Annual Report of the Correctional Investigator 1977 · 1978

The Correctional Investigator
Canada

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L'Enquêteur correctionnel
Canada

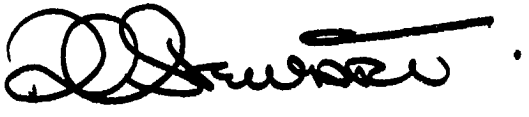
15 November, 1978

The Honourable Jean-Jacques Blais
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 the attached report which covers the fifth year of operation of the Office of the Correctional Investigator (1 June 1977 to 31 May 1978).

Yours respectfully,



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Appointment and Terms of Reference

The first Correctional Investigator, Miss Inger Hansen, appointed June 1, 1973, resigned October 1, 1977, to become Privacy Commissioner with the Canadian Human Rights Commission. The mandate she had is described in Appendix "A".

An interim appointee, Mr. Brian McNally, was named September 29, 1977, and acted until my appointment, by Order in Council P.C. 1977-3209, November 15, 1977. The present mandate is described in Appendix "B".

The mandate contains two provisions not included in that of the original Correctional Investigator. These provisions were introduced in the mandate of the interim appointee and carried over.

The second of these changes, under clause (C) of the Order-in-Council, will be discussed later in this report's section on Parole. The first change added a clause to the original Order-in-Council P.C. 1973-1431 which stated, in part, that the Correctional Investigator may:

> "...investigate, on her own initiative or on complaint from or on behalf of inmates..."

The present wording states that the Correctional Investigator may:

> "...investigate, on his own initiative, on request from the Solicitor General of Canada, or on complaint from or on behalf of inmates..."

Page 1 of the 1976-77 Annual Report of the Correctional Investigator said:

> "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."

Yet the 1973-74 Annual Report said that the Correctional Investigator acted upon requests from the Solicitor General for special investigations on four occasions. The 1975-76 Annual Report described another such investigation at Millhaven Institution, also requested by the Solicitor General. Since the inception of this office all staff appointments authorized by the Correctional Investigator have required the concurrence of the Solicitor General.

I have yet to encounter any problem with the aforementioned addition to the terms of reference and, to date, only one request has been received from the Minister. I responded to that request by way of a letter on December 13, 1977. It described to the Solicitor General the physical conditions that existed at that time on tier F-4 at Dorchester Penitentiary.

Some reservations have been expressed about the credibility of a Correctional Investigator reporting to the Minister who has responsibility for the Canadian Penitentiary Service.

No matter how properly the Correctional Investigator performs his task, there will always be complications under the present terms of reference. It is not so much whether there is actual direction by the Minister, but how the office is perceived by the inmates. If the office appears to be part of the Ministry it loses credibility and the task becomes more difficult.

I reiterate, no interference has been encountered and none is anticipated but the Ombudsman can only be effective if the office maintains a high level of credibility.

The foregoing is not described to solicit support for a return to the wording of the original mandate. I merely wish to point out some of the difficulties inherent in the job of the Correctional Investigator as compared with an Ombudsman who reports to Parliament.

In July, 1977,[1] the committee examining the possibility of creating an Ombudsman at the federal level of government in Canada recommended **inter alia** that the office of the Correctional Investigator be integrated into that of the Ombudsman. The Correctional Investigator would become an Assistant Ombudsman to the Federal Ombudsman, who would report to Parliament.

On April 5, 1978, Bill C-43 "An Act Respecting the Office of the Ombudsman and Matters related or Incidental Thereto" received first reading in the House of Commons.

The following were full-time staff during the fifth year of operation of the Correctional Investigator's Office:

D.C. Turnbull, Assistant Correctional Investigator (Headquarters)
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

I wish to extend my appreciation to both Miss Inger Hansen and Brian McNally for compiling statistics for the period June, 1977, to November, 1977, and a special thank you to Mr. McNally for his invaluable research and contribution to this report.

Comments

My exposure to the correctional system was limited before being appointed Correctional Investigator and my experience since does not qualify me as an expert.

However, it has been my observation that the penitentiary service has been studied into the ground, sometimes by people more competent than others. The staff and inmates have a justifiable paranoia about what they describe as the "intrusion" of well-meaning

[1] Love, J.D., Chairman. "Report of the Committee on the Concept of the Ombudsman." Government of Canada, July, 1977, pp 35-36.

outside experts. These people appear without warning, create a lot of furor, sometimes at considerable public expense, and eventually depart, leaving a quagmire of new problems to be smoothed over. The inmates feel some institutional staff participate in these invasions.

With over half the inmates located in the Kingston and Montreal areas, the Ottawa location for this office makes practical sense. At times however being in the nation's capital can make initial entry into the field more difficult.

This office has to work hard to preserve its informality, because it is this that provides us with a distinct advantage over some others.

One of my field staff has found that the lack of university education can at times be a distinct advantage in this work. He has encountered periodic grillings by both staff and inmates and a rapport has developed when the questioner determined that he is not dealing with another so-called expert. Obviously there are advantages to a university education, but I mention this anecdote to lead into what I perceive as some ills of the Canadian Penitentiary Service.

The Penitentiary Act was amended October 15, 1977, and the Commissioner of Penitentiaries became the Commissioner of Corrections. The Commissioner of Corrections was given increased responsibility, assuming control of the National Parole Service, formerly under the Chairman of the National Parole Board.

The Canadian Penitentiary Service has suffered from poor management in the past. This view is accepted and shared by some respected personnel within the Service. My observations of it are based upon the most lamentable omissions in even the most basic of administrative functions.

For instance, my office has documented cases where administrators have failed to respond to, or even acknowledge our letters of inquiry. I am satisfied these oversights were due to clerical errors or simple mismanagement and not to a jaundiced view towards this office.

More seriously, there is an overwhelming tendency within the service to "cover" for one another, a practice which makes the job of the Correctional Investigator more difficult than it should be. There is less difficulty when our recommendations apply to the grass roots level; the response received from the institutions is usually fairly good. The problem occurs when the ombudsman is not successful at this level and must move up the administrative ladder.

The director and other supervisory levels are often caught in the trap of having to back staff to retain support. This attitude is detectable even in Ottawa. There is no doubt that in any organization it is desirable for supervisors to support employees, but not when it perpetrates mismanagement and poor administration. This office dealt with cases where even the most simple recommendations met opposition. It often appeared that administrators were reluctant to make a change because it was a change. I am under no illusion that a recommendation by this office is the ultimate answer but I am troubled when a recommendation is rejected because clearly my letter was either not read or not understood. Frequently, the replies bear no relationship to the problems described in my letters.

Here are a few examples:

An inmate had unsuccessfully grieved internally that he should be allowed to purchase plain envelopes through the canteen list, which is controlled by Regional Headquarters. We confirmed that books of postage stamps were available at the going rate as well as pre-stamped envelopes, which cost 15 cents. The postage at that time was 12 cents and the inmate wanted the choice of using pre-stamped envelopes or blank envelopes where he could affix postage. We recommended that consideration be given to adding blank envelopes to the canteen list. The reply said that stamps were not available because drugs and messages had been smuggled under the stamps. This office wrote again saying that booklets of stamps were already listed for sale. After 13 weeks no reply had been received and a further letter was written. Shortly after, the office was advised that due to the cost of blank envelopes the inmate would not realize a monetary saving and the recommendation to include them on the list was rejected.

In another case, a recommendation was made to national headquarters. Two months passed without acknowledgement or reply. As a result, we examined the relevant headquarters file. Pencilled on our letter were comments suggesting the recommendation be denied. Nothing else had been done. A further letter was written asking that the original be answered. Shortly afterwards the first letter was answered and fortunately there was a change and the recommendation accepted.

On another occasion, as a result of an inmate's complaint, different regions were researched to determine the procedures for registering outgoing inmate mail. The office found that there was a wide discrepancy in administrative routine for registration with some institutions having comparatively simple methods of charging the inmate the costs. The institution that was the source of the complaint had eight different steps involving six different departments. As a result it often took several days to register outgoing mail. We recommended that consideration be given to a more simple procedure. This reply was received:

> "The question of administering money to penitentiary inmates in this region for the purpose of handling registered mail is not all that voluminous and the system is operating to the benefit of all concerned. There have been no specific complaints."

We had never suggested that money be administered to inmates and we failed to understand the reply.

In another case, an inmate was advised by letter from a regional representative that an administrative inquiry would be held as a result of the apparent loss of some personal articles during a transfer. Over the next 14 months we contacted the administrator by mail, telephone and, on several occasions, in person. We were repeatedly promised that action was imminent on the claim. Finally, after suggesting that the matter would have to go to a higher authority, a settlement was made but the administrative inquiry the inmate was promised did not materialize.

The Penitentiary Service now has a Commissioner who, in my opinion, has identified many of the problems. Based upon our communication with him to date, I am optimistic some of the ills affecting the Service will be cured.

Procedures

There was a 32 per cent drop in the number of complaints received nationally this year, a trend anticipated because the office changed its policy on investigating complaints. We also experienced a continued reduction in the number of complaints received from the Quebec region. My examination of the Quebec experience indicated that we were not making ourselves as well known in that province as we were in other areas. The recent departures of two inquiries officers provided the opportunity to acquire staff with perhaps a greater familiarity with Quebec and its language and culture. As a result, two officers have joined my staff and I am confident this will improve communications with French-speaking inmates.

My office, in performing its role of ombudsman, must never become a substitute for any of the functions or responsibilities of the administration. It plays a watch dog role, monitoring the actions of the administration to ensure that it acts with propriety. The ombudsman's only power is his unlimited power of investigation and authority to make recommendations. It would be a mistake for the staff to become quasi-classification officers or try to replace other functions within the system. While experience can facilitate the delicate process of communication, we are not in place to do someone else's job.

