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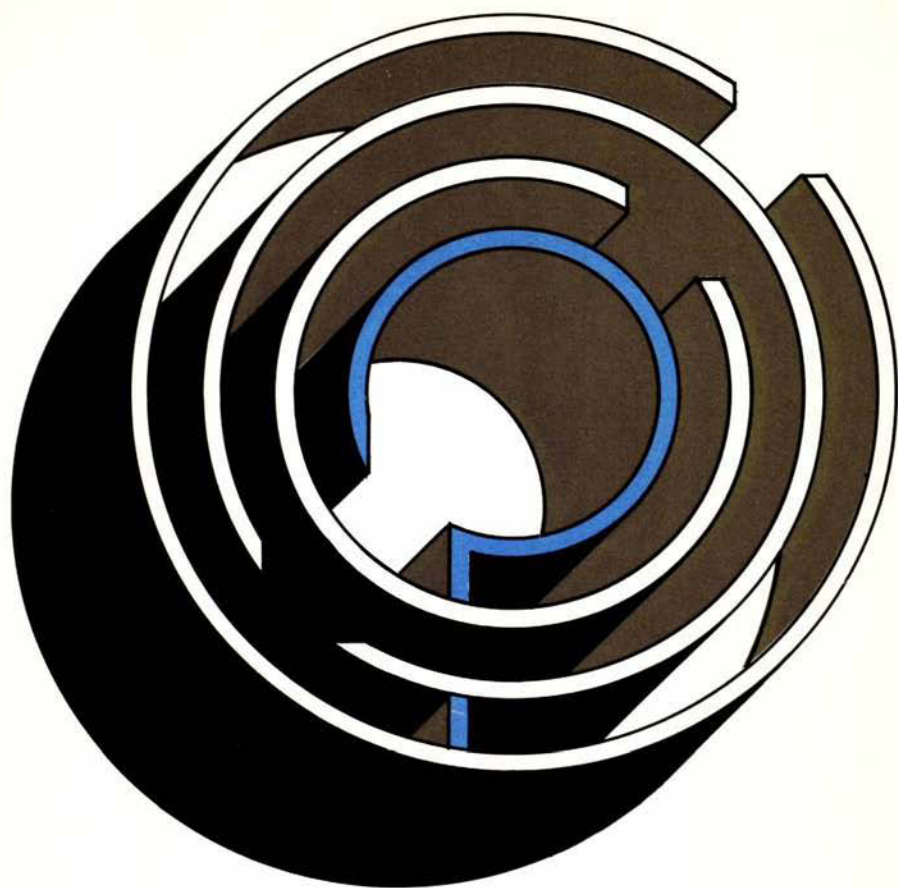
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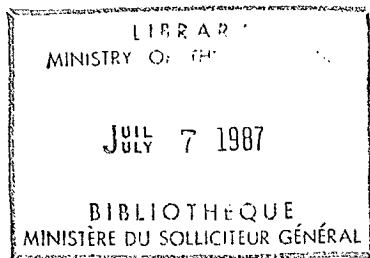


Annual Report
of the
Correctional
Investigator
1985 - 1986



The Correctional Investigator
Canada

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of the
Correctional
Investigator



1985-1986

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The Correctional Investigator
Canada

P.O. Box 2324, Station D
Ottawa, Ontario
K1P 5W5

L'Enquêteur correctionnel
Canada

C.P. 2324, Station D
Ottawa (Ontario)
K1P 5W5

December 30, 1986

The Honourable James Kelleher
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Sir:

As Correctional Investigator appointed to investigate complaints and report upon problems of inmates in Canadian penitentiaries, I have the honour of submitting to you the thirteenth annual report on the activities of this office covering the period June 1, 1985 to May 31, 1986.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Canada

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Introduction

Following a period of serious rioting and unrest in Canadian prisons, the position of the Correctional Investigator was established to provide an independent body to review inmate complaints. At that time, it was decided that the quickest way to proceed would be to appoint a Commissioner pursuant to Part II of the *Inquiries Act* to be known as the Correctional Investigator. It is my understanding that this was to be a temporary measure and that the office was to be statutorily constituted, at the earliest possible opportunity, to ensure its independence. This was never done.

It has always been my position that the establishment of this office pursuant to Part II of the *Inquiries Act* was a misuse of that Act which is intended to deal with specific short-term departmental inquiries as opposed to ongoing ones which in our case has lasted thirteen years.

