as a result of the resignation of Miss Inger Hansen from the position of Correctional Investigator as of October 1, 1977, the temporary appointment of Mr. Brian McNally of Ottawa to the position of Correctional Investigator was made by Order in Council P.C. 1977-2801 of 29th September, 1977; and

That, in order to meet the demands of the Office of the Correctional Investigator, it is advisable to proceed to make a permanent appointment to the position as quickly as possible.

Therefore, the Committee of the Privy Council, on the recommendation of the Solicitor General of Canada advise that the temporary appointment of Mr. Brian McNally to the position of Correctional Investigator be terminated and pursuant to Part II of the Inquiries Act, Mr. Ronald L. Stewart of the City of Ottawa be appointed as a Commissioner, to be known as the Correctional Investigator to investigate, on his own initiative, on request from the Solicitor General of Canada, or on complaint from or on behalf of inmates as defined in the Penitentiary Act, and report upon problems of inmates that come within the responsibility of the Solicitor General of Canada, other than problems raised on complaint

- (a) concerning any subject matter or condition that ceased to exist or to be the subject of complaint more than one year before the lodging of the complaint with the Commissioner,
- (b) where the person complaining has not, in the opinion of the Commissioner, taken all reasonable steps to exhaust available legal or administrative remedies, or
- (c) concerning any subject matters or conditions falling under the responsibility of the Solicitor General of Canada that extend to and encompass the preparation of material for consideration of the National Parole Board,

and the Commissioner need not investigate if

- (d) the subject matter of a complaint has previously been investigated, or
- (e) in the opinion of the Commissioner, a person complaining has no valid interest in the matter.

The Committee further advise that a Commission do issue to the said Commissioner, and

1. that the Commissioner be appointed at pleasure;
2. that the Commissioner be paid at the salary set out in the schedule hereto;

3. that the Commissioner be authorized to engage, with the concurrence of the Solicitor General of Canada, the services of such experts and other persons as are referred to in section 11 of the Inquiries Act, who shall receive such remuneration and reimbursement as may be approved by the Treasury Board; and
4. that the Commissioner shall submit an annual report to the Solicitor General of Canada regarding problems investigated and action taken.

Certified to be a true copy

Clerk of the Privy Council

Appendix B

SUMMARY OF RECOMMENDATIONS TO THE CORRECTIONAL SERVICE OF CANADA JUNE 1/81 — MAY 31/82

The Correctional Investigator recommended:

1. That action be taken by the Correctional Service of Canada to ensure that the provisions of Commissioner's Directive 219 with regard to the reading of non-privileged mail are complied with.

Issued:	4-6-81	
Response:	10-6-81	— acknowledged
Response:	28-8-81	— accepted — instructions issued to implement The Correctional Service of Canada policy as written.

2. That the policy contained in Commissioner's Directive 240 dealing with the providing of copies of documentation to the Correctional Investigator be followed.

Issued:	20-7-81	
Response:	23-7-81	— acknowledged
Response:	28-8-81	— accepted — instructions issued to follow policy contained in Commissioner's Directive 240.

3. That Commissioner's Directive 249 be amended to accord the male inmate the same standard of dignity afforded all other individuals liable to be searched.

Issued:	21-7-81	
Response:	23-7-81	— acknowledged
Response:	17-9-81	— information provided
Response:	30-10-81	— information provided
Response:	16-11-81	— accepted in principle but study concerning the matter is ongoing.

4. That the situation with regard to the lack of privileges for protective custody inmates in the Special Handling Unit at Millhaven be reviewed.

Issued: 21-7-81
Response: 23-7-81 — acknowledged
Response: 10-9-81 — accepted — the matter was reviewed but little could be done under the circumstances.

5. That the provisions in Commissioner's Directive 274 concerning scheduling of reviews be complied with or amended to allow more flexibility.

Issued: 21-7-81
Response: 23-7-81 — acknowledged
Response: 21-4-82 — accepted — draft amendment prepared and is to be implemented.

6. That consideration be given to transferring a certain inmate to an institution where he could be released to general population.

Issued: 11-9-81
Response: 16-9-81 — acknowledged
Response: 24-9-81 — information provided
Withdrawn: 24-9-81 — the recommendation was withdrawn as action taken independently.