In short, we are not here to take the place of the normal procedures inmates have open to them to complain or grieve. Observance of this principle is changing the statistics.

An ombudsman's success is based upon credibility and his staff is continuously exposed to confidences. Their opinions are often sought. There are occasions when it is tempting to suggest a specific course of action. This might be ego inflating, but it must be resisted. This type of involvement could lead to misuse of advice and direction. It could result in a need to monitor the ombudsman. We must emphasize to the inmates that if our recommendation for re-examination is accepted the re-assessment often reverts back to those who examined the facts initially. We must also explain that a review does not guarantee a change in outcome.

An early challenge for the office of the Correctional Investigator was acceptance. As a result of this and the delicate mandate of dealing with complaints of penitentiary inmates, we often became prematurely involved with complainants.

Before dealing with an ombudsman, the complainant is required to exhaust all other available sources of assistance. With our mandate, this philosophy cannot be implacable and there will be occasions when, because of the delicacy or urgency of a problem, we become involved immediately. With the passage of time we could see a history of premature involvement developing where complaints were neither delicate nor urgent. An adverse reaction could also be identified as inmates, who built up hope that we might possess the power to bring early relief, became disillusioned. Often, complainants had not used the internal grievance procedure or taken steps to explore other remedies. My staff, faced with lists of inmates seeking interviews, reminded complainants that our involvement would be premature.

Many inmates refuse to use the administration's complaint procedure. They have reservations about its efficiency and credibility. The administration's internal grievance procedure is far from perfect and will be discussed in another chapter.

Nevertheless, most of the justifiable complaints could and should be solved at the institutional level. My investigative field staff of three is not a particularly large work force to cover the entire Canadian Penitentiary Service. However, regardless of staff size, we should not become prematurely involved.

There are administrators who welcome assistance with their individual work loads. On the other hand there are those who attempt to responsibly administer the internal grievance procedure. Their reaction is "Why don't you give us a chance to clear things up first? Isn't that what your office is all about? "

There were staff complaints that the Correctional Investigator was employing the shotgun approach as representatives would quickly appear, interview a long list of inmates, look at some files and disappear for another six to eight weeks.

A further problem which I considered serious was the lack of time of the field staff had to properly research and investigate valid complaints. My representatives did not have time to tour the institutions, check into conditions or monitor various procedures within the prisons. This would include random file examinations. The ombudsman cannot get too cozy with either the complainants or the administration. Yet an integral part of his responsibility is liaison on both sides, whether with inmate committees, representatives of various ranges, the hospital staff, classification officers, or other staff.

To better understand the system I believe that we should do some research which provides us with the ability to detect trends within the institutions and our global approach gives us a distinct advantage in this area. Again, however, our earlier policy on "premature involvement" often limited our effectiveness in this area.

All these circumstances support the argument to stress upon the complainants the need to try the internal grievance procedure first. We have explained that the grievance procedure can bring about a greater awareness by the administration of not only the problems concerning facilities and conditions, but also some of the weaknesses of the procedure itself. This, in part, has brought about a pilot grievance program that commenced January 16, 1978, at the Saskatchewan Penitentiary. This will be discussed later in the report.

While this approach has given us more time to spend in other areas, inmates have reacted differently. Some used the grievance procedure successfully; some were agitated that we should even suggest its use; others were scathing in their criticism, charging that we were another bureaucracy and of little value.

While some of this is regrettable, I feel that the policy change was justified. We now have more time for the complaints appropriate to the office and for other issues. The change also made time available for involvement with the problems of the new special handling units, both in Quebec and Ontario, plus the monitoring of segregation under Section 230(1) (a) of the Penitentiary Service Regulations. These two topics will be dealt with in subsequent parts of this report.

Statistics, although necessary, can be misleading. Other ombudsmen and academics with years of experience have often described the "halo effect" of the function. How do you statistically show the times when an administrator made an adjustment or instituted controls because complaints might be made to the ombudsman? In some respects my officers could control the statistics by merely walking down a segregation wing and talking to inmates.

The outsider may see some of the complaints as unimportant, but what may seem frivolous is most often vital to the inmate seeking assistance. Consequently, we consider all complaints to be important. However, this report concentrates on some of the larger issues of the year and the emphasis will be on the special handling units and the conditions in Canadian penitentiaries.

Transfers

The majority of complaints we receive continues to result from transfers and represents a substantial volume of the work load. The Solicitor General's policy that public carriers not be used to transport inmates has had a drastic effect on the administrations' processing of requests for transfers. Since the usual mode of movement with escorts is aircraft, the administration investigated other available air transportation, including the use of military and RCMP aircraft. Some air charters were arranged, but priority was given on these flights to inmates being transferred for security reasons. Voluntary transfers were not given much consideration.

At the close of the reporting year, we were optimistic that this policy might be relaxed so that non-security, administrative transfers could go on public air carriers, especially where the transfers were requested on compassionate grounds.

Non-voluntary transfers, sometimes referred to as "scoops" or "kidnaps", are often made on suspicions of the administration. If a complaint is launched, it is the responsibility of this office to determine the quality of that suspicion. This can present difficulties.

Time and again, no proper detailed investigatory reports were completed on unusual incidents, contrary to specific Canadian Penitentiary Service orders. We have access to pertinent documentation, but obviously this authority is useful only if the documentation exists.

In some cases of security transfers, usually involving the movement of an inmate to greater security, only a bland, uninformative report was available. Such reports merely satisfy regional transfer authorities who approve movements.

There appears to be a considerable lack of communication, and misunderstanding, between the preventive and operational arms of security in the Penitentiary Service which sometimes leads to improper or insufficient documentation of security investigations. This problem is compounded by the fact that while the preventive and operational arms of security are separate functions, a preventive security officer, established in most institutions, now reports to the Assistant Director of Security, the head of operational security within each institution.

Preventive security is concerned with intelligence. Its officers liaise with police departments and others, gather information, and pass it along to various areas of the Penitentiary Service, including operational security within the institutions. Operational security is basically responsible for keeping the institutions themselves secure.

The problem is that preventive security is viewed by many — and particularly by uniformed security staff in the institutions — as a threat and an intrusion. Security staff within institutions frequently lack the background and experience to participate in or

document security investigations. At the same time, some are reluctant to complete reports, fearing these may be leaked to inmates by others. This reluctance and lack of cooperation may stem in part from nostalgia for "the good old days" when running and controlling institutions was less complicated.

Security transfers must be carefully documented if we are to effectively assess the reasons, including those concerning suspicion. Unless the personnel involved put pen to paper they cannot be held accountable for decisions, but these people must realize that when they are acting properly there should be no reason for concern.

One particular medium security institution precipitated a run of complaints by transferring numerous inmates to maximum security. What reports we could find contained very little information and sometimes the proper use of the grievance procedure delayed involvement of our office. Later, while conducting our own investigations, the officials were cooperative but security people and others had to rely heavily on their memories to reconstruct events, sometimes referring to scraps of paper that materialized from under blotting pads. Much to our alarm, we found that individual accounts varied greatly. Frustrated regional security personnel often told us that they were not being supplied with reports.

One bitter complaint we had concerning a transfer back to maximum security involved a split in staff opinion about whether the move was justified. At the "grass roots" level, most of the staff were convinced that the transfer was improper. At the executive level most were absolutely convinced that the move was justified. In this case we were unable to recommend a rehearing of the transfer decision because the Director had possessed security information not shared with the line staff. It appeared that this information was accurate.

Although we are often critical of the administrative procedures that precipitate our investigations, we have, in most cases, experienced complete cooperation. We ask to see reports and if we find that the report has not been completed we will make every effort to see that the required action is taken.

Sometimes the operational arm of security does not know what the preventive section is doing. This compounds the problems we have experienced with these functions. In one case of an inmate complaint, we found that national headquarters had no current information on file. We then determined that the regional preventive security function, in cooperation with two police departments and the institution, had conducted a massive investigation several months before. No one could satisfactorily explain why this information had not been transmitted to Ottawa.

In many cases our experience has shown that the regional authorities have not received adequate justification for transfers before giving authorization to move an inmate to greater security. In other cases mismanagement or poor judgment may cause difficulties.

Here is an example involving an inmate who was a passenger on a charter that originated in British Columbia and ended in the Maritimes. The inmate wrote:

> "the conditions of the 12-hour flight from Abbotsford, B.C. to Kingston in my view was deplorable and inhumane as the last hot meal we received were 28 hours apart, we were given only coffee and sandwiches during the trip while the guards in the seat beside us were given a hot meal."

Our investigation found that during this leg of the flight the inmates were served turkey, beef or cheese sandwiches, cookies and a choice of coffee, fruit juices or soft drinks.

During the same period the escorting officers had a breakfast of poached eggs, toast, butter and coffee. For lunch, they had chicken breasts, vegetables, potatoes, dinner rolls and beverages. For dinner, their meal consisted of a six-ounce filet mignon, vegetables, potatoes and a salad.

The administration said that the differences in meals were for security reasons, explaining that inmates could not be allowed even plastic utensils and therefore hot meals would cause problems. Also, some of the officers who started the flight had to continue to the Maritimes.

While both menus were nutritious, I feel other arrangements could have been made.

Security transfers have tremendous impact on an inmate's future, over and above the consequences of a more secure environment. The move could result in a longer period of incarceration because of the lessened chances for parole and also drastically affects access for visitors, and consideration for temporary absences.

The Canadian Penitentiary Service, I suggest, should apply more care to these transfers. The administrative control mechanisms are already there, but in some cases are not being applied adequately.

Directives and Instructions

The 1975-76 Annual Report of the Correctional Investigator described an inquiry and subsequent recommendations into the alledged improper use of gas and force at Millhaven Institution. One of the recommendations called for the establishment of a permanent editorial board to review Directives, Instructions and Standing Orders to ensure that policy decisions are accessible to the staff.

