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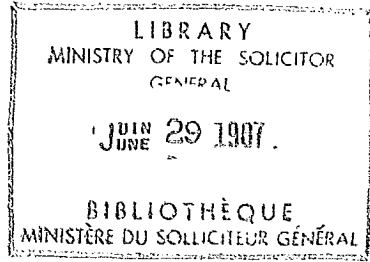


Annual Report  
of the  
Correctional  
Investigator  
1979 · 1980



The Correctional Investigator  
Canada

# Annual Report of the Correctional Investigator



1979-1980

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The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

March 11, 1981

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

Dear Sir:

As Correctional Investigator appointed to investigate and report upon complaints and problems of inmates in Canadian penitentiaries, I have the honour of submitting to you the seventh annual report on the activities of this office covering the period June 1, 1979 to May 31, 1980.

Yours respectfully,

R.L. Stewart  
Correctional Investigator

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## **Appointment and Terms of Reference**

On June 1, 1973 pursuant to Part II of the Inquiries Act, a Commissioner was appointed to be known as the Correctional Investigator and the office was thereby established and has been in continuous operation since that date. My appointment to the position was on November 15, 1977 and a copy of Order in Council, P.C. 1977-3209 describing that appointment and the terms of reference is fully reproduced and appears as Appendix "A" hereto.

## **Procedures**

In my report of last year I indicated that I had some concerns with the procedures then in place dealing with recommendations from this office and responses thereto. I was especially concerned with the legitimate time delays between a problem arising, a recommendation appearing in the annual report, and action in response to that recommendation.

Consequently, a new procedure was put in place whereby during the year when a problem concerning policy was identified an immediate recommendation was made to the Correctional Service of Canada through the Inspector General, who in turn dealt with the matter by accepting it and indicating the appropriate action taken or rejecting it with the accompanying rationale.

After a full year of operation I am satisfied that the change has succeeded in bringing issues more quickly to the attention of the Correctional Service of Canada so that action could be taken sooner to resolve the problems. It has also allowed for the inclusion in this report of both recommendations and responses, thereby providing the reader with a more complete picture of each issue and the problems involved in reaching a solution.

Appendix "C" to this report contains a summary indicating when each recommendation was made and responded to as well as the action taken in each case. Only one of my recommendations was rejected but the immediate problem was resolved shortly thereafter. However, I should stress at this point that no matter the response received from the Inspector General to any recommendation made I would, in circumstances where in my opinion fairness and reasonableness had been denied, still pursue every avenue of resolution available to me.

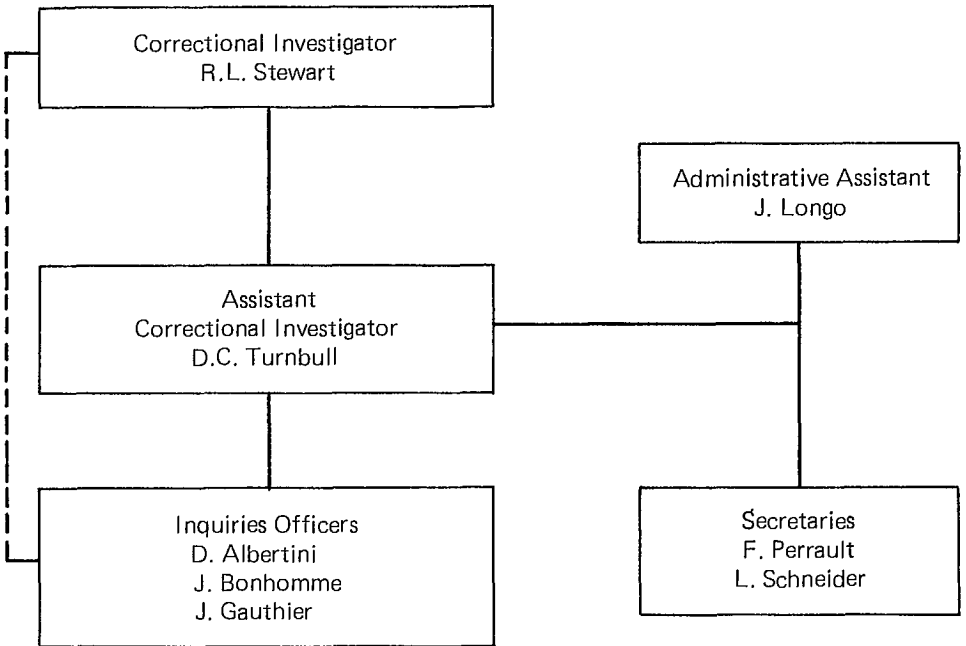
## **Organization and Operation**

There has been no change during the year with respect to the number and personnel of our staff although statistics show a substantial increase in the number of complaints received and interviews held.

The office consisted of eight full-time staff which includes the Correctional Investigator, the Assistant Correctional Investigator, three inquiries officers, one administrative assistant and two secretaries. I should also mention that two days a week during the school year we have the part-time assistance of one student from the Criminology Faculty of the University of Ottawa.

It has been necessary because of the increasing number of complaints requiring follow up interviews, for the Assistant Correctional Investigator to take on the extra duties of an inquiries officer and to Mr. Turnbull and to all the staff I would like to express my thanks for their work throughout the year.

## Organizational Chart



## Statistics

During the past reporting year we dealt with 1427 complaints compared with 1170 the year before, for an increase of 21 percent.

We made approximately the same number of visits this year, 237 to forty different institutions. This breaks down to 136 visits to 15 maximums, 82 visits to 14 mediums and 19 visits to 11 minimums, which indicates that the bulk of our work and time is devoted to maximum security inmates. There was a marked increase in the number of interviews held with inmates, the number almost doubling this year from 375 to 705. This can be partially explained by the fact that this year more inmates requested to see us on our announced visits to institutions, thereby automatically being interviewed even though their complaints might be outside our mandate or concern matters which had they written to us would have normally been dealt with through correspondence.

