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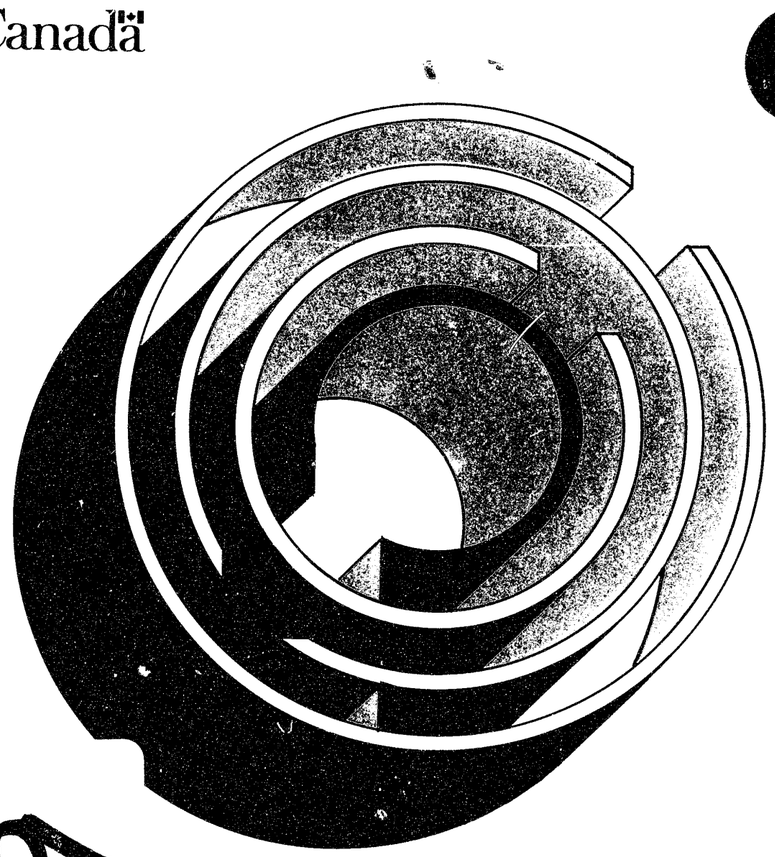

Annual Report of the Correctional Investigator 1982-1983

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The Correctional Investigator
Canada

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May 29, 1984

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

Dear Sir:

As Correctional Investigator appointed to investigate complaints and report upon problems of inmates in Canadian penitentiaries, I have the honour of submitting to you the tenth annual report on the activities of this office covering the period June 1, 1982 to May 31, 1983.

Although a draft was prepared at the end of the reporting year it was regrettably not put into final form because of other tasks and I do apologize for the delay.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Canada

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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 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 office of the Correctional Investigator is located in Ottawa where seven people are involved in assisting with carrying out the responsibilities enunciated in the Order in Council. My assistant Mr. D.C. Turnbull heads our inquiry team of three investigators, supported by one administrative and two secretarial staff. I would like to express my thanks to this small but dedicated group for their efforts during the year.

While a number of complaints are referred to us by Members of Parliament, lawyers, family and organizations concerned with inmate well being, the bulk come directly from the inmates. During the past twelve months the number reaching our office has increased significantly and our statistics show a 12% rise from the previous reporting period. Although it is most difficult to explain this increase, I suggest it would be fair to assume that part of the reason is attributable to first time complainants affected by the general rise in inmate population throughout the system and the accompanying overcrowding.

To summarize the following statistical tables, a total of 1507 complaints were received resulting in 230 visits to institutions where 912 interviews were conducted with inmates. It should be mentioned here that complainants are communicated with in the official language of their choice.

I am pleased to report that the resolvement rate was up slightly from 8% to 9.5% and that the assistance given rate was a very healthy 84% up from a previous 71%.

When dealing with these statistics it is most important to realize that The Correctional Service of Canada has in most cases a prior opportunity through the complaint/grievance system to resolve these problems before we become involved. It has always been our policy to request that inmates take all reasonable steps to exhaust available legal or administrative remedies before we commence an investigation. There are of course occasions where because of the urgency or the delicacy of a matter, we will become involved right away.

STATISTICS

TABLE A

COMPLAINTS RECEIVED AND PENDING — BY CATEGORY

	1982-83	1981-82
Transfer	293	17
Medical	119	12
Visits and Correspondence	129	5
Claims	72	8
Staff	62	8
Financial Matter	81	3
Sentence Administration	97	5
Dissociation	64	3
Discipline	65	6
Temporary Absence	50	6
Programs	41	1
Grievance Procedure	21	2
Information on File	28	2
Cell Effects	56	2
Diet/Food	19	0
Work Placement	30	0
Education	9	1
Cell Change	4	1
Use of Force	12	1
Discrimination	4	0
Hobbycraft	4	0
Other	147	5
Outside Terms of Reference		
Parole	75	1
Provincial Matter	12	1
Court Procedure	5	0
Court Decision	8	0
Other	0	1
Sub-total	1507	91
Total		1598

TABLE B

COMPLAINTS — BY MONTH

Pending from previous year	91
1982	
June	152
July	104
August	161
September	169
October	113
November	162
December	89
1983	
January	85
February	154
March	94
April	112
May	112
	1598

TABLE C

COMPLAINTS - BY INSTITUTION

	Pacific Region								Prairie Region								Ontario Region																		Quebec Region																Atlantic Region			
1982	Kent	Matsqui	Mission	Mountain	William Head	Psychiatric Center	Ferndale	Other	Edmonton	Saskatchewan	Bowden	Drumheller	Stony Mountain	Drumheller Annex	Saskatchewan Farm Annex	Psychiatric Center	Other	Millhaven	Collins Bay	Joyceville	Warkworth	Bath	Beaver Creek	Frontenac	Pittsburg	Prison for Women	Treatment Center	Kingston	Other	Archambault	C.D.C. (1)	Laval	F.T.C. (2)	Cowansville	La Macaza	Leclerc	Ste-Anne des Plaines	Reception Centre	Other	Dorchester	Springhill	Westmorland	Other
June	3	2		2	2				23	17	1	7	3		4		1	13	3	18	2	1					13	4	3	4	6	3	2		1		1		10	3		
July	1				2	2			4	8		2			1			7		3	6	1		1		1	21			4	3	7	3	2	2	1		2	17	3		
August	8	2	10			2			1	66	4	2	2		3			4	2	2	2	1				1	14			3	1	5	3	6	2	3			9			3
September	4		6	1		2			3	13		25	19		2	1	1	17	3	2	2	2				5		5	6	5	10	22		1			1			6	7		
October	6	2	3		1				1	34	2	13	5			1		5		2	2						1	8	2	3	5	4	5		1					4		2	1
November	18			2	1	1			1	22	3	17	5		2			6	3	25	2					2	11	1	5	4	3		4		4				15	5		
December	1	3	4			1			3	16	2	7				1		2	2		4						22	2	2	4	3	1	4	1	1		1		1	1			
1983																																																								
January	1	1	2							10		5			2		1	8	3	8		1		1			11		7	4	8	3	3		2				1	3		
February	4	6	1						28	19	1	3	8	1		10		1	13	3	6	4	3		1		1	6		10	2	10	1	4	1	6						1
March	9	2	1			1	1		5	4		4	3		1		1	8	4	3	6				2		19	1	2	1	6		4				1		4			
April	2	1	4		2				1	2	11	5	2	1				4		7	22					4	10	1	1		11		5	2	5				3	6		
May	2		1	1	2					19	1	2	2		1			8	6	3	1				6		14	2	7	1	7		14					2	6	3	1	
Sub-total	59	19	32	6	10	9	1	0	70	230	25	92	49	2	16	11	6	83	39	76	55	8	3	2	3	12	30	133	19	52	39	92	20	49	9	23	1	1	6	76	31	4	4
Total	1507																																																					

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

TABLE D

COMPLAINTS AND INMATE POPULATION[1]

BY REGION

REGION	COMPLAINTS	INMATE POPULATION
Pacific	136	1525
Prairie	501	2242
Ontario	463	2880
Quebec	292	3450
Maritimes	115	1160
Total	1507	11,257

[1] The inmate population figures were provided by The Correctional Service of Canada and are those for the period ending May 28, 1983.

