Public Safety Canada | Sécurité publique Canada

ARCHIVED - Archiving Content

ARCHIVÉE - Contenu archivé

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Canada

Canada

Annual Report of the Correctional Investigator

1990 - 1991

The Correctional Investigator
Canada

Annual Report of the Correctional Investigator

1990 - 1991

© Minister of Supply and Services Canada 1992

Cat. No. JA 1-1991

ISBN 0-662-58833-9

The Correctional Investigator
Canada

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

L'Enquêteur correctionnel
Canada

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

31 December, 1991

The Honourable D. Lewis
Solicitor General of Canada
340 Laurier Ave., West
Ottawa, Ontario
K1A 0A6

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 eighteenth annual report on the activities of this office covering the period of 1 June, 1990 to 31 May, 1991.

Yours respectfully

R.L. Stewart
Correctional Investigator

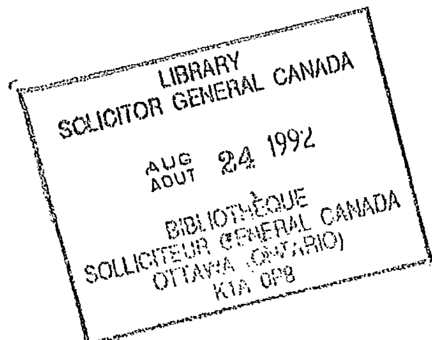


Table of Contents

	Page
Mandate	1
Introduction	3
Statistics	5
Annual Report 1989-90	17
Operations	19
Staff	21
Current Issues	
Independent Chairpersons	23
Officer Identification	23
Delegation of Authority	23
Current Issues Under Review	
Special Handling Units	25
Psychiatric Services/Special Handling Units	25
Exchange of Service Agreements (Federal/Provincial)	26
Corporate Policy Framework and Internal Regulatory Documents	26
Warning Shots	27
Offender Pay	27
Policy on Handicapped Offenders	27
Grievance Process	28
Case Preparation and Access to Mental Health Programming	28
Offender Rights and Privileges	30
National Parole Board Appeals	30
Double Bunking	30
Correctional Service Internal Audits	31
Transfers	32
Visiting	33
Administrative Segregation	34
Management of Offender Personal Effects	35
Offender Accident Compensation	35
Offender Telephone Access to Correctional Service Officials	37
Temporary Absence Programming	37
Issues Resolved	
Criteria for Humanitarian Escorted Temporary Absences	38
Application of Offender Pay Policy for Segregated Offenders	39

Antabuse and Temporary Absences 40
Transfers to Regional Psychiatric/Treatment Centres 41
Offender Access to Disciplinary Tape Recordings 41
Record of Minor Disciplinary Hearings 42

Conclusion 43

Appendix A — Organization Chart, Correctional Investigator 45

Appendix B — Order in Council 47

Appendix C — Order in Council 49

MANDATE

The Correctional Investigator is appointed as a Commissioner pursuant to Part II of the *Inquiries Act* to conduct investigations on his own initiative, or 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 confinement in a penitentiary or supervision upon release from a penitentiary that comes within the responsibility of the Solicitor General of Canada, excluding problems that relate to the exercise by the National Parole Board of any power or duty that falls within its exclusive jurisdiction under the *Parole Act*.

For the purpose of conducting an investigation under the provisions of the *Inquiries Act*, the Correctional Investigator

a) may enter into and remain within any public office or institution, and shall have access to every part thereof;

b) may examine all papers, documents, vouchers, records and books of any kind belonging to the public office or institution; and,

c) may summon before him any person and require that person to give evidence, orally or in writing, including the authority to subpoena evidence and to take evidence under oath.

The Correctional Investigator does not have the authority to order change. The power of the office, as with traditional legislative Ombudsman operations, lies with its ability to investigate complaints independently, to publish its findings and conclusions relative to complaints, and to make recommendations to the appropriate government authorities to address the area of complaint.

INTRODUCTION

This office experienced a significant increase in the number of complaints received during the course of this reporting year. Our numbers went from 2997 in 1989-90 to 4476 in 1990-91.

While it is sometimes difficult to identify specific reasons for such sizeable variances, there are factors which I suggest certainly played a contributory role.