However, situations have occurred during the past year that indicate to us that considerable confusion still exists.

The Penitentiary Act and Penitentiary Service Regulations spell out the various authorities for issuing Commissioner's Directives, Divisional Instructions, Standing Orders and Routine Orders. The Penitentiary Service Regulations also state that it is the duty of every member of the Service to familiarize themselves with the Act, the Regulations and the Directives. Inmates have access to the Commissioner's Directives, "200 series".

There is considerable duplication and contradiction in these various Directives and instructions and we have encountered several cases of apparent misunderstanding in the issuance or circulation.

Here are examples of situations that concern me.

The Divisional Instructions for hospitalized inmates allow no discretion in application of the reduced pay after five days. However, Commissioner's Directive No. 232 supplies this discretion. This and other contradictions confuse the whole issue of inmate pay.

As another example, Commissioner's Directive No. 232, issued August 1, 1977, establishes, in part, procedures to recover compensation from inmates for damage to public property. This procedure was already described in Commissioner's Directive No. 213 "Guidelines for Inmate Discipline." The legality of forfeiting inmate pay for damaging public property under the disciplinary process had been questioned and, as a result, Commissioner's Directive 232 was issued. However, the authority in Commissioner's Directive 213 was not revoked until November 15, 1977, 15 weeks after the new directive. The problem was compounded because the later revocation made no reference to the previous directive. As both instructions were issued in the "200 series" we received complaints from inmates that incorrect procedures were being applied. The facts showed the complaints were justified.

We also determined that one other revocation, dealing with the automatic deprivation of smoking materials to inmates serving punitive dissociation, also under Directive 213, was not being interpreted the same way by each maximum security institution.

In some cases, persons sentencing inmates had no knowledge of the revocation; in another case, six months lapsed before the administration of one institution was aware of the amendment. We found that several maximum security institutions, despite revocation of that section, continued to rigidly enforce the prohibition, giving a variety of excuses for doing so. Some said they were not aware of the revocation; some admitted that although these revocations were written orders they did not agree with the change and took it upon themselves to ignore it.

The administrators were finally shown that the section was revoked because another section dealt with canteen privileges, making this one redundant.

This is a perfect example of the confusing situation that develops and we suggest that significant changes in directives be issued with an accompanying letter, describing the relevant changes.

Another problem came to light when our representatives attended the Regional Review Board for the Special Handling Unit at Regional Headquarters in Kingston, April 27, 1978. This Board meets twice a year as part of the review process into the status of special handling unit inmates at Millhaven Institution. It comprises the Canadian Penitentiary Service Regional Director as chairman and key administrators from Millhaven and Regional Headquarters.

At this meeting we were surprised that several members had not received or heard of the Divisional Instruction "Special Handling Units — Procedures and Program" issued by the Canadian Penitentiary Service on February 23, 1978.

Another chapter on Special Handling Units describes transfers of inmates March 1, 1978, from British Columbia to Millhaven. Administrators admitted that if both regions had been aware of the new Divisional Instruction issued some five days earlier, these transfers probably would not have been made.

Further inquiries determined that interim Directives and Instructions are issued by various branches of the Service on a priority basis. These are apparently disseminated by the originating branch and not on a regular distribution basis by Directives Management. Not all of the offices receive copies of interim Directives or Instructions and therefore are not cognizant of the latest changes.

At the present time it is my understanding that work is being done with respect to reviewing and upgrading Commissioner's Directives and Divisional Instructions and the new Directives Index is a start to eliminating some of the confusion. However, I would suggest that this work proceed as quickly as possible.

Special Handling Units

Special Handling Units, established in the period covered by this report, have experienced events that gained national attention. Examination of the short history of these units identifies their potential for trouble, from both the concept and management standpoint. A review of the subject and a chronicle of what transpired facilitates an understanding.

The present official documentation describing these special handling units says they are to deal exclusively with inmates identified as particularly dangerous.

The concept appears to have begun as a result of a report of The Study Group on Dissociation, [2] published under the authority of the Solicitor General of Canada on December 24, 1975. This study group apparently was established as a result of a recommendation the Correctional Investigator made in the 1973-74 Annual Report that a special study be done on the use of dissociation in Canadian penitentiaries to determine its use as: a punishment; an efficient means of providing protection to certain inmates; and whether inmates could be detained in small, adequately secure structures outside the main institutions.

The resulting report, sometimes referred to as the Vantour Report, acknowledged a need for long-term segregation facilities to confine dangerous inmates, but identified a requirement for appropriate facilities and review procedures and programmes that would control the length of stay.

The report also stated in part:

> "an offender in the community should not be labelled dangerous until it has been established that because of his behaviour he represents a threat to the people around him. Similarly, no inmate in a maximum security institution should be considered dangerous **within that setting** until it has been established that he represents a threat to institutional staff and other inmates or is an escape risk even in maximum security."

One of the Study Group's 57 recommendations was that:

> "one new maximum security institution **per region** should be used in part for the custody and treatment of inmates who may require long-term segregation".

The same report made recommendations concerning re-integration, staffing and the general conditions of segregation units and described facilities for exercise, food preparation, library services, correspondence, visiting privileges, canteen and hobby.

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[2] Vantour, James A. Chairman, "Report of the Study Group on Dissociation", December 24, 1975.

Recommendation No. 20 of that report stated:

> "transfer to a long-term segregation unit shall be used only in the event that all other measures have failed and not as a means of solving day-to-day problems of institutional management".

Also described in the report was the controversy over the abolition of capital punishment and the danger of arbitrarily treating persons whose death sentences had been commuted as a group rather than as individuals.

The 1976-77 Correctional Investigator's report refers to the transfer to Millhaven Institution of inmates whose death sentences had been commuted. Those who grieved were advised that they had been segregated as "a matter of policy". These inmates were segregated under section 2.30 (1) (a) of the Regulations made under the Penitentiary Act, "for the maintenance of the good order and discipline of the institution."

The establishment of the first special handling unit in Millhaven was, in part, precipitated by the abolition of the death penalty. As a result of pressures by staff, a commitment was made to keep the ex-death row inmates segregated. At that time there was no provision for the segregation of other inmates, but some were later classified as dangerous and admitted. Now both groups are housed in either the unit at Millhaven in Ontario or the Correctional Development Centre in Laval, Quebec.

In the report to Parliament by the Sub-Committee on the Penitentiary System in Canada[3] tabled in the House of Commons June 7, 1977, the members dealt with the question of special handling units.

Recommendation 56 stated:

> "for individuals who have persistently resisted discipline, work and socialization, a limited number of special correctional units should exist. These institutions should have all the programs and services of other maximum institutions, including the therapeutic community."

At this time Millhaven had the only special handling unit.

Under P.S.R. section 2.30(1) (a) the total authority to dissociate and to release rests with the Director of the institution. At least once each month the Classification Board must review the case of each inmate dissociated and recommend to the institutional head whether the inmate should be returned to association with other inmates.

In November, 1976, the Commissioner of Penitentiaries authorized the automatic assignment to this special unit of all persons convicted of murdering peace officers and inmates involved in hostage-taking incidents.

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[3] MacGuigan, Mark. "Report to Parliament by the Sub-Committee on the Penitentiary System in Canada", 1977.

Until 1977, most of the inmates in these units had these backgrounds. Their complaints covered:

1. their assignment to the unit
2. the conditions
3. rubber-stamping by the 30-day institutional review board as required by law, leaving them no hope of ever getting out.

Our investigation found that certain administrators felt that some inmates were unjustly housed in the special unit. From the start, the administration ruled that the inmates who had their death sentences commuted should be immediately assigned to maximum institutions.

Our investigations found that most of the complaints about conditions in the special handling units were justified. Some of the problems described in previous Correctional Investigator reports were being perpetuated and compounded by additional security measures. Administrative difficulties plagued Millhaven. We encountered several cases where improvements, agreed to by the Director, had not reached the special handling unit or had mysteriously disappeared.

No one could argue the need for tight security, but even the most elementary options to virtually 24-hour lock-up were thwarted by the reluctance of certain staff to accept any change or improvement.

At times we found our frustration shared not only by the inmates, but by certain senior staff. Some feed-back from staff expressed reservations about the whole concept of special handling units. Serious reservations were held by administrators about removing inmates from one maximum institution and sending them, sometimes thousands of miles, to the special handling unit.

I, too, have a serious concern about the whole concept of special handling units and the lumping together of what the system describes as dangerous inmates. Some of them are dangerous but every maximum facility in this country is equipped to house and control this type of inmate. In support of this, experienced personnel have told me that each maximum security institution should continue to handle its own responsibilities.

From the outset, this concept has not conformed to the recommendations of either the Report of the Study Group on Dissociation or the Parliamentary Sub-Committee Report. Recommendations described earlier in this chapter relating to conditions support this statement.

At the beginning, Quebec inmates were transferred to Millhaven and as a result francophones were locked into an English-speaking milieu. Later, inmates came from as far away as British Columbia.

Initially, the Penitentiary Service planned to open special handling units in British Columbia and Saskatchewan in addition to Quebec and Ontario. However, in the fall of 1977, it was decided to scrap the proposed British Columbia and Saskatchewan units because population forecasts indicated that Millhaven and the Correctional Development Centre would have more than enough space and that the two facilities would be sufficient.

This, too contradicts the recommendation of the Vantour Report that regional special handling units be established.

In 1977, most of those in special handling units were inmates whose death sentences had been commuted. The Director had no authority to release any of these inmates, although there were several whom the institution wanted to release.