7. That priority be given to returning certain transferees back to the Prairie Region as soon as cell space becomes available.

Issued: 25-9-81
Response: 8-10-81 — acknowledged
Response: 27-10-81 — accepted in principle but an acute shortage of cell space prevented implementation.

8. That immediate consideration be given by The Correctional Service of Canada to providing classification services in the French language at Kingston Penitentiary in compliance with Commissioner's Directive 237.

Issued: 21-10-81
Response: 27-10-81 — acknowledged
Response: 9-12-81 — accepted and implemented.

- 9(a) That elective surgery incurring overtime be reinstated for inmates at Kent Institution.

Issued: 3-11-81
Response: 22-12-81 — acknowledged and accepted the reversal of policy.

- 9(b) That elective surgery for a certain inmate be rescheduled as soon as possible and that the necessary escort service be provided.

Issued: 3-11-81
Response: 22-12-81 — acknowledged — because the surgery is of low medical priority, rescheduling could not take place before release.
Re-issued: 8-1-82 — I questioned the delay and the handling of the matter.
Response: 14-1-82 — Confirmed the action of The Correctional Service of Canada.

10. That for claims against the Crown time limits be set for the completion of inquiries and for final notification of any decisions to inmates.

Issued: 4-11-81
Response: 13-11-81 — acknowledged
Response: 20-11-81 — information provided
Response: 21-4-82 — accepted and implemented

11. That consideration be given to making certain changes to the Inmate Pay Program.

Issued: 14-12-81
Response: 14-12-81 — acknowledged and accepted for review
Response: 18-1-82 — information provided and review continuing.

12. That The Correctional Service of Canada review procedures to ensure that sensitive or other incriminating information is kept confidential and is not accessible to inmate clerks.

Issued: 24-3-82
Response: 2-4-82 — acknowledged and accepted in principle
Response: 20-4-82 — information provided and matter is being studied.

11. Qu'on envisage d'apporter certaines modifications au Programme de rémunération des détenus.

Formulée le: 14-12-81
Suite donnée le: 14-12-81 — accusé de réception; on accepte la recommandation aux fins d'étude.
Suite donnée le: 18-1-82 — renseignements reçus et étude en cours.

12. Que le Service correctionnel du Canada revoie ses marches à suivre afin de protéger la nature confidentielle des renseignements de caractère délicat et compromettant et en interdire l'accès aux détenus-commis.

Formulée le: 24-3-82
Suite donnée le: 2-4-82 — accusé de réception et acceptation de principe de la recommandation.
Suite donnée le: 20-4-82 — renseignements fournis et étude en cours.

13. Que le Service correctionnel du Canada étudie et modifie la Directive du Commissaire n° 234 afin d'énoncer une ligne de conduite nationale au sujet de la conservation par les détenus, dans leur cellule, de documents légaux et autres.

Formulée le: 23-4-82
Suite donnée le: 23-4-82 — accusé de réception et acceptation — j'ai reçu l'assurance que la Directive du Commissaire serait modifiée en conséquence.

14. Que le Commissaire émette à tous les établissements des instructions leur ordonnant de retirer des dossiers personnels des détenus tout document portant sur des griefs ou des plaintes et que, dans l'avenir, on observe l'article 67 du Manuel de règlement des griefs des détenus en ce qui concerne le versement de documents à ces dossiers.

Formulée le: 7-5-82
Suite donnée le: 20-5-82 — accusé de réception et renvoi aux fins d'étude.
Suite donnée le: 31-5-82 — acceptation et mise en œuvre.

13. That The Correctional Service of Canada review and amend Commissioner's Directive 204 in order to provide national policy concerning the retention by inmates of legal and other documents in their cells.

Issued: 23-4-82
Response: 23-4-82 — acknowledged and accepted — I was assured that the Commissioner's Directive would be amended accordingly.

14. That instructions be issued by the Commissioner to all institutions indicating that any material on inmate personal files referring to grievances or complaints be removed and that future filing practices comply with the confidentiality requirement of Section 67 of the Inmates' Grievance Manual.

Issued: 7-5-82
Response: 20-5-82 — acknowledged and referred for consideration.
Response: 31-5-82 — accepted and implemented.

END