I am pleased to be able to report a substantial increase in the number of complaints we were able to resolve and as well those for which we were able to provide assistance.



## **TABLES**

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**TABLE A**  
**COMPLAINTS RECEIVED – BY CATEGORY**

---

Transfer	299
Medical	120
Temporary Absence	103
Visits and Correspondence	92
Sentence Administration	73
Claim Against the Crown	71
Staff	57
Dissociation	54
Discipline	44
Financial Matter	40
Programs	36
Request for Interview	22
Grievance Procedure	22
Request for Information	21
Diet	20
Information on File	16
Work Placement	15
Cell Effects	14
Cell Change	12
Education	12
Harassment	10
Use of Force	7
Physical Conditions	5
Grading	5
Discrimination	4
Hobbycraft	4
Other	107
<hr/>	
<u>Outside Terms of Reference</u>	
Parole	96
Provincial Matter	24
Court Procedures	9
Court Decision	12
	<hr/>
	1427

---

**TABLE B**  
**COMPLAINTS – BY MONTH**

---

1979

June	123
July	118
August	66
September	90
October	207
November	181
December	102

1980

January	118
February	114
March	94
April	92
May	<u>122</u>
	1427

**TABLE C**

**COMPLAINTS – BY INSTITUTION**

	BRITISH COLUMBIA	ELBOW LAKE	FERNDALE	KENT	MATSQUI	MISSION	MOUNTAIN	PSYCHIATRIC CENTRE	OTHER	BOWDEN	DRUMHELLER	EDMONTON	PSYCHIATRIC CENTRE	ROCKWOOD	SASKATCHEWAN	STONY MOUNTAIN	OTHER	BATH	COLLINS BAY	FRONTENAC
<b>1979</b>																				
June	5	1	3			4	1	1		1	3	4			11	12				
July	3	2			18	15								3	10	19		4	2	
August	1					1					2				5					4
September	2	2	1	1	5		12								2				3	1
October	13						3			1	2			8	80	4		4		
November	6				1	1	2	1	1		2	2		1	9	1				3
December					1	2					1	21	1		8				17	7
<b>1980</b>																				
January					3					3	2		5	4	21	2				1
February					13	1	2		1	1		5	11	2	7	3				6
March					3	2	3				4		2		8		1			2
April	1	1	5	1	1					4	1		1	1	10	6				3
May	2	2	6	2			2	1		4	2	3			17	1	1			1
<b>SUB-TOTAL</b>	33	5	7	31	30	28	22	4	2	13	24	30	20	19	188	48	2	11	39	10
<b>TOTAL</b>	1427																			

(1) Correctional Development Centre

(2) Federal Training Centre



## TABLE D

### COMPLAINTS – BY REGION

INMATE POPULATION BY CLASSIFICATION AT 27 MAY, 1980	WESTERN REGION 1280				PRAIRIE REGION 1905				ONTARIO REGION 2374				QUEBEC REGION 2960				MARITIME REGION 950			
	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other
	254	860	166		659	934	312		759	1293	322		1092	1277	591		369	398	183	
<b>1979</b>																				
June	6	5	4		15	16			8	13		2	7	8	1		37	1		
July	3	33	2		10	19	3		12	10	6	2	3	5		1	10			
August	1	1			5	2			15	13	1	3	10	8	1		5	1		
September	3	17	3		2				13	12	3	5	11	10			3			6
October	13	5			80	7	8		37	9	6	2	17	6			13	1	3	
November	6	6		1	9	3	1		32	26	2	1	10	34	1	1	26	8	10	
December		3			30	1			9	20	7		7	17			7			1
<b>1980</b>																				
January	3				26	10	4		12	23	1		20	8			12	1		1
February	14	3			15	11	2		21	14		1	22	3			4	1	2	
March	3	5		1	10	4		1	13	6	1	2	17	25	3	1	2			
April	6	2	1		11	11	1		11	15	2	1	24	23		2	1	2		
May	9	4	2		20	7		1	25	8	3	4	19	9			4	2		
<b>SUB-TOTAL</b>	67	84	12	2	233	91	19	2	208	169	32	23	172	136	6	5	124	19	21	2
<b>TOTAL</b>	1427																			

**TABLE E**  
**INSTITUTIONAL VISITS**

<u>MAXIMUM</u>	<u>NUMBER OF VISITS</u>
British Columbia	6
Saskatchewan	16
Psychiatric Centre (Pacific)	3
Psychiatric Centre (Prairie)	7
Psychiatric Centre (Ontario)	2
Reception Centre (Ontario)	12
Reception Centre (Quebec)	6
Correctional Development Centre	13
Dorchester	16
Millhaven	13
Prison for Women	6
Archambault	9
Laval	19
Edmonton	3
Kent	5
	<u>Sub-total</u> 136
<u>MEDIUM</u>	
Stony Mountain	7
Drumheller	2
William Head	4
Mountain	6
Matsqui	6
Bowden	3
Springhill	4
Warkworth	11
Joyceville	9
Collins Bay	5
Cowansville	6
Federal Training Centre	6
Leclerc	7
Mission	6
	<u>Sub-total</u> 82
<u>MINIMUM</u>	
Pittsburg	4
Frontenac	2
Bath	1
Ste. Anne des Plaines	1
La Macaza	1
Saskatchewan Farm Annex	1
Rockwood	2
Ferndale	1
Montgomery	1
Westmorland	3
Elbow Lake	3
	<u>Sub-total</u> 19
	<u>Total</u> 237

**TABLE F**  
**INMATE INTERVIEWS**

<u>MONTH</u>	<u>NUMBER OF INTERVIEWS</u>
June	72
July	31
August	20
September	54
October	106
November	99
December	53
January	69
February	62
March	43
April	48
May	48
	<u>705</u>