Also of interest is the fact that both the 1977 *Report of the Parliamentary Sub-Committee on the Penitentiary System in Canada* and the 1984 *Report of the Advisory Committee on the Management of Correctional Institutions* recommended changes that would have the Correctional Investigator report directly to Parliament.

Changes have also been suggested to the mandate which now charges 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 *Penitentiaries Act* and report upon problems of inmates that come within the responsibility of the Solicitor General of Canada.

It should be noted that the Correctional Investigator is expressly prohibited from investigating and reporting upon problems concerning any subject matter 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.

In 1977, the Penitentiary Service and Parole Service were integrated into The Correctional Service of Canada and it really makes no sense for the Correctional Investigator not to be allowed to investigate parole matters. Perhaps now is the time for consideration to be given to enlarging the mandate of the Correctional Investigator to include this area.

During the twelve-month period June 1, 1985 to May 31, 1986 this office processed 1,803 complaints, up slightly from 1,742 the year before. The statistics which follow will show we made 169 visits to some forty institutions and conducted 770 interviews with inmates.

In order to properly assess the role that we play in relation to any success we may or may not have in resolving problems it is necessary to state that prior to commencing an investigation into a complaint, an inmate is required to take all reasonable steps to exhaust available legal or administrative remedies. This means that the inmate is directed to the internal grievance procedure and is advised to contact our office only after he has received a response at the final level with which he is dissatisfied. It becomes apparent that we are dealing with other than routine problems and most always with issues which previously have been before the Correctional Service but which remain unresolved.

STATISTICS

TABLE A
COMPLAINTS RECEIVED AND PENDING — BY CATEGORY

<u>Category</u>	<u>1985-86</u>	<u>1984-85</u>
Transfer	324	28
Visits and Correspondence	161	10
Staff	116	6
Discipline	108	7
Temporary Absence	95	3
Medical	92	8
Sentence Administration	79	5
Financial Matter	67	0
Dissociation	67	4
Claims	50	4
Cell Effects	49	5
Grievance Procedure	38	6
Programs	35	4
Diet/Food	31	0
Information on File	29	2
Work Placement	26	2
Use of Force	14	1
Request for Information	12	2
Discrimination	9	0
Cell Placement	6	1
Education	4	0
Hobbycraft	4	1
Canteen	2	0
Other	182	4
<u>Outside Terms of Reference</u>		
Court Decision	5	1
Parole	67	1
Provincial Matter	26	0
Sub-total	1,698	105
Total		<u>1,803</u>

TABLE B
COMPLAINTS—BY MONTH

Pending from previous year	105
<u>1985</u>	
June	152
July	127
August	139
September	109
October	183
November	138
December	136
<u>1986</u>	
January	144
February	116
March	149
April	155
May	<u>150</u>
	1,803

TABLE C
COMPLAINTS — BY INSTITUTION

	<u>Pacific Region</u>							<u>Prairie Region</u>								
	Ferndale	Kent	Matsqui	Mission	Mountain	Psychiatric Centre	William Head	Other	Bowden	Drumheller	Edmonton	Saskatchewan	Saskatchewan Farm Annex	Psychiatric Centre	Stony Mountain	Other
1985																
June					3		2		46	17	4	15			4	
July		8	1	1	2	2	1		7	3	1	7		2	5	
August		5			25	4	1		2			9			5	4
September		3	1		4	2			5	4		3		1	7	1
October		13	3	3	2	4	5	4	8	3	2	4			9	
November		2	3	4			3			2	1	20		1	23	4
December		1	20	12					14	2		4		1	2	
1986																
January		6		2	1				5	14	17	7			6	1
February		3		2					4		6	8		1	4	
March		2	18	20			1		1	6	6	10			7	1
April	1	4	2	1			1	1	32	2	7	15	2	10	1	
May		14	1	1	19	1	6		3	2	3	13			3	1
Sub-total	1	61	49	46	56	13	20	5	127	55	47	115	2	16	76	12
Total	1,698															

