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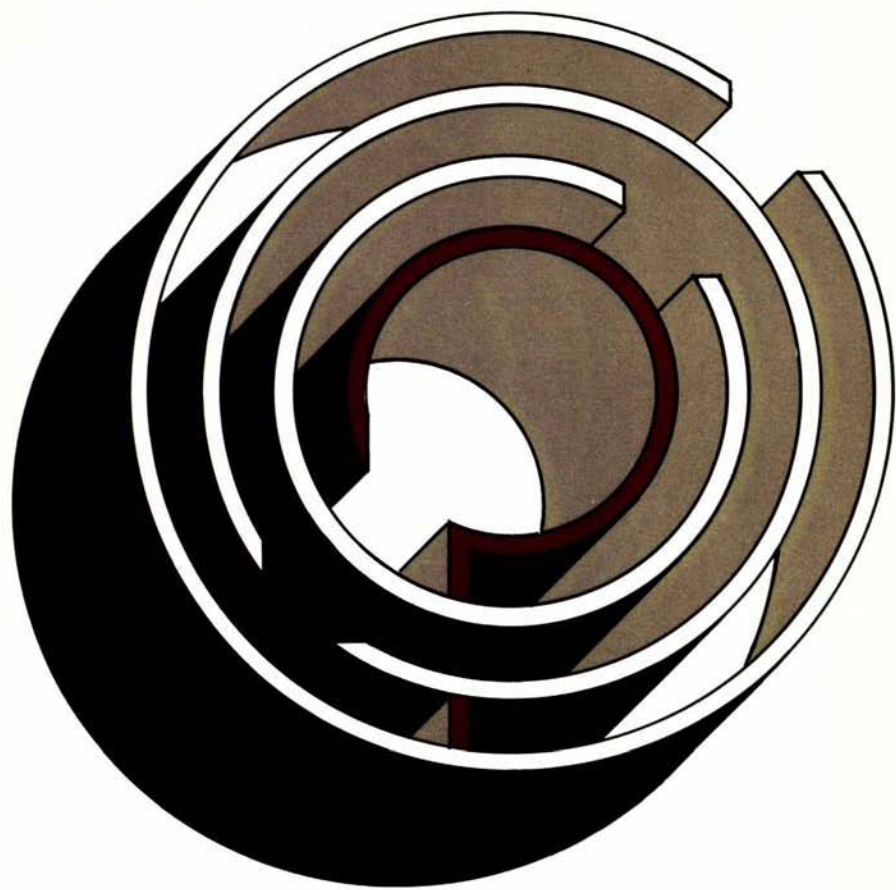
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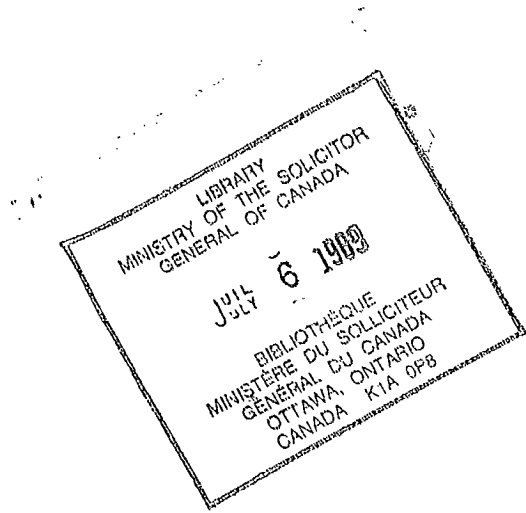
Annual Report
of the
Correctional
Investigator

1987 - 1988



The Correctional Investigator
Canada

Annual Report
of the
Correctional
Investigator



1987-1988

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Canada

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April 6, 1989

The Honorable Pierre Blais
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Mr. Minister:

As Correctional Investigator appointed to investigate and report upon problems of inmates in Canadian Penitentiaries, I have the honour of submitting to you the fifteenth annual report on the activities of this office covering the period 1 June, 1987 to May 31, 1988.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Canada

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Introduction

During this reporting year from June 1, 1987 to May 31, 1988 our numbers were once again up considerably from last year and we were hard pressed to meet the challenge. We did however manage to process some 3043 complaints, an increase of 23% from the previous twelve month period. Our number of visits to institutions also increased from 156 to 193 while the number of interviews conducted remained about the same at 1318.

I am unable to accurately determine the reasons for the significant increase of 68% in the complaint level over the past two years during which time the inmate population base has been fairly consistent. However, if the numbers continue to rise at such an alarming rate it will become increasingly more difficult for this office to continue to deliver the level and quality of service that exist at present without a substantial increase in our human and financial resources.

