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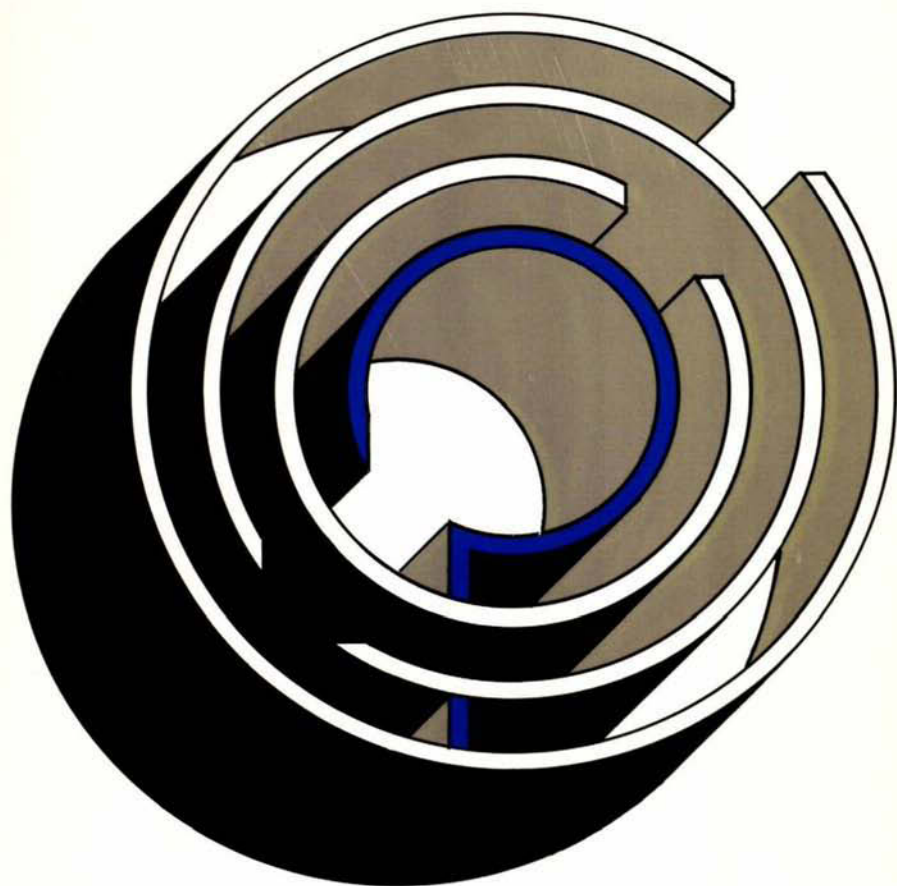
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Canada



Annual Report
of the
Correctional
Investigator

1988 - 1989



The Correctional Investigator
Canada

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of the
Correctional
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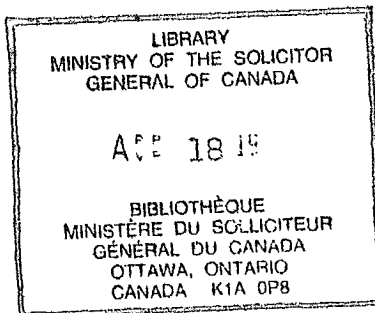
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TERMS OF REFERENCE

On December 7, 1988 a most significant amendment was made to the Commission appointing the Correctional Investigator which widened the investigative scope of the office. As a result we may now conduct investigations into problems that come within the responsibility of the Solicitor General of Canada and relate to the supervision of inmates upon their release from penitentiaries on temporary absence, day parole, parole or mandatory supervision.

As well, the existing paragraph dealing with the prohibition against investigating parole-related matters was revoked and substituted by a clear statement excluding our investigation of problems relating to the exercise by the National Parole Board of any power or duty that falls within its exclusive jurisdiction under the *Parole Act*.

For convenient reference, the full text of the mandate prior to December 7, 1988 is attached as Appendix A, while the amended version is reproduced in Appendix B.

This change will be of great assistance to both offenders applying for conditional release consideration and offenders under supervision. I have met with the Chairman of the National Parole Board, and Mr. Gibson has kindly communicated the mandate change to the senior personnel of the Board and indicated that their policy should be one of full cooperation.

ORGANIZATION AND OPERATION

In response to a request for increased resources, the office received two additional investigator positions that have been most helpful in allowing us to deal with the workload and maintain our level of service to the inmate population.

During the twelve-month period covered by this report, our complaint numbers increased by 10% to 3366. We made 200 visits to institutions where we conducted 1344 interviews with inmates and members of The Correctional Service of Canada. Of the actual complaints fully investigated, we were able to resolve 14% while offering assistance, advice or referral in 80% of the others.

I would like to thank my staff for their dedication during the year and also to extend my appreciation to all those in corrections and related fields for their cooperation in facilitating our work.

I would also like to acknowledge the commitment from Mr. O. Ingstrup, Commissioner of Corrections, to not only work together with our office to resolve the backlog of recommendations, but to make a concerted effort to respond in a more timely fashion to complaint issues.