The first factor was the expansion of the office's mandate in 1989, which lifted the former restriction on our investigation of complaints concerning the case preparation activities undertaken by the Correctional Service of Canada leading to a National Parole Board decision. Secondly, the subsequent addition, over the past eighteen months, of three investigative staff to administer the expanded area of responsibility associated with the mandate change, and thirdly, the chronic overcrowding within federal penitentiaries which continues to affect virtually all aspects of the offender's life.

Although there has been a measurable increase within complaint categories related to the mandate change, such as temporary absence processing and case preparation, a portion of the increase has occurred within those categories that have consistently been identified in previous Annual Reports as areas of ongoing concern.

STATISTICS

TABLE A
COMPLAINTS RECEIVED AND PENDING — BY CATEGORY

Category	
Administrative Segregation	
a) Placement	178
b) Conditions	95
Case Preparation	411
Cell Effects	81
Cell Placement	50
Claims	
a) Decisions	25
b) Processing	64
Correspondence	66
Diet	
a) Medical	26
b) Religious	11
Discipline	
a) Procedures	120
b) ICP Decisions	49
c) Minor Court Decisions	15
Discrimination	13
Earned Remission	35
File Information	
a) Access	39
b) Correction	99
Financial Matters	
a) Access	35
b) Pay	134
Food Services	24
Grievance Procedure	
a) Decisions	31
b) Processing	92
Health Care	484
Mental Health	
a) Access	124
b) Programs	9
Penitentiary Placement	17
Private Family Visiting	82
Programs	92
Request for Information	22
Sentence Administration	80
Staff	133
Telephone	106
Temporary Absence	
a) Denial	81
b) Processing	132
Transfer	
a) Denial	98
b) Involuntary	186
c) Processing	370

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

Use of Force	27
Visits	221
Work Placement	139
Other	19
Outside Terms of Reference	
Parole Board Decisions	305
Court Decisions	5
Court Procedures	8
Provincial Matters	43
	4476
Pending from 1989-90	47
	4523

TABLE B
COMPLAINTS — BY MONTH

Pending From Previous Year	47
1990	
June	373
July	340
August	328
September	395
October	430
November	336
December	208
1991	
January	397
February	495
March	403
April	384
May	387
Total	4523

TABLE C
COMPLAINTS — BY REGION

	1990							1991					
	Juin	Juillet	Août	Septembre	Octobre	Novembre	Décembre	Janvier	Février	Mars	Avril	Mai	Total
Maritimes													
Atlantic	13	6	3	13	15	16	10	15	9	11	8	7	126
Dorchester	10	8	1	6	6	21	11	4	19	12	7	12	117
Springhill	3	2	0	8	2	10	0	4	8	7	6	18	68
Westmorland	2	9	2	2	0	2	0	1	3	0	18	0	39
Provincial	1	0	2	1	0	0	1	1	0	0	0	0	6
Ontario													
Bath	0	2	1	0	4	2	0	2	1	0	1	1	15
Beaver Creek	3	4	3	2	15	7	3	5	6	6	8	12	74
Collins Bay	0	6	3	10	11	0	2	13	9	44	5	10	113
Frontenac	2	1	4	8	4	0	0	3	2	1	2	2	29
Joyceville	24	13	16	16	7	6	8	14	16	6	16	2	144
Kingston	31	19	24	23	10	21	16	19	5	32	6	6	212
Millhaven	6	21	8	22	7	10	10	30	6	6	30	11	167
Pittsburgh	14	0	1	0	15	0	1	9	3	0	2	1	46
Prison for women	2	3	5	3	5	8	3	14	11	13	3	15	85
Warkworth	30	40	25	41	35	16	26	38	49	27	39	41	406
Provincial	1	0	2	0	3	1	3	3	6	2	3	1	25
Pacific													
Elbow Lake	1	1	0	0	0	1	0	0	1	0	0	0	4
Ferndale	2	1	7	6	2	2	0	0	1	3	1	5	30
Kent	13	8	14	8	42	5	8	10	57	7	8	11	191
Matsqui	14	2	1	4	13	0	1	4	15	2	4	5	65
Mission	11	0	5	0	4	0	14	2	1	10	5	11	63
Mountain	18	3	3	2	6	1	19	4	7	0	3	17	83
Psychiatric Centre	4	3	2	2	3	1	1	2	0	0	1	7	26
William Head	23	1	1	1	3	2	2	3	13	1	0	6	56
Provincial	0	0	0	1	1	0	0	0	1	0	0	0	3
Prairies													
Bowden	7	10	31	25	19	46	8	23	39	21	45	28	302
Drumheller	9	15	13	10	12	28	4	11	14	14	15	1	146
Edmonton	6	3	1	19	13	15	2	14	13	30	8	3	127
Oskana Centre	0	1	0	0	1	0	0	0	0	1	0	0	3
Rockwood	0	0	0	0	0	0	0	0	0	1	0	0	1
Psychiatric Centre	17	1	1	0	0	0	0	0	3	0	1	0	23