STATISTICS

TABLE A**COMPLAINTS RECEIVED AND PENDING — BY CATEGORY**

Category

Canteen	12
Cell Effects	75
Cell placement	12
Claims	66
Diet/Food	50
Discipline	133
Discrimination	5
Dissociation	103
Education	17
Financial Matter	128
Grievance Procedure	64
Hobbycraft	12
Information on File	89
Medical	211
Request for Information	34
Programs	81
Sentence Administration	86
Staff	210
Temporary Absence	132
Transfer	458
Use of Force	12
Visits and Correspondence	246
Work Placement	53
Other	329

Outside Terms of Reference

Court procedures	5
Court decision	10
Parole	97
Provincial matter	15
	<hr/>
	2,745
Pending from 1986-1987	298
	<hr/>
Total complaints investigated	3,043

TABLE B
COMPLAINTS — BY MONTH

Pending from previous year 298

1987

June 235
July 194
August 157
September 300
October 163
November 246
December 150

1988

January 166
February 266
March 275
April 303
May 290
3,043

TABLE C
COMPLAINTS — BY REGION

	<u>Pacific Region</u>										<u>Prairie Region</u>							
	Elbow Lake	Ferndale	Kent	Matsqui	Mission	Mountain	Psychiatric Centre	William Head	Other	Bowden	Drumheller	Edmonton	Psychiatric Centre	Rockwood	Saskatchewan	Saskatchewan Annex	Stony Mountain	Other
1987																		
June	0	8	15	9	6	2	20	0	0	36	15	0	0	0	26	0	1	0
July	0	0	8	0	12	3	1	0	0	22	5	0	1	0	3	1	1	0
August	0	0	14	2	3	6	8	0	1	12	3	0	2	0	6	1	1	0
September	0	2	6	13	4	9	23	1	0	13	9	0	8	0	17	1	5	1
October	0	0	1	2	4	0	1	0	0	10	1	2	0	0	1	0	1	0
November	0	0	3	3	3	2	2	0	0	49	5	24	0	0	8	0	0	0
December	0	0	9	4	4	4	4	0	0	4	3	0	0	0	10	0	2	0
1988																		
January	1	0	9	5	0	5	1	0	0	12	0	6	2	0	14	1	0	2
February	0	2	10	1	1	2	1	10	1	23	11	20	1	0	17	0	3	0
March	0	0	43	7	4	12	0	4	0	15	0	1	0	1	10	0	27	0
April	0	0	6	4	1	2	0	1	1	10	5	7	25	0	60	0	1	1
May	0	1	16	1	13	20	7	0	2	60	7	11	0	0	10	0	5	4
Total	1	13	140	51	55	67	68	16	5	266	64	71	39	1	182	4	47	8

<u>Ontario Region</u>											<u>Quebec Region</u>										<u>Atlantic Region</u>						
Bath	Beaver Creek	Collins Bay	Frontenac	Joyceville	Kingston Penitentiary	Millhaven	Pittsburg	Prison for women	Warkworth	Other	Archambault	Cowansville	Donnacona	Drummond	Federal Training Centre	La Macaza	Laval	Leclerc	Montée St-François	Reception Centre	Ste-Anne-des-Plaines	Other	Atlantic	Dorchester	Springhill	Westmorland	Other
0	0	0	1	2	5	10	0	1	9	0	14	2	5	3	5	1	4	1	2	1	3	1	2	8	16	0	1
0	0	0	0	1	40	6	0	0	5	1	4	1	2	0	9	35	6	3	0	1	9	1	5	6	2	0	0
6	0	4	0	0	9	4	0	0	5	3	2	14	4	0	1	2	3	26	0	0	5	0	8	0	2	0	0
0	0	1	0	16	5	5	0	0	6	1	14	0	4	6	1	6	0	0	0	2	4	2	11	6	5	0	1
3	9	0	0	3	8	1	0	16	6	3	1	1	10	1	2	1	14	2	2	0	1	0	12	29	4	1	0
1	2	49	0	6	10	2	0	1	9	3	0	0	6	12	4	12	9	2	1	0	6	0	7	5	0	0	0
1	3	2	0	1	22	4	1	4	9	5	0	3	1	3	10	2	0	4	0	4	15	2	5	2	3	0	0
1	2	6	1	8	6	8	1	8	13	3	0	1	4	2	17	1	4	3	1	0	3	0	10	2	3	0	0
0	3	6	3	4	8	4	0	1	48	9	10	1	5	0	3	9	0	10	0	2	7	0	23	4	1	1	1
0	3	8	1	3	15	3	0	0	19	4	4	1	9	5	8	2	24	0	0	3	29	1	6	3	0	0	0
2	0	30	2	0	6	5	0	1	43	0	14	1	5	5	3	6	6	1	1	1	6	0	1	24	16	0	0
0	0	2	1	12	14	24	0	0	9	2	0	24	2	5	4	4	3	4	0	0	5	0	1	14	1	2	0
14	22	108	9	56	148	86	2	32	237	34	63	49	99	37	72	75	73	56	7	14	93	7	91	103	53	4	3

TABLE D**COMPLAINTS AND INMATE POPULATION—BY REGION**

<u>Region</u>	<u>Complaints</u>	<u>Inmate Population⁽¹⁾</u>
Pacific	416	1 638
Prairie	682	2 107
Ontario	748	2 961
Quebec	645	3 389
Maritimes	<u>254</u>	<u>976</u>
TOTAL	2,745	11,071

⁽¹⁾The inmate population figures were provided by The Correctional Service of Canada and are those for the period ending May, 1988