TABLE E

INSTITUTIONAL VISITS

		NUMBER OF VISITS
Maximum (S6 and S7)		
Archambault		12
Correctional Development Centre		9
Dorchester		8
Edmonton		6
Kent		6
Laval		13
Millhaven		18
	Sub-total	72
Medium (S3, S4 and S5)		
Bowden		6
Federal Training Centre		5
Collins Bay		10
Cowansville		7
Drumheller		6
Joyceville		11
La Macaza		1
Leclerc		7
Matsqui		4
Mission		4
Mountain		4
Springhill		4
Stony Mountain		9
Warkworth		6
William Head		3
	Sub-total	87
Minimum (S1 and S2)		
Bath		3
Beaver Creek		1
Drumheller Annex		1
Saskatchewan Farm Annex		3
Frontenac		3
Montée St-François		2
Pittsburg		3
Ste-Anne des Plaines		1
Westmorland		3
Montgomery Centre		1
Keele Centre		2
	Sub-total	23
Multi-level		
Kingston Penitentiary		16
Prison for Women		4
Psychiatric Centre (Pacific)		4
Reception Centre (Quebec)		4
Saskatchewan Penitentiary		11
Treatment Centre (Ontario)		6
Psychiatric Centre (Prairie)		3
	Sub-total	48
	Total	230

TABLE F

INMATE INTERVIEWS

MONTH	NUMBER OF INTERVIEWS
June	80
July	32
August	116
September	84
October	79
November	112
December	57
January	27
February	92
March	72
April	73
May	88
Total	912

TABLE G

DISPOSITION OF COMPLAINTS

ACTION	NUMBER
Pending	81
Declined	
a) Not within mandate	104
b) Premature	377
c) Not justified	129
Withdrawn	188[1]
Assistance. advice or referral given	601
Resolved	68
Unable to Resolve	50
Total	1598

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

TABLE H

COMPLAINT RESOLVED OR ASSISTED WITH — BY CATEGORY

CATEGORY	RESOLVED	ASSISTANCE GIVEN
Cell Change	0	1
Cell Effects	7	29
Claims	7	33
Diet/food	3	4
Discipline	6	22
Dissociation	1	33
Education	0	5
Financial Matter	6	44
Grievance Procedure	5	8
Hobbycraft	0	2
Information on File	6	11
Medical	8	41
Programs	0	16
Sentence Administration	3	63
Staff	0	11
Temporary Absence	1	21
Transfer	3	113
Use of Force	0	7
Visits and Correspondence	10	51
Work Placement	0	7
Other	2	59
Outside Terms of Reference		
Court Procedures	0	2
Parole	0	17
Provincial Court	0	1
Total	68	601

RECOMMENDATIONS

Outstanding Recommendation Responses for 1981-82

Of the fourteen recommendations made to The Correctional Service of Canada and listed in my last annual report there remained five at the end of that reporting period that had not been dealt with completely.

The first of these had to do with search procedures and asked that the pertinent directive be amended to accord the male inmate the same standard of dignity that is afforded all other individuals liable to be searched. The complaints were prompted by the employment of female officers in male institutions following a recommendation that women be employed on the same basis as men in The Correctional Service of Canada. We heard from two male inmates complaining about being searched by female officers.

The only further documentation concerning this matter was a copy of a letter from Commissioner Yeomans to Mr. R.G.L. Fairweather of the Human Rights Commission in which an update was provided of the progress towards implementation of certain recommendations with respect to integrating women into the Correctional Officer Occupational Group in Male Institutions.

On the subject of searches and inmate privacy the reply indicated that a final report would be put before Senior Management of The Correctional Service of Canada and that "in the interim The Correctional Service of Canada policy regarding searches will be strictly adhered to."

Obviously the matter is still being considered with no final decision available for this report.

Another recommendation although accepted but not implemented before the end of the reporting year had to do with amending Commissioner's Directive 274 in order to give more flexibility to scheduling of reviews. The Commissioner's Directive in place at the time called for the National Special Handling Unit Review Committee to review inmates every six months. In fact it was seven months between reviews. Effective January 19, 1983 the Commissioner's Directive was amended to implement our recommendation.

A new Inmate Pay Program introduced in April 1981 brought such a flood of complaints that a six part recommendation was taken directly to the Commissioner in December. No decisions were however transmitted to our office before May 31, 1982 and so I requested a progress report to which a response was delivered in July. I was informed that a 25% compulsory savings for long term offenders was still under review as was the request to reduce the $350.00 minimum savings balance before funds could be transferred to a spending account. A decision was made however to remove the 25% savings deduction for inmates earning less than $16.00 per pay period but no change was made to exempt segregated or Special Handling Unit inmates from the recreation deduction for which they get little or no value.

On the issue of being allowed to send money gifts to other than family members it was agreed that the present national policy did not prohibit this. A memorandum was circulated to confirm same advising that such requests be assessed on their own merits and that there was no routine prohibition against such gifts.

With respect to the recommendation that the bonus system be reintroduced to provide needed incentives to inmates the Commissioner emphatically rejected this because the conditions surrounding it were chaotic. He did however indicate that the Service would look at developing a new bonus system incorporating controls and standards if such were feasible.

The final part of the recommendation was to amend the present inflexible policy to allow a certain accumulation of sick leave so that an inmate could build up a credit and not automatically lose wages for time he was sick or for time spent on approved visits. I was advised that a project was ongoing, that it was not feasible to maintain such a system manually, but that other avenues would be explored.

A recommendation made late in the reporting year and therefore not completely dealt with had to do with concerns about inmate access to confidential information such as inmate file documentation, or information which would identify an inmate as being protective custody.

A questionnaire was prepared and circulated to the field in August 1982 and in November confirmation was returned that indeed offenders were involved in handling/processing offender records. Some five months later the Commissioner issued a memorandum setting out new procedures to ensure that sensitive material does not fall in the hands of inmates holding administrative positions. I was subsequently advised that a directive or instruction would be developed with respect to security procedures involving the employment of inmates.

The last recommendation from the previous year requiring further comment was that asking for an amendment to Commissioner's Directive 204 which would clarify the status of legal documents with respect to access and retention in cells. The recommendation was accepted at the time and I can now report that the directive was so amended.

