Annual Report of the Correctional Investigator

1976-1977

The Correctional Investigator Canada
L'Enquêteur correctionnel Canada

Annual Report of the Correctional Investigator

1976-77

Cat. No.: JA1-1977

ISBN—0662-01905-9

The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada

January 16, 1978

The Honourable Francis Fox
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 to submit respectfully the attached report which covers the fourth year of operation of the Office of the Correctional Investigator (1 June, 1976 to 31 May, 1977).

The report was written during the summer of 1977. I regret that I delayed the corrections of the manuscript because of other tasks and apologize for the delay.

Sincerely yours,

Inger Hansen, Q.C.
Correctional Investigator

P.O. Box 950, Station B
Ottawa, Ontario
K1P 5R1

C.P. 950, Station B
Ottawa (Ontario)
K1P 5R1

Table of Contents

Appointment and Terms of Reference

This report covers the period from 1 June, 1976 to 31 May, 1977 and discusses our fourth year of operation.

The Correctional Investigator is appointed under Part II of the **Inquiries Act** and reference may be made to the first Annual Report of the Correctional Investigator, page 1, for the full text of the mandate.

The third Annual Report, page 5, discusses the difference between a true ombudsman and the Correctional Investigator.

Role of the Correctional Investigator

The Correctional Investigator is required to provide annual reports to the Solicitor General. Three annual reports have been presented to the Minister and they have been published as submitted.

Because questions have been asked it seems appropriate at this time to state that the Correctional Investigator has not received and does not foresee receiving any direction whatsoever from the Solicitor General, either directly or indirectly, concerning the work of the office of the Correctional Investigator. Of course, there are financial and human limits placed on our office, but decisions made in respect of complaints and the reports are the results of the independent efforts of all the staff of the office of the Correctional Investigator.

We try to remain neutral in our daily work and maintain that our work is not to make apologies for the administration nor to be one-sided advocates for inmates. It is to recommend that a situation be rectified where an inmate is unfairly deprived of that to which he is entitled under existing policies and laws or where he has been dealt with unfairly in any other way.

We hope that from time to time our work serves to prevent unfairness in the way inmates are treated in federal penitentiaries in general.

Some inmates and members of the public have urged our office to become directly involved in actual disturbances. We hesitate to do so although we realize we might be faced with a situation where we would think it appropriate to assist, or one where we would have no choice.

Our attitude at present is, that if we were to attend at institutions in order to monitor administrative action during a disturbance, we might endanger the neutrality of our office. It is also our impression that we might be more of a hindrance than a benefit if we were to intervene, once a disturbance is in progress. Our role should not be that of a consultant working side by side with the administrator, nor should we serve in a policing function. However, after the fact, our role is to examine whether the administrator acted fairly. For the same reasons, we are reluctant to make recommendations or voice opinions while an administrative or public inquiry is in progress.

I have argued in earlier reports that the primary function of an ombudsman is to investigate and make recommendations in respect of **individual** complaints and that an ombudsman should not engage in general consciousness-raising, nor should he make recommendations concerning general policy unless the frequency of individual complaints makes it necessary.

Our office thinks that better results might be achieved by our recommending that specialists conduct studies and report on general issues. The study of general problem areas would utilize too many of our resources and thus detract from the handling of individual complaints. It might also be impossible to provide sufficient expertise in a relatively small office. It is, of course, possible to engage consultants from time to time, but on balance it should not, generally speaking, be the task of the Correctional Investigator to conduct major studies of correctional matters.

Relations with the Public and the Media

As the Correctional Investigator I have been asked to address public meetings and I have often been questioned by the media.

While I cannot recall ever having been asked to define maladministration, I am frequently asked for my opinions on the general issues in the correctional field. In the earlier stages of my work I tried not to answer because of my lack of professional qualifications in the social sciences. Later I realized that it was not realistic to remain aloof from the general problems in the correctional field. My views are by no means original, but because I have spoken publicly, I think it appropriate to include as an appendix (Appendix A) in this report a summary of what I have said on various occasions.

Provincial Ombudsmen

An international conference of ombudsmen from 18 countries was held from 6 to 10 September, 1976 in Edmonton, Alberta. The conference was held in conjunction with the annual meeting of Canadian ombudsmen and was hosted by the Very Reverend Dr. Randall E. Ivany, the Alberta ombudsman. Addresses were given by Premier Peter Lougheed, Mr. Justice C.W. Clement of the Supreme Court of Alberta, Sir Guy Powles, chief ombudsman from New Zealand, Mr. Arthur Maloney, Q.C., ombudsman from Ontario and Dr. I.E. Nebenzahl, the ombudsman from Israel. Academic experts on the ombuds-function also attended and provided papers for discussion.

In addition to enjoying the excellent hospitality of Dr. Randall Ivany, all the delegates received the generous hospitality of both the Province of Alberta and the City of Edmonton. Mr. Arthur Maloney, Q.C., also arranged for meetings of international ombudsmen who travelled through Toronto either to or from the conference.

The conference was evidence of the world-wide acceptance of the ombudsman idea. It also highlighted the problems facing ombudsmen, in particular the question of their independence.

Another international conference is expected to be held in a few years.

Correspondence to and from Ombudsmen

As a result of complaints received from inmates in federal penitentiaries that mail addressed to provincial ombudsmen was being opened and examined by the Canadian Penitentiary Service, we suggested to the Commissioner of Penitentiaries that correspondence from federal inmates and provincial inmates in federal institutions to and from provincial ombudsmen should not be subject to censorship. The Commissioner agreed to this and issued a directive to that effect.

At the same time, the eight provincial ombudsmen made representations to their respective governments and those governments all directed that correspondence between inmates in provincial institutions and the office of the Correctional Investigator should not be subject to censorship. The acceptance of the need for confidentiality and the cooperation of governments in question was greatly appreciated.

Procedures

During the fourth year most investigations were carried out by the Assistant Correctional Investigator (Field) and the two inquiries officers. Maximum and medium institutions were visited approximately nine times and the minimum institutions approximately six times.

The procedures for handling complaints, described in the first Annual Report, page 9, have otherwise been maintained. There has been an increase in the number of referrals to our office from Members of Parliament, the media, interested organizations and private individuals. As previously stated, we seek the consent of the inmate before investigating a complaint received from a third party.

When we find that an inmate's complaint is within the mandate of a provincial ombudsman or any other party, we do not forward his or her letter directly. In such cases, we write to the complainant suggesting that the appropriate party be contacted. This practice has been adopted in order to avoid embarrassment to a complainant who may already have contacted such other parties or who may not want to use those services.

We are sometimes asked by inmates for information and assistance when they wish to lay charges or bring an action against staff.

If there is the possibility that a criminal act has taken place, we satisfy ourselves that the complainant has had access to legal aid, his own lawyer or the local police authority.

Staff

The following persons were engaged in our office during the fourth year of operation:

Mr. D.C. Turnbull, Assistant Correctional Investigator (Headquarters)
Mr. Brian McNally, Assistant Correctional Investigator (Field)
Helga Wintal, Inquiries Officer
Dennis Albertini, Inquiries Officer
Jane Longo, Administrative Assistant
Mrs. L. Schneider, Secretary
Miss F. Johnson, Secretary
Ms. B. Couillard (part-time)

We use the team approach and it appears to work well as each person is able to bring special expertise to the work.

National Parole Service

Inmates are informed that we have no mandate to investigate decisions concerning parole. We suggest that they may approach the National Parole Board or its appropriate regional representative to have decisions concerning parole reviewed.

As mentioned in earlier reports we do not have the staff or the facilities to investigate complaints concerning parole.

We received 100 complaints concerning parole during the reporting year. This amounts to 7.4% of the total complaints.

Statistics

The manner in which statistics have been prepared has not changed substantially from previous years.

Pending Complaints

At the end of the third year of operation, 158 complaints were shown as pending. Separate statistics have been shown for those files in Table B. However, they have been included in the calculation of percentage rectified or resolved as having been handled in the fourth year.

Categories of Complaints

One category has been added which was not used in previous years and that is "Use of Force". This has been done to increase the accuracy of reporting.

Premature Complaints

Penitentiary inmates do not have as many opportunities to discuss or voice complaints as do ordinary people. Often we are faced with a complaint where there has not yet been an administrative decision. The complaint is merely anticipatory of an unfavourable response from the administration.

We usually interview the inmate anyway. The inevitable result of our approach is that an inordinate number of complaints must be rejected as premature. For our purposes this description seems more accurate than simply "declined" or "not justified".

TABLE A
Category of Complaints

Transfer	238
Miscellaneous	219
Medical	110
Temporary absence	95
Sentence administration	87
Visits and correspondence	73
Dissociation	70
Discipline	67
Compensation (injuries and property)	61
Remission	34
Financial matter (inmates')	29
Information on file	15
Use of force	13
Grievance procedure	10
Request for information	10
Education	9
Discrimination	4
Outside Terms of Reference	
Parole	100
Matters within provincial jurisdiction	51
Other	44
Court procedures	10
Court decisions	4
	1353

TABLE B
Action Taken on Complaints

ACTION		NUMBER
Pending		93
Declined	a) Not within mandate	185
	b) Premature	399
	c) Not justified	250
Discontinued		76(1)
Assistance, advice or referral given		193(2)
No immediate action required		6
Resolved or rectified		102
Recommendations or comments in report		33
Unable to assist		16
		1353

Action taken on complaints pending end of third year

ACTION		NUMBER
Pending		9
Declined	a) No mandate	7
	b) Premature	45
	c) Not justified	41
Discontinued		21(1)
Rectified/Resolved		10
Recommendations or comments in report		5(2)
Assistance, information, advice or referral given		20
		158

1 Complaints are sometimes discontinued at the request of inmates, sometimes because they are released. If a complaint has general implication it is not discontinued merely because an inmate has been released.

2 Some of these are outside our mandate.

TABLE C
Complaints Resolved or Rectified during Reporting Year

Complaints pending from previous years			
a) Second year	2		
b) Third year	8		10
Complaints received during fourth year		1353	
Less complaints not investigated or completed			
a) Outside mandate	185		
b) Premature	399		
c) Pending	93	677	676
Total complaints completed during fourth year			686
Percentage Rectified			
Complaints resolved or rectified during fourth year			
a) Pending previous years		10	
b) Pending fourth year		102	
		112	
Percentage rectification of total complaints actually investigated			16.30%

TABLE D
Resolution or Rectification by Type of Complaint

TYPE	FOURTH YEAR	(Pending) THIRD YEAR
Grievance procedure	0	1
Transfer	10	1
Temporary absence	1	0
Medical	12	0
Dissociation	24	0
Discipline	8	1
Remission	2	0
Sentence administration	4	1
Education	2	0
Miscellaneous	10	3
Visits and correspondence	10	1
Information on file	4	0
Compensation	7	1
Financial matter (inmates')	8	1
	102	10

TABLE E

Complainants by Region
and Institutional Classification

INMATE POPULATION AT 31 MAY, 1977	MARITIME REGION 911				PRAIRIES REGION 1829				QUEBEC REGION 2998				ONTARIO REGION 2337				WESTERN REGION 1409			
INMATE POPULATION BY CLASSIFICATION AT 31 MAY, 1977	Max 366	Med 396	Min 149	Other	Max 537	Med 999	Min 293	Other	Max 1268	Med 1358	Min 372	Other	Max 768	Med 1242	Min 327	Other	Max 342	Med 796	Min 271	Other
TOTAL NUMBER OF COMPLAINANTS																				
1976																				
June	2	1			10	7		1	13	5			14	1			18	6	1	
July	8	1	1		6	9		1	5	2	3	1	14	7	3	3	9	2	1	1
August	3	1			11	5				7	3		10	6	2	2	2	10		
September	2	1	1		5	15		1	9	8	3		18	9	1	2	12	3		
October	2	2	1		14	9			4	5	1		13	29	1	2	2	7		1
November	5				6	18			5	3	2		16	14		5	4	8		1
December	8	3	2		6	3			7	2	1		12	9	11	4	6			
1977																				
January	1	1			18	12			20	2	4	1	2	9	2	2	6			
February	7	1			7	16		1	12	2	1		7	10	1		9	3	2	
March	5	1			5	3	1	1	7	2	1	1	9	15		3	6	4		2
April			6		6	6			13				6	7			5	2	1	1
May	1	1			1	3			8	3		1	7	11	2	2	3	3	1	1
TOTAL COMPLAINANTS BY REGION	44	13	11	0	95	106	1	5	103	41	19	4	128	127	23	25	82	48	6	7