Ontario Region														Quebec Region										Atlantic Region			
Bath	Beaver Creek	Collins Bay	Frontenac	Joyceville	Kingston	Millhaven	Pittsburg	Portsmouth	Prison for Women	Warkworth	Other	Archambault	Cowansville	Drummond	Federal Training Centre	Laval	La Macaza	Leclerc	Montée St-François	Regional Reception Centre	Ste-Anne-des-Plaines	Other	Dorchester	Springhill	Westmorland	Other	
		4	2	9	12	8	2		4	8		4	3		1	6	1	2			3			1	1	2	1
3	3	5	7	6	17	1		1	12	1		2	17	2	1	1	1		3				5	1			
	7	9	5	3					4	1				3	3		33						8				
	3	26	6	6	8	1		1	32	2		7	2	3	3		4		1	1	2	1	10	5			
1	1	5	13	7					14	1		13		3	1	1	3			1	6		10	5			
2	2	4	14	3				2	8	1		1	1	1	1	1	2				2	11	24				
					19	9		2	6	1		3	5	2	1	6	3	7	1		1		7	5	4		
1	2	2	2	3	4			2	11			3	22	1	2	3	8	3		2			1	14	2		
	11	5	4	16					1	2		4	17	1	3	2	4			1			3	3			
	17	4	1	1	2	10		1	10	3		3		2	5	5		6		1	2	1	2				
	2	1	5	9	10		2	7	9	3		6	6	3	3	5		5		1	2	2	3	1			
1	23	42	32	53	100	101	4	2	20	128	17	26	95	14	55	37	14	74	2	7	20	4	53	63	9	1	

TABLE D
COMPLAINTS AND INMATE POPULATION—BY REGION

<u>REGION</u>	<u>COMPLAINTS</u>	<u>INMATE POPULATION⁽¹⁾</u>
Pacific	251	1,590
Prairie	450	2,495
Ontario	523	2,897
Quebec	348	3,553
Maritimes	<u>126</u>	<u>1,146</u>
Total	1,698	11,681

⁽¹⁾The inmate population figures were provided by The Correctional Service of Canada and are those for the period ending May 31, 1986.

TABLE E
INSTITUTIONAL VISITS

<u>Multi-level</u>	<u>NUMBER OF VISITS</u>
Kingston Penitentiary	11
Prison for Women	4
Regional Psychiatric Centre, Prairie	2
Regional Psychiatric Centre, Pacific	3
Saskatchewan Penitentiary	<u>8</u>
Sub-total	28
<u>S6 and S7</u>	
Archambault	3
Dorchester	6
Edmonton	6
Kent	5
Laval	9
Millhaven	<u>13</u>
Sub-total	42
<u>S3, S4 and S5</u>	
Bowden	5
Collins Bay	6
Cowansville	6
Drumheller	5
Drummond	2
Federal Training Centre	10
Joyceville	6
La Macaza	2
Leclerc	7
Matsqui	5
Mission	3
Mountain	4
Springhill	5
Stony Mountain	7
Warkworth	11
William Head	<u>2</u>
Sub-total	86

(continued on page 10)

TABLE E (continued)

INSTITUTIONAL VISITS

<u>S1 and S2</u>	<u>NUMBER OF VISITS</u>
Beaver Creek	2
Ferndale	1
Frontenac	4
Pittsburgh	1
Rockwood	1
Ste-Anne-des-Plaines	1
Westmorland	<u>3</u>
Sub-total	13
Total	<u>169</u>

TABLE F

INMATE INTERVIEWS

<u>MONTH</u>	<u>NUMBER OF INTERVIEWS</u>
June	73
July	15
August	66
September	57
October	79
November	73
December	63
January	43
February	71
March	64
April	72
May	<u>94</u>
Total	<u>770</u>

TABLE G
DISPOSITION OF COMPLAINTS

<u>ACTION</u>	<u>NUMBER</u>
Pending	111
Declined	
a) Not within mandate	111
b) Premature	661
c) Not justified	190
Withdrawn	233
Assistance, advice or referral given	403
Resolved	52
Unable to resolve	<u>42</u>
Total	1,803