On November 8, 1977, we wrote to the Commissioner of Corrections recommending that as long as the special handling unit cases are processed under P.S.R. section 2.30(1) (a), authority for dissociation should be returned to the institutional director. It was our view that, despite other statutory authorities granted the Commissioner, the institutional head should have the power to dissociate and associate. We felt that the "rubber stamping" by the institutional review board without authority to release was not conforming to the intent of the statute.

The Commissioner agreed and a Commissioner's Directive on "Special Handling Units" was issued November 29, 1977.

This directive established the institutional and regional review procedures for special handling units. It provided that inmates be processed as transfer cases and not locked up for the good order of the institution. These changes may have seemed like an exercise in semantics but to the inmates, staff and my office they at last set out positive admission and review guidelines.

The new directive required that every case involving a special handling unit inmate be reviewed at least every 30 days by the institutional review board and that the final decision for any release rested with the regional authority. The Board only sits twice a year, but provision was made for the institutions to forward individual case recommendations for release at any time.

In 1977, because of the accelerated use of the Millhaven special handling unit, our office acted to have a representative attend the semi-annual regional transfer board meetings.

On February 20, 1978, I wrote to the Commissioner of Corrections voicing concern about the inconsistent application of the criteria for special handling unit inmates and that the criteria was, in some cases, not understood. An example of our concern involved several inmates transferred from Quebec. Although all appeared to have a potential to be dangerous, most of them were from the population at Archambault Institution and some had been earning the higher grades of inmate pay.

I was further concerned about the transfer to the Millhaven unit of a 19-year-old-first offender from Collins Bay medium security institution for what I felt were questionable reasons.

I recommended that more definite guidelines be established to identify dangerous inmates, or alternatively, that there be national input into the classification process to ensure consistency of application.

The Commissioner replied March 1, 1978, enclosing a further instruction issued February 23, 1978. This instruction set down procedures for transferring inmates into and out of special handling units, described monitoring procedures to be followed at national headquarters and outlined the program to be implemented at special handling units.

The Commissioner's reply was not definitive in relation to our query about the inmates transferred from Quebec. He said another unit was soon to be opened at the Correctional Development Centre, Laval, and the francophone inmates would go from Millhaven to Quebec, solving the language problem. At the time these inmates were moved to Ontario, a precise criteria for special handling unit inmates had not been formulated. When the Quebec unit was ready, the inmates were transferred. My representative attended the first semi-annual regional review in Quebec in May, 1978 and found that some of these were transferred immediately to population.

Despite new instructions in February, 1978, and assurances from the Commissioner of Corrections, further problems occurred with the application of the special handling unit criteria. Two inmates complained about being moved from British Columbia to Millhaven on March 1, 1978. We examined the inmates' files and on April 5, 1978 I wrote to the Commissioner of Corrections that there was minimal information available to explain why these transfers had occurred. One inmate still had an appeal in process in British Columbia and the other had been in the general population, apparently working satisfactorily in the mason's shop at the maximum rate of inmate pay.

In this letter to the Commissioner I advised in part:

> "these two complaints have reopened the matters brought forward in my last letter to you and now reinforce our previous concern about the overall application of the criteria of what constitutes a special handling unit inmate. . . . My information leads me to believe that urgent priority be given to the immediate examination of the files of all special handling unit inmates at the national level."

I further stated:

> "I am prepared to recommend that consideration be given to establishing a team of qualified persons to examine the background of each inmate individually as soon as possible."

The Commissioner had no time to reply to my recommendation before the end of the reporting year, although correspondence questioning the matter moved between British Columbia and headquarters. We did receive unofficial information that an outside team went to Millhaven and scrutinized special handling unit cases.

On April 27, 1978, two representatives from our office were observers at the second semi-annual review meetings at Kingston. In May, 1978, the two inmates who were the subject of comment in my April 5 letter were returned to British Columbia.

Inmates from other regions, including the prairies and the maritimes, have been moved to these special handling units. Some are thousands of miles away from their homes. I have mentioned one case, but there are others where inmates are transferred while outside charges are pending, thereby reducing access to legal counsel.

One of the more serious consequences of the special handling units is the lack of visits. Even the most violent and dangerous inmate may have a wife, girl friend or bona fide visitor, and moving them thousands of miles away from these people is inhumane.

As previously mentioned, I agree with many of the correctional personnel that these units should not exist, and that each maximum security institution should look after its own

problems. However if it is the policy of the Canadian Penitentiary Service to continue to retain special handling units, then to ease the hardship of moving an inmate from the proximity of potential visitors, I suggest that immediate consideration be given to the establishment of special handling units in each of the regions of the Canadian Penitentiary Service.

Implementation of the two existing special handling units has included a lot of construction, but most of it is to beef up security. Little has been done either physically or sociologically to implement the recommendations of either the Study Group on Dissociation or the report of the Parliamentary Sub-Committee. Efforts to ease the repressiveness have been minimal and security continues to tighten with little introduction of programmes to assist inmates to re-integrate into society or into the regular prison population.

No matter what society may think of some of these offenders, common humanity dictates that these individuals cannot be just warehoused.

We have put together a file on each inmate in the units, both in Millhaven and Correctional Development Centre, whether they write to us or not. It is our office policy to monitor each individual case with the various review boards.

I wrote to the Commissioner of Corrections on May 23, 1978. The letter stated:

> "I personally do not have the expertise to conclude whether the establishment of these units is actually in the best interests of the inmates and the Canadian public despite the recommendations of the report of the Study Group on Dissociation as well as the Report to Parliament by the sub-committee on the Penitentiary System in Canada. All these recommendations however endorse that meaningful facilities be provided. I am aware that some plans have been made to construct and implement these facilities. My predecessor has described her reservations about these delays in implementing the construction in her annual report of 1976-77. At this time I would like to go on record as voicing grave concern about the delays in both implementing programmes and construction of physical facilities in the existing Special Handling Units."

As a result of my concerns I recommend:

> **(1) That immediate action be taken by the Canadian Penitentiary Service to implement suitable programs and activities for inmates in dissociation areas and that priority be given to implementation of such programs for inmates in Special Handling Units.**

Parole

From its inception, this office has had a curious history concerning matters relating to parole. The first report of the Correctional Investigator included the following:

> "that the Parole Act gives sole and absolute jurisdiction in the matter of granting, refusing and revoking parole to the National Parole Board and no inquiries were made into such decisions."

It described some contact with the Chairman of the National Parole Board to supply statistical information and noted inmates were advised to contact the Parole Service or the Chairman of the National Parole Board about parole complaints.

The second annual report said that late in 1974 the Correctional Investigator was asked by the Chairman of the National Parole Board to refer:

> "complaints alleging unfairness in administrative actions of the National Parole Service that in our view merited investigation."

The mandate of the first Correctional Investigator "Appendix A" could be interpreted to give us the right to hear some parole complaints. I refer to complaints that stemmed from administrative acts of the National Parole Service that resulted in re-incarceration of inmates.

The changes in legislation that gave the Commissioner of Corrections control of the Parole Service would have provided our office with authority to hear parole complaints other than decisions by the National Parole Board. But an amendment excluding jurisdiction was introduced in the Order in Council appointing Mr. Brian McNally interim Correctional Investigator.

The amendment which became part of my mandate states:

> "...to investigate, on his own initiative, on request from the Solicitor General of Canada, or on complaint from or on behalf of inmates ... other than problems concerning any subject matters or conditions falling under the responsibility of the Solicitor General that extend to and encompass the preparation of material for consideration of the National Parole Board."

Bill C-51, passed March 1, 1978, amended the Parole and Penitentiary Acts to give exclusive jurisdiction and absolute discretion to the Parole Board to grant or refuse to grant parole or a temporary absence without escort.

It could be argued that as of March 1, 1978, any inmate complaint that involved temporary absences without escort would not be within our jurisdiction. I do not think that this was the intent of the legislators and to date we have encountered no resistance, nor do we expect any, to our continued involvement in temporary absence complaints.

With the introduction by the government of Bill C-43 "An Act Respecting the Office of the Ombudsman and Matters Related or Incidental Thereto", it appears that it is just a matter of time before the National Parole Board is included in the Ombudsman's jurisdiction.

At present, our policy is to refer most parole complaints to the Chairman of the National Parole Board. This policy was introduced at the request of the Chairman, who recognized that we would encounter parole complaints through our exposure in the field.

We felt, however, that we still had the responsibility to make some inquiries to determine whether there was some validity to the complaint before referring it to the Chairman.

In dealing with parole complaints we were often flying by the seat of our pants as evidenced by one rather humorous incident where we had a complaint about a lifer's

change in eligibility date because of an escape conviction. We inquired concerning the policy of setting parole eligibility dates but the administrator of the western parole office was not familiar with our office and declined to comment. As a result of our request, the Parole Board Chairman's office called west to explain. This precipitated an "over-reaction" of embarrassment from the west. We both apologized and since that time they, as have other Parole Board staff, made every effort to be cooperative. This incident, however, illustrates why the present arrangement with the Board is far from perfect.

Extending the mandate of the Correctional Investigator to cover complaints leading up to decisions by the Parole Board would require additions to our small field staff.

However, I feel that the continuing non-involvement of the Correctional Investigator in most of the complaints leading up to decisions by the Parole Board could tend to undermine the credibility of this office.

Dissociation

Much has been said about solitary confinement, or officially, "dissociation". The first Correctional Investigator wrote exhaustively about the conditions and one of her recommendations brought about the Vantour Study Group[4].

Essentially dissociation applied to three types of inmates:

1. Those separated for the good order of the institution;
2. Those convicted of a serious internal disciplinary offence referred to as punitive dissociation; and,
3. Those requiring protection.

Although there are still existing problems relating to 2 and 3, my remarks are directed to the first category, which includes a large percentage of inmates who are suspected or have a history of being trouble makers.