TOTAL 888

Table F
Complainants
– Montly by Institution

	DORCHESTER	WESTMORLAND	SPRINGHILL	DUNGARVON	STONY MOUNTAIN	PRINCE ALBERT	PRINCE ALBERT ANNEX	DRUMHELLER	BOWDEN	REGIONAL RECEPTION CENTRE	REGIONAL MEDICAL CENTRE	CORRECTIONAL DEVELOPMENT CENTRE	COWANSVILLE	MONTÉE ST FRANCOIS	ARCHAMBAULT	STE-ANNE-DES-PLAINES	FEDERAL TRAINING CENTRE	LECLERC	LAVAL MAXIMUM	DUVERNAY
INSTITUTION POPULATION AT 31 MAY, 1977	366	80	396	32	428	537	41	456	115	228	66	89	459	131	410	118	399	500	475	89
1976																				
JUNE	2		1		5	10		2		1			1		7		1	3	5	
JULY	8	1	1		2	6		3	4					2	2	1	1	1		
AUGUST	3		1		3	11		2					1	3			1	5		
SEPTEMBER	2	1	1		2	5		10	3	1	1			3	1			8	6	
OCTOBER	2	1	2		3	14		5	1						1	1	2	3	3	
NOVEMBER	5				12	6		4	2			2		2	2			3	1	
DECEMBER	8	2	3		1	6		2			1			1			1	1	6	
1977																				
JANUARY	1		1		6	18		4	2	1		2			8	3	1	1	9	1
FEBRUARY	7		1		10	7		2	4						6	1		2	6	
MARCH	5		1		1	5	1	2		2					1		1	1	4	1
APRIL				6	3	6		1	2		1				1				11	
MAY	1		1		2	1		1		2			1		3		1	1	3	
TOTAL COMPLAINANTS	44	5	13	6	50	95	1	38	18	7	3	4	3	11	32	6	9	29	54	2

REGIONAL RECEPTION CENTRE	REGIONAL MEDICAL CENTRE	WARKWORTH	JOYCEVILLE	PITTSBURG	COLLINS BAY	FRONTENAC	PORTSMOUTH	BEAVER CREEK	LANDRY CROSSING	MILLHAVEN	PRISON FOR WOMEN	REGIONAL MEDICAL CENTRE	BRITISH COLUMBIA	WILLIAM HEAD	AGASSIZ	MOUNTAIN	MATSQUI	FERNDALE CENTRE	ROBSON CENTRE	OTHER	TOTAL
249	101	398	455	79	389	66	10	58	41	278	140	115	227	166	74	195	307	49	31		
6					1					8		4	14	3	1	1	2			1	79
6		3	2		2	1	1	1		8			9	1	1		1			6	77
3		2	1	1	3				1	7			2	3		6	1			2	62
3		6	1		2	1				13	2	1	11			3				3	90
1		1	27		1	1				10	2		2			1	6			3	93
5		6	4		4					11			4	2		3	3			6	87
2	1	2	3		4			8	3	9			6							4	74
		4	2		3		1	1		1	1	2	4							3	80
2	1	2	6		2			1		4			9		2	2	1			1	79
3		1	5		9					5		3	3	1			3			7	66
1		2	2		3					5			5				2	1		1	53
2		4	3		4	1			1	5		2	1			3			1	4	48
34	2	33	56	1	38	4	2	11	5	86	5	12	70	10	4	19	19	1	1	41	888

TABLE G
Visits to Institutions

INSTITUTION AND CLASSIFICATION		NUMBER OF VISITS
MAXIMUM		
British Columbia		17
Saskatchewan		21
Regional Psychiatric Centre (Western)		3
Regional Reception Centre (Western)		1
Regional Psychiatric Centre (Ontario)		6
Regional Reception Centre (Ontario)		8
Regional Psychiatric Centre (Quebec)		3
Regional Reception Centre (Quebec)		3
Correctional Development Centre		3
Dorchester		12
Millhaven		18
Prison For Women		7
Archambault		16
Laval		17
	Total	135
MEDIUM		
Stony Mountain		7
Drumheller		11
William Head		5
Mountain Prison		8
Matsqui		11
Bowden		5
Springhill		8
Warkworth		7
Joyceville		16
Collins Bay		16
Cowansville		6
Federal Training Centre		11
Leclerc		12
Ferndale		3
Mission		1
	Total	127
MINIMUM		
Robson Centre		1
Westmorland		2
Pittsburg		2
Frontenac		8
Agassiz		2
Beaver Creek		2
Landry Crossing		2
Bath		2
Montée St François		2
Ste-Anne-des-Plaines		5
Grierson Centre		1
	Total	29
REGIONAL HEADQUARTERS		
Western		4
Ontario		2
Quebec		4
	Total	10
	Grand Total	301

TABLE H
Interviews Conducted Monthly
– Fourth Year

MONTH	NUMBER OF INTERVIEWS
June	38
July	44
August	44
September	49
October	82
November	86
December	76
January	73
February	74
March	116
April	60
May	92
	834

CASE REPORTS

Sentence Administration

Inmates continue to complain about the interpretation and calculation of their sentences. During the fourth year we received eighty-seven complaints. Four of those were valid and corrections were made.

The provisions included in Bill C-51 will, it is hoped, eliminate many of the problems in sentence administration described in this and earlier reports.

General Problems

In the spring of 1976 the Commissioner of Penitentiaries agreed to our suggestion that an inmate should be entitled to a xerox copy of his sentence computation sheet where there is a conflict or a complaint. There is, however, still much speculation and many misunderstandings among inmates concerning their sentence calculations and the interpretation of warrants. Inmates do not always seem to be able to obtain any documentation concerning their sentences. Because oral explanations of sentence computations are not easy to follow or remember, a better solution might be that all inmates be entitled to receive a free copy of the documentation concerning their sentence computation.

It would also seem reasonable that inmates be entitled to further copies of all such documents for the purposes of their own examination or discussion with their legal representatives and others, on payment of cost of reproduction.

It is therefore recommended that:

(1) inmates on admission, and whenever their sentences are recalculated, shall be given a copy of the admission form(s)[1] and a

[1] Pen 1039E or 1039F.

copy of the calculation of their sentences free of charge and that they be entitled to receive copies of the document or documents authorizing their detention free of charge on request.

It is also recommended that:

(2) inmates be entitled to additional copies of their admission forms, the calculation of their sentence and document or documents authorizing their detention in penitentiary on payment of the cost of reproduction.

Specific Cases

The following individual complaints are reported to illustrate the complexity of problems in this area:

Case No. 1953 (pending from previous year)

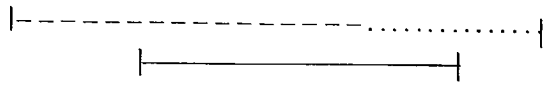
The complainant informed us that although he had been granted day parole as of 30 June, 1976, he was only released intermittently from the penitentiary during the period 15 July to 21 August, 1976, and after this period he stayed at a community correctional centre. He was subsequently convicted of another offence; his day parole was forfeited by operation of law and he therefore had to serve a new sentence and the remanent of his old sentence including remission. His complaint was that he was being made to re-serve time spent in a penitentiary up to 21 August, 1976. The remanent of the old sentence is described in the **Parole Act** as the balance of the sentence **as it stood at the time he was granted parole.** Therefore, the whole period from 15 July to 21 August would have to be served over again. During that period, the complainant had been at a community correctional centre 49 $^{3}/_{4}$ hours during the 38 day period; the balance of the time he was in a penitentiary. The calculation of his sentence was correct in law, but seemed somewhat unfair. After representations were made to the Chairman of the National Parole Board, we learned that proposed legislation would prevent such cases in future. The present situation was remedied by the complainant and others in similar situations applying for and receiving clemency.

Case No. 2421

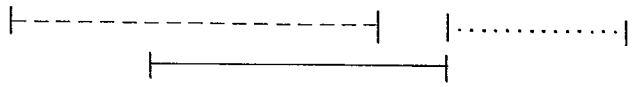
The complainant had been convicted of an offence while he was on parole. He received a short sentence. About one week later he was again convicted and received a longer sentence.

His complaint was that the short sentence had not been calculated so that it would have forfeited his parole. The new single sentence was instead based on the longer sentence imposed later. Our investigation showed that the short sentence was for an offence which could have been charged either by way of indictment or as a summary conviction offence and that the prosecution had chosen to use summary convictions procedures. Since the **Parole Act** provides that only indictable offences operate to forfeit parole, we had to tell the inmate that his complaint was not justified. The result was that the aggregate of the longer sentence and the remanent had to be served and the shorter sentence was absorbed.

If the shorter sentence had been proceeded with by way of indictment, the total new single sentence would have been as follows:



The sentence was calculated as follows:



Legend: – – – – – – sentence for summary conviction

——— sentence for conviction for indictable offence

. . . . . remanent

Case No. 2158

An inmate had been convicted of three offences on the same date, and the following sentences had been imposed; "four years", "two years consecutive", and "two years consecutive". In August, 1976, when we examined his file for another purpose, we noticed that his aggregate sentence had been calculated as eight years.

The file showed that the sentence administrator had contacted the judge and had been informed by letter that he intended that the aggregate should be eight years. However, the judge had declined to amend the warrants to reflect this. Departmental Counsel in the Ministry of the Solicitor General, in similar cases had previously advised that where there is a doubt as to the construction of a sentence, the doubt should be resolved in favour of the inmate. On that basis, we questioned the propriety of calculating the sentence in accordance with instructions contained in a letter that purported to change the warrants.

The Canadian Penitentiary Service ordered a transcript of the judge's remarks on passing sentences. The transcript was submitted to departmental counsel who expressed the opinion that there was a doubt and the institution was instructed to amend the inmate's sentence to six years. This was done on the 28th March, 1977.

Our usual procedure is only to investigate with the consent of the inmate. Since there had been no complaint on the subject of sentence and we had not wished to raise the inmate's expectations, we had said nothing to him. Finally, the inmate was told of the reduction by the sentence administrator and the inmate then wanted confirmation that he would not be required to serve the additional two years if there were a subsequent interpretation of his sentence. He asked the sentence administrator for further assurances that the calculation would not be changed again.

The sentence administrator ordered copies of the stenographic notes relating to the imposition of the sentence and we believe he intends to resubmit them for a legal opinion. We have reopened our file.

Case No. 2641

The complainant had been convicted of escape in 1974. He had made an application under the **Penitentiary Act**[2] for the return of the statutory remission which he lost automatically as the result of the escape. He now complained that the application had not been processed. The inmate had also been released on parole after the escape and the parole had subsequently been revoked. Since his sentence had been recalculated as a "new single sentence" the Canadian Penitentiary Service would not entertain an application for return of statutory remission.

We explained to this inmate as we had to others that although there might be some doubt as to whether a "new single sentence" was created by virtue of a revocation, there was no **administrative unfairness** because the administrators all followed the same instruction. We added that it would probably require a judicial interpretation to change the manner in which sentences such as his were calculated.

Case No. 2833

The complainant did not think he should be required to be under a new sentence which included his statutory remission, after his temporary day parole had been forfeited as the result of his being unlawfully at large.

We explained that a **temporary** day parole was treated as a day parole as a matter of practice, and when a day parolee is unlawfully at large the day parole is terminated first and then the person is **declared** unlawfully absent.

The consequences of a subsequent **conviction,** if any, for being unlawfully at large is the loss of $^3/_4$ statutory remission standing to the person's credit at the time of the offence.

If the day parole were not terminated first, the conviction for being unlawfully at large would result in the forfeiture of the day parole and all statutory and earned remission would become part of a new single sentence. Furthermore, it is possible later to apply to have restored any remission lost as the result of a conviction for being unlawfully at large; this is not possible when remission is lost as a result of forfeiture.

The complaint was declined as not justified.

Disciplinary Proceedings

Sixty-seven complaints relating to disciplinary proceeding. were received and of these nine were resolved.

[2] S.C. 1960-1961, c. 53, s. 1.

General Problems

As in previous years we had difficulty in investigating complaints concerning disciplinary procedures because of incomplete records. For instance, an inmate may complain that he requested permission to call witnesses and the record of the hearing does not indicate whether a request was made or whether it was considered and rejected. Unless and until disciplinary proceedings are recorded as recommended in our second report (Recommendation No. 2) it is difficult to establish what has actually taken place at the hearing.

On the other hand, when reviewing records we have also discovered examples of directors intervening to rectify problems themselves. For example, an inmate had been asked to submit to a skin frisk before an interview with someone from our office. He refused, saying he did not want the interview "that much". He was charged with failing to obey an order. The director of the institution cancelled the charge.

In another case an inmate had been charged with dealing in contraband with another person and the offence report described the inmate as "being in possession of contraband, i.e. a syringe, needle and rubber band all wrapped in toilet paper". We noted that the director ordered the charge withdrawn because, as he stated, the report and the charge were contradictory.

Diets as Punishment

We received a couple of complaints questioning the sufficiency of the diet which is sometimes awarded as a punishment in conjunction with punitive dissociation.

Subsection 2.28(4) of the Penitentiary Service Regulations provides that:

> "The punishment that may be ordered for a flagrant or serious disciplinary offence shall consist of
> (a) forfeiture of statutory remission, or
> (b) dissociation for a period not exceeding thirty days with a diet, during all or part of the period, that is monotonous but adequate and healthful,
> or both".