**TABLE G**  
**DISPOSITION OF COMPLAINTS**

<u>ACTION</u>	<u>NUMBER</u>
Pending	58
Declined	153
a) Not within mandate	281
b) Premature	498
c) Not justified	122 <sup>1</sup>
Withdrawn	202
Assistance, advice or referral given	43
Resolved	70
Unable to resolve	<u>1427</u>

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



**TABLE H**  
**COMPLAINTS RESOLVED OR ASSISTED WITH – BY CATEGORY**

<u>CATEGORY</u>	<u>RESOLVED</u>	<u>ASSISTANCE GIVEN</u>
Cell Change	0	2
Cell Effects	2	7
Claim Against the Crown	9	3
Diet	1	2
Discipline	2	2
Dissociation	6	10
Education	1	5
Financial Matter	3	20
Grading	2	0
Grievance Procedure	2	6
Harassment	0	2
Information on File	1	1
Medical	0	18
Physical Conditions	0	4
Programs	0	6
Request for Information	0	21
Sentence Administration	3	5
Staff	0	18
Temporary Absence	0	5
Transfer	5	22
Use of Force	0	1
Visits and Correspondence	5	13
Work Placement	0	1
Other	1	17
<u>Outside Terms of Reference</u>		
Parole	0	8
Court Procedures	0	1
Court Decisions	0	2
	<u>43</u>	<u>202</u>

## Recommendations

During the reporting year the Correctional Investigator made eighteen recommendations to the Correctional Service of Canada through the Inspector General, thirteen of which were accepted, four partially accepted and one rejected.

Before describing in detail the circumstances leading to each of these I should perhaps point out that many other formal and informal recommendations are made during the year as well. For instance, some are made at the institutional or regional levels and the bulk of these are usually made on behalf of an individual inmate dealing with a specific problem. Depending on the response received we may then decide to make a formal recommendation to the Inspector General.

A few recommendations dealing with policy matters are made to a Warden or Regional Director General, where the decision making authority on the matter is within the scope of that official. Most often, however, we find that the matter at hand is one that is governed by national policy and consequently must be decided at Ottawa and it is this type of situation then that has prompted each of the eighteen recommendations made to the Correctional Service of Canada during this year and with which I will now deal in more detail.

## Claims Against the Crown

The following matters were actually the subject of an investigation commenced prior to June 1, 1979 but not concluded in time for inclusion in the last annual report. Our inquiries indicated that certain practices at both National Headquarters and in the Quebec Region were inconsistent with the Divisional Instructions pertaining to claims against the Crown.

We were able to confirm that at several institutions in the Quebec Region claims against the Crown were being handled on an in-house basis and institutional staff were making final decisions on whether to reject a claim or reimburse the inmate. This was in direct contravention of Divisional Instruction No. 503 requiring that such matters must be forwarded to National Headquarters for decision. At the same time certain personnel at Headquarters were not helping matters by advising institutions that they would only become involved where the inmate wrote directly or where the region considered the matter important enough to warrant an inquiry.

Again, this was contrary to Divisional Instructions No. 301 and 503. One piece of correspondence from Headquarters even went so far as to state that Divisional Instruction No. 503 was obsolete which of course was not the case.

Needless to say, the inmates were not the only ones in a state of confusion concerning proper procedures for dealing with claims against the Crown and on May 11, 1979, I recommended:

**That the Correctional Service review its procedures with respect to the processing of inmate claims in order to remedy certain inconsistencies both at National Headquarters and in the Quebec region.**

The recommendation was accepted and corrective action was taken immediately to remedy the problem with respect to Headquarters. Later in the year a workshop was held

in Ottawa with representatives from all regions, at which the whole matter of claims was reviewed and I was pleased to be invited to speak of the problems our office had identified. Early in the new year instructions were sent to the Quebec Region indicating the proper procedures to be followed.

## **Sentencing in Disciplinary Court**

We received complaints from several inmates questioning sentences that had been awarded in disciplinary court which did not conform to those listed in the Penitentiary Service Regulations. Our investigations did confirm several instances of faulty sentencing; for example, one inmate received a sentence that he be placed in a segregation area for the good order of the institution; another was to pay for damages to his cell; while a third sentence read "30 days dissociation, 30 days loss of statutory remission, assessed damages, assessment of 8 demerit points and loss of 13 days amnesty", whatever that is.

My recommendation was:

**That the Correctional Service review the matter of sentencing of inmates for disciplinary offences to ensure that sentences are in accordance with the Penitentiary Service Regulations.**

The recommendation was accepted and referred for study. Sentences of fines and work without pay were removed and we were advised that a computerized control was to be added when the system was revised in order to monitor sentences for conformity.

## **Recording of Disciplinary Hearings**

In the Annual Report of the Correctional Investigator for 1974-75 it was recommended:

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

Three years later there was still no standard policy of recording these hearings and preserving the transcripts and I reiterated the previous recommendation that a tape recording be made of all hearings of charges of serious or flagrant offences to which I received the response that the matter was under assessment.

Now, two years later, the recommendation, which I suggest is a reasonable one, has not yet been fully implemented in that such verbatim records are not being kept at all institutions. Consequently, I recommended again:

**That the Correctional Service fully implement a previous recommendation of the Correctional Investigator that verbatim records of all disciplinary trials for flagrant offences be made and retained for a minimum period of six months.**

Finally, nine months later, the recommendation was accepted. I must say that the resistance to implementing it at the outset has been a source of considerable anxiety and frustration to both inmates and Correctional Investigator staff.

## Privileged Correspondence

We received a complaint from an inmate at the Regional Psychiatric Centre (Pacific) alleging that privileged correspondence had been opened, and on investigation of the matter we found that Commissioner's Directive No. 219 listing all the privileged correspondents was not being adhered to at that institution.

Correspondence was exchanged between the Director and myself and I was advised that the entire question of censorship was currently under discussion with the Regional Director General. I did, however, receive assurances that communication between my office and the patients there was strictly privileged and the same policy was applicable to correspondence with the Solicitor General. I was also interested in learning that the same privileged status was being accorded to lawyers of patients where proper verification of the relationship was established, because lawyers were not listed among the privileged correspondents in the directive. With respect to those that were so listed, I was advised that staff were not sure that it would be wise to follow the directive to the letter in that Commissioner's Directives are not laws but rather guidelines to be interpreted by each institution.