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

<u>CATEGORY</u>	<u>RESOLVED</u>	<u>ASSISTANCE GIVEN</u>
Cell effects	8	15
Cell placement	0	2
Claims	3	19
Diet/Food	1	4
Discipline	8	16
Dissociation	2	11
Education	0	4
Financial Matter	1	24
Grievance Procedure	1	19
Hobbycraft	0	2
Information on File	3	4
Medical	2	26
Request for Information	0	12
Programs	3	7
Sentence Administration	0	35
Staff	1	12
Temporary Absence	1	23
Transfer	6	69
Use of Force	0	3
Visits and Correspondence	6	36
Work Placement	1	5
Other	<u>5</u>	<u>42</u>
<u>Outside Terms of Reference</u>		
Parole	0	11
Provincial Matter	0	1
Court Decision	<u>0</u>	<u>1</u>
Total	<u>52</u>	<u>403</u>

RECOMMENDATIONS

RECOMMENDATIONS FOR 1985-86

When we have looked into a complaint arising from a problem which our investigation finds justification for, then such a finding is usually followed by a recommendation from our office for a further review of the matter by the Correctional Service. So we are daily making recommendations at the institutional or regional level in an attempt to resolve problems brought to our attention. On occasion, we do make recommendations to the Commissioner of Corrections at National Headquarters on national issues or on matters that were not resolved elsewhere and the following are some examples of such recommendations.

1. Sharing of Case Management Reports

Although this issue was referred to in my last annual report, my recommendation has neither been accepted nor rejected and despite assurances from the Commissioner of Corrections in March 1984 that the matter would be dealt with, it was not resolved prior to the end of the last reporting year after a wait of more than fifteen months for a decision.

The problem arose when The Correctional Service of Canada decided that Case Management Reports were no longer to be co-signed by or physically shared with the inmate. This change in policy was contrary to the inmate's right to be aware of information used in administrative decisions directly affecting his condition of incarceration. When I questioned the change in policy, I was advised that these reports could no longer be shared with the inmate because of a certain section of the *Privacy Act* which, when examined, was not what that section said at all. I recommended:

That immediate action be taken to re-institute the policy of having inmates co-sign Case Management Reports.

It took almost two years but in January 1986 the Commissioner of Corrections reinstated the policy which I am pleased to report is now in effect.

2. Purchase of Computers

Prior to November 1984 inmates were allowed to purchase full size personal computers for specific and approved educational programs. We received a number of complaints from inmates alleging that this was no longer the case and that they had been denied such purchases. This created a situation where some inmates had computers in their cells and were allowed to keep them, while others could not purchase same. One such inmate grieved the matter and was advised that a number of problems were arising in regard to personally owned computers and that these were to be considered in the near future.

I discussed the issue with the Commissioner in September 1985 and received his reply shortly thereafter to the effect that he did not feel inmates should be allowed to purchase computers for their personal use. He based his rationale on the Vantour report on *Murders and Assaults in the Ontario Region* which stated that an increase in the monetary value of personal effects that an inmate may have in his possession is closely related to the

availability of drugs. I was advised that the new policy had been circulated and that a final directive would be presented shortly.

After hearing nothing for over six months, I again contacted the Commissioner's office and was advised that there had been further delays, that a draft directive had now been circulated and that while it may be substantially modified, the directive will not include personal computers as authorized items. There was no indication when the new policy would be finalized but for the inmate grievant who was advised that the matter would be settled in the near future, it was now over nineteen months since he received that response.

3. Access to Photocopying Facilities

Several inmates have complained to this office about the difficulties experienced in obtaining photocopies of documents, especially in Protective Custody where inmates are obliged to turn them over to staff members. Inmates are hesitant to do so for a number of reasons. Sometimes it takes days to have the documents returned and on occasion they have been lost. If the document is confidential in nature it loses that confidentiality once turned over to a staff person and the inmate has no knowledge of who might see the document once it leaves his hands.

From the staff point of view it places them in a potentially compromising position as they may be left open to allegations that the document was not properly safeguarded in terms of loss or disclosure or that access to photocopying was unreasonably denied or excessively delayed.

Of course the other option open to inmates is to send original documents through the mail which also is not without some pitfalls. Even in the general population, inmates have no legitimate direct access to photocopying and have to go through the back door to get a copy if they are uncomfortable with releasing their document to staff. I recommended to the Commissioner of Corrections:

That inmates be provided with direct access to photocopying facilities.

I was advised that the issue was to be sent to the regions for input before a policy was finalized. This was done and shortly thereafter I received a response from the Commissioner which rejected the recommendation because "their review indicated there is no problem with current practices and that the issue arose because of a number of isolated cases." I was further advised that "possible security problems and cost implications would negate any benefits which might be derived." He went on to describe what was available in the region but concluded by stating that problems had been experienced in providing photocopying service to protective custody inmates, the very people which I had referred to in formulating the recommendation.