TABLE E
INSTITUTIONAL VISITS

	NUMBER OF VISITS
<u>Multi-level</u>	
Kingston Penitentiary	9
Prison for Women	3
Psychiatric Centre, Prairies	4
Psychiatric Centre, Pacific	5
Ste-Anne-des-Plaines	5
Saskatchewan Penitentiary	9
Sub-total	<u>35</u>
<u>S6 and S7</u>	
Archaibault	8
Donnacona	9
Dorchester	5
Edmonton	5
Kent	10
Laval	5
Millhaven	7
Atlantic	3
Sub-total	<u>52</u>
<u>S3, S4 and S5</u>	
Bowden	10
Collins Bay	6
Cowansville	4
Drumheller	8
Drummond	7
Federal Training Centre	5
Joyceville	10
La Macaza	5
Leclerc	5
Matsqui	4
Mission	5
Mountain	6
Springhill	3
Stony Mountain	7
Warkworth	6
William Head	1
Sub-total	<u>92</u>

TABLE E (cont'd)**INSTITUTIONAL VISITS**

<u>S1 and S2</u>	
Beaver Creek	1
Ferndale	2
Frontenac	3
Montée St-François	2
Pittsburgh	1
Saskatchewan Farm Annex	1
Sand River	1
Westmorland	3
	Sub-total
	<u>14</u>
	Total
	193

TABLE F
INMATE INTERVIEWS

<u>MONTH</u>	<u>NUMBER OF INTERVIEWS</u>
<u>1987</u>	
June	164
July	84
August	40
September	203
October	74
November	113
December	81
<u>1988</u>	
January	38
February	99
March	135
April	151
May	136
Total	1,318

TABLE G
DISPOSITION OF COMPLAINTS

<u>Action</u>	<u>NUMBER</u>
Pending	353
Declined	
a) Not within mandate	88
b) Premature	634
c) Not justified	566
Withdrawn	388
Assistance, advice or referral given	808
Resolved	146
Unable to resolve	60
Total	<u>3,043</u>

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

CATEGORY	ASSISTANCE	
	RESOLVED	GIVEN
Canteen	0	2
Cell Effects	15	19
Cell placement	0	2
Claims	8	17
Diet/Food	2	16
Discipline	8	23
Discrimination	0	2
Dissociation	5	27
Education	0	6
Financial Matter	19	32
Grievance Procedure	7	23
Hobbycraft	0	5
Information on File	9	21
Medical	10	83
Request for Information	1	27
Programs	5	24
Sentence Administration	3	27
Staff	1	66
Temporary Absence	1	40
Transfer	21	124
Use of Force	1	5
Visits and Correspondence	16	74
Work Placement	0	10
Other	<u>13</u>	<u>96</u>
<u>Outside terms of reference</u>		
Court Procedures	0	0
Court decision	0	0
Parole	1	36
Provincial Matter	<u>0</u>	<u>1</u>
Total	146	808

**ISSUES DEALT WITH
IN 1987-1988**

As will become evident, there was limited progress made on the issues and recommendations contained in the 1986-87 Annual Report during this current reporting year.

I remain of the opinion, as stated last year, that the responses of the Correctional Service are characterized by excessive delays, an absence of thorough objective review and a reluctance to make decisions. This situation, when coupled with the absence of clear national direction, has produced an environment within which timely and reasoned redress is seldom forthcoming.

The following issues are still outstanding and as a general recommendation, should be resolved and put to bed.

1. Involuntary Inter-regional Transfers

In *September of 1986*, following an investigation into a proposed involuntary transfer of a number of offenders from the Pacific region to aid in alleviating overcrowding within that region, this office recommended:

- a) That the Correctional Service cease the practice of involuntary inter-regional transfers to compensate for overcrowding; and,**
- b) That all involuntary inter-regional transfers be reviewed by the Commissioner's office prior to implementation.**

Recommendation a) was not accepted by the Correctional Service. The Service indicated that an absolute prohibition on such transfers could create problems and hardships in certain cases. As such it opted for a "flexible approach", with all involuntary inter-regional transfers as a result of overcrowding having to be approved by the Commissioner or the Deputy Commissioner, Offender Policy and Program Development. I accept this as a reasonable compromise.

Recommendation b), to use the Service's words, was "accepted in part." The Commissioner's office will *not* review involuntary inter-regional transfers prior to implementation as recommended. I was informed that "the policy and procedures related to such transfers would be reviewed and amended as required to ensure the monitoring of all involuntary inter-regional transfers." To date I have not been informed of the results of this review and I remain of the opinion that such transfer decisions should be reviewed by the Commissioner's office prior to implementation.

2. Special Handling Units — High Maximum Security Institutions

In *June of 1986* this office recommended:

That an immediate review be undertaken of the decentralized decision-making process for Phase IV placements (transfers out of SHU to maximum security institutions) to ensure that decisions are made in a fair and timely manner.

As I indicated in the last Annual Report, the National Committee previously responsible for transfer decisions related to inmates in these units was dissolved in early 1986. In

conjunction with this the Correctional Service in *January, 1987*, revoked the Commissioner's Directives and Divisional Instructions related to both the Special Handling Unit decision-making process and the operation of the units themselves. The new policy documents issued *January 1, 1987* fail to address either of these areas adequately.