Inmates have confided that sometimes it is desirable to segregate some from the main population for the good order of the institution. This has been suggested by inmates who have been locked up under the authority described who want to quietly put in their time away from the pressures sometimes exerted by a minority hard core element. Some inmates locked up for "the good order" opt for this type of dissociation because they fear for their lives, but do not want to be branded as protection cases.

In most cases, the inmates segregated for "the good order" are housed within the maximum security institutions.

It is difficult to find the words to sufficiently dramatize the miserable conditions that exist for many of the inmates detained under "good order" authority. Explicit accounts have been published in previous reports from this office, but I really wonder what it is going to take to impress upon the Canadian public and the Canadian Penitentiary Service that something must be done to improve the situation.

[4] Vantour, James A. "Report of the Study Group on Dissociation." Solicitor General Canada. December 24, 1975.

The conditions vary widely, from the filthy facilities at Laval to the almost total monotony of the Super Maximum Security Unit, known as the "penthouse", in the British Columbia Penitentiary.

Saskatchewan Penitentiary is probably the most progressive with at least an element of cleanliness and a reintegration programme that phases inmates back into the main population.

The regulations pursuant to the Penitentiary Act state **inter alia** that:

> "an inmate who has been dissociated is **not considered under punishment unless he has been sentenced** as such and he shall not be deprived of any of his privileges and amenities by reason thereof expect those privileges and amenities that:
> (a) can only be enjoyed in association with other inmates or
> (b) **cannot be reasonably granted having regard to the limitations of the dissociation area and the necessity for the effective operation thereof."**

The "good order" inmate is not under sentence but in virtually all the maximum institutions he suffers a severe restriction of privileges that are enjoyed by regular inmates.

Segregated inmates under this authority constantly complain about curtailment of privileges, but the legislation provides discretion for the prison administration.

The catch-all is the following:

> "cannot be reasonably granted having regard to the limitations of the dissociation area and the necessity for the effective operations thereof."

Some prison administrators use this authority often to back up the two most-used excuses for limiting the privileges in these units:

1. Overcrowding in the segregation units dictates a limit on privileges because of the requirements of the higher proportion of regular population inmates. This includes availability of staff.

2. If it is made too comfortable in there, the regular population inmates will have less reservations about the threat of being locked up and the ones in there will make less of an effort to get out, thereby limiting the effective operation of the institution.

The outsider may see these as reasonable responses and it can be argued that if an inmate misbehaves he must accept the consequences. Unfortunately there is not enough difference between the inmate who is dissociated, but not under punishment, and the one who is in punitive dissociation.

Prison administrators have a number of options to control misbehaviour. If an inmate misbehaves, the administration can lay charges and on a finding of guilt punishment may be assessed. The law does give the authorities the sometimes easier alternative of just locking up an individual on suspicion and this is done under section 2.30(1) (a) of the Regulations. I stress that each institution has its own individual style of administering what is commonly known as administrative segregation.

My criticism is levelled at the conditions that spawn boredom among these inmates. This eventually brings about emotional reactions that can swing all the way from utter apathy to extreme violence. The administrators could well have acted properly and locked up someone "for the good order of the institution" but there is absolutely no excuse for the almost complete warehousing of that individual, who is then allowed a minimum of, or sometimes no, exercise plus the severe limitation of other basic amenities.

For inmates, daily exercise is not a right. Any unusual interruption in the institution's activities, even a staff training session, can bring about cancellation of exercise and result in lock-up for 24 hours.

A lot of the inhumanity of these conditions could be minimized if the inmates were given something to do, over and above sewing a token piece of petit point.

Constructive work and training programmes should be immediately implemented. If any inmate refuses to work or become involved, then that constitutes a separate problem to be handled under a different process; if an inmate is illiterate, then obviously it is absurd to offer a correspondence course as was the case at one institution. There should be an educational program geared to inmate needs.

Our decision to attend, where possible, the monthly segregation review boards at the maximum security institutions appears to have yielded results. We have observed administrators being more thorough in their deliberations and more conscientious with the monthly review process.

While most of the standards of conditions and methods of operation in these segregation units are inadequate, it is not my intention to make a case for either soft treatment or sumptuous conditions. I am trying to make a case for some type of programme where these inmates could be kept occupied.

For years, the federal penitentiary system, in a factory-like fashion, has been turning some of these inmates into either apathetic robots or dangerous subversives. It can be argued that some of these inmates were that way when they arrived at the institution. This is no reason to compound the problem. Most of these prisoners, sooner or later, will be returned to society and then everyone has to accept the consequences.

The first recommendation of the Study Group on Dissociation suggested:

> "the Canadian Penitentiary Service should engage in scientific experiments to determine if inmates in various conditions of dissociation do experience sensory deprivation."

The study group was referring to the three different types of dissociation and not just the group that I have been commenting upon. However, in my viewpoint it is imperative that the authorities take steps to implement this recommendation of Professor Vantour and his associates.

In concluding this chapter I would recommend:

(2) That action be taken upon the recommendation of the Study Group on Dissociation that called for experiments to determine whether inmates in various conditions of dissociation experience sensory deprivation.

The Disciplinary Process

The establishment of Independent Chairpersons at hearings into flagrant and serious disciplinary cases at maximum security institutions, as ordered by the Solicitor General at the end of 1977, marked a significant improvement in the disciplinary process. It is hoped that medium security institutions will be included in this policy in the future.

However, there still is no standard policy of recording these hearings and preserving the transcripts for a minimum period of six months, as recommended in the 1973-1974 Annual Report of the Correctional Investigator. This is a serious matter since conviction under the Penitentiary Service Regulations can involve forfeiture of remission. Some administrators, aware of such consequences, do use recording equipment. But hearings still occur where no record of any kind is kept.

We investigated one case in which an inmate complained about the circumstances which brought about a conviction and a sentence of 15 days punitive dissociation under the Penitentiary Service Regulations. The "Inmate Offence Report and Notification of Charge" sheet, which should detail the allegations, charges and procedures, contained only the remarks of the sentencing officer:

> "Evidence that accused was trying to protect . . . and keep him from being locked up. Accused has been very helpful person in controlling . . .'s temper. Has a good clean record and all indications are that he is a good inmate, has perfect record 3 years."

The accused was found guilty and locked up in the "hole." Other evidence may have justified the finding of guilt but there was no available documentation.

I can only reiterate the recommendation of my predecessor that a **tape recording be made of all hearings of charges of serious or flagrant offences.** If there is no documentation for us to examine, our role is meaningless short of the impossible task of personally attending every disciplinary hearing.

During the year, it was one of our priorities to examine the offence report convictions from a random selection of institutional files on inmates. We found two troubling propensities. Some administrators still tend to "stack" charges; that is, a variety of charges related to a single offence. Secondly, there are still cases where the sentences do not conform with statute. An example is the sentence of "indefinite dissociation," which is an administrative act and not part of the punitive process.

It should be noted that the Correctional Investigator and his staff cannot act as advocates when attending disciplinary hearings, or in scrutinizing disciplinary files. Nevertheless, our involvement has a salutary effect on the disciplinary process.

We attended one case where the inmate was handcuffed with his hands behind his back for the duration of a one-hour hearing, even though he was not under sentence at the time. Handcuffing had been introduced after another inmate had attempted to attack staff personnel during a hearing. After discussions with the Director, it was agreed that means of restraint could be found which would protect staff, yet allow the accused to smoke and take notes.

Processing of Claims and Inmate Effects

Every year, this office receives a multitude of complaints from inmates concerning personal effects that have gone astray, or allegedly gone astray. This may occur when cells are searched for contraband; when inmates are shaken down on a security check; when inmates are relieved of items before being placed in the "hole;" or when a surprise transfer for security reasons takes place and staff pack an inmate's effects for shipment.

The role of the Correctional Investigator in such cases is limited. We can only advise the inmate to write the Commissioner of Corrections and make a claim. We are constrained to explain that the claim may take many months to process. Thereafter, we examine the file from time to time to determine whether the authorities have conducted a proper investigation. The complainant rarely has the means to institute legal action and even if he did, the loss may not warrant the costs involved.

The main problem in this area is that the processing of inmate claims is laborious and excessively slow. Time and again, we observe files which indicate breakdowns in communications, unnecessary delay and just plain incompetence. We have examined cases involving unanswered correspondence, lost files and investigations shelved for no apparent reason. Ironically, a great many of the claims would have been unnecessary with better book-keeping and better controls within the institutions. The loss of money, represented by countless hours trying to unravel some of these claims, boggles the mind.

Some institutions still have inmates working in areas where the property of other inmates is left unguarded. Inventories of inmate property are sometimes totally inadequate. Problems also occur with a lack of care in searching inmates and in packing or storing and shipping inmates' effects. Certain clerks have admitted to us that, with the lack of controls, they could steal the inmates blind.

A Commissioner's Directive, issued in 1976 under the title "Inmate Personal Property," is still in force. The directive, which is available to inmates, regulates the nature, quantity, value, disposition and responsibility for safekeeping of inmates' personal property. A four-page list accompanies the directive, outlining what inmates may or may not have in their possession. The allowances vary, depending on the degree of security.

The enforcement of this directive varies with the whim of institutional staff, since each region has the authority to adjust the directive. For example, in one region, maximum security institutions look the other way when inmates wear ear studs. At the same time, the Director of a medium security institution in the same area disallows this practice — precipitating complaints by inmates transferred from one location to the other.

It is not clear to us whether the Commissioner's Directives and Divisional Instructions covering inmate property are adequate or whether the institutions are lax in applying the requirements. In our opinion however the problems related to inmate effects is acute and it is therefore recommended:

(3) That the Canadian Penitentiary Service devise and implement more efficient administrative procedures for:

(i) itemizing and storage of inmate property;

(ii) seizures relating to cell and body searches;

(iii) collecting and shipping inmate property on transfer.