The dissociation diet consists of:

Breakfast

8 oz. oatmeal porridge
$^1/_4$ oz. salt (on the side)
1 oz. sugar
4 oz. milk
2 slices dry toast
8 oz. black sugar-free coffee

Lunch

8 oz. bowl of soup
3 slices white bread
Water as beverage

Dinner

8 oz. potatoes boiled
4 oz. meat or fish (as per daily menu)
4 oz. vegetables (as per daily menu)
8 oz. black sugar-free coffee.

The Commissioner's Directives require that the institutional physician examine inmates in punitive dissociation once a week.

We have not discovered any cases of malnutrition, but we discussed the diet with a nutritions expert. He pointed out two possible deficiencies in the diet: one; a lack of bulk which might lead to constipation, and two; a lack of vitamin C. The expert suggested that, if the diet was followed for a 30-day period, the estimated daily intake of 1800 calories, with insufficient bulk and vitamin C, might result in physical deterioration. The health of the individual would be an important factor to be considered prior to placement on such a diet.

Although administrators state that they are at a loss to find effective measures of discipline, punishment by means of diet seems unreasonable and not in keeping with current knowledge of the impact of diet on health and behaviour.

It is therefore recommended that:

(3) the Canadian Penitentiary Service abolish punishment by way of diet;

or alternatively that

(4) the Canadian Penitentiary Service re-examine the punitive diet and, if appropriate, change it to avoid any possibility of deficiencies.

Indefinite Dissociation

As stated in our third report, we made representations to the effect that **indefinite** dissociation was not a punishment allowed in law on finding that an inmate had committed a disciplinary offence. In response, the Commissioner directed that this type of punishment should cease.

During the fourth year we found that this type of punishment was still being imposed. We drew the Commissioner's order that it cease to the attention of the administrators in question and the problem appears finally to have been rectified.

Judicial Review of Disciplinary Action in Penitentiaries

On the 8th of March, 1977, the Supreme Court of Canada pronounced its decision in the case of **Robert Thomas Martineau and Robert Earl Butters v. The Matsqui Institution Inmate Disciplinary Board.** In a five to four decision, their Lordships held that there was no power under the Federal Court Act, section 28, to review a decision of an internal disciplinary board in a Canadian Penitentiary.[3]

[3] 33 C.C.C. (2d) 366.

The Supreme Court found that the Commissioner's Directives do not provide any rights in law to the inmates.

The Correctional Investigator has no power to reverse the decisions of penitentiary disciplinary boards. This is as it should be. Were the Correctional Investigator to have powers other than those of influencing, suggesting and recommending, there would probably be an immediate and corresponding reduction in the access to information. The decision abrogated what were previously thought to be rights of inmates[4] and unless an application under section 18 of the Federal Court Act by Martineau and Butters[5] is successful, it means that disciplinary action of the severest kind (solitary confinement and loss of statutory remission) is not subject to judicial review in Canada.

Judicial review may not benefit the inmate who brings the issue to court. However, the possibility of a review appears necessary to ensure adherence to the minimal procedural safeguards, now contained in the Commissioner's Directives.[6] The possibility of a judicial review as a last resort probably lends greater weight to recommendations of our office in respect of inmate disciplinary matters.

It is necessary to allow discretion to administrators. They have been employed to exercise their best judgment. To make "due process" apply to all decisions would no doubt strangle the system. However, when the administrators may affect what might be termed the residue of civil liberties left after incarceration, then the inmate should have the right to challenge that decision in a court. Dissociation is in effect imprisonment within the imprisonment under conditions that differ to a marked degree from those of ordinary inmates and the forfeiture of statutory remission prolongs the term of incarceration as distinguished from the length of sentence.

Shortly after the Supreme Court decision was handed down I recommended to the Solicitor General that:

(5) the safeguards now provided in the Commissioner's Directives[7] with reference to disciplinary hearings be included in the regulations made under the Penitentiary Act in order that they may have the force of law.[8]

Specific Cases

The following case reports deal with specific problems in the area of inmate discipline:

Case No. 2213

The inmate, who asked to see the inquiries officer while he was walking though the segregation area, said he had himself asked to be placed in segregation in April and now at the end of November, had been ordered to go back into the general population and to go to work. The inmate was

[4] Regina v. Institutional Head of Beaver Creek Correctional Camp ex parte McCaud (1969) 1 C.C.C. 371.

[5] Pending at the moment of writing.

[6] Commissioner's Directive 213, 1 August, 1975.

soon to be released on mandatory supervision and he did not wish to leave the segregation area. He feared that if he were found guilty of the charge of refusing to leave the segregation area, he might lose statutory remission. This would postpone the date of his release on mandatory supervision. The inmate was invited to inform us of the result of the hearing.

However, before leaving the institution the inquiries officer asked the director of the institution why the inmate had spent over six months in segregation without having been charged and why he was being charged at this late point in time. The director agreed that the circumstances were strange and decided that the inmate would be moved to another segregated area but would not lose any statutory remission for disobeying an order.

Case No. 2285

The complainant suggested that an error of procedure had occurred in respect of his conviction and sentence for a disciplinary offence. Our investigation of his records showed that a sentence of the loss of 20 days statutory remission had been imposed and then the case had been remanded for one week to hear evidence for the defence on the question of guilt. This came to light after the inmate had been transferred to another institution. We suggested that the whole case be reheard, but the director restored the lost 20 days instead and the inmate was satisfied.

Case No. 2357

This complaint involved a cat and a cold winter night. The inmates at the institution involved live in trailers and the cat was friendly with both staff and inmates and usually slept underneath the trailer. However, someone had blocked the hole leading to the cat's sleeping quarters and he or she couldn't get in. It was snowing and cold and the complainant brought the cat into the trailer. It was not the first time the cat had slept inside. However, the inmate reported that as he carried the cat in an officer yelled to him to get the cat out of there. The inmate said "What if I don't" and the answer was "I will charge you". The inmate admitted that he kept on going and that later his own living unit officer came to his room and asked him if he had a cat. By that time the cat had walked away. Apparently, somebody had unplugged the hole and the cat was back to its normal sleeping quarters. The inmate had pleaded guilty and did not complain about his conviction. However, he did complain about the severity of the sentence which was the loss of ten days remission. Our investigation confirmed that the cat did in fact make his home in and around the trailer. It was also revealed that although the inmate had lost his passes previously for a different offence, he had no previous record of insubordination and difficulties with staff. The director agreed to reconsider and the sentence was changed to 20 days dissociation, suspended.

Multiple Cases

We received correspondence from 14 inmates who had refused to obey an order to return to their cells. They asked that the punishment of 30 days dissociation imposed in disciplinary court be suspended. Several reasons were given, including that the directives for procedures before disciplinary boards were not followed; in particular that they had been prevented from giving full explanation and defence of the charge; and that the sentences were excessive.

We determined that a clear order had been given to each inmate and that the fact that an order had been refused was not in dispute. The procedures for hearing charges, outlined in Commissioner's Directive 213, appeared to have been followed and the punishment imposed was one of those prescribed. The inmates who were interviewed believed that they should have been given a further opportunity to explain their actions. However, we found that of the 14 complainants, 12 had pleaded guilty; one guilty, with explanation and the one who had plead not guilty refused an interview with our investigator. The chairman of the disciplinary court stated that he had rejected "following the crowd" as a legitimate defence. No notes were taken and the proceedings were not recorded. We could not justify recommending a rehearing of the charges in the circumstances and advised the complainants accordingly.

The second Annual Report contained a recommendation that all disciplinary hearings of flagrant or serious offences be recorded and preserved on tape. This and other cases demonstrate the need for implementation of this recommendation.

Case No. 2183

The inmate was charged with possession of contraband, found guilty and the disposition recorded was "Forfeiture of $90.00 to the Crown".

The reply to the grievance at the second level reads:

---

[7] The Commissioner's Directive relevant to the Issue reads in part:

14...

c. No finding shall be made against an inmate charged under Section 2.29 of the P.S.R. for a serious or flagrant offence unless he:

(1) has received written notice of the charge in sufficient detail so that he may direct his mind to the occasion and events upon which the charge is made, and a summary of the evidence alleged against him;

(2) has received the written notice and summary referred to at least 24 hours before the beginning of the hearing, so that he has reasonable time to prepare his defence;

(3) has appeared personally at the hearing so that the evidence against him was given in his presence;

(4) has been given an opportunity to make his full answer and defence to the charge, including the introduction of relevant documents, and the questioning and cross-examination of the witnesses which shall be done through the presiding officer; the inmate is entitled to call witnesses on his own behalf, except that, where the request for the attendance of any such witness is believed by the presiding officer to be frivolous or vexatious, the presiding officer may refuse to have such witness called and will adivse the inmate the reason for the refusal.

d. The decision as to guilt or innocence shall be based solely on the evidence produced at the hearing and, if a conviction is to be registered, it can only be on the basis that, after a fair and impartial weighing of the evidence, there is no reasonable doubt as to the guilt of the accused.

[8] The recommendation was the subject of an address delivered on the occasion of the opening of the Criminology and Corrections Faculty, St. Patrick's College, Carleton University on 13 April, 1977.

"The review of your grievance revealed that you were charged under Subsection (1), section 2.29 of the Penitentiary Service Regulations, for possession of contraband, i.e. $90.00 cash. This money was found secreted in a glued portion of your wallet. Your grievance is therefore denied".

The man should not have had this money.

The Regulations under the Canadian Penitentiary Act provide that the following punishments may be imposed on inmates convicted of disciplinary offences:

"2.28 (3) where an inmate is convicted of a disciplinary offence the punishment shall, except where the offence is flagrant or serious, consist of loss of privileges".

and

"2.28 (4) the punishment that may be ordered for a flagrant or serious disciplinary offence shall consist of (a) forfeiture of statutory remission, or (b) dissociation for a period not exceeding thirty days with a diet, during all or part of the period, that is monotonous but adequate and healthful.

or both".

We are not disputing the right to take away contraband from inmates, but we have suggested to the Commissioner that no lawful authority has been found for forfeiting inmate property to the Receiver General and thereby permanently depriving them of ownership.

The following case was similar:

Case No. 1772 (pending from previous year)

The complainant had given an envelope to a staff member with the request that it be delivered to a third party not in the institution. It came to light that the envelope contained $100.00. The inmate could have transferred the money through proper channels. He was charged internally with possession of contraband. The punishment was forfeiture of the money to the Receiver General. Representations to have the money returned were made on behalf of the inmate by our office but we were not successful, because the Canadian Penitentiary Service ruled that the case did not **merit** return of the money.

Comments

The first Annual Report contained a recommendation that authority to forfeit inmate property of any kind be stipulated by statute and that statutory provision be made for relief against forfeiture or, in the alternative, that the practice of forfeiture be discontinued.

Bill C-51 currently before the House of Commons contains a proposal which would implement the first alternative of the recommendation.

What is disturbing, however, is that the practice of forfeiture without apparent lawful authority has continued and we have received a number of complaints on the subject.

A few months ago we also received a letter from the inmate whose case was reported in the first Annual Report. He had lost approximately $700.00 as a result of forfeiture. He asked why he should have to pay a lawyer to get this money back. He too was guilty of an offence under the Regulations and liable to punishment thereunder.

However, until Bill C-51 becomes law, questions of relative merit of complainant's cases do not seem relevant to whether inmates get their money back when it has been seized.

It is therefore recommended that:

(6) in instances where money has been seized from, inmates and turned over to the Receiver General, the case be referred to law officers of the Crown for an opinion as to whether the money has been lawfully forfeited to the Receiver General.

Dissociation

The conditions in dissociation have not improved during the last four years.

If anything, they are worse. Amenities are fewer and contact between one human being and another has been reduced to a minimum in some institutions.

We received 70 complaints relating to dissociation, of these, 24 were resolved.

A relatively large number of complaints about dissociation are resolved. This resulted from representations made at one institution with the result that a board of review was set up and a number of inmates were immediately released.

Transfer to Millhaven Institution

In the summer of 1976 inmates from various parts of the country whose death sentences had been commuted were transferred to a segregation range at Millhaven Institution. Almost all of them complained that this segregation was arbitrary and the result of political pressure. Those who grieved were advised by the administration that they were segregated "on admission" as "a matter of policy". They were told that the were considered to be in a special category and were not to be allowed regular association with inmates in the rest of the institution and for that reason, opportunities would be limited. There would be no sports, and very limited television watching. Beadwork and petit point would be the only type of hobbycraft. No work would be permitted.

The assessment of some of these inmates by professionals indicated that they might be dangerous, the assessment and

past behaviour of some of the others indicated that they were not. In fact, several experienced staff members indicated some whom they thought could do well in the general population and who would not be as dangerous as some of the inmates actually in the general penitentiary population.

A few of these inmates were transferred from French-speaking regions to the Millhaven Institution and they suffer the additional problem of having to function in a language other than their own. Those from other regions who do not have family or friends in the Ontario region are not likely to benefit from visits and they are thus limited in their contact with other human beings to the persons in the next cells. Correctional officers function mostly from a control tower and classification officers have few reasons to see these inmates in their present circumstances.