Recommendations 1982-83

This turned out to be a problem filled year necessitating nineteen formal recommendations to be made on behalf of inmates. Again these were made through the good offices of the Inspector General of The Correctional Service of Canada and were proposed on the basis of those complaints which could only be dealt with at the National Headquarters level or which for whatever reason were not resolved at institutional or regional levels.

Of the total number of nineteen recommendations two were partially accepted, seven were accepted, five were accepted and implemented and of the five that remain unresolved three had been initially rejected and resubmitted.

1. Non Compliance with Directives at Regional Psychiatric Centres

This office received correspondence from inmates at the Regional Psychiatric Centre Ontario complaining about a number of instances where Commissioner's Directives were not being complied with. As a result I wrote to the Medical Director there indicating that we had some concerns and asked for his comments on several issues including: the absence of an Inmate Committee; the fact that mail was being handled by other than Visits and Correspondence staff prior to delivery; the practice of having the recreation staff work days only which eliminated use of the gymnasium in the evenings and on weekends; and the absence of an Inmate Grievance Committee. All of these practices were in contravention of the directives or the regulations. The reply was full of excuses but confirmed the non compliance so in June 1982 I wrote to the Inspector General recommending:

That a review be carried out of procedures at all Regional Psychiatric Centres to ensure that Commissioner's Directives and Divisional Instructions are being followed or in the alternative, that national policies be amended and issued to deal with the special situations at such centres.

We had encountered similar problems in the past where staff at the Psychiatric Centres were admittedly not following directives as they felt that because of their special circumstances they were not obliged to. It has always been my contention that if in fact there are special situations then adjust policies to meet those situations. The above recommendation indicates that option.

My recommendation was acknowledged and sent to the Director General Medical Services, the Deputy Commissioner Ontario Region and finally to the Commissioner. A decision was made to contact all Regional Psychiatric Centres and to request each to identify all Commissioner's Directives and Divisional Instructions to which compliance was difficult. On receipt of that information the medical services branch were to develop amendments to national policies and to arrange for approval to deal with any special situations at these centres.

After a lapse of five months we received a copy of a memorandum from the Director General Medical Services to the Inspector General indicating that the earlier plan of action was no longer applicable. A major reorganization at the Regional Psychiatric Centre Ontario taking 3 to 6 months to finalize and some development and staffing problems at Regional Psychiatric Centre Prairies were the reasons given. It was estimated that the Branch would try to finalize the subject by June 1983 which would be exactly a year after the recommendation. It will be interesting to see if in fact that date is met.

2. Improper Disciplinary Court Awards

On complaint from several inmates at Stony Mountain Penitentiary a review was conducted into the disciplinary court process where we found certain irregularities in the punishment awards. At least eleven inmates lost between 45 and 60 days remission where the limit is 30 days unless there is concurrence of the Regional Director General which there was not. Also we found six instances of fines imposed by the Independent Chairperson which is not provided for in the Penitentiary Service Regulations and one instance where he assessed damages which was outside the scope of his authority.

On June 11, 1982 I wrote to the Inspector General setting out these irregularities and indicating that I had already written to the Acting Warden and the Regional Director General requesting that the remission and fine monies be recredited to the inmates concerned. I also pointed out that this problem had arisen before and that in my 1979-80 Report I had stressed the need to ensure that sentences be in accordance with the Penitentiary Service Regulations, a recommendation that was not only accepted but I was further advised that a control would be implemented in order to monitor sentences for conformity. It would appear that such a control was never put in place.

I recommended:

(a) That The Correctional Service of Canada review the disciplinary court records at all institutions and take appropriate corrective action in all instances of unauthorized punishments.

(b) That a control system be implemented in order to monitor sentences for conformity.

Over the next month I received copies of documentation from the Inspector General pertinent to the matter including a memorandum from the Regional Director General Prairies indicating

he had reviewed the awards that exceeded the authority of the Independent Chairperson and attached a list of the final determination in each case.

After receiving no further correspondence on the recommendation I discussed it with the Commissioner in November at which time he indicated that he intended to write to each Independent Chairperson advising them that unauthorized awards would not be implemented by the institutions. However I later learned that such action had been abandoned. Six months later on the last day of our reporting year I received a copy of a draft Commissioner's Directive on Inmate Discipline wherein it was stated:

> The staff of the Service shall not implement any punishment(s) which are not mandated by the Penitentiary Service Regulations.

However, after a year still no word on the status of the recommendation which I find somewhat inexcusable.

3. Involuntary Transfer Safeguards

It came to my attention that amendments were proposed to Commissioner's Directive 274 (dealing with Special Handling Units) requiring that written notification of the reasons and an opportunity to respond be provided to an inmate prior to a final decision on a transfer to a Special Handling Unit. In light of these proposed changes it appeared to us that consideration should be given to the implementation of similar safeguards in the case of all involuntary transfers. Consequently on June 14, 1982 I recommended:

That prior to a final decision on any involuntary transfer, The Correctional Service of Canada provide the proposed transferee with written notification containing specific reasons for the transfer as well as providing the inmate with an opportunity to respond.

My letter was acknowledged and I was advised that the recommendation would be forwarded to the Deputy Commissioner Security for comment.

In September I received a copy of those comments dated June 17, 1982 which were the basis for rejecting the recommendation and as usual the thrust of the reply focused on security and the duty to act fairly was not mentioned. The comments were that while the recommendation was regarded as appropriate in *many cases*, it was not suitable in certain situations of an urgent and dangerous nature and consequently the adoption of such a measure be resisted in the strongest possible terms. There was no further mention made about the many cases in which it would be appropriate. He went on to say that such a procedure would also be inappropriate for involuntary transfers of a non-dangerous nature but for a different reason which was that most of these transfers were as a result of accomodation pressures so if there was overcrowding the inmate would have to be moved out regardless of what his argument was. Such an excuse for rejecting the recommendation was totally unacceptable for if there had to be transfers at least the inmates would be given the reason. Finally the third excuse that the paper burden involved would be considerable was also unacceptable.

The amusing thing about this response was that at the time in question there were already some safeguards in place in the Case Management Manual and that thirteen days after the reply from the Deputy Commissioner Security a new Commissioner's Directive was issued incorporating these. It seems very strange indeed that no one was aware of the information in the Case Management Manual or the new Commissioner's Directive.

I immediately wrote back to the Inspector General for a clarification and was advised three months later that the safeguards were now in place and that the recommendation was accepted and implemented. Quite a reversal from rejection in the strongest possible terms.

However the matter was not concluded by a long shot because the safeguards in the new Commissioner's Directive were less than the safeguards already referred to concerning transfers to the Special Handling Unit.

In the case of the Special Handling Unit safeguards the inmate was to be notified in writing of the reasons for the transfer. He was then given 3 working days to respond. In a memorandum from the Commissioner explaining this procedure he indicated "that it is essential that the reasons given are sufficiently clear and explicit to enable the inmate to know what the allegations were and to afford him the possibility of making a factual rebuttal." He went on to add that "Wardens must also ensure that they give their personal attention to any written response made by the inmate before deciding whether or not to continue with the recommendation.This is an important part of our duty to act fairly in these administrative procedures and is one to which Wardens must give their personal attention." There was no such explanation with respect to the involuntary transfer safeguards which called for the inmate to be informed of the intention to transfer, given 48 hours to present reasons for reconsideration and finally be informed in writing of the final decision.