Needless to say, I could not accept this rationale and replied to the effect that the Commissioner's Directive was quite clear and unambiguous and not subject to free interpretation. The wording (referring to correspondence) is "*shall* be forwarded to the addressee unopened" and the *only* exception is where contraband is suspected in which case "the Commissioner's approval *shall* be obtained before it is opened."

If, in fact, there is a case to be made for protecting the interests of patients by censoring correspondence and there may well be, then I suggest the proper procedure should have been to submit the matter to National Headquarters requesting specific amendments to the directive in so far as it relates to patients in psychiatric centres.

My recommendation in this matter was:

**That the administration of the Regional Psychiatric Centre (Pacific) adhere to Commissioner's Directive No. 219 on the subject of privileged correspondence.**

The recommendation was accepted and I was later advised that the directive was now being adhered to.

## Access to Institutions

I received a request from the Ombudsman for Alberta indicating that two of his investigators had had considerable difficulty in gaining access to certain federal institutions in that province and asking for my assistance in resolving the problem.

I referred the matter to the Inspector General by recommending:

**That the Correctional Service provide reasonable access to federal institutions by the Alberta Ombudsman and his investigators for the purpose of interviewing federal inmates.**

This was readily accepted and a satisfactory arrangement was reached whereby on receipt of a list of names an authorized visit clearance would be issued to all Correctional Service facilities in the Province of Alberta.

## **Allegations of Staff Wrongdoing**

During a visit to Westmorland Institution in September, 1979, I received complaints from both staff and inmates alleging that over the period of several months certain food stuffs were being misappropriated by correctional personnel and that the same persons were also using government materials for repairs to personal property.

We looked into the matter and on concluding that this was more properly a matter for the Inspector General, I recommended:

**That the Correctional Service investigate allegations of pilfering and misapplication of materials by staff for repairs to personal property at Westmorland Institution.**

The matter was referred to region and a security investigation was made but no hard evidence could be established. New staff appointments were made and clear instructions to control supplies and repairs of personal property were issued. Part of the problem was due to a poor previous record system and I was advised that a new control system was being developed to ensure proper control in the future.

## **Inmate Grooming**

From time to time when we received inquiries from inmates asking about the rules governing grooming and in particular questions related to the length of hair or the growing of facial hair we replied sending along a copy of Commissioner's Directive No. 208. This document is fairly general and except for a reference to cleanliness, is relatively quiet on the subject of cranial and facial hair.

However, the matter became an issue in the Pacific Region when inmates at two different institutions complained to our office that they had been ordered to shave their beards. I immediately contacted Region and received a reply that the matter was being studied and that a new regional directive would be prepared.

Over the course of the summer we made several follow-up contacts and were repeatedly advised that a policy was forthcoming. In the meantime, the inmates continued to complain about the matter alleging continuing pressure from certain staff at their institution.

One of the Wardens involved maintained his position of not permitting beards except for medical reasons because of security concerns and the wishes of the R.C.M.P. However, we took the position that if you require an inmate wearing a beard to shave it off for photographs and security purposes, then it also becomes logical to require an inmate not having a beard to grow one in order to be photographed for security reasons in the event the inmate should escape and afterwards grow a beard in order to escape detection and apprehension by the R.C.M.P.

We continued to press the matter and were finally informed that Region were now reluctant to issue its directive in the absence of national policy on the matter which was to be issued in the near future.

As the matter had been dragging on for some time I finally wrote to the Inspector General recommending:

**That the Correctional Service develop and issue a clear definitive policy which would allow for the wearing of beards by inmates.**

I was advised that the Commissioner's Directive had been rewritten and later, on January 31, 1980, was approved by the Senior Management Committee. On May 31, 1980 it was issued allowing for freedom of grooming and providing that the Institutional Physician is the only one who can order an inmate to shave and then only for medical reasons.

## **Transfer Coordination**

Both staff and inmates complained to our office about difficulties they were experiencing with transfers in the Prairie Region. We received allegations from inmates of long delays in replies to transfer applications while certain institutional personnel were questioning what they felt were unjustified denials.

During our investigation of these allegations it was brought to our attention that the transfer coordinator was under a good deal of pressure and it appeared that there was a lack of sufficient staff assistance. However, since most of the allegations were of a general nature they could neither be supported nor discredited, so I wrote to the Inspector General recommending:

**That the Correctional Service review procedures of the Regional Transfer Coordinator, Prairies, to ascertain the validity of allegations of delays and unjustified denials.**

I was advised that an informal inquiry was conducted into the nature and extent of this problem and was further advised that as of January 1, 1980, a record was being kept of all transfer decisions not in keeping with the originator's opinion.

Later on I met with the Inspector General to further discuss the situation and was satisfied that the matter had been resolved.

## **Segregation**

An inmate recently released from a Special Handling Unit complained to our office that on arrival at a maximum security institution he was immediately segregated under Penitentiary Service Regulation 2.30 (1) (a) for the good order of the institution. We looked into the matter and were advised by the Warden in question that he had the authority to so segregate any inmate and that he intended to do so with Special Handling Unit releases at least for an initial assessment period. The Warden of course was acting within the scope of his authority but it appeared to me that such a practice could only serve to defeat the whole Special Handling Unit phasing program.

We looked at what was being done in similar situations at every maximum facility and found that in the absence of any national policy such an inmate was placed within the institution at the discretion of the Warden.