(4) That a system be devised to deal quickly and efficiently with inmate property claims.

Forfeiture

The Correctional Investigator's Office has always been critical of the Canadian Penitentiary Service practice of forfeiting property seized from inmates to the Receiver General of Canada. It was recommended in the 1973-74 Annual Report of the Correctional Investigator 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."

Most of the complaints we receive involve money. There are a variety of circumstances that give inmates access to funds. Money may have been issued for a temporary absence pass or other lawful reason and presumed to have been spent; it may be smuggled into an institution or, in some of the less secure institutions, allowed to be in the possession of the inmates despite the absence of administrative authority to do this.

On October 15, 1977, the Penitentiary Act was amended to provide authority to forfeit contraband to Her Majesty in right of Canada. Provisions were also introduced to cancel, in whole or in part, any forfeiture which would cause undue hardship to an inmate. Forfeiture could occur after conviction of possession of contraband in a disciplinary court.

Case No. 2183, reported on page 12 of the Correctional Investigator's 1976-77 Annual Report, involved an inmate who was illiterate and elderly. The forfeiture occurred before authority was established in law to forfeit to the Crown and our submission to the Commissioner of Corrections got the money returned to the inmate's trust fund.

It could be argued that the decision in this case opened the flood gates for the return of all contraband seized before October 15, 1977. However, it appears that the Service will only deal with such requests on a merit basis.

Medical

During the year we experienced some interesting developments in the medical area.

We started the year with a complaint and some difficulties in obtaining reports from the inmate's institutional medical file. Until then, although our requests had been minimal, we had not encountered any difficulties in obtaining medical documents, although doctors and their staffs were properly mindful of their responsibilities to preserve the privacy of their patient's health records.

The Correctional Investigator has full access to inmates and penitentiaries as authorized in directive No. 240, issued by the Commissioner of Penitentiaries and contained in Appendix "C". This Directive says in part:

> "... the Correctional Investigator and the Inquiries Officers shall be provided with all the information that they request that pertains to any investigation; this includes the provision of copies of documents for retention as required."

There had been some suggestions expressed that this directive did not cover medical reports. This was possibly correct and, as a result, it was agreed that copies of medical reports could be supplied with the consent of the inmate. I emphasize that we were relieved that a definitive policy was established for obtaining reports.

Our role in dealing with medical complaints has always been difficult. A great percentage of the complaints we receive relate to lack of medications or to a doctor's diagnosis and treatment. Obviously we do not have the medical expertise to make judgments in this area. It would not, however, be practical to have a doctor on staff because often opinions differ, physician to physician.

We can sometimes be of assistance where inmates, particularly in maximum security institutions, complain of difficulty in getting access to medical attention. We have often encountered complaints from the inmates who feel they should be allowed a second opinion, especially as most of the physicians who practice within penitentiaries are general practitioners.

This problem was described in Recommendation 13 of last year's Correctional Investigator Report. It stated:

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

This recommendation has now been accepted and will be included in the Medical Policy Manual of the Canadian Penitentiary Service.

Twice in this reporting year we have sought the opinion of outside medical experts. One case involved the delay and eventual diagnosis of testicle torsion. It had been alleged that the inmate's testicle had to be removed because of the treatment he had received. The other case involved a delay in the diagnosis of a heart attack and later a dispute over the diet ordered as treatment.

At the close of the reporting year the last case was still under investigation. In the first case it could not be established whether there had been malpractice.

To date, the amount of available information has made it unnecessary for our medical consultants to actually visit the institutions in question. However, there may be occasions when existing medical reports and accounts taken by our staff and other persons will not be enough for outside consultants to make a satisfactory diagnosis. I hope if an on-site investigation is necessary in the future we will receive the cooperation from the medical staff that we have in the past.

Although we receive complaints about the lack of proficiency of some of the institutional physicians and their staffs, there would appear to be an improvement in the general quality of the medical care inmates receive. There is also a trend towards improved hiring and training in this field.

Procedures relative to Commissioner's Directive No. 240 "The Federal Correctional Investigator" and Commissioner's Directive No. 241 "Inmate Grievances"

The appointment and terms of reference of the Correctional Investigator are described in the first chapter of this report. At the time of the appointment Commissioner's Directive No. 240 was issued.

Shortly after our office was established an internal penitentiary grievance procedure for inmates was put into place. Commissioner's Directive No. 241 Appendix "D" describes the procedure for inmates to have their complaints examined internally. This procedure allows for referral, if necessary, to obtain satisfaction, right to the level of the Commissioner of Corrections.

Commissioner's Directive No. 240 Appendix "C" describes the terms of reference of the Correctional Investigator. It states that:

> "the Correctional Investigator will not investigate problems or complaints where the person complaining has not, in the Correctional Investigator's opinion, taken all reasonable steps to exhaust available legal or administrative remedies."

As previously pointed out, these provisions and arrangements were established so that this office would be used only as a last resort. Most complaints should be first heard within the penitentiary system. Besides, without some type of formal system for handling complaints within the institutions, the Correctional Investigator's staff would have to be much larger to cope with the work load.

Unfortunately, however, the present internal grievance procedure does not hold a great deal of credibility with the inmates. The procedure does have weaknesses as replies are delayed, no additional staff is engaged to handle grievances which caused resentment among some administrators, and frequently the staff member who precipitated the complaint inherited the responsibility of composing a reply for the signature of the Director.

Forwarding a grievance to the regional or national levels can perpetuate the problem as administrators again contact the staff person originally involved in the complaint, rather than utilizing uninvolved personnel, who could be more objective.

Most of the complaints should be resolved at the institutional level. Exceptions would be those complaints concerning regional policy or problems, such as transfers involving another institution or region. Inmates continue to complain about the delays – it can take up to three months – to have their grievances processed.

Unfortunately, at all levels, there has been a lack of properly trained personnel available to conduct investigations and determine the veracity of complaints.

The Parliamentary Sub-Committee on the Penitentiary System in Canada, in its report tabled in the House of Commons, June 7, 1977, made several recommendations. No. 36 suggested that:

> "The grievances of individual inmates in each institution must be dealt with by a committee composed of equal numbers (two and two) of staff and inmates. This

committee should be chaired by a member of the administration staff who should vote in the case of a tie. Where their decision is not in his favour the inmate should be entitled to appeal to an outside mediator who would advise the Director. The decision of the Director shall be final, except in instances where the grievance involves general policy over which the Director does not have jurisdiction, in which case the matter should be referred to the Commissioner of Penitentiaries."

The Solicitor General, impressed with this recommendation, directed that a pilot project be started at the Saskatchewan Penitentiary. The project began January 16, 1978, and was still in operation at the close of our reporting year. This experiment, involving inmates and staff, provides for informal, first-level hearings to determine the facts and attempt to resolve the problem. The inmates can also seek the opinion of an outside mediator who can make non-binding recommendations.

Part of the present pilot project involves the creation of a Grievance Coordinator. The institution appointed a senior custodial officer to perform this function. One of the responsibilities of this full-time position was immediate investigation of inmate complaints in an effort to bring about a rapid informal solution.

Some inmates themselves have expressed reservations to us about their involvement in an internal grievance procedure. They were concerned about the possibility of unwelcome internal pressures being applied by various institutional hierarchies.

Obviously, some grievances, such as those relating to security or personal and confidential data, cannot involve inmates as adjudicators. Yet if inmates are excluded in part, can the over-all concept win credibility?

While it appears to be a positive step in the right direction, only time will tell. In fairness, however, further comments should be reserved until the project has been concluded and results fully assessed.

We have received complaints this year about what could be termed emergency situations. As a result I met with the Commissioner of Corrections and we agreed that our office should submit a proposal directed at amending Commissioner's Directive No. 240.

This was brought to a head when two recent complaints were received about processing of requests to attend funerals. In both cases there appeared to be some breakdown in communications in the processing. The problems may have been compounded by such factors as personality clashes, staff unavailability and misunderstandings. But the problems did occur and there are situations other than funerals that could be included in the "emergency situation" category. I realize that problems could arise should a complaint be made that is not within our mandate. However, in communicating with the Commissioner of Corrections on the matter I have indicated that it is not my intention nor do I have the authority to act as a substitution of judgment but that it would be my hope that with some of the problems my office could be of assistance to both the inmates and the staff. It is vital that we make it clear to all concerned that our office has neither the authority nor the slightest intention of subverting the role of the administrator. We hope to be able to facilitate, in some way, the lines of communication.