STATISTICS

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

Category

Administrative segregation	
a) Placement	105
b) Conditions	8
Canteen	5
Case Preparation	386
Cell Effects	82
Cell placement	24
Claims	
a) Decisions	36
b) Processing	39
Correspondence	50
Diet/Food	
a) Medical	25
b) Religious	6
Discipline	
a) Procedures	68
b) ICP decision	49
c) Minor court decision	9
Earned remission	7
Education	22
Financial Matter	
a) Pay	73
b) Access to funds	12
Food services	12
Grievance Procedure	54
Health care	266
Hobbycraft	7
Information on File	113
Mental health access	101
Other	36
Private family visits	79
Programs	58
Request for information	33
Sentence administration	67
Staff	140
Telephone	64
Temporary absence	
a) Denial	82
b) Processing	83
Transfer	
a) Involuntary	140
b) Denial	151
c) Processing	217

TABLE A (cont'd)**COMPLAINTS RECEIVED AND PENDING — BY CATEGORY**

Category

Use of Force	16
Visits	128
Work Placement	68

Outside Terms of Reference

National Parole Board decisions	86
Court decisions	8
Court procedures	6
Provincial matter	<u>23</u>

3,044

Pending from 1987-1988	<u>322</u>
------------------------	------------

3,366

TABLE B
COMPLAINTS — BY MONTH

Pending from previous year	322
<u>1988</u>	
June	221
July	246
August	197
September	312
October	168
November	187
December	262
<u>1989</u>	
January	288
February	329
March	258
April	315
May	261
Total	<u>3,366</u>

TABLE C
COMPLAINTS — BY REGION

	1988	June	July	August	September	October	November	December	1989	January	February	March	April	May
Maritimes														
Atlantic		2	17	4	13	9	5	4	3	13	6	26	6	108
Dorchester		2	26	2	8	5	3	29	12	42	2	8	16	155
Springhill		3	26	2	1	3	0	2	1	10	11	1	9	59
Westmorland		0	5	0	1	0	0	2	1	0	0	12	7	28
Other		0	0	0	0	0	0	1	0	0	0	0	0	1
Quebec														
Archambault		11	2	8	2	2	3	2	1	4	1	8	1	45
Cowansville		8	5	6	5	3	21	6	12	19	14	21	18	138
Donnacona		4	5	6	3	14	6	10	4	12	4	10	17	95
Drummond		2	1	5	11	5	14	3	2	8	9	9	7	76
Federal Training Ctr.		9	10	10	2	11	9	6	11	35	13	21	15	152
La Macaza		4	1	4	19	6	3	6	44	17	5	3	3	115
Laval		3	1	5	15	2	1	0	0	1	0	0	0	28
Leclerc		1	11	10	6	3	1	4	7	7	7	12	4	73
Montée St. François		1	0	0	1	1	0	1	3	1	2	5	5	20
Port Cartier		0	0	0	0	0	1	4	2	8	15	11	13	54
Reception Centre		2	0	2	5	2	0	4	1	3	0	2	2	23
Ste-Anne-des-Plaines		0	3	3	3	7	2	1	8	5	5	4	4	45
Other		0	0	1	0	0	2	0	1	2	1	1	1	9
Ontario														
Bath		0	0	0	1	0	2	3	4	0	2	1	1	14
Beaver Creek		7	4	5	3	3	1	4	3	2	2	0	7	41
Collins Bay		6	8	0	2	9	2	0	5	2	1	3	7	45
Frontenac		6	5	1	3	1	3	1	4	4	4	3	3	38
Joyceville		8	5	1	4	2	24	1	1	2	3	5	4	60
Kingston		8	11	14	4	12	4	15	7	6	5	9	11	106
Millhaven		3	1	0	6	2	2	8	2	4	6	2	4	40
Prison for Women		13	2	2	1	2	1	1	2	0	0	2	1	27
Warkworth		23	12	12	21	13	19	10	52	12	14	33	30	251
Other		2	5	3	8	2	1	2	8	4	2	4	0	41
Prairies														
Bowden		46	5	51	24	16	20	44	23	56	22	30	20	357
Drumheller		1	11	9	2	7	3	10	3	23	10	11	0	90
Edmonton		3	9	1	54	4	7	15	11	1	19	4	9	137
Grierson Centre		0	0	0	0	0	0	0	2	0	0	0	0	2
Psychiatric Centre		3	0	1	10	0	1	0	0	0	7	1	2	25
Rockwood		0	0	0	0	0	3	0	0	0	1	0	0	4
Stony Mountain		2	3	3	1	1	4	0	5	2	12	0	2	35
Saskatchewan		6	16	12	10	6	3	4	12	11	28	5	9	122
Saskatchewan Farm		1	0	1	0	0	0	0	0	0	0	0	4	6
Other		1	0	0	1	1	2	0	2	1	2	0	3	13

TABLE C (cont'd)

COMPLAINTS — BY REGION

	1988	June	July	August	September	October	November	December	1989	January	February	March	April	May
Pacific														
Elbow Lake		1	0	0	0	0	0	0	0	0	0	0	0	1
Ferndale		0	0	2	0	0	0	1	0	0	0	0	0	3
Kent		5	11	4	15	6	3	18	1	3	18	4	5	93
Matsqui		18	16	0	9	1	5	4	2	7	6	23	2	93
Mountain		1	6	4	9	4	0	32	2	0	6	2	1	67
Mission		4	1	1	26	0	3	0	18	1	1	4	5	64
Psychiatric Centre		0	0	0	0	1	3	1	3	0	0	0	0	8
William Head		0	2	0	3	2	0	2	1	0	1	15	0	26
Other		1	0	2	0	0	0	1	2	1	1	0	3	11
Total		221	246	197	312	168	187	262	288	329	258	315	261	3,044

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

<u>Region</u>	<u>Complaints</u>	<u>Inmate Population⁽¹⁾</u>
Pacific	366	1,798
Prairie	791	2,303
Ontario	663	3,572
Quebec	873	3,814
Maritimes	<u>351</u>	<u>1,045</u>
Total	3,044	12,532

⁽¹⁾The inmate population figures were provided by The Correctional Service of Canada and are those for the period ending May, 1989.