The big difference is that in the latter case there is no assurance that he gets reasons in writing first or that his response will be considered. There is no reference to clear and explicit reasons in writing nor the requirement that the Warden give personal attention to the inmate's response prior to reaching a final decision.

I again wrote to the Inspector General suggesting that since it was the policy of The Correctional Service of Canada to act fairly in administrative procedures, then there was an obligation to act fairly in its dealing with all inmates being transferred.

In order that there would be no misunderstanding I resubmitted an amended recommendation:

That prior to final decision on a transfer without application, The Correctional Service of Canada provide the proposed transferee with written notification of the reasons for the proposed transfer which are sufficiently clear and explicit so as to afford him the opportunity of making a factual rebuttal and that the Warden give due consideration to this rebuttal before deciding whether or not to continue with the transfer recommendation.

The matter was sent to Legal Services and the opinion rendered was that the present safeguards for involuntary transfers complied with The Correctional Service of Canada duty to act fairly and are not in conflict with the pertinent provisions of the Canadian Charter of Rights and Freedoms. Bolstered by that opinion I was advised that The Correctional Service of Canada had set in place as many safeguard mechanisms as could be considered reasonable and that my recommendation had been implemented to the extent possible at this time.

I am still of the opinion that by rejecting our proposal the Correctional Service has created a disparity in the treatment afforded involuntary transferees and are remiss in their duty to act fairly.

4. Delays in the Transfer of Personal Effects

It was brought to my attention that in some cases in the Prairie Region there was up to a two month delay in the shipping of inmate personal effects after a transfer. The institutions claimed that the situation was as a result of a manpower shortage coupled with an increase in inmate movement. The Commissioner's Directive on the subject states that the inmate's personal property shall accompany him to the receiving institution. However this would appear to be somewhat unrealistic as in a good number of pre-arranged transfers in this Region and all inter-regional transfers the inmate travels by air and his effects by ground transportation.

The directive obviously needed revision or the practice altered to comply with it. I recommended:

(a) That Section 6(d) of Commissioner's Directive 329 be complied with or that it be amended to reflect present practices in forwarding inmate personal effects.

(b) That any such amendment include specific time frames to ensure prompt delivery of inmate personal effects.

Eight months later the directive was amended to ensure prompt shipment of effects in cases where space limitations make it impossible for them to accompany the inmate.

5. Privileged Correspondence

I received a request from an inmate who was also a British citizen advising me that he had attempted to send a sealed letter to the British Consulate. The letter however was returned to him. He grieved the matter and was properly advised that Consulates were not designated as privileged correspondents and consequently the letter was returned. However the final level response at National Headquarters added that although an expansion of the privileged correspondents would perhaps be desirable it is simply not feasible from an administrative point of view.

This last statement of course was incorrect. Any addition to the list might well entail more work but to say it was not feasible was just not true.

Although the request appeared to be a reasonable one I felt that I was not in a position to either support or fault it. I was however concerned about the way in which it was rejected and consequently I recommended:

That the decision of adding consulates to the list of privileged correspondents be made by Senior Management and that in the event of a negative decision the reasons therefore be transmitted to the inmate.

The matter was considered, a decision taken, and provisions made for privileged correspondence to be exchanged between inmates of foreign nationality and consular officials of their country.

6. Winter Footwear

In 1980 we received correspondence from inmates at Millhaven Institution complaining of the lack of leisure winter footwear. Our recommendation to The Correctional Service of Canada was accepted and we received written confirmation that the pertinent Divisional Instruction was to be amended and a copy of the authorization to issue inmates with overboots.

It is now October 1982 and we have learned that the Divisional Instruction was in fact never amended, the footwear was never issued, and that there is no adequate winter footwear available from Regional Stores.

I strongly recommended:

That the matter be reviewed and that appropriate winter footwear be provided for the coming winter.

I was provided with a copy of a memorandum from the Director General Technical Services concerning the matter. It stated that technical services personnel at Millhaven Institution advised that the boots in question were not issued due to the effect that metal zippers had on metal detectors. It also mentioned that most institutions were not in compliance with the March 1980 instruction to issue overboots. It went on to state that the draft Divisional Instruction referred to in the March 5, 1980 memorandum was approved October 25, 1982 and that although they were still having problems with metal parts on the zippers they were to be tested and if not suitable an alternative standard will be developed.

I found it absolutely incredible that it could take 30 months to approve a draft Divisional Instruction on the subject and it appears that after all this time they are no further ahead in coming up with a suitable boot. And who knows how much more time will be needed if it is necessary to develop alternative standards.

The Correctional Service of Canada should be reprimanded for the way in which this recommendation was handled. It has as well taught us a valuable lesson that we can no more take for granted that what is indicated being done is in fact being done. It will be necessary for us to thoroughly monitor the response to each recommendation from now on.

7. Visitor Forms

Our office received complaints concerning the embarrassment and trauma experienced by a great many women and children visitors while undergoing strip searches. We even had staff voice concern about the matter.

The procedures and techniques for instructing staff in such searches were reviewed and we also watched the slide presentation on the subject used at the Staff Training College. It was clear to me that such searches are indeed a source of embarrassment for all concerned although when conducted in a businesslike, serious and polite manner they can be less traumatic. However I was concerned that not all such searches are carried out in that way.

In order to help alleviate the concerns of inmates for their visitors I recommended:

(a) That visitors on entering an institution be requested to sign a consent form which outlines the search procedure.

(b) That where the visitor is a minor a form is signed on behalf of that person.

It was felt that such a procedure would go a long way in diminishing the complaints presently being received. The matter was referred to the Deputy Commissioner Security who indicated that the recommendation had merit but he was not sure that signing such a form would reduce the number of complaints. He also did not take too kindly to my remarks suggesting that all searches were not carried out in a businesslike, serious and polite manner to which I responded that he had already admitted that there were complaints so what on earth did he think the complaints were about. He also failed to deal with the very important second part of

the recommendation dealing with minors so I resubmitted this. A short time later I was advised that both parts of the recommendation had been accepted and would be implemented. I subsequently asked to be sent a copy of the form and to be advised of its distribution to all institutions. When I am so advised we will check at each institution to ensure the forms are being used.

8. Flaws in the Grievance Procedure

As a result of an incident at Kingston Penitentiary an inmate claimed he was threatened with bodily harm by a Correctional Officer. He filed a formal complaint which was denied. He then filed a grievance which was declined at level I and denied by the Warden at level II. The inmate alleges he was directed to the legal process. At level III the grievance was again denied but it was noted that the police investigation into the allegations found insufficient evidence to warrant a charge and that perhaps the complainant might want to go before a Justice of the Peace which he did. A letter was then sent to the inmate requesting an extension of time for the fourth level response as they were waiting for the decision of the Justice. The letter did however promise a thorough investigation. Prior to that decision a fourth level response advised the complainant that because of the legal action the grievance could not be responded to.

I was not so concerned in this case about the validity of the allegation as I was with the slipshod way in which it was handled. I wrote to the Deputy Commissioner Offender Programs on June 5, 1982 making inquiries. No response prompted another letter July 5, 1982 to which I finally received a reply dated July 19, 1982.