This matter was reviewed with the Commissioner in *January 1987* and a subsequent memorandum was received *March 30, 1987* stating that the former Special Handling Unit policy was abolished and replaced with amendments to the Commissioner's Directive on Classification of Institutions and Transfer of Inmates to be effective *1 May 1987*.

These directives, with or without amendments, did not even begin to address the issues previously covered by the abolished national policy. When queried on this matter the Service claimed that the absence of national policy in this area was consistent with their "decentralized" management philosophy and their efforts to "normalize" the Special Handling Unit process. Our office suggested at that time that the absence of national policy in this area was an abdication of responsibility and a failure to appreciate the significance a placement in the Special Handling Unit had on an offender's period of incarceration.

In *May of 1988* I was informed by the Correctional Service that my *June 1986* recommendation had been accepted and that a review of the decision-making process for high maximum security units and the operation of such units would be undertaken.

The results of this review, when it is completed, will be thoroughly analyzed by this office and reported upon in the next Annual Report.

3. Exchange of Service Agreement (Alberta)

The area of concern with respect to transfers under this agreement, which was initially brought to the Correctional Service's attention in *April 1987* and detailed in our last annual report, centres on the Service's non-compliance with the provisions of their own directive. Commissioner's Directive 540 paragraph 24 reads:

"In developing guidelines and procedures related to inter-jurisdictional transfers, regions should ensure that 'the duty to act fairly' is adhered to, such as prior notification to an inmate who is being transferred between jurisdictions, noting in writing an inmate's concerns and taking appropriate action."

The required guidelines and procedures had not been developed and the Service was maintaining that the responsibility for the notification of offenders in advance of involuntary transfers under the terms of this agreement rested with the Solicitor General for the Province of Alberta and not with the Correctional Service of Canada.

A letter was sent to the Commissioner's office *June 4, 1987* restating our position that the Correctional Service had failed in its responsibility to ensure fairness in this decision-making process and again requested that immediate action be taken by its regions to develop the required guidelines and procedures called for by the Commissioner's Directive.

A response was received *July 28, 1987* saying that a legal opinion had been requested "on the interpretation of the duty to act fairly with respect to this aspect of the notification; namely if the Correctional Service is legally obligated to ensure Alberta has notified provincial prisoners that they are being considered for transfer to federal institutions."

A letter was received *November 4, 1987* from the Commissioner's office, inclusive of the legal opinion, maintaining their earlier position that the Correctional Service had no

obligation to ensure that decisions resulting in the transfer of provincial inmates to federal institutions were taken fairly.

The position of this office was again put forth in a letter to the Commissioner's office *November 5, 1987* with a specific recommendation that the cases referred to their attention in *April 1987* be thoroughly reviewed.

A further letter was received *December 4, 1987* from the Commissioner's office saying that the specifics of the cases referred in *April 1987* were currently being investigated by the Director of Intergovernmental Affairs and that the Assistant Solicitor General for the Province of Alberta had been asked to send the Correctional Service their procedures concerning inter-jurisdictional transfers. The letter concluded by stating:

"Once all the pertinent material is received, the information will be analyzed and I will communicate the findings to you. You will note that this subject matter is somewhat time consuming, but rest assured that we are continually monitoring the situation."

Given the handling of this matter to date it is difficult to rest assured. The specifics of the cases referred to in *April 1987* remained unaddressed as of *December, 1987* and the guidelines and procedures related to inter-jurisdictional transfers called for by the *January 1, 1987* Commissioner's Directive remained undeveloped.

In *May of 1988* I was further assured that the province had agreed to provide written notification to the inmate and that their policy manual has been amended. I was also informed that an inmate remaining dissatisfied with the transfer decision may submit his case to the provincial ombudsman.

Although CSC's review of the specific cases referred to them in *April of 1987* appears to have caused a re-thinking of their initial position on this matter, the required regional guidelines and procedures which were to ensure fairness remain undeveloped.

4. Involuntary Transfer Notification

In *May of 1987* this office recommended that in those instances of involuntary transfer where the decision-making authority is considering a higher level of security than the one identified on the inmate notification, a further notification should be issued.

I received a response from the Commissioner *June 19, 1987* tentatively rejecting this recommendation and saying that the issue had been referred to legal counsel and senior staff to review and that he would write me again once he had an opportunity to review their advice.

After waiting more than four months I wrote the Commissioner again *October 29, 1987* restating our concern and requesting a final decision. I received a reply from the Commissioner *November 20, 1987* rejecting my recommendation and concluding that "for the most part inmates are transferred to the institution recommended. I do not feel that an amendment to existing policy is in order."

I believe that in those cases where the decision maker is giving consideration to an institution other than the one recommended, and especially in those cases where the alternative institution represents an increase in the individual's security classification, the Service is obligated to re-notify the individual in advance of the decision being taken. As I stated in my last Annual Report, to do otherwise is to effectively negate the purpose of the notification procedure and place in question the fairness of the decision taken.

In *May of 1988* I was informed that the Service's "policy and procedure would be reviewed and amended as required to ensure that further notification in instances of involuntary transfer is included." The amendments, when forthcoming, will be reviewed. Given the significance involuntary transfers have on the offenders' period of incarceration, I previously recommended that a national directive be issued emphasizing the requirement that the decision maker thoroughly review the source documentation relevant to the transfer, inclusive of the offender's rebuttal, rather than a summary of that documentation.