TABLE E
INSTITUTIONAL VISITS

<u>Multi-level</u>	<u>NUMBER OF VISITS</u>
Kingston Penitentiary	8
Prison for Women	4
Psychiatric Centre, Prairies	2
Psychiatric Centre, Pacific	4
Reception Centre, Quebec	2
Ste-Anne-des-Plaines	8
Saskatchewan Penitentiary	<u>7</u>
Sub-total	35
<u>S6 and S7</u>	
Archambault	5
Atlantic	6
Donnacona	10
Dorchester	8
Edmonton	6
Kent	6
Laval	7
Millhaven	4
Port Cartier	<u>6</u>
Sub-total	58
<u>S3, S4 and S5</u>	
Bowden	10
Collins Bay	4
Cowansville	8
Drumheller	3
Drummond	7
Federal Training Centre	11
Joyceville	4
La Macaza	6
Leclerc	8
Matsqui	9
Mission	4
Mountain	6
Springhill	4
Stony Mountain	3
Warkworth	3
William Head	<u>2</u>
Sub-total	92

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

<u>Multi-level</u>	<u>NUMBER OF VISITS</u>
<u>S1 and S2</u>	
Bath	1
Beaver Creek	1
Frontenac	3
Montée St-François	2
Pittsburgh	1
Saskatchewan Farm Annex	2
Westmorland	5
Sub-total	<u>15</u>
Total	200

TABLE F
INMATE INTERVIEWS

<u>Month</u>	<u>Number of Interviews</u>
<u>1988</u>	
June	146
July	85
August	88
September	158
October	60
November	59
December	132
<u>1989</u>	
January	88
February	144
March	113
April	193
May	<u>78</u>
Total	1,344

TABLE G
DISPOSITION OF COMPLAINTS

<u>Action</u>	<u>Number</u>
Pending	300
Declined	
a) Not within mandate	75
b) Premature	820
c) Not justified	536
Withdrawn	412
Assistance, advice or referral given	987
Resolved	178
Unable to resolve	<u>58</u>
Total	3,366

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

<u>CATEGORY</u>	<u>RESOLVED</u>	<u>ASSISTANCE GIVEN</u>
Administrative segregation		
a) Placement	10	28
b) Conditions	1	5
Canteen	0	2
Cell Effects	14	20
Cell placement	5	4
Claims		
a) Decisions	2	11
b) Processing	2	16
Correspondence	3	15
Diet		
a) Medical	3	6
b) Religious	4	0
Discipline		
a) Procedures	0	12
b) ICP decision	0	7
c) Minor court decision	1	2
Earned remission	0	5
Education	1	9
Financial matter		
a) Pay	9	12
b) Access to funds	0	4
Food services	0	3
Grievance procedure		
a) Decisions	0	4
b) Processing	1	27
Hobbycraft	1	1
Information on file	18	30
Medical	12	89
Mental health access	4	49
Other	15	92
Parole	7	99
Private family visits	6	27
Programs	1	19
Request for information	0	32
Sentence administration	2	29
Staff	1	36
Telephone	6	7
Temporary absence		
a) Denial	3	22
b) Processing	6	35

TABLE H (*cont'd*)**COMPLAINTS RESOLVED OR ASSISTED WITH — BY CATEGORY**

<u>CATEGORY</u>	<u>RESOLVED</u>	<u>ASSISTANCE GIVEN</u>
Transfer		
a) Involuntary	3	36
b) Denial	5	37
c) Processing	13	104
Use of Force	0	4
Visits and Correspondence	14	27
Work placement	5	16
<u>Outside Terms of Reference</u>		
Court procedures	0	2
Provincial matter	<u>0</u>	<u>2</u>
Total	178	987

**RECOMMENDATIONS OUTSTANDING
FROM 1987-1988 ANNUAL REPORT**



Section A of this Report will provide an update on those issues that remained outstanding at the time of our last Annual Report, while section B will detail those key issues referred to the Commissioner's Office during the course of this reporting year and their current status.

A. ISSUES OUTSTANDING FROM 1987-88 ANNUAL REPORT

1. Transfers

Transfer decisions continue to be the single largest area of complaint from the offender population. The individual's security classification, usually represented by his or her institutional placement, impacts significantly on both the offender's current access to privileges and amenities as well as the offender's potential for conditional release. As such, it is not surprising that decisions on involuntary transfers or denials of requested transfers are seen by offenders as pivotal events during their period of incarceration.

In my last Annual Report, I provided detail on four issues related to transfers. All of these issues, inclusive of the recommendations, were designed to assist in bringing increased fairness to this decision-making process. I was concerned that in some instances the decision making-authority was not clearly identified and that the decision making authority, where identified, was not in fact making the decision but rather delegating the responsibility to a subordinate. I was as well concerned with the timeliness of the decision taken and the absence of a clearly defined and reasonable internal avenue of redress for the offender.