I was advised that the fourth level response was really only an interim one but it was admitted "that there is nothing to indicate that it was." I was told it should have read "that the grievance cannot be responded to until the results of your referral to the Justice of the Peace are known." However, because the Justice of the Peace decided not to intervene "there probably was not much point in The Correctional Service of Canada doing an investigation" which had already been promised. I was also advised that the discrepancy I pointed out that one level of the grievance procedure denied the grievance and directed the inmate to the legal process while another more properly attempted to advise the inmate that the matter would be suspended until the Justice of the Peace decision, was merely a matter of judgment. However, it was my feeling that there should be some consistency in the procedure and that the grievance should have been suspended at every level whether a police investigation was ongoing or whether the matter was before the courts.

I subsequently wrote back to the Deputy Commissioner Offender Programs on August 4, 1982 with that suggestion and also requested the results of his review of the police and Justice of the Peace reports and a copy of the final fourth level response to the grievance. Again I received no early response so resubmitted my letter on September 13, 1982. I finally received a reply which stated that he was refused the report of the Justice of the Peace and that the police report was very brief and concluded that another investigation would not provide any different or additional information. Instead of the copy of the final grievance reply I had requested I received another copy of the original denial.

It was obvious that there was no consistency in the responses to the grievance. There was no evidence of a thorough investigation as promised and the complainant's witnesses were never interviewed. As far as I was able to ascertain there was still no amended fourth level response. I was advised in September that there was a delay in responding due to attempts to obtain copies of the police and Justice of the Peace reports. These were completed in April

It is now October 1982 and we have learned that the Divisional Instruction was in fact never amended, the footwear was never issued, and that there is no adequate winter footwear available from Regional Stores.

I strongly recommended:

That the matter be reviewed and that appropriate winter footwear be provided for the coming winter.

I was provided with a copy of a memorandum from the Director General Technical Services concerning the matter. It stated that technical services personnel at Millhaven Institution advised that the boots in question were not issued due to the effect that metal zippers had on metal detectors. It also mentioned that most institutions were not in compliance with the March 1980 instruction to issue overboots. It went on to state that the draft Divisional Instruction referred to in the March 5, 1980 memorandum was approved October 25, 1982 and that although they were still having problems with metal parts on the zippers they were to be tested and if not suitable an alternative standard will be developed.

I found it absolutely incredible that it could take 30 months to approve a draft Divisional Instruction on the subject and it appears that after all this time they are no further ahead in coming up with a suitable boot. And who knows how much more time will be needed if it is necessary to develop alternative standards.

The Correctional Service of Canada should be reprimanded for the way in which this recommendation was handled. It has as well taught us a valuable lesson that we can no more take for granted that what is indicated being done is in fact being done. It will be necessary for us to thoroughly monitor the response to each recommendation from now on.

7. Visitor Forms

Our office received complaints concerning the embarrassment and trauma experienced by a great many women and children visitors while undergoing strip searches. We even had staff voice concern about the matter.

The procedures and techniques for instructing staff in such searches were reviewed and we also watched the slide presentation on the subject used at the Staff Training College. It was clear to me that such searches are indeed a source of embarrassment for all concerned although when conducted in a businesslike, serious and polite manner they can be less traumatic. However I was concerned that not all such searches are carried out in that way.

In order to help alleviate the concerns of inmates for their visitors I recommended:

(a) That visitors on entering an institution be requested to sign a consent form which outlines the search procedure.

(b) That where the visitor is a minor a form is signed on behalf of that person.

It was felt that such a procedure would go a long way in diminishing the complaints presently being received. The matter was referred to the Deputy Commissioner Security who indicated that the recommendation had merit but he was not sure that signing such a form would reduce the number of complaints. He also did not take too kindly to my remarks suggesting that all searches were not carried out in a businesslike, serious and polite manner to which I responded that he had already admitted that there were complaints so what on earth did he think the complaints were about. He also failed to deal with the very important second part of

the recommendation dealing with minors so I resubmitted this. A short time later I was advised that both parts of the recommendation had been accepted and would be implemented. I subsequently asked to be sent a copy of the form and to be advised of its distribution to all institutions. When I am so advised we will check at each institution to ensure the forms are being used.

8. Flaws in the Grievance Procedure

As a result of an incident at Kingston Penitentiary an inmate claimed he was threatened with bodily harm by a Correctional Officer. He filed a formal complaint which was denied. He then filed a grievance which was declined at level I and denied by the Warden at level II. The inmate alleges he was directed to the legal process. At level III the grievance was again denied but it was noted that the police investigation into the allegations found insufficient evidence to warrant a charge and that perhaps the complainant might want to go before a Justice of the Peace which he did. A letter was then sent to the inmate requesting an extension of time for the fourth level response as they were waiting for the decision of the Justice. The letter did however promise a thorough investigation. Prior to that decision a fourth level response advised the complainant that because of the legal action the grievance could not be responded to.

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It was obvious that there was no consistency in the responses to the grievance. There was no evidence of a thorough investigation as promised and the complainant's witnesses were never interviewed. As far as I was able to ascertain there was still no amended fourth level response. I was advised in September that there was a delay in responding due to attempts to obtain copies of the police and Justice of the Peace reports. These were completed in April

and May respectively and it would be interesting to know when they were requested. In the same reply the conclusion was that "under the circumstances it was not felt that our own investigation would provide any different or additional information." Unfortunately I was unable to agree with that conclusion and would suggest that any kind of an investigation could only provide additional information. Finally I must add that the Justice of the Peace concerned was more than willing to share with us the details of the hearing whereas he was not prepared to respond to a secretary's call from Ottawa ordering a copy of his report on the matter.

It was again obvious that little time if any was spent in investigating this grievance and it was handled in a most unprofessional manner. I recommended:

That the inmate's grievance be thoroughly investigated and on the basis of that thorough investigation he be provided with a fourth level response.

A board of inquiry was struck and a copy of its report was forwarded to me in which it stated that the Correctional Investigator's role as the inmates' ombudsman was well served in this case. I was satisfied that finally a thorough investigation had been done which resulted in recommendations being made to prevent the same discrepancies occurring in the future.

9. Special Handling Unit Designation

It came to our attention that there was a major discrepancy between section 13 of Commissioner's Directive 274 and the operation of Phase I of the Special Handling Unit program.

Section 13 states "an inmate in Phase I is in administrative segregation... pursuant to section 40(1) of the Penitentiary Service Regulations. Section 40(2) of the same regulation states that an inmate segregated under section 40(1) "is not considered under punishment unless he has been sentenced as such and he shall not be deprived of any of his privileges and amenities."

However when you examine the Special Handling Unit phase program it is clear that it is specifically designed to deprive inmates of privileges and amenities in Phase I as a means of encouraging movement through the phases. For instance the return of an inmate to Phase I is used as a punitive measure following a disciplinary offence, with the average stay being three months. Inmates in Phase I are deprived of privileges such as regular phone calls to family and the use of television sets in their cells. They are also restricted to level I pay while Phase II and III inmates can earn up to level II even though access to education as a means of employment is available to all phases. Basically we are not questioning the denial of privileges. What we are saying is that if you are denying them then Phase I is obviously punitive segregation.

If The Correctional Service of Canada insist as in Commissioner's Directive 274 calling Phase I administrative segregation then the inmates there should enjoy the privileges available to any inmate in administrative segregation as set out in the regulations. For some unknown reason the Service is insisting that the Special Handling Unit is administrative segregation but treat the Phase I inmates like they were in punitive segregation. So I recommended:

That if according to Section 13 of Commissioner's Directive 274 inmates in Phase I are in Administrative Segregation they not be deprived of their privileges or amenities pursuant to Section 40 (2) of the Penitentiary Service Regulations.