The response was even more puzzling when the Commissioner indicated "that the Service cannot provide inmates with *direct unsupervised* access to photocopying facilities in all instances but that the Service's general policy is that inmates must be given the opportunity to have photocopies made." I never suggested that there be unsupervised access and the reason I made the recommendation was because there was no national policy on the matter. My observation prompted a further letter correcting the original response in that general policy should have read general practice.

The bottom line was, however, that it would be counter-productive to finalize a policy as this is clearly a local issue which can best be handled at the institutional level. I totally disagree with this line of reasoning and feel that there should be a stated national policy on this matter ensuring that inmates have access to such facilities. How the institutions carry out the policy is then a local issue but the principle must first be enunciated in a national policy.

The "local issue" response is one which we are beginning to hear more and more of and is, I suggest, an abdication of responsibility on the part of those whose mandate it is to lead the Correctional Service at National Headquarters.

4. Denial of Personal Effects

Two inmates quite independently approached our office with similar complaints. Both inmates upon arrival at an institution in the Pacific region were advised by prison staff that they had thirty days in which to get any personal possessions sent to them which they wanted in their cells. One inmate contacted his family and had his television set sent and accepted at the institution. When he attempted to pick up the set, he was advised by the Admission and Discharge officer that he could not have it and would have to purchase one through the institution. The other inmate telephoned his father to purchase a watch for him and while he was on the telephone a Living Unit officer verified to the father that if he bought a watch then the inmate would be allowed to have it. The watch was delivered to Visits and Correspondence with an indication that it would be forwarded to the inmate, however, when he arrived at Admission and Discharge he was advised that he could not have it as personal property and that if he wanted a watch he would have to purchase one. The facts in these two cases were not in dispute and apparently the problem was caused by staff unknowingly passing along incorrect information.

Both inmates grieved the denial of their personal effects and both received the same reply at the third level. They were advised that it was regrettable that staff provided erroneous information but that policy could not be changed because of that error. They were further advised "that had the staff member not provided erroneous information you would have been told that you could not have your effects sent in. Therefore, the results would have been the same. Grievance denied." Such a totally absurd response prompted the recommendation:

That the inmates be issued the effects in question.

The Commissioner agreed that the inmates should not be penalized for errors committed by staff and promptly directed that they be allowed to have their effects. He also asked the Deputy Commissioner, Pacific region, to ensure that correct information is provided at the penitentiary placement level in the future.

5. Proceeds from the Sale of Disallowed Personal Effects

From time to time, changes are made with respect to the items inmates are authorized to have in their possession. During a review of the directive concerning personal effects and inmate money we noticed that if an inmate sold an item no longer authorized, the proceeds of such a sale would be credited to his savings account. However, funds for purchases of personal effects must come from the current account. This becomes important when one realizes that inmates are not able to freely transfer savings to current accounts and consequently where an item was originally purchased from current funds then it would only be reasonable to return the sale proceeds of that item back to the current account.

The Commissioner agreed with that position and issued an interim instruction that field staff be advised that the change be implemented immediately.

6. Tax Credits

This office was contacted by inmates concerning the denial of their final level grievances in which they were seeking to have sales tax credits deposited to current accounts instead of to savings accounts.

According to the Commissioner's Directive on inmate money, approved earnings are limited to income from designated pay assignments, from authorized employment in the community and from hobbycraft sales and awards. Approved earnings are deposited in the inmates' current account except for that amount deposited to savings and for authorized deductions. Any other monies are deposited to the savings account.

However, it was decided that because the sales tax credit did not qualify under the definition of "approved earnings", it could not be deposited to the current account and the grievances were denied.

Our investigation of the problem found memoranda from both the Director of Inmate Affairs and Acting Regional Manager Finance which basically said that although the refund does not qualify as "approved earnings", it was logical that as the sales tax is paid by the inmate from his current account, a refund of sales tax should be credited back to the current account.

I wrote to the Commissioner supporting the position put forward by his staff in this instance and recommended:

That all monies representing tax credit refunds to inmates be placed in current accounts.

His response was that further thought had been given to the question on Ontario Tax Credits granted to inmates and a decision was made that there was no justification on either legal or moral grounds for changing the present policy.