I have been informed by the Correctional Service that their above noted review of the policies and procedures related to transfers would incorporate this recommendation.

5. Correctional Service Internal Investigations

In late *1986*, as indicated in my last Annual Report, our office brought to the attention of the Commissioner our concerns with the Correctional Service's internal investigation process. I was then and still remain of the opinion that the Service's internal investigations are often incomplete and lacking in objectivity, with subsequent reviews of the investigation reports done by Regional and National Headquarters authorities being nothing more than a rubber stamp.

This office was assured in *March of 1987* that "there will definitely be a Commissioner's Directive on Investigations." I was subsequently informed that a Commissioner's Directive entitled Official Investigations had been developed and approved by the Correctional Service's Senior Management Committee in *October of 1987*. As of the end of this reporting year no Commissioner's Directive on Official Investigations has been issued.

6. Correctional Service Internal Audits

The conclusion in our last Annual Report on this issue was that there remains no national policy to ensure the timely, systematic, independent review and appraisal of Correctional Service operations.

Since that time, the Commissioner's Directive on Audits was amended on *December 1, 1987* and national standards for the Inspector General's sector are in the process of being published. Although this can be seen as progress, I have yet to see evidence of any timely, systematic, independent review and appraisal of Correctional Service's operations. Consequently we will continue to monitor the situation.

7. Correctional Service Guidelines and Manuals

The guidelines and manuals at question were to be published in support of Correctional Service's new directives system which was implemented *January 1, 1987*.

As indicated in our last Annual Report we had concerns with respect to the non-publication of these documents. These concerns were brought to the attention of the Commissioner in *February of 1987*. In *May of 1987* this office was informed that the "desired status of Guidelines and Operational Manuals is being reviewed." In *November of 1987* this office was further informed that "as part of the revised policy framework, and in response to the 1987 Corporate Direction, it was agreed that the Service would establish National Standards."

If I read this *November 1987* response correctly, it would appear that the Service has changed direction on this issue and is now in the process of developing national standards rather than guidelines and manuals. Regardless of whether it is to be standards or guidelines, the concern is that one of them should have been issued *January 1, 1987*. It is incomprehensible that a new Correctional Service Directives system that was a year and a half in the making has been implemented in such a piecemeal fashion. Not only was it introduced without guidelines and user manuals, there were no Commissioner's Directives in many key areas, no finalized Regional Instructions and Institutional Standing Orders, and no clearance process through which to ensure that policy directives at the various levels of the organization were consistent with legal and operational requirements.

In *May of 1988* in response to comments in our last Annual Report I was informed "that the development of National Standards and Operational Procedures is under way." Despite this announcement we continue to have serious concerns about the Service's commitment to ensure consistency and fairness in the application of its stated national policies.

8. Health Care and the Use of Force

I recommended in *November of 1986*:

- a) That health care staff attend immediately following the use of force on an inmate;**
- b) That a report be submitted to the Warden; and**
- c) That there be appropriate follow-up attendance when deemed appropriate by health care staff.**

This recommendation was rejected by the Correctional Service in *January of 1987*. I concluded in my last Annual Report that the Service's position on this matter was indefensible.

I have to date, despite continued assurances from the Correctional Service that this recommendation is under review, received no definitive comment from the Commissioner on this matter.

9. Claims Against the Crown

I provided in my last Annual Report a detailing of the concerns this office had with the management of the claims process and the fairness of the decisions rendered.

I can report that the number of claims remaining outstanding beyond the 90 day time frame has decreased significantly. I cannot, however, report that the investigations and subsequent decisions rendered on claims applications reflect the thoroughness and objectivity one would hope for.

I have as well noted through our review of claims applications that the Service, in far too many instances, is not adhering to its own regulations regarding the handling of offender personal effects.

With respect to the two claims detailed in my last Annual Report which remained outstanding, I wrote the Commissioner again in *October of 1987* restating my earlier position. The Commissioner responded in *November of 1987*, stating in part:

...it appears clear to me that to rebut your views and your views of our legal opinion would serve no useful purpose, nor would it be in the public interest to expend any further resources in this case. Given your strong convictions on this case I am, therefore, prepared to settle the claim at \$120.00.

Although I was pleased that the claim had finally been settled in the offender's favour, I would have hoped that the Commissioner's motivation would have been fairness rather than the perceived strength of my conviction and the further expenditure of resources.

10. Access to and Correction of File Information

In *February of 1987*, after four months of discussion with the Commissioner's office, it was recommended:

That the Correctional Service establish procedures which:

- a) afford inmates reasonable access to file material already seen; and**
- b) provide an avenue through which they can request corrections of such file information.**

The factors leading to this recommendation are detailed in the 1986-87 Annual Report.

A letter was received from the Commissioner's Executive Secretary dated *July 12, 1987* saying that as a result of the Privacy Commissioner's Annual Report "Commissioner LeBlanc has expressed his personal interest in seeing that new means of informal access by inmates be explored. A project will soon be under way to explore these avenues."