Statistics

TABLE A
Caterory of complaints

Transfer	176
Medical	67
Miscellaneous	66
Sentence administration	65
Temporary absence	54
Visits and correspondence	50
Compensation (injuries and property)	43
Discipline	40
Dissociation	39
Conditions	27
Privileges	20
Remission	16
Diet/food	13
Financial matter	13
Harassment	11
Information on file	11
Request for information, advice or assistance	11
Work placement	10
Grievance procedure	10
Staff	8
Cell/range change	7
Use of force	7
Hobbycraft	6
Clothing	5
Grading	4
Discrimination	4
Outside Terms of Reference	
Parole	61
Provincial matter	44
Other	26
Court procedures	7
Court decisions	4
	925

TABLE B
Action taken on complaints

ACTION		NUMBER
Pending		52
Declined	a) Not within mandate	127
	b) Premature	283
	c) Not justified	252
Discontinued		50[1]
Assistance, advice or referral given		90[2]
No immediate action required		2
Resolved or rectified		50
Unable to assist		19
		925

Action taken on complaints pending end of fourth year

ACTION		NUMBER
Pending		3
Declined	a) Not within mandate	1
	b) Premature	29
	c) Not justified	33
Discontinued		13
Resolved or rectified		14
Assistance, advice or referral given		15
Unable to assist		1
		109

[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 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 end of fourth year			109
Complaints received during fifth year		925	
Less complaints not investigated			
a) outside mandate	127		
b) premature	283		
c) pending	52	462	463
Total complaints actually handled during fifth year			572
Complaints resolved or rectified during fifth year			
a) of those pending at end of fourth year	14		
b) fifth year	50		
	64		
Percentage rectification of total complaints actually investigated			11.18%

TABLE D

Resolution or rectification by type of complaint

TYPE	FIFTH YEAR	(Pending) FOURTH YEAR
Transfer	6	1
Discipline	6	2
Miscellaneous	5	0
Sentence administration	4	2
Information on file	4	0
Hobbycraft	3	0
Medical	3	2
Visits and correspondence	3	0
Compensation (injuries and property)	3	3
Financial matter (inmates')	3	2
Grievance procedure	3	1
Temporary absence	2	0
Dissociation	2	0
Parole	1	0
Work placement	1	0
Other	1	0
Provincial matter	0	1
	50	14

TABLE E

Complainants by region and institutional classification

INMATE POPULATION BY CLASSIFICATION AT 31 MAY, 1978	WESTERN REGION 1436				PRAIRIES REGION 1829				ONTARIO REGION 2304				QUEBEC REGION 3212				MARITIME REGION 892			
	Max 440	Med 768	Min 228	Other	Max 536	Med 973	Min 320	Other	Max 806	Med 1190	Min 308	Other	Max 1319	Med 1439	Min 454	Other	Max 373	Med 396	Min 133	Other
TOTAL NUMBER OF COMPLAINANTS																				
1977																				
June	2	5			6	9		1	8	7	1	2	4	3	1		5	2		
July	6	5			11	4		1	5	6		1	7	7		1	2			
August	9	11	9		10	5			11	11	2	5	10	5		1	15			
September	4	2	1		3	6			6	6	2	2	7	6			1	1		
October		3		1	2	8			13	4	1	2	6	4		1	2			
November		6			6	7			17	3	1	4	6	5			1	4		1
December	7	4			5	5			6	4		7	5	2						
1978																				
January	2	1			2	7			7	4	1	2	13	3	1	2	2	2		
February	2	2		1	6	5			5	3	3	2	6	6						
March		1			4	1			6	3	1	8	7	5	2	1	5	1		
April		1		1	4	1		1	3	4		2	7	2			2			1
May	2	3		1	4	7		1	6	7	4	7	10	4	2		5	1		
TOTAL COMPLAINANTS REGION	34	44	10	4	63	65		4	93	62	16	44	88	52	6	6	40	11		2

TOTAL 644

TABLE F

Complainants
– Monthly by institution

	AGASSIZ	BRITISH COLUMBIA	ELBOW LAKE	FERNDALE	MATSQUI	MISSION	MOUNTAIN	REGIONAL PSYCHIATRIC CENTRE	WILLIAM HEAD	OTHER	BOWDEN	DRUMHELLER	SASKATCHEWAN	STONY MOUNTAIN	OTHER	BATH	BEAVER CREEK	COLLINS BAY
INSTITUTION POPULATION AT 31 MAY, 1978	65	329	31	51	294	150	194	111	130		127	439	536	405		69	43	333
1977																		
June		1			1	1	1	1	2			1	6	8	1			1
July		5			1	1	3	1				2	11	2	1			6
August	8	8		1	8		2	1	1		3	1	10	1		2		3
September		2	1		1		1	2			1		3	5				1
October							1		2	1		5	2	3			1	
November					2		4					2	6	5		1		
December		7			1	1	2					4	5	1				2
1978																		
January		2			1							4	2	3				
February		2					2			1	1	1	6	3			2	
March									1				4	1		1		
April									1	1			4	1	1	2		
May		1					1	1	2	1		4	4	3	1			1
TOTAL COMPLAINANTS	8	28	1	1	15	3	17	6	9	4	5	24	63	36	4	6	3	14

FRONTENAC	JOYCEVILLE	LANDRY CROSSING	MILLHAVEN	PITTSBURG	PORTSMOUTH	PRISON FOR WOMEN	REGIONAL PSYCHIATRIC CENTRE	REGIONAL RECEPTION CENTRE	WARKWORTH	OTHER	ARCHAMBAULT	CORRECTIONAL DEVELOPMENT CENTRE	COWANSVILLE	FEDERAL TRAINING CENTRE	LA MACAZA	LAVAL	LECLERC	MONTÉE ST FRANCOIS	REGIONAL RECEPTION CENTRE	OTHER	DORCHESTER	SPRINGHILL	OTHER	TOTAL
79	442	25	253	68	8	124	107	322	415		410	119	463	453	100	512	523	139	181		354	396		
1	3		6			1		1	3	2						3	3	1	1		5	2		56
			3			1		1		1	3		1	2		3	4		1	1	2			56
	4		7			2		2	4	5	5	1	1	2		4	1			2	15			104
	4		6	1	1				1	2				2		7	3			1	1	1		47
	4		8			2		3		2	1		1	1		5	3				2			47
	3		16					1		4				1		5	2		1	2	1	4	1	61
	1		3					3	1	7				1		5	1							45
	2		2	1			2	3	2	2	3		2			8	3	1	2		2	2		49
	1	1	4					1	2	2	3	1		2		1	2		1	2				41
	2		5					1	1	8			1		2	7	3			2	5	1		45
			2	2				1		2	2	1		1		2	1			2	2	1	1	29
	4		5	4				1	2	7	3					7		2		4	5			64
1	28	1	67	8	1	6	2	18	16	44	20	3	6	12	2	57	26	4	6	16	40	11	2	644

TABLE G
Visits to institutions

INSTITUTION AND CLASSIFICATION		NUMBER OF VISITS
MAXIMUM		
British Columbia		13
Saskatchewan		19
Regional Psychiatric Centre (Western)		5
Regional Psychiatric Centre (Ontario)		4
Regional Reception Centre (Ontario)		8
Regional Reception Centre (Quebec)		3
Correctional Development Centre		10
Dorchester		11
Millhaven		20
Prison for Women		8
Archambault		8
Laval		30
	Total	139
MEDIUM		
Stony Mountain		11
Drumheller		8
William Head		5
Mountain		8
Matsqui		9
Bowden		7
Springhill		7
Warkworth		5
Joyceville		10
Collins Bay		13
Cowansville		5
Federal Training Centre		11
Leclerc		11
Mission		6
	Total	116
MINIMUM		
Pittsburg		2
Beaver Creek		4
Landry Crossing		2
Frontenac		4
Bath		3
Montée St François		1
Ste Anne des Plaines		1
La Macaza		1
Saskatchewan Farm		2
Rockwood		2
Agassiz		3
Ferndale		3
Robson Centre		1
	Total	29
	Grand Total	284

TABLE H
Interviews conducted monthly
– Fifth year

MONTH	NUMBER OF INTERVIEWS
June	19
July	33
August	53
September	27
October	22
November	30
December	29
January	37
February	15
March	40
April	34
May	30
	369

Recommendations

(1) That immediate action be taken by the Canadian Penitentiary Service to implement suitable programs and activities for inmates in dissociation areas and that priority be given to implementation of such programs for inmates in Special Handling Units.

(2) That action be taken upon the recommendation of the Study Group on Dissociation that called for experiments to determine whether inmates in various conditions of dissociation experience sensory deprivation.

(3) That the Canadian Penitentiary Service devise and implement more efficient administrative procedures for:

(i) itemizing and storage of inmate property;

(ii) seizures relating to cell and body searches;

(iii) collecting and shipping inmate property on transfer.

(4) That a system be devised to deal quickly and efficiently with inmate property claims.

Appendix "A"

P.C. 1976—1977

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 29 July, 1976

WHEREAS the Solicitor General of Canada reports that pursuant to Part II of the Inquiries Act and Orders in Council P.C. 1973-1431 of 5th June, 1973 and P.C. 1974-1696 of 25th July, 1974, Miss Inger Hansen of the City of Ottawa, was appointed as a Commissioner, known as the Correctional Investigator, and that the appointments pursuant thereto will terminate on the 31st day of July, 1976.

THEREFORE, the Committee of the Privy Council, on the recommendation of the Solicitor General of Canada, advise that, pursuant to Part II of the Inquiries Act, authority be granted to the Solicitor General of Canada to reappoint Miss Inger Hansen as a Commissioner, known as the Correctional Investigator, with the same duties and powers as have heretofore obtained, that is to say, to investigate on her own initiative or on complaint from or on behalf of inmates as defined in the Penitentiary Act, and report upon problems of inmates that come within the responsibility of the Solicitor General of Canada other than problems raised on complaint

(a) concerning any subject matter or condition that ceased to exist or to be the subject of complaint more than one year before the lodging of the complaint with the Commissioner, or

(b) where the person complaining has not, in the opinion of the Commissioner, taken all reasonable steps to exhaust available legal or administrative remedies,

and the Commissioner need not investigate if

(c) the subject matter of a complaint has previously been investigated, or

(d) in the opinion of the Commissioner, a person complaining has no valid interest in the matter.

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

(1) that the Commissioner be appointed for a period of three years, effective August 1, 1976;

(2) that the Commissioner be paid a salary to be fixed by the Governor in Council;

(3) that the Commissioner be authorized to engage, with the concurrence of the Solicitor General, the services of such experts and other persons as are referred to in section 11 of the Inquiries Act, who shall receive such remuneration and reimbursement as may be approved by the Treasury Board; and

(4) that the Commissioner shall submit an annual report to the Solicitor General regarding problems investigated and action taken.

Assistant Clerk of the Privy Council.