I had to agree with his argument that the Sales Tax Credit had no connection with purchase made but is given to low income earners. However, under the circumstances the credit amounts were really quite small and an exception could have been made to give the inmates a little more spending money.

Shortly afterwards, I was advised by the Commissioner of a new directive being drafted on the subject of inmate money which would place the onus on the inmates to budget their own money. Although the definition of approved earnings will not change, the savings account minimum will be reduced giving the inmates more control over their money.

7. Temporary Absences from Psychiatric Centres

Complaints were received from inmates in a particular Psychiatric Centre to the effect that there was no temporary absence program. During the course of our investigation, a member of my staff met with representatives of both the Inmate Committee and the staff. We were advised that with respect to the use of rehabilitative escorted temporary absence passes, such were not available due to the brevity of the stay of patients and the preference that

patients spend their limited time interfacing with staff. We were further advised by both inmates and staff that there was an agreement between the Psychiatric Centre and the community prohibiting the use of such passes.

Our investigation led us to an examination of the usage of such passes at the other psychiatric facilities and found that they were employed in varying degrees. With that knowledge, we next wrote to the Director of the Centre requesting comments on the allegations presented. The reply received stated that the information provided to us was essentially correct.

I next met with the Commissioner on this matter pointing out the policy at the Centre was discriminatory against psychiatric patients and that the discretionary powers with respect to temporary absences were being denied to the institutional head. The Commissioner agreed with that position and provided me with a copy of the memorandum which he sent to the Deputy Commissioner of the region requesting a review of the situation and that he correspond with me to clarify the matter.

A short time later, I received a reply from the Deputy Commissioner indicating that the practice that had been in existence at the Regional Psychiatric Centre was reviewed and that the new position taken is "that inmates/patients residing at the Centre will not (simply as a result of their incarceration in said facility) be precluded from applying for and/or receiving temporary absences and that the usual considerations appropriate to the granting of a temporary absence from a maximum security facility will apply."

8. National Prison Justice Day

Over the past several years a practice has developed among some inmates and inmate rights groups to observe a day called National Prison Justice Day in memory of prisoners who have died from unnatural causes while in prison. The day has been characterized by work stoppage and refusal of meals and is supported in varying degrees at institutions across the country. The Service's response has been basically to treat it like any other working day and those who refuse to work are confined.

I received correspondence from an inmate who found himself in the position that if he observed the day and did not work he would be threatened with being charged and placed in punitive dissociation, would be harrassed by staff, might lose his job, might not get another job and would certainly lose consideration for passes, transfers or parole. On the other hand, if he does go to work, he will face loss of respect from other inmates, harrassment, verbal abuse and possible injury. So he put in a grievance on the matter basically requesting that the Correctional Service observe the day or if not "that the policy be changed so that threats and intimidation not be used to influence inmates into a position that would put them in jeopardy." He included in his correspondence to our office both his grievance and copies of the responses he received.

At one level the response was simply "Correctional Service of Canada policy which I support is no work, no pay - Grievance denied." This type of reply was, of course, totally inadequate, in that it did not respond to the complaint but rather left him angry and frustrated. This particular inmate, however, responded to that reply at the next level where he stated "I wholeheartedly agree - no work no pay is a good policy ... so why is it that a man who didn't even read my complaint and so obviously isn't doing his work, is getting paid."

The next response also dwelt on the no-pay policy which again was never an issue and I shared the inmate's frustration with a grievance system that was not doing what it was set up to do.

Our investigation of this matter began with a review of the so called Correctional Service policy on the subject but we found that there really was no Service-wide policy. Questions with respect to loss of remission, performance notices or charges for those who refused to work varied from one institution to another. At the complainant's institution some inmates were charged with refusing to work while others were issued performance notices. At other institutions, performance notices were not issued nor were charges laid for inmates deciding to observe the day by remaining off work. Still at other institutions, performance notices were issued but charges were not laid. At all institutions examined, inmates not showing up for work were not paid for the day. It was clear that there were certainly inconsistencies in dealing with inmate reaction to this annual event.

I met with the Commissioner to discuss this matter and suggested that it would be reasonable for the Correctional Service to allow those inmates who wish to observe this day to do so on a leave without pay basis. I concluded by recommending:

(a) That the Correctional Service of Canada review its policy with respect to National Prison Justice Day, and,

(b) That regulations pertaining to failure to report to places of work, other than pay, be waived for this day.