These issues were initially raised with the Correctional Service in 1986 and 1987 and were not addressed, despite assurances, during the revision of the Service's internal regulatory documents in 1987. As such, they were brought forward again in 1988, with the Service finally issuing a revised Commissioner's Directive in May of 1989. This directive more clearly identifies the decision-making authority and emphasizes the responsibility of this authority to thoroughly review the source documentation, inclusive of the offender's comments, prior to making the decision. The directive as well provides for time-frame standards in making these decisions and an avenue of redress designed to ensure that an objective review at an appropriate level of the organization takes place.

Unfortunately, the directive does not ensure that the offender, in the case of the denial of inter-regional transfers, is provided the reasons for the decision in writing by the region taking the decision nor does it ensure that the offender is advised of his right to appeal the decision. Both of these issues remain under review with the Commissioner's Office.

The Service now has in place a reasonable policy with respect to transfers and the challenge now is to ensure that this policy is in fact reflected in practice.

2. Special Handling Unit

This issue was initially raised with the Service in 1986 when it dissolved the National Committee responsible for transfer decisions related to these units while at the same time basically de-regulating the operation of the units. This issue, as with transfers, and despite similar assurances, was not addressed during the Service's revision of its internal regulatory documents in 1987.

I stated in my last Annual Report that the absence of clear national policy and direction in this area was an abdication of responsibility and a failure on the part of the Service 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 Service that "a review of the decision-making process and the operation of the units would be undertaken."

I was later advised that a final report addressing our concerns would be presented to the Senior Management Committee of the Correctional Service in June of 1989, and that a final decision with respect to national policy would be made at that time. In April of 1989, a copy of the Senior Management submission was forwarded to me. I reviewed it and returned my comments directly to the Commissioner in a letter that extensively detailed this office's concerns with the results of the study. I concluded that the study had failed to meet its mandate and provided inconclusive direction on national policy.

I was subsequently informed by the Commissioner's Office in May of 1989 that direction had been given that "the 'study' be complemented with additional considerations and that a new report be prepared which will take into consideration the concerns raised by the Correctional Investigator."

3. Exchange of Service Agreements

The issue central to our concern in this area is the jurisdictional split between federal and provincial authorities in the processing of offender cases under these agreements. I stated in my last Annual Report that the required regional guidelines and procedures called for by the Commissioner's Directives in 1987, which were to ensure fairness, remained undeveloped.

I was informed in May of 1989 that a "working group had been formed at National Headquarters to establish federal-provincial policy and standards."

4. Correctional Service Internal Investigations

This office's concerns with respect to the Service's internal investigation process were initially raised with the former Commissioner in February of 1987. I was informed at that time that a Commissioner's Directive on Investigations, which would ensure objectivity, thoroughness and clear direction to the field, would be issued. Although a directive on Official Investigations was approved by the Service's Senior Management Committee in October of 1987, it was never promulgated.

Following further discussions with this office, the current Commissioner created a Task Force on CSC Investigations in the fall of 1988. The mandate of this Task Force was to "design a comprehensive inquiry system that could be applied within the Correctional Service by management to any major or minor occurrence or incident."

I have been informed that the Task Force's initial report is to be reviewed by the Service's Senior Management Committee in June of 1989 with a tentative final report date of October, 1989.

5. Correctional Service Internal Audits

The absence of national policy and direction in this area was raised with the former Commissioner in January of 1987. I concluded in my 1986-87 Annual Report that there was no national policy to ensure the timely, systematic, independent review and appraisal of the Service's operations.

Since that time, a Commissioner's Directive was published in December of 1987, and National Standards for the Inspector General's Branch were issued in June of 1988. In May of 1989, I received a copy of the Service's audit schedule for 1989-90 which has incorporated a number of the areas previously identified by this office as being in need of review.

The revised internal audit process, in conjunction with the revitalization of the program evaluation section, has established a framework within which the Correctional Service is potentially in a better position to review both the effectiveness of its policies and the compliance of its operations with those policies. In those specific areas where this office has raised concerns, I look forward to reviewing the Service's audits and evaluations and am hopeful that in the future a more timely resolution on issues can be reached.

6. Corporate Policy Framework and Internal Regulatory Documents

In January of 1987, the Correctional Service introduced a new directives system based on the concept of decentralizing authority. The implementation framework for this process called for the development of operational guidelines and manuals to support the national policy enunciated in the directives. The framework as well called for a review by National Headquarters of policy documents issued regionally and institutionally to ensure their compliance with national policy.

The production of the operational guidelines and manuals, which were intended to support the new directive system's introduction in January of 1987, has been slow. It as well became evident in mid 1987 that the review process for policy documents had not been implemented. As such, in November of 1987, I 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.

In my last Annual Report, I identified this issue as central to the effective management of the Service and again recommended that immediate action be taken.

In March of 1989, the Service's Senior Management Committee approved a policy framework for the review of its internal regulatory documents. This office was informed in May of 1989 that the Commissioner would be sending to his Regional Deputy Commissioners a comprehensive action plan with specific directions relating to this review. I was as well advised in May of 1989 that the Internal Regulatory Documents issue had been incorporated into the Service's audit schedule for July and August, 1989.

I remain of the opinion that this matter is central to the effective management of the Service and am hopeful that the Service's proposed action will lead to a resolution.

7. Health Care and the Use of Force

As I indicated in my last Annual Report, 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.