My recommendation was sent to Legal Services and to the Deputy Commissioner Security for comment.

The Legal Services memorandum basically agreed with the recommendation saying inmates in Phase I were entitled to the same privileges as inmates in Phase II and III and specifically mentioned that television sets be allowed.

The Deputy Commissioner Security however disagreed saying the whole concept of the Special Handling Unit phase program is to encourage inmates into progressive association and the provision of television sets in Phase I would likely cause the opposite effect. In response to the comments of the Deputy Commissioner Security I wrote back to the Inspector General saying that it is not a question of his concept of the Special Handling Unit. The question is whether Phase I Special Handling Unit is in compliance with the Penitentiary Service Regulations 40(1) and (2) and if not then either give the inmates the privileges allowed in administrative segregation or restrict these and admit that Phase I is punitive segregation.

I was advised that the matter is presently under review.

10. Diets on Religious Grounds

An inmate attempting to secure a meat free diet made a request through the Chaplain in June 1981 for such a diet on religious grounds but was refused by the Food Services Supervisor. Since that original request the inmate waited six months to comply with the Interfaith Committee's recommendation for persons desiring to change their religious identification. The Chaplain in December 1981 made a request to the kitchen for the vegetarian diet but six months later was still waiting for clarification of the Commissioner's Directive on Religious Diets.

In January 1982 the inmate submitted a complaint but was denied. He then submitted a grievance stating that he had spoken to the Chaplain and had been assured that he had been recommended for the diet. The grievance was denied stating "Neither person (doctor nor Chaplain) has prescribed such a diet. I would suggest you could simply not eat the meat on your tray and ask for extra bread and vegetables if such are available."

The grievance went to level II but was denied for the same reason. At the third level the reply was "Your grievance has been investigated at the third level and I concur in the advice given by the Warden."

At the final level the inmate was advised that "there are many food items that are available at meal time from which you may choose... Should the choice of food items not be adequate you should present another grievance." In an attempt to clarify the situation I wrote to the Deputy Commissioner Offender Programs but the reply was not very helpful.

I was concerned that all four levels of the grievance procedure failed to identify or address the fact that the request for the meat free diet was supported by the institutional Chaplain who informed our office that he had never been contacted by anyone concerning the grievance. I was also concerned that the response that he simply not eat the meat on his tray and ask for extra bread and vegetables if such are available certainly does not conform to the agreement with the Human Rights Commission on the subject. I therefore recommended:

(a) That the grievance be re-examined and an intelligible response issued at the fourth level.

(b) That the terms of the settlement proposal reached with the Canadian Human Rights Commission in February 1982 be implemented immediately.

That Commissioner's Directive 283 be amended to include both notice of an appeal and the procedure in respect thereof and that every notification of a claim decision also informs the inmate of his right to appeal.

I was advised that an amendment to the directive was in the works and a draft would be forwarded when ready. Again this will be monitored until the recommendation is implemented.

14. Remission Appeal

The Case Management Manual on pages 57 and 68 outlines the procedure to appeal a decision of the Earned Remission Board. It has come to my attention that many inmates are unaware that such a procedure is available to them. To ensure that inmates are informed of their rights in this regard I recommended:

That when an inmate is informed of this failure to earn remission that he also be informed of the appeal procedure.

The matter was referred to the Deputy Commissioner Offender Programs who replied to the effect that the appeal procedure referred to in the Case Management Manual was obsolete and that the grievance procedure was now the proper vehicle for an appeal. The pertinent sections of the Manual were to be revised. However, I was not satisfied with the reply received because it did not respond to the recommendation.

Our concern was not appeal versus grievance but rather that inmates were unaware that a procedure of redress was available and I made the point to the Inspector General that the form itself should contain a statement that the inmate has a right to appeal a decision of the Earned Remission Board. Shortly after, I received a copy of the draft form incorporating our recommendation, but the matter will be monitored until the form is distributed to the institutions.

15. Visitor Information

We received a complaint from an inmate questioning why his wife when she came to the institution for a visit, would have to include her address on the Visitor Control Register which each visitor is required to fill out. Such information is accessible to subsequent visitors and he felt that for security reasons it should not be required.

We agreed and recommended:

That the present requirement for the address of a visitor on the Visitor Control Register be discontinued.

The matter was referred to the Deputy Commissioner Security who agreed the information was not really necessary as it was held on the visitor's application. The column was to be deleted from the register and we will monitor to ensure that this is in fact done and that the old forms are replaced by the amended version.

16. Priority of Outstanding Charges

The practice of finalizing decisions approving the transfer of inmates to Special Handling Unit prior to the disposition of outside court proceedings has been brought to my attention.

The Commissioner in a memorandum dated November 1982 entitled Notification of Inmates Recommended for the Special Handling Unit stated that "the inmate's response to the

allegations and the Warden's subsequent review of that response is an important part of the Service's duty to act fairly in such administrative procedures." However in a situation where there are outstanding charges pending and the actions which led to those charges are the basis of the Special Handling Unit recommendation, the inmate in effect is being asked to provide The Correctional Service of Canada with a factual rebuttal of the allegations in advance of his court appearance. It is my contention that an inmate should not be placed in a position of having to defend his actions prior to the disposition of criminal charges and consequently I recommended:

That the decision approving the transfer of an inmate to a Special Handling Unit be deferred until such time as all outstanding charges relating to the Special Handling Unit recommendation have been dealt with.

The matter was referred to Legal Services and a response given concluding that the balance between the interest of the inmate not to disclose his defence and the right and duty of penitentiary authorities to ensure the safe custody of inmates and the security of institutions must favour the authorities. This opinion was forwarded along with my recommendation to the Deputy Commissioner Security who unfortunately did not appear to understand the point being made. His memorandum dealt with transferring inmates to the Special Handling Unit while I was concerned with deferring the decision on the inmate's recommendation for Special Handling Unit.

Section 18(b) of Divisional Instruction 800-4-04 reads:

> When the Special Handling Unit is located in a region other than one where the sending institution is located... and criminal charges are outstanding the transfer shall take place at the next interregional transfer following the disposal of criminal charges.

This of course refers to inmates in the Atlantic, Prairie or Pacific regions where there are no Special Handling Units. My point is that if you are not going to move such inmates until criminal charges are dealt with then why not defer as well, consideration of the recommendation to transfer.

Legal Services remarks about balancing the duty to act fairly with the duty to protect other inmates and staff has little practical meaning in light of the above existing policy. If the Service is willing to hold off on the transfer to Special Handling Unit until charges have been disposed of why can they not hold off on the decision until the charges are disposed of.

I felt the recommendation merited further consideration and just as I was preparing to resubmit it a very relevant incident came to light and it was exactly the type of thing that the recommendation was intended to prevent. An inmate was provided with a written notification that he was being recommended for a Special Handling Unit. He submitted a response to the Warden of Millhaven in which he made certain incriminating statements. He was under the impression that the document was confidential and only had to do with the institution as he was at the time facing a charge of assault in outside court. A copy of the response however ended up in the office of the local Crown Attorney. I immediately brought the matter to the attention of The Correctional Service of Canada with an urgent request that my previous recommendation pertinent to that situation be reconsidered. I also asked to be informed of what steps if any were being contemplated in respect to the specific situation of the inmate.