The segregation was made pursuant to clause 2.30 (1) (a) of the Regulations made under the **Penitentiary Act.** This is, "for the maintenance of the good order and discipline of the institution".

The controversy over the abolition of capital punishment no doubt creates the utmost apprehension both in the public and in staff. Yet experienced penitentiary personnel foresee the danger in arbitrarily treating the persons whose death penalties have been commuted as a group rather than as individuals.

The problem is further complicated by the fact that a special "handling unit" has been planned for these inmates but that construction is estimated to take at least eighteen months. During that period at least, none of the inmates can improve their situation by personal effort.

While justice cannot be completely individualized, I think that categorically to place the label of "most dangerous" on these men might prove a self-fulfilling prophecy. To leave them with no incentives is self-defeating.

It is therefore recommended that:

> **(7) persons whose death sentences have been commuted be assessed on an individual basis to determine whether they should remain segregated from the ordinary inmate population.**

We also received complaints from these inmates that 70 cents per month were deducted from their pay for the Inmate Welfare Fund. This represents a day's pay, but its purchasing power is only 70 cents when inmates have to buy coffee, stamps, writing material, etc.

The Commissioner's instructions are that inmates who are segregated for extended periods of time are to be exempt from contributions, unless they benefit from the programs provided by the fund.

One of the inmates wrote:

> "I do not want to make a pest of myself but the men here on 1—G 'special handling unit' have asked me to. We feel that while we are in segregation we should not have to pay welfare. Every month 70 cents is taken out of our pay the same as it is to the men in population. We do not receive any of the benefits that they receive and shouldn't have to pay into it. When I first arrived in this unit which was in Aug. 76— I remember reading an order from the Commissioner saying that men in segregation do not have to pay into the welfare fund. I have not heard of that order being changed so why do they keep taking the .70 cents out. Would you please look into this for us and if we are correct put a stop to it. We are not allowed to work so our pay is the lowest you can get 'grade 1'. We have tried to straighten this out ourselves but have fallen on deaf ears as do many of our complaints. Hope to hear from you soon".

One reason for deducting the 70 cents per month was that this payment was "an incentive" for an inmate to work his way out of segregation. These particular inmates had no way of "working their way out".

After grievances and representation from our office, and on condition that all these inmates agreed, the deductions were eventually suspended.

Temporary absence

There were 95 complaints concerning temporary absences, one was resolved.

The following cases are cited to illustrate the diversity of reasons put forward to substantiate a temporary absence and the difficult discretionary decisions required to be made by administrators.

Case No. 2869

The complainant was serving a sentence for motor-manslaughter and he was also the defendent in a civil action resulting from the accident. He was representing himself in the civil action.

An interlocutory motion by a co-defendent had been set for a hearing in a town some distance from the penitentiary where the complainant was serving his sentence. We were informed that the inmate had been denied a temporary absence to attend the hearing of the motion. We believe that the fact that the inmate would have to be away overnight and the cost of an escort militated against granting of the leave of absence.

Through the courtesy of the court, the place of the hearing was moved to a city closer to the penitentiary in question and the temporary absence would only be required during the day. We understand it was granted.

The Commissioner's Directive concerning Inmate Legal Affairs states that an inmate has no right to be present in court in a civil action. It would seem, however, reasonable to assume that where an inmate is a **bona fide** party to a civil action, a court would grant an order for his or her presence unless very unusual circumstances exist.

Applications to court for an order would in many cases seem to place an unnecessary burden by way of expense on the inmate. Perhaps it would be possible to make an arrangement whereby, with the inmate's consent, such matters be referred to Counsel for the Ministry of the Solicitor General for advice whether it would be appropriate to grant a temporary absence for the inmate's appearance and thus avoid the application to court.

In view of the above it is recommended that:

(8) consideration be given to an amendment to the Commissioner's Directives to facilitate the granting of temporary absence to inmates who are bona fide parties to civil actions whenever such inmate-parties are required to attend in court to defend or conduct their own litigation.

Case No. 2409

The complainant thought he had been unfairly denied a temporary absence. He was supposed to give evidence at a trial and at first we thought he might have been denied a temporary absence for that reason. However, we found that previously while it was known that he was probably going to give evidence, he had been granted another temporary absence from which he had failed to return. In those circumstances we did not think the request was unfairly denied.

Case No. 2739

The inmate complained that he was not permitted to attend religious functions on a temporary absence program. He stated that he had been given permission in the past and alleged that the current refusal was because of discrimination against his particular religious denomination.

We discovered that he had been attending the services escorted by members of the church but was now applying to get unescorted passes instead.

Because of the type of his offence, the authorities required a psychiatric assessment before unescorted passes would be considered. The inmate would not partake in this assessment on the grounds that it was against the beliefs of his church. However, members of the church had supported such an assessment. The inmate was informed but still refused the examination and we told him we could not help him in those circumstances.

Multiple Cases

Several persons declared dangerous sexual offenders, who are not serving time in maximum institutions, have questioned the absolute prohibition against their receiving rehabilitative temporary absences.

The Commissioner's Directive dealing with temporary absences provides, **inter alia**, that:

1) persons serving life sentences,
2) persons declared to be habitual criminals and sentenced to preventive detention, and
3) those identified as having been affiliated with organized crime

are not eligible for temporary absences for rehabilitative reasons until three years after admission to a penitentiary.

However, the directive also provides that those declared dangerous sexual offenders are denied temporary absences, except as set out in the exceptions spelled out in article 7.

Article 7 makes provision for temporary absences on medical and humanitarian grounds and there is no reference to temporary absences for rehabilitative reasons.

A person declared a dangerous sexual offender does not appear to be eligible for temporary absences for rehabilitative reasons, with or without escort; without regard for possible exceptions on an individual basis.

Persons declared by a court to be dangerous sexual offenders are however eligible for parole.

It is our experience that the successful road to day parole and full parole begins with escorted, and later unescorted temporary absences, first of a few hours, later of longer duration.

While the utmost of care must be taken in order to prevent harm to society, it would seem that society might be better served if there were at least the possibility of permitting temporary absences for rehabilitative reasons.

It is therefore recommended that:

(9) not all persons declared by the courts to be dangerous sex offenders be barred forever from being considered for temporary absence for rehabilitative purposes.

Transfers

Transfers continue to rank the highest in terms of numbers among the complaints that reach our office. The following table sets out statistics concerning transfers:

Year	Transfer Complaints	Total Complaints	Percentage
First	117	782	14.09
Second	189	988	19.1
Third	212	1057	20.06
Fourth	238	1353	17.6

The fourth year 11 complaints concerning transfers were resolved.

In connection with transfers, two general problems have been raised in a number of complaints, namely classification procedures and refusal of transfers of persons with medical problems.

Classification Procedures

The Penitentiary Service Regulations, section 2.01, provide that:

> "Every inmate who is sentenced or committed to penitentiary shall, in so far as facilities permit, be kept in custody in a reception area until the reception procedure, as set out in directives, has been completed".

This procedure leads, **inter alia,** to the decision of placement of an inmate in an institution of maximum, medium or minimum security.

In one region, inmates complained that they were transferred from a reception centre to a maximum security institution although some of them had been classified for medium security and approximately 35 had not completed the reception and assessment process.

We found that this had in fact occurred and that it was due to lack of space in the reception institution and in the medium security institutions of the region. The second group was able to complete the reception process at the maximum facility but in some instances it took up to three months. Many were found not to require maximum security. During this time, due to overcrowding in the receiving maximum institution, some of these "transients" and unassessed inmates were placed in the segregation area, subjected to the regular routine including 23-hour lock up of the area and lack of activities or work.

In addition, further inquiries revealed that there is a considerable number of persons being held in provincial institutions after receiving federal sentences, because of overcrowding in reception centres. This led to some complaints of the inability to earn remission as a result of not having been admitted to a federal institution. The latter problem will disappear if the provisions of Bill C-51 relating to earned remission are passed and proclaimed.

Special Medical Problems

Diabetic and epileptic inmates have complained that they have been denied transfers to minimum security institutions.

The Commissioner's Directives place an absolute prohibition against the transfer of a person, suffering from epilepsy, to a minimum security institution and restrictions on others, such as diabetics.

The reasons given for these restrictions are: lack of refrigeration facilities, and secure storage facilities for drugs and the inability or reluctance of non-medical staff to administer or dispense medications.

Our inquiry revealed that some diabetics and epileptics have on occasion been admitted to minimum institutions. In those cases the minimum institution was adjacent to another institution and arrangements were made for medical staff from the larger institution to administer medication.

Inmates who are transferred to minimum institutions are usually near their release date. It would seem that as a part of preparing for release, inmates suffering from diabetes or epilepsy should be encouraged to learn the procedure of self-administration of their required medication. Provided the medical conditions of the inmates are stable, it would probably be beneficial for them to spend time in a minimum institution where they would be responsible for attending to their own medical needs.

It is therefore recommended that:

(10) the absolute prohibition against the transfer of epileptics to minimum institutions be rescinded;

(11) wider discretion be granted to allow transfer to minimum institutions of inmates suffering from illnesses that require medication, such as diabetes or epilepsy; and

(12) financial and other resources be provided to minimum institutions to care for inmates suffering from illnesses requiring medication.

Other specific examples of complaints relating to transfers in general were:

Case No. 2386

The inmate thought he had been unfairly transferred back to a more secure institution.

Our investigation showed that the receiving institution had been given no reason for the transfer. Lack of documentation, we find, is frequently the source of frustration for staff at receiving institutions, and the following notation was found on the inmate's file:

> ". . . returnee, was not told why, evidently an inmate committee member that got under their skin".

This assumption was not confirmed. However, in this case the complainant had been suspected of involvement in improper behaviour and the investigation discovered nothing that would support a suggestion of bad faith or maladministration.

Case No. 2496

An inmate had received legal aid to bring an action for a divorce. Approximately two weeks before the case was to be heard, he was transferred to another province. We were contacted by the legal aid solicitor acting for the inmate, asking for assistance. After our explanation to the administration of the extra expenses and possible delays which would be occasioned by either taking commission evidence or seeking a court order for the appearance of the inmate, the administration agreed to retransfer the inmate for his court appearance. He got his divorce.

Case No. 2588

An inmate had applied for a transfer to another region and appeared to have the support both at the institution and the region where he was serving his sentence. When the transfer did not materialize he grieved. The third level of the grievance stated that the receiving regions's

> "reason for turning down your application for transfer to . . . institution was a good one".

Our investigation disclosed that the review of the inmate's application by the proposed receiving region had taken place over six months before. We suggested that the matter be reviewed again and as a result the transfer was approved.

Multiple Cases

A number of inmates and their families complained about the proposed closure of the protective custody unit at the Stony Mountain Institution near Winnipeg, Manitoba.

These inmates were scheduled for transfer to other institutions. The buildings in which they lived were to be torn down. The facilities were in poor condition. The protective custody unit at this institution was small and we were informed that other programs would be improved as a result of the transfer.

We found that the Penitentiary Service tried to transfer the inmates to institutions acceptable to both the individuals involved and the Service.

We declined the complaints much as we sympathized with the personal problems the moves created. Later contact revealed that some of the inmates thought they were better off after the move but that others were worse off in consideration of the location and conditions.

Compensation

During the fourth year of operation 61 complaints were received in this category. Of these seven were resolved, or rectified.

General Problems

Assault by Other Inmates

Several inmates complained about injuries received in assaults by other inmates. Our involvement was limited to ascertaining that an administrative inquiry had been held. When appropriate, we informed the inmate of how to apply for consideration for compensation as a victim of crime under provincial laws.

Loss of Personal Property

The administration of the personal property of inmates gives rise to many complaints. There are problems concerning storage and handling when inmates are transferred to another institution or removed from their cells to dissociation. Record keeping and identification could be improved. Inquiries into losses are time consuming and costly. Procedures for handling inmate property vary from institution to institution and uniformity and greater efficiency is needed. We understand that the Canadian Penitentiary Service is introducing new procedures to improve the situation and no further comments appear appropriate at this time.

Personal Injuries

In the area of personal injuries, we sometimes find a reluctance or failure to follow through on the part of the inmate as the following case illustrates:

Case No. 2647

The inmate contacted our office inquiring about a possible claim for injuries. He told us that approximately two years before, while in a penitentiary, he had broken his leg in an accident. He was still receiving medical attention and permanent partial disability was a possibility.

He was given complete information on how to make a claim through administrative channels but a check of the records showed he was released and there was no indication that he followed this advice.

This appears as premature in our statistics.

Medical

During the fourth year we received 110 complaints concerning the medical and dental services provided to inmates; of these, 12 were resolved.