The recommendation was rejected by the Correctional Service in January of 1987. I felt that that position was indefensible, and re-introduced the recommendation which was accepted by the Service in May of 1988. A revised policy was approved by the Service's Senior Management Committee in November of 1988 with a Commissioner's Directive finally being issued in May of 1989.

8. Access to and Correction of File Information

I recommended in 1987:

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.**

My last Annual Report indicated that as of May 1988, the Service had informed this office that "the issue remains under review." Further discussions were held with the Commissioner's office on this matter and in May of 1989, a new procedure was issued.

The number of complaints received by this office concerning file information has increased measurably during this reporting year. Our initial review of the new procedure identified a number of areas where further clarification was required. I am confident that we can reach agreement with the Service on these areas of clarification and that offenders will, in the near future, have a more timely and responsive avenue through which to address their concerns.

9. Inmate Access to Telephones

I recommended in April of 1985:

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

I was informed in May of 1988, as indicated in my previous Annual Report, that the recommendation had been accepted. The Service stated at that time that "it had 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 institutions will be reviewed and National Standards will be developed and implemented to ensure a common understanding of reasonable and equitable access."

In May of 1989, a new Commissioner's Directive was issued on Correspondence and Telephone Communication. Annex A of this Directive, entitled Standards for Inmate Access to Telephones, rather than establishing a national standard to ensure a common understanding of reasonable and equitable access, leaves the determination on the number of calls to be allowed with the individual regions and the determination on the hours of access and the authority for approval with the individual institutions.

I acknowledge that the general policy direction enunciated in the new Directive is an improvement but until such time as a thorough review of the Regional Instructions and Institutional Standing Orders issued pursuant to this Directive is undertaken, the Service may not be in a position to know whether it is providing either reasonable or equitable telephone access to offenders. Our concerns with respect to this have been communicated to the Commissioner's Office and we have been advised that there will be follow-up.

10. Double Bunking

I recommended in 1984 that the Correctional Service cease the practice of double bunking offenders in segregation and dissociation areas. I have repeated this recommendation in every Annual Report since 1984.

The situation at Kent Institution, which I have been detailing for the past number of years, remains basically unchanged despite the continued assurance from the Service that every effort is being made to reduce double bunking within the protective custody area of the institution.

At Kent Institution:

— number of protective custody inmates double bunked	96
— number of vacant cells in general population	37

The total number of inmates double bunked nationally is 1030.

This office was informed, subsequent to my last Annual Report, that a "recent plan proposed by the Deputy Commissioner of the Pacific Region will almost completely eliminate their cases of double bunking." In May of 1989, we were informed that "recent reports indicate that the number of inmates in double occupancy at Kent Institution has not decreased as expected. Efforts are continuing. An updated plan has been requested."

It is difficult to be hopeful that a solution to this problem will be found but, as we continue to receive complaints, we will continue to report upon the problem.

11. Warning Shots

I recommended in October of 1987, following a number of incidents where staff and offenders had been injured by warning shots, that the Service review its existing policy with respect to warning shots, inclusive of an assessment of its existing training methods.

This recommendation, as indicated in the previous Annual Report, was rejected by the Correctional Service in January of 1988. The issue has been further reviewed with the Commissioner's Office and I have been informed that a study is presently underway and a final report is expected to be tabled by February of 1990.

CONCLUSION

To sum up, the Commissioner has demonstrated his commitment to deal with the backlog situation. From the 22 issues reported last year, there are now six key areas from that report that are viewed as incomplete:

1. Special Handling Units
2. Internal Investigations
3. Internal Regulatory Documents
4. Access to Telephones
5. Double Bunking
6. Warning Shots

All of these areas remain under review with the Commissioner's Office and I expect that progress will be made.

ISSUES RAISED IN 1988-89

1. Offender Pay Rates

The offender pay scales are established as a percentage of the federal minimum wage and range on a per diem basis from \$1.60 to \$6.90. These rates were last increased in October of 1986. Over the past three years, as a result of policy changes and the general increase in the cost of consumer goods, there has been a measurable eroding of the offender's financial situation.

During the course of this reporting year, a number of representations from inmate committees and individual offenders concerning the decrease in both the offender's purchasing power and ability to save for their pending release were received by this office. The obvious solution to this situation appeared to be an adjustment to the existing pay scales to offset the increases incurred over the proceeding three years. We were informed by the Correctional Service of Canada early in 1989 that the "inmate pay policy must continue to be tied to the federal minimum wage" and as there had been no increase in the minimum wage since 1986, they were "unable to make immediate adjustments to the pay levels." The Service as well at this time acknowledged that a problem existed and undertook a review of the inmate pay policy with a view to identifying those areas where policy changes could be implemented to assist in alleviating the current difficulties.

With the obvious solution not immediately available, the focus of the Service's review centered on assisting offenders at the lower end of the existing pay scales, an equalization of pay rates between institutional security levels and the maintenance of existing individual rates subsequent to non-disciplinary institutional transfers.

In May of 1989, following its review, the Service presented a series of options on inmate pay to its Senior Management Committee designed to provide some relief to the decline in inmate purchasing power. Although I applaud the Service's efforts in addressing this area of concern, I strongly recommend to the Minister that a real problem does exist and that steps are necessary to ensure that an across-the-board adjustment to the existing pay rates be acted upon as expeditiously as possible.