A further letter was sent to the Commissioner's office *August 17, 1987* restating our position that the Correctional Service had a responsibility to ensure that personal information used for administrative purposes is accurate, up to date and as complete as possible. A response was received *September 25, 1987* acknowledging the Correctional Service's responsibility "to correct documents which are less than accurate." We were as well informed again that a "Working Group" was being formed to review the matter.

The last word received on this matter following a meeting in *May of 1988* with the senior administration of the Correctional Service was that "the issue remains under review."

11. C.D. 575 — Interception of Conversations of Inmates

This issue was initially brought to the attention of the Commissioner's office in *February of 1987* as detailed in our last Annual Report.

A meeting between my Director of Investigations and Correctional Service officials finally took place in *January of 1988*. During the course of that meeting a number of concerns were raised beyond the erroneous Criminal Code references which had initiated our involvement in the issue. Of specific interest was the question of the confidentiality of inmate telephone communication with this office.

In *April of 1988* I received a copy of a Draft Consultation Paper which addressed none of the concerns raised about the directive except the Criminal Code references. As of the end of the reporting year, nearly a year and a half after our initial contact with Correctional Services on this issue, the Commissioner's Directive remains unamended.

12. Visitor Application Decision Form

This office recommended in *February of 1987* that Correctional Services review its Visitor Application Decision Form to ensure that in those cases where the application was denied, the applicant was provided with reasons in sufficient detail to afford the opportunity for reasonable comment and that the avenue of redress was clearly identified on the form.

I was informed in *May of 1987* that amendments to the form were being proposed to Offender Management staff and that field staff would be consulted.

I questioned in my last Annual Report the need for formal proposals and consultations on matters such as this and suggested that in instances where there are no identified concerns with a legitimate recommendation, the Commissioner's office should take immediate action.

I was eventually informed in *November of 1987*, some nine months after our recommendation, that the form had been revised and was in use.

13. Inmate Access to Tape Recordings of Disciplinary Hearings

This issue was initially raised with the Commissioner's office in *February of 1987* and as indicated in our last Annual Report, the issue remained unaddressed by the Correctional Service. I stated at that time that the Service would be well advised to issue a directive clearly stating that inmates were to be afforded access to tape recordings of their disciplinary hearings.

I was informed in *May of 1988* that "a memorandum from the Deputy Commissioner, Offender Policy and Program Development will be sent to the Regional Deputy Commissioners to remind them of the obligation to allow inmates access to disciplinary hearing tapes." Sixteen months later we are still in the future tense.

14. National Prison Justice Day

I recommended in *March of 1986*:

- a) **That the Correctional Service review its policy with respect to National Prison Justice Day; and,**
- b) **That the regulations pertaining to the failure to report to place of work, other than pay, be waived for this day.**

This issue was detailed for the second year running in our last Annual Report and it was noted then that no national policy had as yet been issued.

In *July of 1987* a national policy of sorts was issued but it failed to address the concerns raised by this office. I informed the Commissioner during our *October 30, 1987* meeting that the issuing of Performance Notices, which in turn directly impact upon earned remission, to those inmates who choose to observe this day was strictly punitive in nature.

The purpose of my recommendation in *March of 1986* was to ensure a degree of consistency in the Service's response to National Prison Justice Day. Given that as of *January 1, 1987* the specific criteria upon which earned remission decisions were based no longer existed, the issuing of Performance Notices as a matter of policy may well have the effect of increasing the inconsistencies of the past.

The Service's reaction to this issue has been based on its desire not to give official recognition to National Prison Justice Day. I remain of the opinion, whether the day is officially recognized or not, that a simple no work/no pay policy for the day should be accepted.

I was informed in *May of 1988* that a no work/no pay policy for Prison Justice Day would be approved by Correctional Service's Senior Management Committee in June.

15. Purchase of Computers

This issue was initially raised with Correctional Services in *February of 1985*.

In our last Annual Report I stated that I would be formally recommending to the Commissioner that the decision taken with respect to inmate owned computers be based on the individual needs of the inmate and the accessibility to computers in the institution in question.

The recommendation was made in *October of 1987* following further discussions with the Commissioner's office. I was informed in *May of 1988* that "the policy will be amended by the Commissioner to allow inmate purchases of computers for educational purposes based on the individual needs of the inmate and the accessibility to computers in the institution." After three and a half years, there finally appears to be a reasonable and consistent national policy on the matter of personal computers.

16. Inmate Access to Telephones

I recommended in April of 1985:

That the Correctional Service review its inmate access to telephones policy in all institutions to ensure reasonable and equitable access as called for by the Commissioner's Directive.

This issue was detailed, for the second year running, in our last Annual Report at which time I recommended that the Correctional Service develop a national policy, inclusive of a definition of what constitutes reasonable access, and ensure that their present institutional operations conform to that policy.

I was informed in *May of 1988*, some three years after my recommendation, that it had been accepted. The Correctional Service further stated that "it has become apparent that further direction is required to ensure the application of the policy of reasonable and equitable access to telephones. The current practice in the institutions will be reviewed and National Standards will be developed and implemented to ensure a common understanding of reasonable and equitable access."