My recommendation to the Inspector General on November 19, 1979 was:

**That the Correctional Service discontinue the present practice in certain maximum security institutions of segregating inmates under Penitentiary Service Regulation No. 2.30 (1) (a) immediately upon release from a Special Handling Unit.**

On January 28, 1980, the recommendation was accepted and the Commissioner issued a telex to all Regional Director General's that:

"Effective immediately, inmates released from Special Handling Units are to be placed in the general population. If a Warden who has the authority, believes that an inmate being released from a Special Handling Unit must be placed in administrative segregation, the Warden must provide, immediately by telex to the Deputy Commissioner, Security, a full explanation of the reasons for such action being taken."

## Claims Inquiries

I brought to the attention of the Inspector General the case of an inmate who had complained to our office about his denial of a claim against the Crown for alleged loss of personal effects from Ste. Anne des Plaines minimum security institution.

After reviewing the documentation it appeared that a formal inquiry had not been conducted in accordance with Divisional Instruction 301 6.e. (3) and that an arbitrary denial of the claim was made without any review at the Regional or National Headquarters levels contrary to Divisional Instruction 503 3.b. and c.

Because I was concerned that there were probably quite a number of claims being handled in this fashion that I would never become aware of, I decided that this was really a policy issue as well as an individual complaint and consequently I recommended:

**That procedures set out in Divisional Instructions No. 301 and 503 be adhered to by the administration at Ste. Anne des Plaines in processing all claims against the Crown.**

After the subject matter of my recommendation was reviewed I was advised that a properly conducted inquiry had been held and sent to National Headquarters for decision.

I should perhaps add that the decision in this case was to deny the claim as there were really no grounds to substantiate any reimbursement. It is however, according to the old cliché, important that justice not only be done but be seen to be done.

## Day Parolee Parking Facilities

I received a letter of complaint from an inmate day parolee advising me that the administration at Rockwood Institution denied him the use of an overnight electrical plug-in facility for the block heater in his automobile during a recent cold spell. The inmate used the automobile for transportation to and from work and although institutional transportation was available to the city it was not particularly convenient for him to use this as it would mean a substantial wait in the cold between being dropped off and his place of employment being opened.

We investigated the matter and found the request had been denied because to do otherwise would set a precedent for other day parolees and that the staff would strongly object to inmates using the staff parking lot.

We looked into the matter further and were informed that there were thirteen plug-ins in the staff parking plus another six used by maintenance and other personnel, all of which

were in use between the hours of 7 a.m. and 7 p.m. During the off hours only a few were in use. I should add that the visitors parking lot was not equipped with outlets and that at the time there were only two day parolees with automobiles.

Under the circumstances I was unable to accept the denial on the basis of precedent setting as there were more than adequate outlets to accommodate other requests. I certainly could not accept the reason of adverse staff reaction as staff did not pay for parking or plug-ins and had no proprietary interest therein.

I therefore recommended:

**That the decision by the administration at Rockwood Institution denying use of electrical plug-ins for automobiles of day parolees be reviewed.**

During the course of our investigation the inmate also grieved the matter. Normally, our office will not become involved in a complaint until all administrative and legal remedies have been exhausted. However, because of the length of time involved in completing the grievance procedure the matter would probably not have been decided before winters end so we felt there was some urgency in looking into the situation when we did.

The grievance by the inmate was accepted by the Commissioner, who held that the use of a plug-in should have been allowed. With regard to national policy, day parolees are allowed to have cars when necessary for the activity for which day parole is granted. Provision of plug-ins was determined to be a routine housekeeping matter within the Warden's discretion and not a matter requiring national policy. Consequently, the Superintendent at Rockwood indicated he would review existing plug-in resources for day parolees' automobiles and operationalize same for the forthcoming winter.

## **Dental Care**

We were able to confirm allegations from inmates of excessive delays in seeing the dentist at Warkworth Institution. Most delays concerned cases of patients seeking periodic checkups and maintenance treatment. Our investigation found that the institution has an approximate turnover of 75 percent each year and involves inmates averaging about 23 years of age. According to the dentist the overwhelming amount of dental work needed is a direct result of severe neglect during the teen years causing serious deterioration. Given the size of the population, some 425 inmates, and the constant requirement to do emergency work and routine checks necessary to prepare inmates for transfer or release, there is not sufficient time to do general checkups nor to implement a maintenance program with the present human resources, namely one dentist working four half days per week.

Under the present circumstances the problem is incapable of being resolved. I recommended:

**That the Correctional Service take steps to overcome the present delays being experienced by inmates at Warkworth Institution in receiving dental care.**

The recommendation was accepted and the problem was one of concern to the Ontario Region but efforts to completely resolve the situation have been unsuccessful. The present contract of the dentist was increased to five one-half day sessions but to date Region has not been able to engage the services of another dentist in the area. I have however, been assured that efforts are to continue.



## Suspicion

An area that has always been troublesome to this office is that of involuntary transfers of inmates on the grounds of suspicion. We find it particularly difficult to investigate such matters and in cases where there is little or no documentation to support the reasons given or where there are no specific reasons documented at all, the task becomes impossible.

Such a situation involving a number of inmates has arisen at Cowansville Institution where all alleged being transferred to maximum security on the grounds of suspicion.

During our review of the matter, institutional files were examined and in all cases under investigation it was unclear as to the actual reasons for transfer. Of particular concern was the limited documentation in support of the transfers. Further investigation revealed that the inmates did not appear to be disciplinary problems nor did they demonstrate any consistently bad records.

Each of the cases involved suspicion but a check with the Preventive Security Officer revealed that in some cases he had no significant data whatsoever concerning alleged suspicion. In one particular case all the negative comments documented were found to be made by one officer and were in our opinion more a matter of personal opinion than strong suspicion.

We were unable to make any headway with the situation at the institutional level so I recommended to the Inspector General:

**That the Correctional Service examine the present policy at Cowansville Institution concerning transfers on the grounds of suspicion to ensure that actual reasons for such transfers be stated and that the documentation support these reasons.**

I was advised that the cases of the inmates in question were already under study by the Regional Transfer Committee and I later received a copy of a report from the Quebec Regional Director General on the matter.