2. Criteria for Humanitarian Escorted Temporary Absences

The office received a number of complaints during the reporting year from offenders concerning:

- a) the denial of a requested escorted temporary absence for the purpose of attending a family member's funeral because of the travel and overtime costs associated with the escort; and
- b) the Correctional Service of Canada's practice of requesting money from the offender or his family to assist in offsetting these costs.

Our investigation into these complaints indicated that cost was in fact a significant criterion and in some instances seemed to be the only criterion considered in reaching the decision to deny such temporary absences and that the Service had, on occasion, requested money from offenders and their families to offset these costs.

I found such practices without reasonable justification. They not only established a situation within which a conflict of interest was certain to develop, but further created an inequity of access for offenders to this form of temporary absence programming based on distance

and finances. Complaints in this area were as well time-sensitive and unlikely to be reasonably resolved through the inmate grievance process. Consequently, we wrote to the Commissioner's Office in April of 1988 stating that decisions with respect to humanitarian escorted temporary absences should be made on the basis of need, not the offender's ability to pay, and recommended that the Correctional Service of Canada cease the practice of requiring offenders to supplement the financing of such escorted temporary absences.

The Correctional Service responded in July of 1988 stating that "where it is perceived that an inmate has the capability to pay for his own personal travel costs, he will be asked to do so. The Correctional Service of Canada will cover all costs of staff salary, overtime pay and transportation."

At a subsequent meeting in October of 1988, this issue was further reviewed with Senior Staff of the Service and I recommended that a clear policy statement be issued from National Headquarters indicating that in cases of humanitarian escorted temporary absences, financial costs are not to be the determining variable in reaching the decision. The Service undertook at that time to develop specific criteria for the granting of humanitarian temporary absences.

In March of 1989 a further example of a denial of a humanitarian escorted temporary absence, where the inmate and his family were found to be unable to provide financial assistance, was forwarded to the Commissioner's Office.

I was informed later in March of 1989 that a draft of the proposed criteria for humanitarian escorted temporary absences had been completed and was scheduled for Senior Management Committee consideration in April of 1989. I was subsequently informed in May of 1989 that an amended Senior Management Committee proposal was to be discussed in September of 1989. Having reviewed the proposal, I am hopeful that the eventual outcome of this elongated process will be criteria that reflect the Service's commitment to treat individuals in a dignified and fair fashion.

3. Inmate Committee Solicitation of Funds for Legal Action

The Inmate Committee from Cowansville Institution early in 1988 requested permission to solicit funds from the Inmate Committees of other institutions by way of accessing their respective inmate welfare funds. The purpose of this request was for the payment of legal expenses associated with the defence of the appeal by the Correctional Service of Canada of the lower court decision which rendered the urinalysis program at Cowansville inoperative.

In May of 1988, the National Headquarters of the Correctional Service of Canada took the decision to prohibit such solicitations indicating that the Commissioner's Directive did not authorize the use of the Inmate Welfare Fund for such purposes. The Inmate Committee then contacted this office and a review of the matter was undertaken. Our initial feeling was that the Correctional Service of Canada's position was unreasonably limiting in that the Directive in question did not prohibit the use of the Welfare Fund for such purposes and that the blanket prohibition on solicitation placed the Service in a position to be seen as unreasonably limiting the offenders legitimate right of access to the courts.

In June of 1988, a request was made of the Correctional Service of Canada for further clarification on the decision taken. In a response dated 27 July 1988, we were advised that:

Inmate welfare funds are basically available to provide equipment and activities to benefit the inmates residing in the institution where the fund is located. The use of the fund for legal expenses would provide no direct benefit to the inmates in the institution from which the fund would be taken. We are also concerned with the fact that the solicitation of funds would represent a precedent which would be repeated for every challenge under the Charter of Rights. Besides the administrative difficulties, this would reduce the funds available for equipment and activities to be used by the inmates inside the institution.

In conclusion, I do not believe that the solicitation of funds from inmate welfare funds across Canada for legal expenses is an appropriate use of the funds.

At a subsequent meeting with senior Correctional Service of Canada staff in August of 1988, it was agreed that although the Inmate Welfare Fund was perhaps an inappropriate vehicle, the blanket prohibition against such solicitations by Inmate Committees was unreasonably limiting. As such, the Service undertook to investigate the alternative of allowing direct solicitation by Inmate Committees of funds from inmates to pay for legal challenges.

The issue was raised again at a meeting with the Commissioner in January of 1989, as no further word had been received from the Correctional Service of Canada. In February of 1989, we received correspondence from the Commissioner's Office stating in part that "inmates can establish their own funds, administered within the institution, or they may contribute to a fund established on their behalf by individuals or organizations outside the institution."

Given the Service's initial decision on this matter and the fact that the Cowansville Inmate Committee request was not specifically addressed in the correspondence, we wrote back to the Commissioner's Office in March of 1989 asking in part:

... can the Inmate Committee at Cowansville solicit funds (in connection with their legal proceedings) through Inmate Committees elsewhere? If they can ... how will this solicitation be handled?

In May of 1989, we were informed that "the issue is still outstanding and an up-date will be provided by the middle of June."

4. Inmate Grievance Process

This office has long had concerns with the operation of the Correctional Service of Canada's internal grievance process specifically related to the thoroughness, objectivity and timeliness of the investigations and responses which in turn significantly influence the offender's perception of and willingness to use the process.