The response I received back was basically that the Correctional Service was not willing to give recognition to the day and that there was a national policy. Briefly stated it was that inmates refusing to work would be secured in their cells and forfeit pay for that day and that individual cases would be reviewed for possible loss of remission. Not a word was mentioned about the issuance of performance notices or the laying of charges practiced at only some institutions. All in all, a pretty inconsistent national policy.

9. Privileged Correspondence

It came to my attention that a certain letter I had written to an inmate, which like all correspondence between inmates and myself has the status of privileged correspondence, was reproduced by the Correctional Service in a Security Information Report. I immediately contacted the Commissioner to bring the matter to his attention and to strenuously object to both the photocopying and release of my letter or for that matter any other privileged correspondence.

A few days later, I received a written reply explaining that during the course of an investigation into the illegal use of privileged correspondence between the inmate and his lawyer, the contents of both letters were reproduced as part of the information gathering process. He went on to say that "the Service is indeed not responsible for safeguarding the confidentiality of privileged correspondence once it has been delivered and opened by the inmate."

This response showed a lack of common sense and an absence of appreciation for the concept of and rationale for privileged correspondence. To argue that the Service has no responsibility for safeguarding the confidentiality of privileged correspondence once it has been opened by the inmate is unreasonable given the institutional setting.

It was and still is my contention that privileged correspondence must be treated as confidential by Correctional Service staff and that it cannot lose that status by virtue of the fact that it has been opened by the recipient. Furthermore, such correspondence should never be reproduced by correctional staff.

I indicated my dissatisfaction with the response received and total disagreement with the position taken by the Correctional Service. The matter was referred to the Deputy Commissioner for review and some time later I was advised that the incident in question was an isolated case and that the Warden at the institution where the incident occurred was asked to direct his staff not to copy or summarize privileged correspondence in the future.

CONCLUSION

Despite earlier assurances from the Commissioner of Corrections for personal review of incidents brought to his attention by our office, it is apparent that some issues are not being given that attention. We are led to believe that the Carson Report recommending decentralization and delegation of authority to the operating level is at the bottom of this. In our discussions with correctional staff at National Headquarters and in the regions there is some agreement that there are problems and it may be that as a result, our office finds itself in the position of dealing with the regions as five separate correctional services all pulling and tugging in different directions to the possible detriment of the inmates. There is always the danger of going too far with decentralization. Some problems need resolution by a strong central authority with the leadership qualities to make the tough decisions and bring a measure of uniformity within the Service.

The following matters of complaint which prompted recommendations from this office remain outstanding and are an illustration of the lack of sufficient national involvement and resolve.

The practice of double bunking in segregation and dissociation areas continues, though we have recommended it should cease. As of the end of May, 1986 the numbers have doubled;

The time frames for processing grievances and claims appeals at National Headquarters are seldom met and although some efforts have been made in this area, we do have concerns about the thoroughness and objectivity of the reviews of grievances and claims appeals;

Our recommendation for equitable and reasonable telephone access to inmates has been shuffled downward. Although the Commissioner requested the regions to see that Institutional Standing Orders be developed that would reflect application of the policy contained in the Commissioner's Directive, no such development occurred. Standing orders have not been revised and the inconsistencies which prompted the recommendation remain;

The duty to act fairly in processing involuntary transfers despite recent court decisions and the Correctional Service of Canada directives which detail responsibility in this area, continues to prompt complaints from inmates encountering an absence of fairness in some decisions on these transfers. In cases referred to National Headquarters for review, we find no thorough independent review of the transfer decision but rather a referral back to the initial decision maker in most cases.

The failure to make final and equitable decisions at National Headquarters on referrals from this office and simply referring them back to the regions has been a particular problem this year but by continuing to stress the duty to act fairly we hope that a better balance can be struck in the decision-making process.

Appendix A

P.C. 1977-3209

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

WHEREAS the Solicitor General of Canada reports as follows:

That, as a result of the resignation of Miss Inger Hansen from the position of Correctional Investigator as of October 1, 1977 the temporary appointment of Mr. Brian McNally of Ottawa to the position of Correctional Investigator was made by Order in Council P.C. 1977-2801 on 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 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 said 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 who are referred to in Section II 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