The report indicated that as a result of an alarming increase in the presence of drugs within the institution a massive transfer was requested in order to regain control of the situation. The report also confirmed our findings by stating that in the cases we had identified, the transfers were based on suspicions and information *not* supported by offence reports but it went on to say that they were dealing with a situation judged to be dangerous by the institutional authorities.

One of the inmates involved was returned to Cowansville while another was given a transfer to another medium.

In order to resolve the problem I was advised that a committee to revise the regional program for transfers made a report and their recommendations were accepted by regional authorities.

The recommendations would appear to respond to the problems we raised, however we will continue to monitor the situation to ensure that they are being followed.

## Involuntary Transfers

Several inmates wrote to me complaining of being transferred involuntarily to Archambault Institution and requesting that they be returned to institutions outside the Quebec Region as they were experiencing communication and other difficulties in this basically French speaking institution. All of the complainants were anglophones and all had been housed in maximum security institutions outside the Quebec Region. From the information available, most of the inmates had been transferred because of previous disruptive behaviour and we found one document that indicated that such a move was made in order to neutralize the inmate in question by putting him in a French milieu.

I have always been of the opinion that each maximum security institution should be capable of looking after its own problem inmates but I do recognize that from time to time it is necessary to separate certain inmates from each other or to transfer them for other security reasons. Such action however, is open to abuse and it is easy to let personal prejudices dictate who should be moved. Because of the numbers involved I recommended:

**That the Correctional Service give consideration to moving certain recently transferred English-speaking inmates from Archambault Penitentiary to other maximum security institutions outside the Quebec region.**

I was advised just prior to the end of our reporting year that the Commissioner made a commitment to include all such inmates in a major transfer scheduled for early July of this year.

## Inmate Body Searches

Complaints reached my office alleging that certain female inmates were indiscriminately being subjected to internal body cavity searches at the Prison for Women.

The Penitentiary Service Regulation on the subject clearly states that where the institutional head suspects, on reasonable grounds, that an inmate is in possession of contraband he may order that person to be searched. The issue here centred around whether or not there were in fact the necessary reasonable grounds in order to validate the searches. I, therefore, recommended:

**That the Correctional Service examine the circumstances surrounding the recent internal body cavity searches at the Prison for Women to ensure that reasonable grounds existed in accordance with the Penitentiary Service Regulations.**

Because of the very delicate situation involved here the matter was reviewed with legal and security personnel after which I was invited to attend a briefing session. Following this it was my opinion that the regulation had been breached, however I did feel that this very difficult matter called for extraordinary action.

Coincidentally, the same issue was before the courts in another case and consequently any further discussion should await that verdict.

Shortly thereafter I did go to the Prison for Women to explain the situation and although I could not divulge certain security matters they expressed their appreciation that the matter had been looked into.

## Special Handling Units

We received complaints from both staff and inmates questioning the decision to transfer three inmates to a Special Handling Unit and our investigation of the matter tended to support their position.

The relevant Divisional Instruction No. 718 clearly states in section 4.d. that "Inmates shall not be transferred to a Special Handling Unit on the grounds of suspicion alone, but only as a result of the actual commission of such acts". Our review of the files failed to locate any preventive security report in support of the transfers and there was no report from the regional transfer authority recommending such a transfer. This prompted a recommendation:

**That inmates transferred to a Special Handling Unit on grounds of suspicion alone, be released therefrom in accordance with Divisional Instruction No. 718 which states that inmates not be transferred to a Special Handling Unit on the grounds of suspicion alone but only as a result of the actual commission of such acts.**

I was advised that following an investigation by the Quebec police force the three inmates had been formally charged with the murder of another inmate. I was further advised that the cases were fully documented and supported and the admission to a Special Handling Unit was duly recommended. It would appear that some of this material had not been placed on file.

The main point here however, was that the Correctional Service took the position that there is a considerable difference between solid evidence sufficient to allow the laying of murder charges and mere suspicion and consequently rejected my recommendation.

In turn I was unable to accept their rationale, however there was concurrence that the wording of Divisional Instruction No. 718 should be clarified in this regard.

On May 30, all three were convicted of first degree murder and sentenced to life imprisonment with a minimum of twenty-five years to parole eligibility.

## Access to Security Information

The following recommendation was made on April 25, 1980:

**That the Correctional Service remind all Regional Chiefs, Preventive Security, of Commissioner's Directive No. 240 and especially Section 11 thereof which states: "The Correctional Investigator and his staff 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."**

The circumstances surrounding this reminder had to do with the reluctance of certain security personnel in providing us with access to security information and copies of same during the course of an investigation. We approached the Regional Chief, Preventive Security with a copy of Commissioner's Directive No. 240 requesting that he instruct all Institutional Preventive Security Officers in his region of the authority allowing us to request and receive such information.

The reply received was to the effect that he had concerns about releasing certain documents as well and indicated the matter was being referred to National Headquarters.

Although the matter was not finally resolved before the end of the reporting year I did receive a response from the Inspector General fully supporting my position and indicating the matter would be followed up as soon as possible.

## **Protective Custody**

This office was recently flooded with complaints from protective custody inmates currently being housed at Kent Institution concerning the living conditions they are presently being subjected to. Allegations were received of inmates being locked-up for most of the twenty-four hour day with only one-half hour allowed for exercise; of the exercise yard being very small with no equipment; of limited reading material; of no hobbycraft; of limited access to showers; and of poor food service.

We visited the institution and interviewed most of the protective custody inmates on the range and were able to confirm most of the allegations; however, to be fair the institution was making attempts to cope with a very difficult situation. Short term efforts included increased access to exercise and showers and a decrease in the amount of lock-up time; however, it became obvious that the institution had not been designed to house two different populations.

We were advised that the problem resulted due to the closing of the British Columbia Penitentiary causing a shortage of protective custody cells in the Pacific Region necessitating the temporary transfers of protective custody inmates to Kent.