In May of 1989, we were informed that the Service, in light of its Mission Statement, was re-examining many aspects of its operations including avenues of redress. We were further advised that any structural changes to the grievance process would be the object of thorough consultation with both our office and the Ministry Secretariat in advance of any submission to their Senior Management Committee. I also note that the Inmate Grievance process is on the Service's intended audit schedule for the coming year.

I look forward to both the results of the audit and the consultation.

5. Policy on Handicapped Offenders

The office has received over the years a number of complaints from an individual offender who has impaired hearing. Each time his complaints centered on the same issues: access to an adequate hearing impaired telephone and the availability of interpretive services. Each time his complaint was from a different institution.

This absence of a consistent policy in dealing with this individual was discussed with senior personnel at the Correctional Service of Canada at a meeting in October of 1988. The Deputy Commissioner at that time undertook to develop a policy for handicapped offenders.

In November of 1988, I was provided with a copy of the project plan which outlined the steps that were to be taken by the Service to develop the policy. The final step, "presentation to the Senior Management Committee for decision", was slated for 30 June 1989.

We were subsequently provided with an up-date in February of 1989 which stated:

An interdepartmental committee has been established to determine the services required by handicapped inmates. The committee has been given a mandate to determine the needs of all handicapped inmates including those with physical handicaps. The committee is in the process of identifying services presently provided and areas in which services should be provided and is awaiting regional feedback on specific questions regarding the need for service and the amount of resources provided to handicapped inmates.

It is anticipated that a final policy will be ready for implementation in June of 1989.

In May of 1989, I was informed that this policy development had fallen behind schedule but that the matter was being pursued.

6. Decision Maker — Visitor Applications

In late 1988 and early 1989, I received a number of complaints from offenders, their families and friends concerning the denial of visitor applications.

The investigation of these cases indicated not only discrepancies with respect to the criteria applied in making such decisions but discrepancies in who in fact was making the decisions. The question of who has the authority to deny a visitor's application was referred to the Correctional Service of Canada following a meeting in April of 1989 with the Assistant Commissioner and the Service's Senior Legal Counsel.

In a letter dated 17 April 1989, we put forth the opinion that the decision-making authority with respect to visiting privileges was the Institutional Head. In support of this position, we referred to the following regulatory documents:

Commissioner's Directive 770 — Visiting, paragraph 12:

The Director may refuse or suspend permission for a visit when such a visit is considered detrimental to the security and good order of the institution.

Penitentiary Service Regulations, Part I, section 5(1)

The Institutional Head is responsible for the direction of his staff, the organization, safety and security of his institution . . .

Penitentiary Service Regulation, Part I, section 5(2)

Except where otherwise provided by law, the Institutional Head may delegate to officers who are his immediate subordinates authority over all matters of a routine or of minor administration but he shall give his personal attention to . . . b) important matters requiring his personal attention and decision . . .

We concluded that:

As the Warden is identified as being responsible for the safety and security of the institution and visiting privileges are denied when it is considered that such visits are detrimental to the security and good order of the institution, it would seem that visitor applications should be seen as an important matter requiring the personal attention and decision of the Warden.

A response was received from the Correctional Service of Canada's Legal Counsel dated 5 May 1989 which stated in part:

In my view there is no provision in the Regulations to preclude the Warden from delegating this duty or decision to others, although the Warden will ultimately be responsible for any decision taken.

Although the issue of visitor applications is of much interest to inmates, I do not concur with your assessment that they are of such importance as to require the personal attention and decision of the Warden . . . As a result, the Warden may delegate matters to his immediate subordinates pursuant to Penitentiary Service Regulation 5(2). In the view of CSC, the question of visitor applications is an appropriate matter to be delegated by the Warden.

I remain of the opinion that decisions on visitor applications are not routine or minor administrative matters and as such require the personal attention and decision of the Warden.

7. Delegation of Authority

In conjunction with the above issue concerning visitor applications, the general issue of delegated authority pursuant to Penitentiary Service Regulation 5(2) was discussed at the April 1989 meeting with the Assistant Commissioner and the Service's Senior Legal Counsel.

It was pointed out at that time that, for example, the Commissioner's Directive on Discipline, at paragraphs 6 and 39, allowed for the delegation of authority below the Institutional Head's immediate subordinate for decisions concerning the determination of category of misconduct and the hearing of minor disciplinary offences. We requested at that time that the Service undertake a review of its current position with respect to the delegation of authority and provide this office with further comment.

8. Record of Minor Disciplinary Hearings

The office received a significant number of complaints over the course of this reporting year on minor disciplinary court decisions. The investigation of these complaints found a wide discrepancy in the amount of information and the type of record kept on these hearings and also the length of time the record was kept. We found in some institutions that the proceedings were tape recorded and the tapes kept for two years while in others we found no record of the hearing at all beyond the disposition and punishment. In other institutions we found that although they had a record they were kept for only a few months. A review of the internal regulations concerning minor disciplinary court indicated that there was no

national direction on the method of recording such hearings or on the length of time such records should be maintained.

In November of 1988, a letter was forwarded to the Commissioner's Office detailing these discrepancies and suggesting that, since the decisions and operations of the minor disciplinary court are both grievable and reviewable by this office, there was a need for national direction in this area.