I intend to thoroughly review the Correctional Service's forthcoming efforts related to this long-standing issue and will hopefully be able to provide a conclusion to this matter in our next Annual Report.

17. Double Bunking in Segregation

I recommended in *June of 1984* that the Correctional Service cease immediately the practice of double bunking in segregation and dissociation areas. I have included the issue again in this year's Annual Report because I remain of the opinion that the continued

double bunking of an inmate population which has limited access to privileges, amenities and programming available to the general population and is confined to their cells or unit for the majority of the day is, to my mind, inhumane.

The Correctional Service of Canada continues to reject this recommendation, saying that it is not possible to eliminate the practice altogether, and claims that "every effort is being made to keep the practice to a minimum."

I indicated in the previous report that in *April of 1987* there were some 60 inmates double bunked in the administrative segregation protective custody area at Kent Institution, while in the general population area at the same institution there were 26 vacant cells. In *May of 1988* there were 88 inmates so double bunked with 35 cell vacancies within the general population area.

I again recommend that the Correctional Service cease the practice of double bunking those offenders who are not part of the institution's general population and, as such, have limited access to the privileges, amenities and programs generally available within that institution.

18. Offender Application for Inter-regional Transfers — Decision Maker

A number of offenders had contacted this office requesting a review of the denial of their application for inter-regional transfer.

During the course of my meeting with the Commissioner *May 22, 1987* I brought to his attention the fact that the new Commissioner's Directive on transfers did not clearly identify, in cases of requested, voluntary inter-regional transfer, who the decision maker was. I was informed by the Commissioner at the meeting that the decision maker was the Deputy Commissioner of the sending region.

A subsequent letter was sent to the Commissioner's office *June 4, 1987* with supporting documentation, including a third level grievance response signed on behalf of the Commissioner, which clearly indicated that in practice it was the proposed receiving rather than the sending Regional Deputy Commissioner who was making the decision. A request was made at the time that the discrepancy be immediately addressed and that a clearly defined decision maker be identified within the Commissioner's Directive.

The absence of a clearly defined decision maker was causing inconsistencies in both who was providing the offender with the reasons for the denial and who was responding to offender grievances filed against the decision. It seemed quite obvious to me that to ensure fairness in this process, at least from an inmate's point of view, one must know who the decision maker was.

A response was received from the Commissioner's office *August 10, 1987* saying that the decision is a "consultative process" and our concerns would be conveyed to the Deputy Commissioner, Offender Policy and Program Development for examination. A further meeting was then held resulting in a commitment from the Correctional Service that the decision maker with respect to such transfer applications would be clearly identified within the directive.

A letter was subsequently sent to the Commissioner's office *August 26, 1987* confirming this commitment.

Although I have received further communications relating to this issue, no substantive action has yet been taken. In *May of 1988* following a meeting with senior Correctional Service officials, I was advised that:

"The decision taken in relation to an inter-regional transfer is shared by the sending and receiving regions. The policy will be amended to: 1) ensure that the reasons for a denial are provided to the inmate by the region denying the transfer; 2) ensure that the inmate is advised of his right to appeal the decision; and 3) allow the inmate's grievance related to the transfer decision to proceed directly to the Commissioner's level."

I will review the amended policy when it is issued and hopefully conclude the matter in our next report.

19. Warning Shots

I noted over the course of this reporting year a significant increase in the number of staff and offenders injured by warning shots. A review of Correctional Service's internal policy documents indicated an absence of direction with respect to definition and purpose of warning shots, and their staff training program did not appear to give any practical instructions in this area.

I wrote the Commissioner *October 29, 1987* recommending that the Correctional Service conduct a comprehensive review with respect to the Service's present practice in this area, including an assessment of existing training methods to ensure the safe use of firearms.

I received correspondence from the Commissioner *January 28, 1988* rejecting my recommendation. The Commissioner concluded that all the incidents fully justified the use of firearms and as such, the Correctional Service did "not see the need to conduct a more comprehensive review of existing practice in the area of warning shots."

A further meeting was held in *April, 1988* with the Commissioner's Executive Secretary. During the course of that meeting it was pointed out to him that:

- a) we were not questioning whether the incidents justified the use of firearms, but rather the manner in which they were used — warning shots are generally not intended to cause injury; and,
- b) the Commissioner's response did not address our concerns with respect to the absence of direction and practical instruction relating to the use of warning shots.

The Executive Secretary agreed to undertake a further review of the matter.

I received in *May of 1988* a copy of the Correctional Service's current policy direction concerning warning shots and a copy of their present training program. These are the same documents I reviewed prior to making my *October 1987* recommendation. To date I have received no indication that Correctional Services has taken any further action in response to the recommendation on this matter.

20. Administrative Segregation — Commissioner's Directive 590

Our office received a significant number of complaints from offenders subsequent to the introduction of the new Commissioner's Directive on Administrative Segregation *January 1, 1987*, concerning their placement in segregation. A review of the current Commissioner's

Directive 590 indicated the following changes in relation to the operational policy enunciated in the former directive:

- a) the removal of the requirement that the offender be given a hearing by the Segregation Review board within five working days of his placement in segregation;
- b) the removal of the offender's right to be heard, at his request, once every month by the Segregation Review Board; and
- c) the expansion of the time frame for case reviews of segregated offenders by their Case Management Team.