Appendix "B"

P.C. 1977–3209

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

WHEREAS the Solicitor General of Canada reports as follows:

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

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

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

(a) concerning any subject matter or condition that ceased to exist or to be the subject of complaint more than one year before the lodging of the complaint with the Commissioner,

(b) where the person complaining has not, in the opinion of the Commissioner, taken all reasonable steps to exhaust available legal or administrative remedies, or

(c) concerning any subject matters or conditions falling under the responsibility of the Solicitor General of Canada that extend to and encompass the preparation of material for consideration of the National Parole Board,

and the Commissioner need not investigate if

(d) the subject matter of a complaint has previously been investigated, or

(e) in the opinion of the Commissioner, a person complaining has no valid interest in the matter.

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

1. that the Commissioner be appointed at pleasure;

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

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

4. that the Commissioner shall submit an annual report to the Solicitor General of Canada regarding problems investigated and action taken.

Certified to be a true copy

Clerk of the privy council

Appendix "C"

CANADIAN PENITENTIARY SERVICE

March 10, 1976

COMMISSIONER'S DIRECTIVE
No. 240

The Federal Correctional Investigator

1. AUTHORITY

This directive is issued pursuant to subsection 29(3) of the Penitentiary Act.

2. REVOCATION

Commissioner's Directive No. 240, dated 30 August 1973, is hereby revoked.

3. DEFINITIONS

In this directive:

a. "Correctional Investigator" is a Commissioner appointed by the Solicitor General pursuant to Part II of the Inquiries Act whose mandate is to investigate and make recommendations on inmate complaints as a last resort.

b. "Inmate" has the same meaning as that provided in Section 2 of the Penitentiary Act.

c. "Inquiries Officer" is an investigator employed in the office of the Correctional Investigator pursuant to subsection 9(2) of the Inquiries Act.

4. JURISDICTION

a. The Correctional Investigator may investigate and report upon problems of inmates coming within the responsibility of the Solicitor General.

b. These investigations and reports may be undertaken on the basis of:

(1) the Correctional Investigator's own initiative; or

(2) complaints received from or on behalf of an inmate.

c. The Correctional Investigator will not investigate problems or complaints:

(1) concerning any subject matter or condition that ceased to exist or to be the subject of complaint more than one year before the lodging of the complaint with the Correctional Investigator; or

(2) where the person complaining has not, in the Correctional Investigator's opinion, taken all reasonable steps to exhaust available legal or administrative remedies.

d. The Correctional Investigator need not investigate if:

(1) the subject matter of a complaint has previously been investigated; or

(2) in his opinion, a person complaining has no valid interest in the matter.

5. RIGHT OF ACCESS

a. In order to exercise the above described authority, the Correctional Investigator and the Inquiries Officers shall be given unlimited right of access to inmates in all Canadian penitentiaries, and in the discharge of their responsibilities may:

(1) make regular announced visits to all institutions, and

(2) make irregular unannounced visits to institutions as is deemed advisable.

b. As soon as notice of a regular announced visit is received, the matter shall be publicized to the inmate population, and private interviews shall be arranged where:

(1) the Correctional Investigator or an Inquiries Officer wishes to interview an inmate, or

(2) an inmate wishes to have an interview with the Correctional Investigator or Inquiries Officer.

c. The Correctional Investigator and the Inquiries Officers shall be provided with all the information that they request that pertains to any investigation; this includes the provision of copies of documents for retention, as required.

6. STAFF COOPERATION

CPS staff members shall cooperate fully with the Correctional Investigator and the Inquiries Officers in the discharge of their responsibilities.

7. HANDLING OF CORRESPONDENCE

a. Correspondence from inmates to the Office of the Correctional Investigator shall be mailed from the institution unopened.

b. Correspondence from the Office of the Correctional Investigator to inmates shall be delivered to the inmates unopened.

8. IDENTIFICATION

The Correctional Investigator and the Inquiries Officers carry identification cards signed by the Commissioner of Penitentiaries and they may be required to show these as well as submit to routine metal detection tests and routine checks of briefcases.

Commissioner.

A. Therrien

Appendix "D"

CANADIAN PENITENTIARY SERVICE

September 24, 1974

COMMISSIONER'S DIRECTIVE
No. 241

Inmate Grievances

1. AUTHORITY

This directive is issued purusant to subsection 29(3) of the Penitentiary Act.

2. REVOCATION

Commissioner's Directive No. 241, dated 10 December 1973, is hereby revoked.

3. PURPOSE

To set forth the policy governing the submission of grievances by inmates seeking redress, and to delineate the administrative processes to be adhered to in dealing with such grievances.

4. DEFINITIONS

a. "Complaint" — an oral expression of a wrong for which redress is being sought.

b. "Grievance" — formal written presentation of a complaint.

5. DIRECTIVE

a. An inmate who considers that he has been wronged in any matter relating to his incarceration which comes under the jurisdiction of the Commissioner of Penitentiaries, may seek redress:

(1) first, by making a complaint, and

(2) secondly, if the result of action on the complaint is unsatisfactory, by presenting a grievance.

b. An inmate who wishes to seek redress shall complain in the first instance to the officer who is his immediate supervisor in the matter in question. The officer shall discuss the matter with the inmate and, if the complaint is valid, he shall initiate action towards redress; if the complaint is not valid, he shall so inform the inmate, with necessary explanations.

c. If the complaint relates to a matter that is beyond the competence or jurisdiction of the officer receiving the complaint in the first instance, or if a statement with explanations by that officer that the complaint is not valid is not accepted by the inmate, the matter shall be referred to the competent higher authority in the institution for consideration and action.

d. If the inmate is not satisfied with the action taken on his complaint, he shall be informed of the grievance process and may present a grievance, using the approved Inmate Grievance form (PEN 1122).

e. If positive results are to be obtained, it is essential that a grievance be submitted without delay when an inmate considers that he has been wronged. Delay may make it difficult, and even impossible, in some cases, to obtain reliable information, or to right a wrong retroactively. In any event, a grievance shall not be considered concerning any subject matter or condition that ceased to exist or to be the subject of a complaint more than one year before the lodging of the complaint.

6. PRESENTATION LEVELS

a. The levels at which a grievance may be presented and a decision rendered, and the officers authorized to perform this function, are:

First level — Institutional Director

Second level — Regional Director

Third level — Commissioner.

b. In the absence or inability to act of an Institutional Director, Regional Director, or the Commissioner, the officer who has been officially designated in writing to act in his capacity is authorized to render decisions on grievances.

c. A decision must be rendered at each level, and the responsibility for rendering a decision may not, under any circumstances, be delegated to officers other than those designated in subsections a. and b. above.

d. The first presentation of a grievance shall be at the first level; if the inmate is not satisfied with results, he may then present the grievance at the second level; if still not satisfied, the inmate may proceed to the third level.

e. The decision taken at the first level, together with all relevant supporting information, must accompany the grievance if it goes to the second level. Similarly, the decisions taken at the first and second levels, together with all relevant supporting information, must accompany a grievance going to the third level.

7. TIME LIMITS

a. At all levels, a grievance shall be investigated and the decision taken shall be communicated to the inmate within ten (10) working days of the date of receipt of the grievance.

b. If it is evident that for just cause a decision cannot be rendered within ten (10) days, the inmate shall be so informed and shall be advised of the reason for and expected length of the delay.

c. If, within then (10) days of receipt of a grievance, an inmate has not received a decision and has not been advised of any delay, he may proceed to present the grievance at the next level.

d. An inmate who receives a decision on a grievance from one level and is not satisfied with the decision and decides to proceed to the next level, must present the grievance at the next level within five (5) working days of receipt of the unsatisfactory decision.

e. When an inmate receives a decision on a grievance and takes no further action within five (5) working days of receipt of the decision, the grievance shall be considered to have been abandoned.

8. ADMINISTRATION

a. A grievance at the first level shall be sent to the Assistant Director (O&A) at large institutions, or to the designated officer at smaller institutions.

b. A grievance at the second level shall be sent by the Assistant Director (O&A) or designated officer at the institution to the Chief (O&A), at Regional Headquarters or, in his absence, to the officer designated by the Regional Director.

c. A grievance at the third level shall be sent by the Assistant Director (O&A) or designated officer at the institution to the Inmate Grievance Administrator, at National Headquarters.

d. In each case, the officer to whom the grievance is sent shall:

(1) register the grievance;

(2) acknowledge receipt to the inmate;

(3) present the grievance, within forty-eight (48) hours, to the officer designated to render a decision;

(4) follow through on administrative action until the matter is closed.

e. One copy of all material, including a record of each action relating to any grievance, shall be placed on the inmate's file.

9. REPORTS

Institutions and Regional Headquarters shall submit quarterly returns to the Inmate Grievance Administrator at National Headquarters indicating:

a. the number of grievances to the first level;

b. the number of grievances to the second level;

c. subject matter of grievances;

d. whether upheld or rejected in each case.

10. CONFIDENTIALITY

The contents of an inmate grievance, which includes all related reports, comments and decisions, are CONFIDENTIAL, and care shall be taken by all concerned at all levels to ensure that this confidentiality is preserved.

11. MATTERS EXCLUDED FROM GRIEVANCE PROCEDURE

Any matter which is, or may be, the subject of a claim against the Crown by an inmate is excluded from the Grievance Procedure.

(T.B. Minute No. 729748, dated 8 August 1974, and D.I. No. 503 apply in such matters).

12. ACTION AFTER INMATES' RELEASE

a. Access to the Inmate Grievance Procedure is restricted to the period of incarceration only, and such access shall cease immediately at the time of release.

b. An inmate grievance presentation which has not been resolved before his/her date of release, will, on the date of release, be forwarded to National Headquarters, attention Inmate Grievance Administrator, for consideration of further action on the part of the Canadian Penitentiary Service.

Commissioner,

A. Therrien