The immediate matter was referred back to Legal Services where the opinion given was that it was not legal for the Warden to give a copy of the response to an Ontario Provincial Police investigator. However the year ended before my request to reconsider the original

recommendation was replied to. Again, another subject which will be pursued and hopefully under the circumstances a lot more thought will go into any decision on the matter.

17. Zero Pay

An inmate wrote to the Solicitor General in March 1982 complaining that after his employment in an institution had been terminated he received no money for a period of six weeks. The Minister replied that The Correctional Service of Canada was reviewing the situation, that a legal opinion had been obtained and that the matter would be resolved within a few weeks. He went on to assure the inmate that he would be justly dealt with and that the policy of The Correctional Service of Canada does not support measures that represent an additional punishment unless such punishment is awarded as a result of a conviction for a disciplinary offence by a properly established administrative tribunal.

The complaint was referred to our office and our preliminary investigation of the matter revealed that at Saskatchewan Penitentiary a Standing Order to establish procedures for employment of inmates was being used to place in segregation for a period of not less than six weeks, inmates who were non-productive, i.e. those who refused to accept a reasonable work opportunity. On top of that the Chairman of the Inmate Employment Board was ordering that such inmates so designated would receive zero pay for that period for refusing to work.

I obtained a copy of the memorandum from Legal Services on the legality of the Standing Order in question and although it did not deal with the question of placing non-productive inmates in segregation for a period of not less than six weeks it did state that to order zero pay for that period of time was contrary to the directive. Furthermore it might even be contrary to the Penitentiary Service Regulations.

I next sent a letter to the Commissioner of Corrections enclosing a copy of the Minister's reply and a copy of the legal opinion, and requested details of how the matter was to be resolved.

I was advised that the whole issue of placing inmates on zero pay for refusing to work was being reviewed and that a number of proposals were to be presented to the Senior Management Committee. He was quick to point out however that the pay system was not to be used for a vehicle for punishment.

This last statement was contradictory to say the least for that was exactly what was happening. Consequently I wrote back to the Commissioner emphasizing and supporting the remarks of the Solicitor General "that The Correctional Service of Canada did not support additional punishment unless such was awarded as a result of a conviction for a disciplinary offence by a properly established tribunal."

Having that position before him here was the Commissioner in one sentence agreeing that the pay system is not to be used as a vehicle for punishment while in the next he was proposing a procedure whereby an inmate is placed on zero pay at the discretion of the Chairman of the Employment Board without the inmate being charged or appearing before a proper disciplinary body. I asked that the proposal be reviewed to ensure that in fact the pay system is not being used as a vehicle for punishment and that punishment is only awarded following conviction by a properly established administrative tribunal.

The response from the Commissioner was another assurance that the Inmate Pay System was not used or intended to be used as a vehicle for punishment and a number of new proposals were listed.

During the course of our investigation into this matter I came across a piece of correspondence from the Commissioner to an inquiry made on the question of zero pay in which he stated "that the inmate in question was scheduled for six weeks zero pay under a former institutional policy but that this local pay policy has now been rescinded and the inmate will be paid a certain pay level, including any which may be retroactive."

Since I had not received anything more than proposals I was anxious to be informed of the new policy and so wrote to the Inspector General enclosing all previous correspondence and documentation on the subject. I should point out that the local policy referred to by the Commissioner was now affecting inmates in at least three different institutions.

I pointed out to the Inspector General that the zero pay policy as outlined in the Standing Order at Saskatchewan Penitentiary was in fact punitive and contrary to the existing Commissioner's Directive. We had also discovered that not only were inmates placed on zero pay illegally but that they failed to earn five days remission every two weeks while on non-productive status. I asked if in fact the policy had been amended as indicated in the Commissioner's letter and if so could I receive a statement of same. Finally, in view of the Minister's statement that inmates would be justly dealt with and in view of the Commissioner's statement on the resumption of pay level including retroactive pay I recommended:

That inmates in the system adversely affected by the previous zero pay policy be reimbursed at the rate of $1.60 per day retroactive and that all remission not credited as a direct result of their status during the zero pay period be recredited.

In due course I received a copy of a memorandum from the Acting Director General Inmate Employment along with an interim instruction from the Commissioner setting out the amendments to the policy. The memorandum was an attempt to explain or perhaps justify the changing stance of the Service but did nothing to satisfy the content of the recommendation.

It was necessary therefore to again write to the Inspector General indicating that the information received did little to address my concerns which were the misapplication of the previous pay policy, and the Service's refusal to date to specify what if any corrective action was intended. I asked to be informed of how many institutions had a practice similar to Saskatchewan Penitentiary, how many inmates were adversely affected and a reply to the recommendation that those inmates be reimbursed and recredited.

There is no question in my mind as to the injustice done in this matter and it is my intention to continue to press for the return of every penny and every bit of remission owed.

18. Delay in Processing Inmate Claims

An inmate at Stony Mountain Penitentiary first contacted my office in June 1982 about the delay being experienced in processing his claim. The matter was taken up with institutional officials and although we were advised that the matter was being dealt with in fact it was not. Several more attempts proved fruitless so Regional Headquarters Prairie was contacted and we were advised that this was only one of several claims presently outstanding.

Two concerns I had were the excessive delay at the institution in responding to claims and the apparent absence of regional responsibility in ensuring claims were dealt with pursuant to the guidelines in Commissioner's Directive 283.

I wrote to the Regional Director General on the matter indicating that because an earlier request for a status report on overdue claims as well as the regional policy dealing with outstanding administrative inquiries had gone unanswered, would he provide me with the information.

A prompt reply was received but the information requested was not provided so it was necessary to write again. The next response did provide the documentation. In the interim the inmate originating the investigation finally received a reply to his claim some eight months later.

The information from Prairie Region was not encouraging. Three months earlier when we first referred the issue to them there were seven claims outstanding some by as much as eight months. We were now advised that there were thirteen claims outstanding one of which was more than a year old. The regional policy requested intended to deal with the matter, was obviously not doing so and it was necessary to recommend to the Inspector General:

That a review be conducted and action taken to correct the ongoing backlog of overdue Administrative Inquiries pertaining to inmate claims against the Crown.

I was advised that the problems related to the delays were being reviewed and that an action plan would be developed to correct the situation. Any comment on the effectiveness of same will have to await further reports.

19. Retention of Disciplinary Court Records

In attempting to comply with a complainant's request alleging that he was not treated fairly in a disciplinary court appearance and that he wanted us to listen to the tape recording of the proceedings, we requested the tapes but were advised that they were not available. An inquiry quickly revealed that the tapes were presently only being preserved for a six month post hearing period, which we felt was far too short a time. We consequently recommended:

That disciplinary court tape recordings be retained for more than the presently prescribed period of six months.

The recommendation was accepted and we were advised that the pertinent Commissioner's Directive would be amended to extend the time to two years.

Conclusion

It was another very busy year considering the increased number of complaints dealt with and the related increase in the number of recommendations made to The Correctional Service of Canada at all levels.

In order to accomplish what we did it is necessary to have the cooperation of The Correctional Service of Canada and I would like to extend my personal thanks to all those who assisted us with meaningful and prompt responses to our inquiries.