General Problems

The Regulations made under the **Penitentiary Act** provide that every inmate shall be provided with essential medical and dental care. Full time or part-time physicians provide this care at no cost to the inmates. However, inmates who have been under doctor's care before incarceration often complain that the treatment or the medication prescribed varies from that which they received before incarceration. Sometimes inmates disagree with both diagnosis and treatment prescribed by institutional physicians. We have on occasion made representations to the administration which have resulted in permission for the inmate to consult with another physician at his own expense. This type of arrangement is relatively easy where the inmate may qualify for a temporary absence. Where there are security problems, the situation is more complicated.

On balance, however, it seems appropriate that if an inmate can persuade a physician or a dentist to attend at the institution at the inmate's expense and provided the doctor accepts security precautions imposed by the institution, inmates should be entitled to a second opinion.

It is recommended that:

> **(13) the Commissioner's Directives include a provision that an inmate, who has consulted Canadian Penitentiary Medical or Dental Services, be authorized, with the approval of the Director General Medical Services, to make arrangements at his**

own personal expense to obtain a further consultation from a properly qualified person.

The following cases illustrate specific problems:

Case No. 2096

An inmate with a cleft palate had experienced many dental problems. Delays and misunderstandings had occurred concerning his dental work.

He complained that dental work in progress might not be completed before his projected release date. He spoke about his willingness to "do extra time" to get dental work finished. He was not eligible for provincial financial assistance until two years after his release.

We inquired whether it were possible to keep this inmate beyond his release date, if he consented, for completion of surgical procedures as is permitted by the Commissioner's Directives. On following up we found that the Canadian Penitentiary Service had gone out of their way to help. A staff member had driven some 180 miles to deliver the impressions and the dentist worked on Saturday night to complete the treatment. The inmate left the day after his projected release date.

Case No. 2919

An inmate who had received medical treatment in an outside hospital informed us that the doctor had recommended that he should return two weeks later. He complained that he had not been taken for this appointment. The inmate's medical file confirmed the doctor's recommendation but because the inmate was in punitive dissociation he had been overlooked through administrative error and the recommendation had apparently not been followed. The inquiries officer asked the Medical Services whether this was sufficient reason for not taking the inmate out. As a result, an appointment was made with the doctor by the Medical Services.

Multiple Cases

We have found that inmates who are on special diets have difficulties in having them provided, even where they have been prescribed by the doctor. Senior administrators may assist inmates in having the special diets provided, but sooner or later the inmate involved is again faced with having to accept the regular meals with the suggestion that it is his responsibility to select the appropriate foods. As an example, the following instructions regarding diets for persons with heart trouble were issued by one food supervisor:

"a) we will continue to supply the entrée only for these diets and the inmate will be responsible to police himself for the balance of the meal;

b) the entrée on the main line menu, if it is an allowable food on the cholesterol diet, will be served except that it will be prepared separately to ensure that the fat content is right and does not deviate from the list of allowable foods;

c) each week the line menu is displayed, the FOS 7s and myself will draft an entrée menu for the diet in question and it will be followed with no exceptions".

Administrators in conversation have admitted that difficulties arise because of changes in kitchen staff and sometimes because special diets are seen as too much bother. It was also mentioned that some inmates on special diets were noted to be ordering non-dietary items through canteen purchases thus leading to scepticism of the need for the special diet.

It is sometimes alleged that members of the kitchen staff are not providing the prescribed diet on purpose. Our inquiry could not substantiate the complaint. It would seem possible that a system could be devised to ensure that medically prescribed diets are being scrupulously followed by Food Services. While it is an inconvenience to prepare special diets, it is probably good preventive medicine against future expense and trouble.

Education

A total of nine complaints in this category was received during the fourth year of operation. Two were resolved or rectified.

Case No. 2553

The inmate wrote "Veuillez notée que ce n'est pas moi qui écrit cette letter, mais un amis". ("Please note that I am not writing this letter, it has been written by a friend".) He was eventually admitted to school because he could not write.

We receive many such letters written by friends; sometimes the writer tells, sometimes we find out by accident, that the complainant cannot read or write. We also receive many letters in which the spelling raises the suspicion that the individual might suffer from learning disabilities.

In one instance we found that an illiterate inmate who was segregated for the good order of the institution wanted to be educated. The only thing available was correspondence courses!

Not being able to read or write is a considerable handicap and when, in addition, the individual has a criminal record he is virtually cut off from securing employment. For those who have been literate from an early age, it is probably not possible to fully comprehend the frustrations and the embarrassment that may result from the lack of reading and writing skills.

We cannot demonstrate that there are proportionately more illiterates among inmates than there are illiterates among the general population in Canada, but there seems to be.

An attempt to teach illiterate people to read or write while they are serving time might, if they can be motivated, be the best way to assist them to not return to penitentiary.

It is therefore recommended that:

(14) a study be made to ascertain the number of penitentiary inmates that are illiterate and to propose special programs to assist them in learning basic reading and writing skills.

Visits and Correspondence

During the fourth year 73 complaints were received and of these, ten were resolved or rectified.

General Problems

A number of complaints have been received concerning mail facilities on segregation and protective custody ranges in maximum and medium institutions. A survey of these institutions was made and it was found that the procedures varied greatly from institution to institution. Some institutions provided mail boxes on segregation and protective custody ranges and indications were that this was a suitable arrangement. Other institutions did not have mail boxes on these ranges and either visits and correspondence or security staff picked up and delivered the mail. In a number of institutions inmates on these ranges are escorted to mail boxes in other areas of the institution to post mail and mail delivery is carried out by security staff. Some reservation was expressed by visits and correspondence staff regarding the additional duties this places on them.

Based on what was learned in our interviews, it is recommended that:

(15) mail boxes be installed on all segregation and protective custody ranges in maximum and medium institutions; and

(16) that the visits and correspondence staff be responsible for delivery and collection of mail to inmates on segregation and protective custody ranges.

Case No. 2140

An inmate's girlfriend had been convicted of possession of marijuana and was sentenced to one year on probation. After learning of the conviction the Canadian Penitentiary Service ordered that the complainant's visits with her be restricted so that no personal contact would be possible.

The inmate was not aware that decisions relating to contact visits were within the discretion of the institution.

We suggested that the restrictions were not unreasonable in the circumstances, and that they might not be permanent and that he might apply later to have them removed. He was invited to contact us at a later date to have his complaint re-assessed if circumstances had not changed and he felt unfairly treated.

Case No. 2687

An inmate complained that his wife was not allowed to visit him. Initially we were informed that she was wanted by the Police. We later learned that she was not wanted but that because of Police reports concerning her character, she was refused visits. We asked for more specifics. The Canadian Penitentiary Service re-examined and as a result the wife was allowed to see her husband.

Financial Matters (Inmates')

There were 29 complaints concerning inmates' financial matters and eight of those were resolved.

General Problems

The problem of pay not keeping up with the cost of canteen items is mentioned by most inmate committees. As demonstrated in the following specific report, granting of loans and overtime pay are the source of further problems.

Case No. 1776 and 2001

Two inmates made complaints concerning loans made to them from Inmate Welfare Funds.

The Inmate Welfare Fund established at institutions is derived in part from monthly contributions from inmates. Contributions consist of a monthly deduction of one day's pay at the grade 1 level from each inmate and the fund is used for inmate activities and amenities.

According to the Commissioner's Directives, loans may be authorized to inmates from the fund to purchase hobby-craft materials or tools, or for educational aids or equipment. Loans are administered by assistant directors through a liaison officer and the inmate committee.

An inmate who is granted a loan has to sign a contract with the following provision:

> "I hereby authorize the Institutional Financial Administrator to transfer all money received for my Inmate Trust Fund account[9] to the Inmate Welfare Fund towards payment of my loan until it is liquidated".

One of the complainants stated that inmates who are in protective custody are generally not accepted by the regular inmate population and, for this reason, their requests for loans might be refused if a committee of inmate representatives from the general penitentiary population scrutinized the applications.

We asked administrators of five institutions with sizeable protective custody populations how they administered loans from the Inmate Welfare Fund. Three institutions maintained separate funds: one for the contributions from regular population inmates and one for protective custody inmates or, in one case, the larger grouping of all segregated

[9] Penitentiary Service Regulation 2.22(1) defines the Inmate Trust Fund as comprised of "all moneys that accompany an inmate to the institution and moneys that are received on his behalf while he is in custody". Money earned through inmate pay would normally go into a separate account but could be transferred into the Inmate Trust Fund under specified circumstances.

inmates. Requests for loans are processed by separate committees of inmates for each welfare fund. In the institution where the complaint had originated there was only one welfare fund for both population groups, but we were informed that two loans had recently been approved for protective custody inmates.

The second complainant objected to the wording of the contract saying that an inmate would lose control over the management of his trust money. For example, if parents were to send a contribution towards a hobby purchase, that amount could immediately be withdrawn to pay for the loan, rather than help supplement payment of it gradually.

Methods for loan repayment vary from institution to institution. Some collect the full amount when available in the inmate's trust fund, others recover in installments, to allow the inmate money for further hobbycraft material. One institution prohibits purchases until the loan has been recovered but recognizes that other special circumstances might require expenditures. The administration may authorize withdrawals from the Inmate Trust Fund in these situations, although a loan has bot been repaid.

One institution discusses the manner of repayment with the inmate and bi-monthly contributions from the spending portion of inmate pay is one of the accepted arrangements.

We found that most administrators were flexible as to the manner of repayment of loans made to inmates and wondered whether the following might be useful as an addition to the standard contract clause presently in use: "unless other arrangements have been made" or "subject to the following conditions for repayment".

Overtime pay or lack thereof was also cause for complaints.

Multiple Cases

A number of inmates complained that they were working longer than normal hours for which they did not get adequate overtime pay. Overtime is paid at the rate of 10¢ per hour regardless of pay grade while the rates of inmate pay, effective 20 November, 1976 provide for daily earnings of from 75¢ to $1.20 for a regular working day. Therefore, only the inmate earning the lowest rate of 75¢, for an eight hour day, would earn less than 10¢ per hour. Overtime appears to be an incentive to this group only.

Some institutions interpret overtime to be any time worked beyond the normal eight hours per day and hours worked on Saturdays or Sundays; others may regard any time worked on an inmate's regular days of rest as overtime and pay for it.

Other institutions only pay overtime in special circumstances or in emergencies.

In one institution, inmates who work more than five hours on a day which would otherwise have been a holiday receive a full day's pay, at the normal rate of inmate pay rather than overtime pay.

We also found variations in the manner of calculating overtime. Sometimes inmates are required to punch in and out and are paid for the hours actually on the job. Others are paid from the time they arrive in the morning to the time they leave, even if there was a break of several hours between periods of work.

We have been informed that new directives are being prepared on the subject of inmate pay and hope that the above discrepancies will be eliminated in due course.

The specific cases which follow illustrate other problems:

Case No. 2747 and 2714

Two inmates complained that, following transfer to a penitentiary psychiatric centre, their inmate pay grade was reduced to the grade 1 level. Administrators at the institution believed that they had to follow this course of action in compliance with instructions from the Commissioner.

Grading of inmates is based on "engagement in the institutional program" and work is defined as "active participation in a program prescribed for him".

It is also provided that:

> "When an inmate is absent from work
>
> (i) by reason of sickness or injury not attributable to his own fault, he shall remain on his current grade of pay for five consecutive days, thereafter to be placed on grade 1 pay until he returns to work . . ."

but the retention of the current level of pay is allowed for humanitarian and rehabilitative reasons.

However, elsewhere it is provided that:

> "in the case of a temporary transfer to a hospital, sanitorium or mental hospital, by reason of sickness or injury not attributable to his own fault, he shall remain on his current grade of pay for five consecutive working days, thereafter to be placed on grade 1 pay until his return to the institution".

We learned the interpretation placed on the latter instruction is that it deals with temporary transfers to a **provincial** facility.

We contacted similar federal facilities in other regions and found that in two facilities, inmate "patients" were earning at all four grade levels, and were graded in the normal manner, dependent on overall participation, attitudes and capabilities. In one institution the largest group of inmates was earning at the highest levels and administrators admitted that pay grades were an important motivational tool.

In view of the above it is recommended that:

> **(17) inmates incarcerated in psychiatric facilities operated by the Canadian Penitentiary Service retain their pay grade on admission and be eligible for pay increases to the various grades.**

Another case dealt with damages recovered when an inmate destroyed property:

Case No. 2615

The complainant objected to having been assessed damages of $75.00 for a straitjacket.

Apparently the jacket was placed on the inmate for "irrational behaviour" but he was able to remove it and he ripped it to pieces.

The inmate said the jacket appeared homemade and he questioned the amount assessed.

We found that the jacket had been made at another penitentiary and the estimate of its value had come from that institution. Straitjackets have been ordered from a commercial supplier since this particular incident.

We agreed with the assessment made by staff that the inmate was mentally normal, but argued that if at the relevant time the inmate was irrational enough to need the application of a straitjacket he should not be expected to be fully responsible if he managed to remove it. We suggested that the assessment of damages was unduly harsh, but failed to convince the administration.

We told the inmate of the results but added that we would like to receive his permission to describe the incident in our Annual Report and we added that in order not to identify persons involved we do not mention names of inmates or institutions.