Complaints continued to arrive but there being no apparent solution I recommended:

**That the Correctional Service take action to improve the substandard living conditions presently being experienced by protective custody inmates at Kent Institution.**

As this recommendation was made in the last month of our reporting year there was not sufficient time for the Correctional Service to formulate and study alternative proposals before May 31, 1980. However, we were advised that long term solutions were being pursued and this office will continue to monitor the situation and follow up in our next annual report.

## **Conclusion**

It has been a particularly busy year in our office but even with the increased work load it is important not to lose sight of the necessity of maintaining a high degree of competency in what we do in order to continue to foster fairness and reasonableness within prison walls.

I am pleased with our new format of providing both recommendations and responses in the same document. I believe it will assist each reader in gaining a better understanding of the problems inmates face and the attempts being made by all concerned to improve conditions.

On behalf of my staff I wish to extend our sincere appreciation to the dedicated men and women of the Correctional Service of Canada for their assistance in facilitating our job and a special thank you to the Inspector General for his co-operation and understanding during the past twelve months.

## Appendix A

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 29<sup>th</sup> September, 1977; and

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

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

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

and the Commissioner need not investigate if

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

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

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

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

Certified to be a true copy

Clerk of the Privy Council

## Appendix B

### CORRECTIONAL SERVICE OF CANADA

May 31, 1980

#### COMMISSIONER'S DIRECTIVE No. 240

The Federal Correctional Investigator

#### AUTHORITY

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

#### REVOCATION

2. Commissioner's Directive No. 240, dated 1979-12-31, is revoked.

#### PURPOSE

3. To ensure the cooperation of members of the Service with the Correctional Investigator and his staff.

#### DEFINITIONS

4. The "Correctional Investigator" is a Commissioner appointed by the Privy Council on recommendation of the Solicitor General of Canada, pursuant to Part II of the Inquiries Act, whose mandate is to investigate complaints and report upon problems of inmates.
5. "Staff" is a person employed in the office of the Correctional Investigator.

#### POLICY

6. The Correctional Investigator is to investigate and report upon inmates' problems that come within the responsibility of the Solicitor General of Canada. These investigations may be undertaken:
  - a. on his own initiative;
  - b. on request from the Solicitor General of Canada; or
  - c. on complaint from or on behalf of inmates as defined in the Penitentiary Act.
7. The Correctional Investigator shall not investigate problems or complaints:
  - 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 Correctional Investigator;
  - b. where the person complaining has not, in the opinion of the Correctional Investigator, 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.

8. The Correctional Investigator need not investigate if:
  - a. the subject matter of a complaint has previously been investigated; or
  - b. in his opinion a person complaining has no valid interest in the matter.
9. The Correctional Investigator and his staff shall be given unlimited right of access to institutions, staff and inmates, and in the discharge of their responsibilities may:
  - a. make regular announced visits to all institutions which shall be publicized to the inmate population; and
  - b. make unannounced visits to institutions.
10. At the request of the Correctional Investigator or his staff, private interviews with inmates shall be arranged.
11. The Correctional Investigator and his staff 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.
12. The Correctional Investigator is a privileged correspondent. (Commissioner's Directive No. 219.)
13. The inmates' handbook issued by the Correctional Investigator shall be made available to all inmates during the reception period.

#### REFERENCES

14. Inquiries Act, R.S.C. 1970, c. 1-13  
Commissioner's Directive No. 219

Commissioner,

D.R. Yeomans



## Appendix C

### SUMMARY OF RECOMMENDATIONS TO THE CORRECTIONAL SERVICE OF CANADA

The Correctional Investigator recommended:

1. That the Correctional Service review its procedures with respect to the processing of inmate claims in order to remedy certain inconsistencies both at National Headquarters and in the Quebec region.
  - Issued: 11-5-79
  - Response: 23-5-79 — accepted — review disclosed a breach of procedures — corrective action taken at National Headquarters
  - Response: 10-9-79 — workshop organized to standardize procedures
  - Response: 7-2-80 — instructions sent to Quebec region on proper procedures
  
2. That the Correctional Service review the matter of sentencing of inmates for disciplinary offences to ensure that sentences are in accordance with the Penitentiary Service Regulations.
  - Issued: 30-5-79
  - Response: 7-6-79 — referred for study
  - Response: 18-1-80 — accepted — sentences of fines and work without pay have been removed from available punishments and a computerized control is to be added when the system is revised
  
3. That the Correctional Service fully implement a previous recommendation of the Correctional Investigator that verbatim records of all disciplinary trials for flagrant offences be made and retained for a minimum period of six months.
  - Issued: 30-5-79
  - Response: 7-6-79 — acknowledged
  - Response: 7-2-80 — accepted — the recording of disciplinary hearings to be effected in maximums immediately and in mediums as soon as possible
  
4. That the administration of the Regional Psychiatric Centre (Pacific) adhere to Commissioner's Directive No. 219 on the subject of privileged correspondence.
  - Issued: 13-7-79
  - Response: 1-8-79 — acknowledged
  - Response: 25-9-79 — progress report
  - Response: 7-2-80 — accepted — administration of Regional Psychiatric Centre (Pacific) has been advised and is now following Commissioner's Directive No. 219