A response was received from the Commissioner's Office in March of 1989 rejecting our suggestion and stating:

One of the primary reasons for recording disciplinary court proceedings is the possibility that the conviction may be reviewed by the Federal Court. Minor court decisions are grievable. Therefore, it would seem unlikely that an inmate would want to bring an application for certiorari to the Federal Court to quash a minor court decision or that the Court would be inclined to hear the application if the inmate has not used the grievance system. Furthermore, the minor court hearing is intended to be less formal than other hearings. Therefore, there seems to be little reason to extend the requirement of recording to such proceedings.

The response was not convincing because first of all, we did not suggest that the proceeding should be tape-recorded although taping would appear to be the most efficient method of obtaining a record of the proceedings. We rather suggested that there was a need for national direction, given that many institutions maintained no record of the minor court proceedings. Secondly, without some record of the proceedings, how does the Service intend to thoroughly review an offender grievance on a minor court hearing and how could this office investigate a complaint on the subject? Thirdly, what would be the position of the Service if the Federal Court is inclined to hear an application to quash a minor court decision? And finally, how will the maintenance of an accurate record of the hearing significantly effect the formality of the process?

Our position remains that there is a need for clear national direction stating that, at a minimum, a detailed summary, inclusive of witnesses called and evidence presented, be maintained by the institution for a period of six months.

In May of 1989, this matter was again discussed with the Commissioner's Office and a commitment was received at that time that a further review would be undertaken. I am confident that a reasonable agreement will be reached on this issue.

9. Officer Identification

I received in April of 1989 a copy of a letter addressed to the Commissioner expressing concern that "many staff members were neglecting or refusing to wear their identification badges while on duty." The matter of officer identification was a key issue throughout the course of the Archambault Inquiry conducted by this office in 1984, one that has never been completely settled. As such, we wrote to the Commissioner asking to be advised of his response to the concerns raised in the above noted letter.

We were subsequently advised that the question of uniformed staff identification would be addressed by the Uniform Design Committee. This issue will be followed up with the Commissioner.

10. Case Preparation and Access to Mental Health Programming

I have noticed over the past year a significant increase in the number of complaints related to incomplete or delayed case preparation resulting in the offender's case not being submitted by the Service in a comprehensive and timely fashion to the National Parole Board for consideration at the subject's legislatively scheduled hearing date.

The investigation of these complaints made it quite evident that in far too many instances, the Correctional Service of Canada was unable to prepare cases in a thorough and timely fashion. It was as well evident that in a significant number of these cases, the delay was caused by the Service's inability to provide the required mental health assessments and treatment in advance of the scheduled hearing date.

The response from institutional and regional authorities to our investigations identified the source of the problem as an absence of available resources. Although this office will continue to initiate investigations on individual complaints associated with case preparation and access to mental health programming, I have concluded that the root of the problem is systemic and as such, the issue was referred to the Commissioner's Office in February of 1989 for his review and comment.

In April of 1989, we received an initial response indicating that as a result of the recommendations of the Ruygrok and Pepino Inquiries and the implementation of the new National Parole Board Decision-Making Policies, greater demands have been placed upon the case management and psychological resources of the Service. We were as well provided with a brief detailing of a number of on-going studies and task forces designed to bring a better focus to the problem areas. The letter concludes in much the same vein as the earlier responses received from the institution and regional authorities stating:

Please be assured that we are keenly aware of the many new demands which have recently been placed on our Case Management and Psychology staff and that we are making every effort to obtain additional resources.

I offer two observations with respect to this issue.

First, the "new demands which have been *recently* placed" on the Service are not so recent and secondly, under Core Value 2 of the Service's Mission Document, the following Strategic Objectives are so vital that they demand immediate attention.

- 2.1 To ensure that the needs of individual offenders are identified at admission, and that special attention is given to addressing mental disorders;
- 2.3 To provide programs to assist offenders in meeting their individual needs, in order to enhance their potential for reintegration as law-abiding citizens; and
- 2.8 To ensure the timely preparation of cases for submission to the National Parole Board, consistent with the criteria contained in the decision-making policies of the Board.

The implication of this present situation impacts measurably on the viability of the system's decision-making process, the efficiency and effectiveness of its existing programs and the ability of the Service to provide equitable and just treatment to the offender population.

Consequently, I strongly recommend that immediate action be taken to ensure that the above noted Strategic Objectives are met.

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 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

APPENDIX B

P.C. 1988-2739

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 7 December, 1988

The Committee of the Privy Council, on the recommendation of the Solicitor General of Canada, pursuant to Part II of the Inquiries Act, advise that:

(a) a commission be issued to amend the English version of the commission appointing Mr. Ronald L. Stewart to be Correctional Investigator, issued pursuant to Order in Council P.C. 1977-3209 of November 15, 1977, as follows:

(i) the first paragraph of the commission is amended by revoking the following words:

“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”

and substituting therefor the following words:

“to conduct investigations, 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 Parole Act, concerning problems that relate to the confinement of inmates in penitentiaries or the supervision of inmates upon their release from penitentiaries on temporary absence, day parole, parole or mandatory supervision and that come within the responsibility of the Solicitor General of Canada, and to report thereon, with the exclusion of problems”, and

(ii) paragraph (c) of the said commission is revoked and the following substituted therefor:

“(c) that relate to the exercise by the National Parole Board of any power to duty that falls within its exclusive jurisdiction under the Parole Act,”; and

(b) the annexed French version of the commission, issued pursuant to Order in Council P.C. 1977-3209 of November 15, 1977, as amended, be issued.

Certified to be a True Copy

Clerk of the Privy Council