The inmate then wrote **inter alia:**

> "(it)... seems to me **You** are protecting a guilty institution which seems hypocritical to me, considering your place of employment, and motive for such a publication. That not mentioning the institution seems very unfair to me, and all the inmates who may read this publication. My second beef with this episode is that inmates are **not** aware of the circumstances surrounding the use of a straitjacket, and now **You** are also depriving us of valuable details regarding my experience. On two conditions you may publish only, (1) that you mention the institution in which this happened. MILLHAVEN PEN. (2) and I request I receive a copy of this publication. If you do not agree with these conditions, then you have convinced me you are **not** for us, and are only THRILLSEEKERS which we don't need. Show little fair play eh? I would be pleased if Inger Hansen read this statement, as I feel it is her decision to accept or disregard my request".

On the 24th of May, 1977, we promised to send a copy of the report and added:

> "It would seem to make sense to mention Millhaven institution in your case. However, if I do it in that case, someone else might say why do you not mention the name of the inmate you talk about in such and such a case, and why do you not mention the institution in all cases. That would be equally bad and against the wishes of many inmates who wish to remain anonymous. I have thought much about this subject and have decided never to mention names and I do it in order to protect the privacy of inmates and I do it on the basis of general principles. I hope you understand.
>
> I would like to describe the straight-jacket incident and if you will allow me to do it without identifying people or the institution please let me know".

We received the following reply:

> "Thank you for your letter of 24 May, 1977. Also, for the Report document. However, since you strongly resist my main request, I've got to inquire. Since you are putting me in a group of inmates, I take insult. I am me, Bob Butson. Don't compare me to other inmates. This is my business; nobody elses. I need No Protection, from other inmates, guards, etc - I want none. You said two true to life words in your letter, **"my case".** And that is exactly what all this is. To hell with the inmates who want to remain anonymous. This Institution DID put me in a straight jacket, and since it was all legal in the government's eyes, why are you afraid to publish facts, Truth, Oppression? ? ? ? Protect the privacy of Inmates? We have no privacy. At least here in Millhaven we have none.
>
> Well, since you will not mention the Institution and my name, which I personally accept all repercussions as life of a convict, I see no reason why you need my "permission", you; its all facts and legal. Its just that, a given case, seen in the eyes of us, could be bullshit. If we had the Institution, we have something to relate to, and believe. As far as J.Q. public is concerned, WHY should they believe the contents of this book? ? No inmates or numbers of inmates has any say in this case. I AM THE MAN. I AM THE VICTIM, NOBODY ELSE. If people see my name and Millhaven, they can believe. Of course, use **only** my name. Do what you will. I cannot see myself using your office if my principle requests are not granted".

We replied that we were prepared to make an exception and asked for permission to publish the complainant's letter quoted immediately above.

The complainant then wrote:

> "I've thought about your request to publish my letter and due to the wording and attitude expressed, I feel it would have a negative reflection on **all** inmates, in the eyes of the reader. However, if you would publish your letter of the 24th of May, 1977, then that would explain the attitude I did express in that letter. Then, people would understand my letter. Otherwise, they will not. So you see, it is unfair to ask of me permission to publish that letter, unless you publish your letter of the 24th of May, 1977, with it. Without that, I'm afraid it would do all inmates harm.

> And this I have no wish to do. Well, you see you cannot convict a man of an action without listening first to the provocation. Do you see the meaning there? I hope so. Well, I hope I've made my point. Anyway, please do publish the name of this Institution and my name. I accept all repercussions for this publication.
>
> Bob Buston"

Case No. 2673

The complainant told us that he had endorsed a cheque that both he and the administration thought belonged to him. The cheque however was for someone else who had the same surname but different initials. By the time the error was discovered the complainant had spent the money. He was required to pay it back in installments. The complainant suggested that the administration should absorb a portion of the amount owed because of its oversight.

We explained to the inmate that although the administration had made an error he was not entitled to a sudden windfall. He was, of course, not too happy but accepted our point of view.

Grievance Procedure

Ten complaints concerning the grievance procedure were received; one was resolved.

General Problems

We continue to assist some inmates in phrasing their grievances when they request us to do so or it seems appropriate for other reasons.

Grievance Forms

Complaints about not being able to obtain the forms continue. One letter read as follows:

> "The following is a request which I hope you can help me with. The matter is "Grievance Forms". I have "submitted" a couple of "Oral" complaints to the Department, however the matters still remain the same. Also I am in dissociation so I can't go anywhere I want so I would like you to forward a couple of Grievance Forms so these matters can be straightened out. Please note the security guards **refuse** to give me upon request. Thank you for your help".

The forms were supplied.

Processing of Forms

A number of inmates complain that grievance forms are lost after they had been delivered to staff. On receipt of those complaints we examine the files and where no grievance is found on the inmate file, we give the inmate another form and suggest that he or she start again. We then make a point of informing staff of the complaint and that the first grievance could not be found and we monitor progress of the new grievance. In many instances we have found that inmates do not know that they are responsible for forwarding the grievance to the next level if they receive no reply. We believe that a number of grievances simply are abandoned because inmates are not aware of the procedures.

Investigation of Grievances by Canadian Penitentiary Service

Ideally the grievance procedure should be used before any reference is made to the Correctional Investigator. This is not happening.

We have attempted to limit our interventions prior to the use of the grievance procedure to complaints that are delicate, urgent or capable of an obvious solution, but we have not been successful.

There are obvious reasons. One is that the Correctional Investigator was in operation before the grievance procedure was established. Another, that many inmates contact several available avenues at the same time; others do not find the grievance procedure credible (just as some do not think our office credible). Nevertheless, each complaint that reaches our office must be analyzed and in most cases an interview is necessary. The result is that an excessive amount of (wo)manpower is spent working on complaints that are premature.

There is an urgent need for strengthening the grievance procedure at the first level. It is our impression that in many cases the answer given at that level is merely a **defence** to the inmate's allegation, rather than a decision made after study of both sides. Sometimes, it appears as well that this **defence** is merely repeated at the subsequent levels.

Much frustration could be avoided if the complaints were properly and independently investigated at the institutional level.

It is therefore recommended that:

> **(18) necessary and adequate facilities and properly trained personnel be provided within the Canadian Penitentiary Service to ensure proper investigation and adjudication of inmate grievances.**

Until the above recommendation is implemented, we are reluctant to withdraw from responding to complaints that come to our office in the first instance. It should be added that there are and probably will continue to be inmates who are reluctant to or who will not use either the grievance procedure or our office. We learn of some of these cases from Canadian Penitentiary Service staff, but other complaints remain unnoticed because complainants may be reluctant to speak.

Information on File

We received 15 complaints concerning information on file. Of those, four were resolved.

General Problems

Inmates do not have access to their files but on the basis of discussion with staff they frequently come to the conclusion that there are errors contained in those files. They dispute assessments of their character and conduct, and allege errors in factual information.

In respect of opinions reached or assessments made by staff, we explain that we cannot substitute our views for those of institutional staff unless we find a clear case of bad faith. However, when a complainant alleges error in the reporting of facts and such errors are substantiated, we make recommendations for change.

The following illustrate one case of error and one which we thought amounted to bad faith.

Case No. 1430

The inmate complained that there was information on his file concerning a juvenile record and that the information was incorrect. He stated that he had been acquitted of a delinquency charge of attempted murder. Our investigation showed that there might have been a stay of prosecution.

In one place his penitentiary file indicated only a date and a place with the addition of the words "attempted murder, recommitted to . . . ", thus at least leaving the possible impression that there had been a finding of guilt.

We contacted the provincial authorities and received complete details of the person's juvenile record including the information that they had no warrant to substantiate a delinquency charge of attempted murder. We were given authority to pass this information to the Canadian Penitentiary Service and this was done.

Case No. 2123

The complainant thought certain reports on his file might prevent him from obtaining a parole.

Accusations had been made by an official of a private independent social agency who was counselling the inmate's common-law wife, that the inmate had made certain dangerous threats to his common-law wife. As a result the inmate was transferred to a maximum institution.

The inmate reacted strongly to the accusations and this might have resulted in him being kept for some time in a maximum institution. Our investigator was able to establish that the accusations were probably incorrect and the official of the private agency was probably not objective.

A meeting between a lawyer for the inmate, the common-law wife, our investigator and the institutional director was arranged. The common-law wife repeated her assertion that the inmate had not threatened her.

Documentation was placed on the inmate's file to establish what happened at this meeting. He was later transferred to a less secure institution.

Miscellaneous

As in previous years, the miscellaneous category provided the greatest variety. A total of 219 complaints were included in this category and ten of those were resolved. A few examples follow:

Case No. 2862

An inmate complained to us that he had been unsuccessful in laying a theft charge against Canadian Penitentiary Service personnel.

He stated that after he had been transferred from a provincial institution to a penitentiary the receipt issued for his personal funds indicated a shortage of $20.00.

He waited approximately sixteen months before writing to the Police and making contact with a lawyer. Our investigation showed that many staff members could have had access to the money. At the conclusion of our investigation we made representations on behalf of the inmate and the administration agreed to have a full inquiry. It appeared reasonable to expect that there would be a recommendation to return the missing money to the inmate and for a tightening of procedures. However, the inmate wanted to either proceed by civil action or a criminal prosecution. We explained to the complainant that it would be beyond our terms of reference to assist with either civil or criminal action.

Case No. 2251

During the course of an interview concerning another matter the complainant alleged that certain tools belonging to him were missing from his personal effects.

Further inquiry revealed that the complainant had been working for a social agency and that it had also provided him with certain tools. We found that the agency had contacted the institution asking that a number of tools be returned to it. Institutional authorities moved certain tools from the personal effects of the complainant and returned them to the agency. The complainant had not been contacted concerning this.

A check of the personal effects card for the complainant revealed that he was authorized to have a number of tools, some of which were similar to the ones claimed by the agency. The administration then approached the agency and they agreed the tools they had received did not belong to them. The tools were returned to the institution and placed with the complainants effects.

Case No. 2264

The following exchange of correspondence illustrates a complaint outside our mandate and the assistance given:

The inmate wrote as follows:

> "I have a problem and can't seem to get any satisfaction and I was wondering if you might be able to help me.

In May, 1975 I was arrested in . . . for poss. of grass and was released on a cash bail of $150.00. I was to appear for trial in August of the same year. However, I was in custody in (another province) on another matter and could not appear. What I did do however, was to waive the charge in and plead guilty.

Now that my problem is, is that I can't seem to get my bail money back. First I wrote the court clerk in . . . and he told me that I had to get a hold of the Attorney General's office. This I did and the answer I got back was that he couldn't do anything about it but said he would forward my letter to the proper people in Ottawa as it was now a federal matter. Well, its been some months and I haven't got the address where my letter was forwarded. I really need that money sir and I would appreciate all the help you could give me. Anxiously awaiting your reply".

We suggested that the inmate write the court where the bail was forfeited and he ask for a hearing. He was given the address. We suggested he describe the circumstances, including the fact that he was in custody in another province at the time he was to appear in the province where the bail was forfeited.

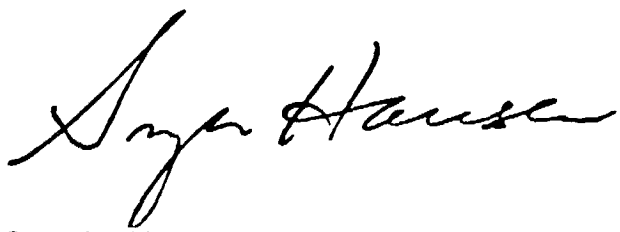
We also provided the address of legal aid and suggested he contact them if he had further problems.

He was invited to contact us again should the need arise. He did not.

Résumé

A résumé of types of complaints received and action taken will be made available to researchers on request.

All of which is respectfully submitted,



Correctional Investigator

Recommendations — Fourth Year

It is recommended that:

(1) **Inmates on admission, and whenever their sentences are recalculated, shall be given a copy of the admission form(s) and a copy of the calculation of their sentences free of charge and that they be entitled to receive copies of the document or documents authorizing their detention free of charge on request.**

(2) **Inmates shall be entitled to additional copies of their admission forms, the calculation of their sentence and document or documents authorizing their detention in penitentiary on payment of the cost of reproduction.**

(3) **The Canadian Penitentiary Service abolish punishment by way of diet.**

(4) **(Alternative to (3)) The Canadian Penitentiary Service re-examine the punitive diet and, if appropriate, change it to avoid any possibility of deficiencies.**

(5) **The safeguards now provided in the Commissioner's Directives with reference to disciplinary hearings be included in the regulations made under the Penitentiary Act in order that they may have the force of law.**

(6) **In instances where money has been seized from inmates and turned over to the Receiver General, the case be referred to law officers of the Crown for an opinion as to whether the money has been lawfully forfeited to the Receiver General.**

(7) **Persons whose death sentences have been commuted be assessed on an individual basis to determine whether they should remain segregated from the ordinary inmate population.**

(8) **Consideration be given to an amendment to the Commissioner's Directives to facilitate the granting of temporary absence to inmates who are bona fide parties to civil actions whenever such inmate-parties are required to attend in court to defend or conduct their own litigation.**

(9) **Not all persons declared by the courts to be dangerous sex offenders be barred forever from being considered for temporary absence for rehabilitative purposes.**

(10) **The absolute prohibition against the transfer of epileptics to minimum institutions be rescinded.**

(11) **Wider discretion be granted to allow transfer to minimum institutions of inmates suffering from illnesses that require medication, such as diabetes or epilepsy.**

(12) **Financial and other resources be provided to minimum institutions to care for inmates suffering from illnesses requiring medication.**

(13) The Commissioner's Directives include a provision that an inmate, who has consulted Canadian Penitentiary Medical or Dental Services, be authorized, with the approval of the Director General Medical Services, to make arrangements at his own personal expense to obtain a further consultation from a properly qualified person.