5. That the Correctional Service provide reasonable access to federal institutions by the Alberta Ombudsman and his investigators for the purpose of interviewing federal inmates.
- Issued: 10-8-79
- Response: 16-10-79 -- accepted -- a satisfactory arrangement was reached whereby on receipt of a list of names an authorized visit clearance would be issued to all Correctional Service facilities in the Province of Alberta
6. That the Correctional Service investigate allegations of pilfering and misapplication of materials by staff for repairs to personal property at Westmorland Institution.
- Issued: 5-10-79
- Response: 22-10-79 -- acknowledged
- Response: 18-1-80 -- interim report
- Response: 7-2-80 -- accepted -- security investigation was carried out but no hard evidence could be established -- new staff appointments have been made and a new control system is being developed to ensure proper control in the future
7. That the Correctional Service develop and issue a clear definitive policy which would allow for the wearing of beards by inmates.
- Issued: 10-10-79
- Response: 16-10-79 -- acknowledged
- Re-issued: 19-11-79
- Response: 18-1-80 -- interim reply
- Response: 7-2-80 -- revised Commissioner's Directive No. 208 approved January 31, 1980
- Response: 31-5-80 -- accepted -- revised Commissioner's Directive No. 208 to be issued May 31, 1980 allowing freedom of grooming and providing for shaving to be ordered only by the Institutional physician for medical reasons
8. That the Correctional Service review procedures of the Regional Transfer Coordinator, Prairies, to ascertain the validity of allegations of delays and unjustified denials.
- Issued: 19-11-79
- Response: 7-2-80 -- copy of reply to Regional Director General (Prairies)
- Re-issued: 12-2-80 -- failed to deal with the question of delays
- Response: 29-4-80 -- copy of transfer statistics for first two months of 1980
- Response: 6-5-80 -- partially accepted -- I met with the Inspector General on the matter and received assurances that the matter has been resolved.

9. That the Correctional Service discontinue the present practice in certain maximum security institutions of segregating inmates under Penitentiary Service Regulation No. 2.30 (1) (a) immediately upon release from a Special Handling Unit.
- Issued: 19-11-79
- Response: 28-1-80 — accepted — Commissioner telexed that effective immediately inmates released from Special Handling Units are to be placed in the general population — in the case where a Warden believes that such an inmate must be placed in administrative segregation the Warden must provide immediately, by telex to the Deputy Commissioner Security, a full explanation of the reasons for such action
10. That procedures set out in Divisional Instructions No. 301 and 503 be adhered to by the administration at Ste. Anne des Plaines in processing all claims against the Crown.
- Issued: 20-12-79
- Response: 17-1-80 — interim action proposed
- Response: 16-4-80 — accepted — the matter was re-submitted and a properly conducted inquiry held
11. That a decision by the administration at Rockwood Institution denying use of electric plug-ins for automobiles of day parolees be reviewed.
- Issued: 21-1-80
- Response: 23-1-80 — interim reply
- Response: 19-2-80 — presently no national policy with respect to parking facilities for day parolees requiring an automobile to maintain employment
- Response: 26-5-80 — accepted — provision of plug-ins was determined to be a routine housekeeping matter within the Warden's discretion and not a matter requiring national policy — Warden to review plug-in resources for parolees and operationalize same for the next winter
12. That the Correctional Service take steps to overcome the present delays being experienced by inmates at Warkworth Institution in receiving dental care.
- Issued: 22-1-80
- Response: 23-1-80 — referred to the Regional Director General, Ontario
- Response: 7-2-80 — partially accepted — the Institution is to increase present contract for dental care services and is looking for an additional practitioner
- Response: 11-4-80 — Ontario Region has made unsuccessful efforts to resolve the situation but are unable to obtain the services of any dentists in the area — efforts to continue

13. That the Correctional Service examine the present policy at Cowansville Institution concerning transfers on the grounds of suspicion to ensure that actual reasons for such transfers be stated and that the documentation support these reasons.
- Issued: 15-2-80
- Response: 21-2-80 — acknowledged
- Response: 12-5-80 — accepted — the matter was already under study resulting in specific recommendations being accepted and incorporated into Regional transfer policy
14. That the Correctional Service give consideration to moving certain recently transferred English-speaking inmates from Archambault Penitentiary to other maximum security institutions outside the Quebec region.
- Issued: 11-4-80
- Response: 24-4-80 — referred to the Deputy Commissioner, Security
- Response: 5-5-80 — interim reply
- Response: 28-5-80 — accepted — Commissioner has made a commitment to include these inmates in a major transfer scheduled for early July, 1980
15. That the Correctional Service examine the circumstances surrounding the recent internal body cavity searches at the Prison for Women to ensure that reasonable grounds existed in accordance with the Penitentiary Service Regulations.
- Issued: 21-4-80
- Response: 1-5-80 — the matter was reviewed with legal and security personnel — because of security implications I was invited to attend a briefing session
- Meeting: 2-5-80 — partially accepted — although I maintained that the regulation had been breached I did agree that this difficult situation called for rather special action — the same issue, however, was before the courts in another case and consequently any further review would be contingent on the outcome
16. That inmates transferred to a Special Handling Unit on grounds of suspicion alone, be released therefrom in accordance with Divisional Instruction No. 718 which states that inmates not be transferred to a Special Handling Unit on the grounds of suspicion alone but only as a result of the actual commission of such acts.
- Issued: 25-4-80
- Response: 29-4-80 — rejected — inmates had been formally charged by the Quebec Police Force with the murder of another inmate — the wording of Divisional Instruction No. 718, however, should be clarified as there is considerable difference between solid evidence sufficient to allow the laying of murder charges and mere suspicion.
- Response: 30-5-80 — the inmates were convicted of first degree murder

17. That the Correctional Service remind all Regional Chiefs, Preventive Security, of Commissioner's Directive No. 240 and especially Section II thereof which states: "The Correctional Investigator and his staff 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."

Issued: 25-4-80

Response: 29-4-80 — accepted — the position of the Correctional Investigator in this regard is fully supported

18. That the Correctional Service take action to improve the substandard living conditions presently being experienced by Protective Custody inmates at Kent Institution.

Issued: 2-5-80

Response: 5-5-80 — forwarded to the Deputy Commissioner, Security

Response: 12-5-80 — Kent institution was not designated to house protective custody — while programs remain limited recent efforts include access to showers and a decrease from 23 1/2 hours a day lock up to 16 1/2 hours

Response: 25-5-80 — partially accepted — with closing of British Columbia Penitentiary and the non-construction of the second maximum security institution for the Pacific Region, Protective Custody cases have been transferred to Kent temporarily — short term efforts have included access to exercise and showers and transfers to other regions — long term solutions are being reviewed.