A letter was forwarded to the Commissioner's office *August 11, 1987* detailing the above policy changes and requesting comment on the rationale for the policy changes. A response was received *November 4, 1987* which failed to address the issue and a further letter was sent to the Commissioner's office *November 27, 1987* stating in part:

"Given the significance of the decision to place an offender in administrative segregation, the vagueness often of the written reasons provided and the literacy level of the population in question, it is the feeling of this office that the segregation review hearing was a major element in ensuring fairness in these decisions.

As such, I recommend that the Correctional Service of Canada re-institute Segregation Review Board hearings as detailed in your previous policy."

A response was received *December 21, 1987* saying "we will examine the existing practices across the regions and then make changes to the Commissioner's Directive as may be required. We will communicate our findings to you, once the analysis is completed." After waiting four months, a further letter was sent to the Commissioner's office *April 22, 1988* asking for the results of their analysis.

Following our meeting in *May of 1988* with senior Correctional Service of Canada officials, I was informed that "the policy will be re-examined with the purpose of clarifying the expectations for review, especially in respect to hearings at which an inmate may appear."

As of this reporting date, it has now been nine months and the policy remains unchanged.

21. Involuntary Transfer — Progress Summary

I received a complaint from an inmate in *September of 1987* concerning his involuntary transfer from minimum security to medium security. The offender, prior to addressing his complaint to this office, had attempted to resolve his concerns through the Correctional Service's internal grievance process. As his grievance had been denied by the Commissioner's office the results of my review of the case were referred directly to the Commissioner.

The issue at hand centered on the fact that the offender had not been provided access to his Progress Summary prior to the involuntary transfer. Progress Summaries are case management documents prepared in advance of major decisions which are supposed to be co-signed by the offender.

In this case the Progress Summary was completed *April 10, 1987* and the decision on the involuntary transfer taken *April 15, 1987*. The offender was eventually provided access to the document after the involuntary transfer had taken effect.

I wrote the Commissioner *September 25, 1987* requesting a review of the decision taken in light of the offender's concerns and requesting his comments with respect to the general matter of offender access to Progress Summaries in advance of decisions, given the Service's stated policy on information sharing.

The Commissioner in his responses of *November 5, 1987* and *December 21, 1987* failed to distinguish between the specific decision taken in this individual case and the policy issue concerning information sharing and fairness in decision-making. Our position was that when a Progress Summary is prepared for the purpose of recommending a transfer, the offender should be afforded the opportunity to read and co-sign the document in advance of the decision being made. This was restated at a meeting with the Commissioner's Executive Secretary in *April of 1988*. I understand that this issue has been incorporated into Correctional Service's general review of the transfer process.

22. Corporate Policy Framework and Internal Regulatory Documents

I commented earlier under *Correctional Service Guidelines and Manuals* on my concerns with the absence of clear national policy. I have very similar concerns with respect to the absence of national direction and review in the development of regional and institutional policies.

Although the introduction to the Correctional Service's directives system in *January 1987* stated that each policy is to be reviewed to ensure consistency with legal and operational requirements, it became quickly evident that no one was co-ordinating or reviewing the subsequent development of the policy at regional and institutional levels.

We noted during the course of our investigations that not only were there major discrepancies in the subject matter addressed within these documents, but there were as well major inconsistencies in their interpretation and application of national policy.

These observations were reviewed with the Commissioner's Executive Secretary in *October of 1987*. On *November 16, 1987* a letter was sent to the Commissioner's office requesting a detailing of the review process that was in place prior to the issuing of the new Regional Instructions and Institutional Standing Order and providing examples of the inconsistencies and discrepancies discussed during the October meeting. The letter as well recommended:

That a national review be undertaken to ensure policy documents issued from the regional and institutional levels of the organization are consistent with the Service's duty to act fairly and the national policies enunciated in the Commissioner's Directives.

On *November 26, 1987* a letter was received from the Commissioner's office which simply stated "In response to your concerns regarding the monitoring of institutional policy development, a number of mechanisms exist to ensure control of this area." There was no elaboration as to what these mechanisms were, our request for a detailing of the review process in place prior to the issuing of the policies was not addressed, and no comment was made with respect to our recommendation.

Although this matter has been the topic of numerous discussions since *November of 1987* the Correctional Service of Canada has yet to address the issue.

The simple fact is that the Service, in *January of 1987*, introduced a new directives system based on the concept of decentralizing authority but failed to ensure either the consistency or compliance of the various regional and institutional policies with their national policies. The disjointed and basically unmonitored approach taken by the Service in the development of its policies and procedures has placed at serious question its ability to effectively review and analyze its own operations. It has as well, and more importantly, placed at question its ability to ensure fair and equitable treatment of the offender population.

I feel that this issue is central to the effective management of the Service and again recommend that immediate action be taken.

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 as pursuant to Part II of the *Inquiries Act* Mr. Ronald L. Stewart of the City of Ottawa be appointed as 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 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.

and the Commissioner need not investigate if

- (d) the subject matter has previously been investigated, or
- (e) in the opinion of the Commissioner, a person 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 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