(14) A study be made to ascertain the number of penitentiary inmates that are illiterate and to propose special programs to assist them in learning basic reading and writing skills.

(15) Mail boxes be installed on all segregation and protective custody ranges in maximum and medium institutions.

(16) That the Visits and Correspondence staff be responsible for delivery and collection of mail to inmates on segregation and protective custody ranges.

(17) Inmates incarcerated in psychiatric facilities operated by the Canadian Penitentiary Service retain their pay grade on admission and be eligible for pay increases to the various grades.

(18) Necessary and adequate facilities and properly trained personnel be provided within the Canadian Penitentiary Service to ensure proper investigation and adjudication of inmate grievances.

Recommendations — First Year

The first Annual Report contained ten recommendations. They are restated here with comments.

Recommendation (1)

That the relevant acts be amended to permit all persons under sentence equal opportunity to earn remission regardless of place of incarceration.

Comment

This has been incorporated in legislation.

Recommendation (2)

That the Commissioner's Directives be amended to provide that time spent in custody after conviction regardless of place of incarceration be taken into consideration in respect of time required to be served before being eligible for temporary absence.

Comment

We have been informed this is under consideration.

Recommendation (3)

That the automatic loss of statutory remission on conviction for escape and related offences be abolished.

Comment

This has been incorporated in legislation.

Recommendation (4)

That a special study of the use of dissociation in Canadian Penitentiaries be made to determine: a) whether it is useful as punishment; b) whether it is the most efficient way of providing protection to certain inmates; c) whether some or all dissociated inmates could be detained in other small structures which provide adequate security, but outside the main institutions.

Comment

This was implemented, and the study completed.

Recommendation (5)

That the requisite number of persons be appointed whose only duty would be to preside over disciplinary hearings to make findings of guilt or innocence of inmates who have been charged with a flagrant or serious offence as defined in the Commissioner's Directives. Decision on punishment might be left or shared with the institutional authorities.

Comment

We have been informed that this recommendation will be considered in conjunction with the report on Inmates' Rights to be submitted by Professor R. Price.

Recommendation (6)

That authority to forfeit inmate property of any kind be stipulated by statute and that statutory provisions be made for relief against forfeiture or, in the alternative, that the practice of forfeiture be discontinued.

Comment

This has been incorporated in legislation.

Recommendation (7)

That consideration be given to an amendment to the Commissioner's Directives to provide that time spent in custody before conviction may be included in the calculation of the waiting period required before privileges such as temporary absence are granted.

Comment

Declined because the Canadian Penitentiary Service cannot evaluate performance.

Recommendation (8)

That a specific individual, preferably with legal training, be employed by the Canadian Penitentiary Service and be charged with examining, adjusting and making recommendations for disposition of inmate claims for injuries and loss of personal property.

Comment

This has been implemented.

Recommendation (9)

That instructions be given to all institutions to report on all injuries and all claims for loss of personal property to this specific individual and that such reports be given within a specific time.

Comment

Instructions have been issued as outlined in this recommendation. The requested statistics are reported herewith. Authority for the Minister to pay compensation to a discharged inmate, his surviving spouse or dependant children for physical disability or death attributable to the inmate's participation in the normal program of a penitentiary has been incorporated in legislation.

CANADIAN PENITENTIARY SERVICE
INMATES COMPENSATED –
LOSS OF PROPERTY OR INJURIES

YEAR	LOSS OF PROPERTY	INJURIES
1973	9	2
1974	14	4
1975	30	9
1976 to Nov. 24, '76	31	7
TOTAL:	84	22

Recommendation (10)

That inmates be permitted to invest their funds and compulsory savings in specified securities or savings accounts in their own names.

Comment

Inmates are permitted to invest their funds and compulsory savings in Canada Savings Bonds. A feasibility study is planned on the possibility of allowing inmates to have savings accounts in their own name in banking agencies.

Recommendations — Second Year

The second Annual Report contained six recommendations. They are restated here with comments.

Recommendation (1)

A formal arrangement be made whereby inmate committees be encouraged to submit one brief annually (or one combined brief) to the Solicitor General.

Comment

We have been informed that this is under review.

Recommendation (2)

All disciplinary hearings of charges of what are defined as flagrant or serious offences in the Commissioner's Directives, be recorded on tape, and that the tapes be preserved for a minimum period of twelve months and be made available for the purposes of dealing with inmate grievances and complaints.

Comment

We have been informed that this is under review.

Recommendation (3)

The Commissioner's Directives be amended to provide that an individual who has been identified as having been affiliated with organized crime shall be eligible for a temporary absence for rehabilitive reasons after he has served three-quarters of his sentence or three years, whichever is the shorter.

Comment

This has been implemented.

Recommendation (4)

Only in an apparent emergency shall an inmate be transferred without prior consideration by a Transfer Board.

Comment

This has been stated policy.

Recommendation (5)

If a transfer of an inmate has taken place without consideration by a Transfer Board, then a Transfer Board shall automatically be convened within thirty days to assess the reasons for the transfer as well as the inmate's present behaviour, and to make appropriate recommendations for the future placement of the inmate.

Comment

We have been informed that this is under consideration.

Recommendation (6)

The Commissioner's Directives concerning deceased inmates be amended to provide that:

(i) No public announcement of the name of a deceased inmate shall be made until next-of-kin have been informed or until it has been confirmed that there are no next-of-kin.

(ii) Announcement of the death of a deceased inmate shall be made in person, not by telephone, by a person nominated by the director of the institution where the inmate resided.

(iii) The nominee shall make discreet inquiries to ascertain the family situation and the state of health of the next-of-kin.

(iv) The assistance of local police or clergy to act as nominee or otherwise assist shall be obtained whenever necessary.

(v) Arrangements for the attendance of a sympathetic person (e.g. a neighbour or clergy) shall be made for a period of time after the person conveying the news of the death has left.

Comment

This has been implemented.

Recommendations — Third Year

The third Annual Report contained four recommendations. They are restated here.

Recommendation (1)

Anyone who is sentenced to a term in a penitentiary be eligible to earn remission, regardless of whether that person has been formally admitted to a penitentiary.

Comment

This has been incorporated in legislation.

Recommendation (2)

The Commissioner's Directives be amended to more clearly define "open air" and "other conditions" so that open air means access to an area in which the person may view the sky vertically and so that other conditions be limited to specific exceptional conditions.

Comment

Since the conduct of exercising periods is governed by such factors as facilities; weather; number of inmates involved; availability of staff and existing security conditions, this is not always possible in the older type of institutions. However it will be possible in the new institutions.

Recommendation (3)

If weather conditions do not permit exercise in open air, each inmate should be given the option of a minimum of thirty minutes away from his cell in indoor facilities, as a matter of right.

Comment

Accepted.

Recommendation (4)

That a system for the chronological processing and follow up of inmate application for privileges such as temporary absences and parole be implemented to prevent, as far as possible, delays and variation in time required to process.

Comment

Accepted.

Recommendations — Millhaven Inquiry

The Millhaven Inquiry report contained four recommendations. They are restated here with comments.

Recommendation (1)

(a) Precise written instructions be issued to penitentiary staff as to the way to use mechanical restraint equipment and the types of equipment authorized by the Penitentiary Service.

(b) Instructions make it compulsory that any inmate placed in mechanical restraint shall immediately be placed under the direct supervision of the Medical Services and if the equipment is used for longer than a specified period, the inmate shall be physically examined by a qualified physician who shall make a written report on the condition of the inmate to the director.

Comment

These recommendations have been implemented by the Commissioner in Divisional Instruction 715.

Recommendation (2)

The Divisional Instructions and the Standing Orders be redrafted:

(a) to provide concise step-by-step procedures required to decontaminate areas where gas had been used;

(b) to provide concise step-by-step procedures to be used to assist inmates and staff who have been exposed to gas, including the requirement that anyone, staff or inmate, who has been exposed directly to gas be given a change of clothes and a shower as soon as possible and that he or she be physically examined by a duly qualified physician within a given minimum time after the emergency has been resolved.

Comment

These recommendations have been implemented by the Commissioner through amendments to Instruction 714.

Recommendation (2)

(c) to require penitentiary staff to use a loudhailer to warn inmates that gas will be used if their unlawful activities do not cease.

Comment

This recommendation has not been implemented though the Instruction requires that inmates be warned before gas is used, however the method of warning is not stipulated.

Recommendation (2)

(d) to require the Medical Services to maintain and post in each unit a list of both staff and inmates who should not be exposed to gas for medical reasons.

Comment

This recommendation has not been implemented.

Recommendation (3)

A permanent editorial board be established to supervise the communication of policy as expressed in the Commissioner's Directives, Divisional Instructions and Standing Orders, and in particular:

(a) that the board shall consist of persons with knowledge in law, editorial experience and, without question, practical operational experience;

(b) that the board shall identify portions of the Commissioner's Directives, Divisional Instructions and Standing Orders in relation to job description and in relation to each job category in the Canadian Penitentiary Service and designate the portions which it is obligatory for an employee to know, apply and understand for the purposes of his or her job category;

(c) that the board shall edit or cause to be edited, the Commissioner's Directives and Divisional Instructions and Standing Orders to remove superfluous matters, to simplify the language, and to standardize the format and content, bearing in mind that each institution may have particular need in respect of Standing Orders;

(d) that the board shall prepare or cause to be prepared **one, unified cross-referenced indexing and numbering system** applicable to Commissioner's Directives, Divisional Instructions and Standing Orders.

Comment

These recommendations are under consideration.

Recommendation (4)

A uniform comprehensive in-service training program be established by the Canadian Penitentiary Service.

Comment

This recommendation has been implemented in part through the "Manitoba Manpower and Training Development Program". This Program is a major manpower development and training program for employees of federal and provincial correctional services in Manitoba.

Appendix

Excerpts from statements made by the Correctional Investigator on various occasions:

Evidence given before the Sub-Committee on the Penitentiary System in Canada

"I think the grievance procedure and our office has helped, but it would be naïve to think it is going to solve the problems because the problems of the penitentiary are merely a mirror of the problems of society in general. . . . .

Mr. Reynolds: . . . You said that our biggest problem is in the maximums, which is true. They make up the majority of the complaints. Do you feel that one of the reasons for that is that in the past number of years, with the success we have had in minimum and medium security institutions, we have started trying to treat prisoners in maximum security institutions as though they were in minimum or medium-type security institutions by giving them certain things? If you give them a foot they want a yard. They become unhappy when they realize they are in a maximum security institution and then they blow as they did in the British Columbia Penitentiary or some other areas.

Miss Hansen: I do not think I can agree with you on that, Mr. Reynolds. I do not think the inmates in maximum institutions have been given much.

Mr. Renolds: In what way?

Miss Hansen: The living conditions in maximum institutions have really not changed much. There was some relaxation in the late sixties; programs were being instituted but most of those programs have been discontinued. I can give you, by way of example, that currently in Millhaven Institution a good number of inmates have been locked up for 24 hours a day without exercise since October 5.

Mr. Reynolds: Let me ask you just one question on that and I understand your main job is to defend inmates. Certainly, none of us would want to . . .

Miss Hansen: No, it is not, sir.

Mr. Reynolds: Well, okay. One of our problems is, and I think one of the government's problems in running these institutions is, what do you do in an institution like Millhaven or the British Columbia Penitentiary when you give things — to say they have not got things in the British Columbia Penitentiary is ludicrous. We spent $1.5 million in this past year fixing the place up; we put new doors in, new walls in to make things easier to get back and forth. We put recreational yards in and additional basketball and courts for the people who are locked up in protective custody. I am not saying it is utopia but also the most vicious criminals in our country are inside that institution. We have given them all these things and we say we are going to build a new penitentiary but it cannot be done overnight — they are building one in Mission — but what do they do, they go and wreck the place for $1.5 million and then complain to you that they have been locked in their cells for 24 hours a day. Now they are saying they will not leave the gymnasium to go back to the cells that we fixed up for them. I am just wondering how much sympathy do we have to have for people who use that type of activity to tear a place down.