And of course a special thank you to Mr. Alan Wrenshall the Inspector General for his valuable assistance, experience and sense of fair play.

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 1/82 — MAY 31/83

The Correctional Investigator recommended:

1. That a review should be carried out of procedures at all Regional Psychiatric Centres to ensure that Commissioner's Directives and Divisional Instructions are being followed or in the alternative, that national policies be amended and issued to deal with the special situations at such centres.

Issued:	10-6-82	
Response:	11-6-82	— acknowledged
Response:	27-8-82	— accepted
Response:	30-11-82	— information provided.

2.a) That The Correctional Service of Canada review the disciplinary court records at all institutions and take appropriate corrective action in all instances of unauthorized punishments.

2.b) That a control system be implemented in order to monitor sentences for conformity.

Issued:	11-6-82	
Response:	15-6-82	— acknowledged
Response:	5-7-82	— information provided
Response:	15-7-82	— information provided
Reissued:	2-11-82	— meeting with Commissioner
Response:	18-11-82	— information provided and partially accepted
Response:	31-3-83	— draft Commissioner's Directive on inmate discipline

3. That prior to a final decision on any involuntary transfer, The Correctional Service of Canada provide the proposed transferee with written notification containing specific reasons for the transfer as well as providing the inmate with an opportunity to respond:

Issued:	14-6-82	
Response:	15-6-82	— acknowledged
Response:	9-9-82	— rejected
Reissued:	22-9-82	— questioned the rejection
Response:	24-9-82	— acknowledged
Response:	16-12-82	— partially accepted
Reissued:	10-1-83	
Response:	12-1-83	— acknowledged
Response:	22-3-83	— partially accepted
Response:	22-3-83	— information provided
Response:	20-5-83	— information provided
	31-5-83	— has not been resolved

4.a) That section 6(d) of Commissioner's Directive 329 be complied with or that it be amended to reflect present practices in forwarding inmate personal effects.

b) That any such amendment include specific time frames to ensure prompt delivery of inmate personal effects.

Issued:	5-8-82	
Response:	9-9-82	— acknowledged
Response:	17-9-82	— problem confirmed
Response:	14-10-82	— information provided
Response:	7-1-83	— information provided
Response:	19-5-83	— accepted
Response:	31-5-83	— implemented

5. That the decision of adding consulates to the list of privileged correspondents be made by Senior Management and that in the event of a negative decision the reasons therefore be transmitted to the inmate.

Issued:	22-9-82	
Response:	24-9-82	— acknowledged
Response:	30-11-82	— accepted
Response:	10-2-83	— draft Commissioner's Directive
Response:	10-5-83	— implemented

6. That the matter be reviewed and that appropriate winter footwear be provided for the coming winter.

Issued:	7-10-82	
Response:	8-10-82	— acknowledged
Reissued:	18-11-82	
Response:	2-12-82	— information provided
Reissued:	16-12-82	— discussed with Inspector General
Response:	1-2-83	— accepted and implemented

7.a) That visitors on entering an institution, be requested to sign a consent form which outlines the search procedure.

b) That where the visitor is a minor, a form is signed on behalf of that person.

Issued:	7-10-82	
Response:	8-10-82	— acknowledged
Response	30-11-82	— information provided
Reissued:	10-1-83	— did not deal with part (b)
Response:	12-1-83	— acknowledged
Response:	25-2-83	— accepted
Response:	25-4-83	— information provided
Response:	5-5-83	— sent copy of consent form

8. That the inmate's grievance be thoroughly investigated and on the basis of that thorough investigation he be provided with a fourth level response.

Issued:	7-10-82	
Response:	8-10-82	— acknowledged
Response	29-11-82	— accepted and implemented

9. That if according to Section 13 of Commissioner's Directive 274 inmates in Phase I are in Administrative Segregation, they not be deprived of their privileges or amenities pursuant to Section 40(2) of the Penitentiary Service Regulations.

Issued:	6-10-82	
Response:	8-10-82	— acknowledged
Response:	30-11-82	— information provided
Reissued:	10-1-83	— reasons not acceptable
Response:	12-1-83	— acknowledged
Response:	25-5-83	— matter to be reviewed
	31-5-83	— has not been resolved

10.a) That a certain inmate grievance be re-examined and an intelligible response issued at the fourth level.

b) That the terms of settlement proposal reached with the Canadian Human Rights Commission in February 1982 be implemented immediately.

Issued:	8-10-82	
Response:	8-10-82	— acknowledged
	18-11-82	— requested a progress report
Response:	14-12-82	— information provided
Response:	20-12-82	— accepted and implemented at policy level
Response:	28-1-83	— information provided
Response:	16-2-83	— information provided
Response:	4-5-83	— information provided

11. That an independent review procedure be put in place to deal with recommendations from the Office of the Correctional Investigator concerning questionable decisions to transfer inmates to a Special Handling Unit.

Issued:	2-11-82	
Response:	2-11-82	— accepted in principle
Reissued:	16-5-83	— review procedure not acceptable
Response:	31-5-83	— explanation supplied

12. That in order to ensure as much as possible an independent review at the final level of the grievance procedure, that such grievances be investigated and responded to by other than a branch with specific functional responsibility.

Issued:	17-11-82	— oral recommendation
Response:	17-11-82	— accepted
Response:	17-12-82	— information provided
Reissued:	21-12-82	— written recommendation
Response:	23-12-82	— acknowledged
Response:	5-5-83	— rejected
Reissued:	16-5-83	
	31-5-83	—has not been resolved

13. That Commissioner's Directive 283 be amended to include both notice of an appeal and the procedure in respect thereof and that every notification of a claim decision also informs the inmate of his right to appeal.

Issued:	16-12-82	
Response:	31-12-82	— acknowledged
Response:	24-2-83	— accepted

14. That when an inmate is informed of his failure to earn remission that he also be informed of the appeal procedure.

Issued:	16-12-82	
Response:	22-12-82	— acknowledged
Response:	9-2-83	— information provided
Reissued:	3-5-83	— discussed with Inspector General
Response:	5-5-83	— acknowledged
Response:	25-5-83	— accepted and implemented

15. That the present requirement for the address of a visitor on the Visitor Control Register be discontinued.

Issued:	6-12-82	
Response:	3-2-83	— accepted

16. That the decision approving the transfer of an inmate to a Special Handling Unit be deferred until such time as all outstanding charges relating to the Special Handling Unit recommendation have been dealt with.

Issued:	21-2-83	
Response:	23-2-83	— acknowledged
Response:	29-3-83	— rejected
Reissued:	16-5-83	— new information provided
Response:	30-5-83	— acknowledged
	31-5-83	— has not been resolved

17. That all inmates in the system adversely affected by the previous zero pay policy be reimbursed at the rate of $1.60 per day retroactive and that all remission not credited as a direct result of their status during the zero pay period be recredited.

Issued:	15-11-82	
Response:	29-3-83	— acknowledged
Response:	5-5-83	— information provided
Reissued:	16-5-83	
	31-5-83	— has not been resolved

18. That a review be conducted and action taken to correct the ongoing backlog of overdue. Administrative Inquiries pertaining to inmate claims against the Crown.

Issued:	28-3-83	
Response:	29-3-83	— acknowledged
Response:	4-5-83	— accepted

END