Miss Hansen: Can I start first, Mr. Reynolds, with what you stated because I do wish to take exception to your statement that my job is defending the inmates. My job is to act and to persuade when inmates complain that they are not given the rights to which they are entitled within the given system. I see that as my primary function and I hope that in doing that work I am being as objective as one can. I think we have had a lot of unrest. We have had inmates destroying things, but I also think we cannot say, now, they have destroyed everything no wonder conditions are so bad. I think for those in maximum and in dissociations, the conditions were so bad that it is not surprising, given the fact that in our society people no longer accept their place, shall we say, where everybody is complaining, that the inmates complain.

Mr. Gilbert: . . .What do the inmates call you, Miss Hansen, besides sweet names?

Miss Hansen: Some of the things would not be printable.

Mr. Gilbert: In court they say "Here come the judge." What do they say, here comes who, when it applies to you?

Miss Hansen: It is usually Inger Hansen. I am usually known by my name, at least to my face.

Mr. Gilbert: Here comes Inger Hansen, yes. What is the rapport between you and the inmates? Do you sense a good rapport?

Miss Hansen: It is better than I expected when I accepted the position. I think it could be improved. There is no doubt that as in any other business where you purport to help people, results are what are appreciated, and refusals are not appreciated. We have found, though, that it does help with inmates to have outsiders, such as our three investigators and me with whom they can discuss a complaint in the first instance to find out whether we think on a comparative basis they have anything. I think the relationship is reasonably good, but I did not expect to win a popularity contest and I do not think I have".

Excerpts from a letter directed to the Sub-Committee on the Penitentiary System in Canada

I hade been asked to enumerate the probable causes for the many hostage incidents in Canadian Penitentiaries. I stated that each item, dealt with in point form, could be discussed at length.

"1. **Overcrowding**

The increase in the birthrate immediately after the Second World War contributes to overcrowding as the majority of penitentiary inmates are in the 18 to 26 age group. Revocations of parole and mandatory supervision may also be contributing factors. Before the institution of mandatory supervision in 1969, inmates served one-quarter of their sentences at liberty without being subject to revocation. Overcrowding is particularly difficult to cope with in maximum institutions.

2. **Ripple Effect**

Spectacular events usually invite imitations. Increased media attention and access by inmates to view and appear on the media intensifies this effect.

3. **Change in Society's Attitude**

There has been a general trend in society no longer to accept "one's place", to become conscious of one's rights and to be distrustful of authority. There has been a reexamination of the

validity of conviction and punishment for acts which by some are considered neither immoral nor criminal. Penitentiary inmates share these attitudes.

4. **Changes in Inmate Personalities**

The number of young inmates appears to have increased. They are better educated and more articulate. They do not submissively accept treatment with which they disagree. Further, once dissatisfaction finds verbal expression, it spreads and some inmates, not necessarily the ones who articulate their views, become frustrated. That frustration may find expression in violence.

5. **Increased Demands for Rights**

The granting of some rights to self-determination usually lead to further demands. In the 1960's the correctional services instituted many changes, some of which extended inmate rights and comforts. In the 1970's these changes are viewed by many as having been "too much, too soon"; the result is further tension between staff and inmates.

6. **Difficult Inmates**

a. Disturbed individuals who are not amenable to psychiatric treatment are kept in penitentiaries. They are impulsive and their actions may lead to suicides, destruction of property or violence towards other inmates or staff. Their presence is disruptive to staff and other inmates.

b. Conflict between inmates themselves may lead to violence. Some inmates cannot tolerate the presence of the so-called undesirables (child molesters, informers, etc.). This is disruptive and creates increased security problems.

7. **Harassment**

Confrontation, fear and dissatisfaction tend to escalate. There is mutual harassment between keeper and kept.

8. **Long Sentences**

Young inmates cannot cope with the idea of extremely long sentences where there is no hope of consideration for conditional release.

9. **Disappointment with Correctional Programs**

Rehabilitation is said not to work. This depresses both staff and inmates. It creates a feeling that their lives are without meaning.

10. **Poor Communication**

In many instances reasons for administrative decisions affecting the lives of inmates are not communicated. Sometimes this is not possible, but in many instances the inmates could be informed and frustration could be avoided.

11. **The Standard of Living**

The standard of living in Canadian society has increased greatly during the last twenty-five years. Expectations of immediate satisfactions are common. The standard of living in maximum institutions has not changed comparatively. Security measures make change difficult. The provision of meaningful work is difficult in a maximum institution.

12. **Conflict Among Staff Groups**

Professional and non-professional staff do not always agree on programs; sometimes staff groups work at cross-purposes.

13. **Rapid Staff Turnover**

Many staff members are inexperienced and have not participated in training programs because of staff shortages and rapid turnover of staff. The implementation of policy appears to be inconsistent as a result.

14. **Increased Perimeter Security**

Successful measures taken to increase perimeter security may often increase tension and result in internal violence. Administrators of penal institutions expect a certain amount of explosive behaviour. The form of that behaviour may change from time to time.

15. **Delays and Inconsistencies**

Decisions relating to inmate programs and granting of privileges are sometimes inconsistent and sometimes delayed beyond what is necessary. Directors of institutions cannot always count on staff loyalty and on occasion think that their attempts to implement policy are boycotted. Policy may be good in theory but may be neither understood nor accepted by staff in the institutions. Some of the programs that are said to have failed may in fact never have been given a fair trial because of staff opposition".

From a Speech

Controversy over penal philosophies and methods is not new. Canada is not the only country that agonizes over its high crime rate or vacillates between the call for a more "humane system" and a strong need for "effective sanctions" for crime. Studies and inquiries continue, recommendations, sometimes inconsistent, pile up, but substantial change in thought and action is rare.

Competition for the tax dollar and the normal delay between publication of recommendation and response by authorities cannot completely explain the apparent resistance to change. High unemployment and hard times may partly explain the rise in the crime rate. They may account

for the anger of victims of crime. However, none of those reasons provide a satisfactory explanation for why penal practices remain substantially the same in spite of their apparent failure to produce significant results.

Does the answer lie in public attitudes or generalizations?

It has been suggested that Canadian Penitentiaries are already modelled on luxury hotels. They are not. Some of the newer institutions are good and offer a variety of programs to help inmates. Nevertheless, conditions in the older institutions are deplorable. One hundred years ago when the old "fortresses" were built, living and working conditions in places such as the British Columbia Penitentiary, Dorchester, St. Vincent de Paul, Kingston and portions of the Saskatchewan Penitentiary were harsh. The six foot by eight foot cubicle, i.e. the combined bedroom, livingroom, eating nook and toilet was probably a shock for the convict in 1877. But the gap between daily life on the outside and in the penitentiary surely must be greater today. The limited access to daylight, the lack of ventilation, the leaking roofs, the ice-cold stone walls in winter and the heat and humidity in summer were probably normal conditions for people living one hundred years ago. But those conditions still exist for both staff and inmates in some Canadian Penitentiaries today.

So what, we may say, they, or at least the inmates, broke the law, they deserve to be punished.

It is not surprising that we usually imagine the offender as different from ourselves. We picture him as cool, calculating, more deliberate and more predatory than the rest of us. When our sense of justice demands that prisoners get what they deserve, we usually have exactly that type of person in mind. While he does exist, he is rare. If caught and convicted, he is self-contained and disciplined. He does not partake in prison riots, he does not tell guards where to go, and he quickly earns a transfer to less secure institutions where conditions are more tolerable.

It is interesting to observe that most individuals who work in the correctional system, who belong to helping organizations, who have a family member or friend who serves time, soon accept that prisoners are not all alike. From contact with inmates one soon discovers that they cannot be stereotyped. The only common characteristics of penitentiary inmates are that the vast majority are male, single and that they got into trouble with the authorities at a very early age.

There are dangerous inmates and there exists a relatively small number of people who, for the sake of society and for their own protection, must be incarcerated. Not everyone who suffers from mental illness can escape criminal liability under Canadian law and some of the extremely dangerous inmates suffer from hallucinations, some are diagnosed as schizoid or paranoid, or they are found to have "character defects". Many of them are not amenable to treatment and penitentiary psychiatrists cannot be faulted for reserving their time for those for whom there is more immediate hope. Still, there are deeply disturbed individuals in our penitentiaries and most of them are in the older institutions. They are looked after by custodial personnel who have little or no training in dealing with mental illness and who often reason that those inmates should or would be in a psychiatric hospital if they were not totally responsible for their acts.

It is not suggested that all criminals are sick, but some are; nor that the environment is always at fault, but sometimes it is and, of course, there are some who wanted to get rich quickly at the expense of others. But there are also some with learning disabilities and other physical or biochemical handicaps and many who committed crime as the result of drug or alcohol addiction. There are as well some who committed only one offence, often a violent crime, sometimes murder, and the victim is almost always a friend or a relative. A number of youths who never learned to trust anyone while they were children, who suffered injustices themselves can also be found. They are often extremely intelligent, but tend to hold the view that those in power fail to eliminate injustice simply because they are unwilling to do so or because they are corrupt.

For years the approach to sentencing has been that if a suspended sentence does not work, probation might; if probation does not work, eighteen months will, or two, five or ten years. Then, when a person has served a number of sentences and he has "a record as long as his arm", we say it is no use trying to rehabilitate him, and we fail to consider that in some cases he might only then have reached the age where he would be receptive to help in changing his ways.

When a riot occurs in a penitentiary or prison, public attention is attracted as if by a magnet. The search starts for a new, simple, preferably magic solution to an extremely complex situation. But soon the T.V. lights fade and the dreary meaningless life for staff and inmates is resumed. The depressing current ideology is repeated: "Rehabilitation does not work, so what is the use of trying". The result is not surprising: wide-spread apathy and cynicism.

But almost all inmates leave penitentiary one day.

If they leave more bitter than when they came in, if they receive no help to re-establish themselves, society pays a dear price in terms of welfare payments and further criminal acts. There are no easy solutions, but one solution that is almost guaranteed to fail is to lock them up and throw the key away for the duration of the sentence. Only if we are prepared to build absolutely escape-proof cages, one for each inmate, and only if the cages are mechanically controlled and designed never to be opened again, can we afford not to try to rehabilitate offenders. A very costly system indeed and one which few would accept.

It is both difficult and costly to try to help convicted persons. It is exasperating to have to admit that the state of the art is such that many of the problems are not capable of solution. That, however, does not justify admitting total defeat.

The rationale for any corrections system is to increase the safety of our streets, institutions and homes. If we accept that sentences are limited in time, we must continue to search for ways and means to reduce criminal behaviour.

Of course, as a society, we are entitled to try to avoid being made victims of crime and it would be foolish to say to criminals: "Go ahead, break the law, you are the poor victims of circumstance". To say that punishment does not work is also a fallacy. It works, sometimes, with some people, and so does understanding, supportive control, provision of work and medical services and even attention and compassion. The difficulty is to know when and how to do what.

From another Speech

Many experts have argued that smaller institutions should replace the large fortress-like penitentiaries we now have in Canada. I readily support this. In a smaller institution, it is possible to create better conditions. Staff and inmate may get to know each other and see each other as human beings. Signs of violence may be detected before they erupt. Tension may be reduced. Work for staff would become more rewarding.

Smaller institutions could more easily provide specific circumstances for specific people. They could provide better release programs. The young men who have not shown any violent tendencies and the older ones who have left their violence behind could work, pay taxes, support their families and compensate their victims, if they received supportive, close supervision in community correctional centres.

I think with the increased life expectancy of all people more attention should be given to attempts to help the offender who started early in life, has a record as long as your arm and no resources whatsoever in society. He is frequently thought to be a write-off, but who knows, maybe he may have reached the stage where he is prepared to go straight if he gets a little help.

I think incarceration is counter-productive. It is an extremely costly solution. I would prefer that the maximum number of convicted persons fulfill their sentences in small community correctional centres. I think the reparation to society, when required and possible, should take the form of community work or compensation to the victim. Incarceration damages and sometimes destroys both inmates and staff and as a consequence the price to society is inflated by the very measures it takes.

Why aren't these small institutions being built? Why are there so few community correctional centres? Because we are all scared. Because most of us think that a half-way house is a good idea, but preferably not on our street. Because we see convictions of crime as something that happens to other people, never in our family. Yet, every convicted offender is somebody's child, and probably brother or sister, husband or wife.

Whenever a community correctional centre is planned, and whenever a new, smaller federal institution is planned, there is public opposition. No one wants a penitentiary in their area, no one wants a half-way house on their street.

I am disturbed at the resistance to community correctional centres because in the long run they help the community. Perhaps, it would be different if we locked up all offenders and threw away the key or as some suggest, ship them up north and leave them there – out of sight, out of mind.

I am concerned for the victims of crime. But would we not be more certain of reducing the number of victims by providing inmates with proper release programs in community correctional centres? By housing them in institutions suited to their needs instead of warehousing them in places designed for life as it was 100 years ago?

Crime is a community problem, and it must be solved in the community by the community and the people who write the letters to the editor must be convinced of that.