TABLE C (cont'd)
COMPLAINTS — BY REGION

	1990							1991					
	Juin	Juillet	Août	Septembre	Octobre	Novembre	Décembre	Janvier	Février	Mars	Avril	Mai	Total
Saskatchewan Farm	0	2	1	0	4	2	0	1	0	1	0	1	12
Saskatchewan	13	33	6	8	10	10	3	5	3	28	10	29	158
Stony Mountain	0	8	14	3	4	2	2	16	2	8	4	21	84
Provincial	0	0	3	2	1	0	0	3	1	1	1	0	12
Quebec													
Archambault	4	10	6	4	3	2	3	4	9	1	8	2	56
Cowansville	6	29	32	23	22	24	7	23	7	22	28	10	233
Donnacona	8	6	9	2	29	21	3	15	11	11	9	13	137
Drummond	1	4	2	75	22	5	5	31	40	18	21	39	263
Federal Training Centre	6	3	20	8	19	8	4	8	15	6	9	7	113
La Macaza	25	6	11	16	9	5	5	20	16	14	17	12	156
Leclerc	15	9	7	4	6	10	2	5	13	10	4	4	89
Montée Saint-François	6	3	1	4	4	2	0	1	2	7	6	6	42
Ogilvy Centre	1	1	0	0	0	0	0	0	0	0	0	0	2
Port-Cartier	6	27	11	7	24	9	12	6	38	12	7	6	165
Reception Centre	0	2	4	2	2	2	2	4	3	4	2	1	28
Ste. Anne-des-Plaines	15	13	21	4	13	13	6	6	15	4	13	2	125
Provincial	0	1	1	0	0	0	1	1	1	0	0	1	6
Total	373	340	328	395	430	336	208	397	495	403	384	387	4476

TABLE D
COMPLAINTS AND INMATE POPULATION — BY REGION

Region	Complaints	Inmate Population*
Pacific	521	1864
Prairie	868	2992
Ontario	1316	3867
Quebec	1415	4039
Maritimes	356	1864
Total	4476	14 626

* The inmate population figures were provided by The Correctional Service of Canada and are those for the period ending May 31, 1991.

TABLE E
INSTITUTIONAL VISITS

Institution	Number of Visits
Archambault	10
Atlantic	5
Bath	3
Beaver Creek	3
Bowden	14
Collins Bay	5
Cowansville	11
Donnacona	7
Dorchester	11
Drumheller	4
Drummond	11
Edmonton	5
Elbow Lake	1
Federal Training Centre	4
Ferndale	3
Frontenac	8
Joyceville	6
Kent	9
Kingston Penitentiary	11
La Macaza	12
Leclerc	8
Matsqui	7
Millhaven	7
Mission	6
Montee St. Francois	5
Mountain	6
Pittsburgh	3
Port Cartier	7
Prison for Women	6
Regional Psychiatric, Pacific	4
Regional Psychiatric, Prairies	3
Reception Centre, Quebec	10
Rockwood	2
Saskatchewan Penitentiary	11
Saskatchewan Farm Annex	5
Springhill	4
Ste. Anne des Plaines	8
Stony Mountain	4
Warkworth	15
Westmorland	3
William Head	3
Total	270

TABLE F
INMATE INTERVIEWS

Month	Number of Interviews
1990	
June	136
July	125
August	82
September	168
October	194
November	80
December	60
1991	
January	93
February	177
March	71
April	92
May	176
Total	1454

TABLE G
DISPOSITION OF COMPLAINTS

Action	Number
Pending	267
Beyond Mandate (no action)	94
Premature	895
Withdrawn	347
Assistance, Advice or Referral Given	2003
Resolved	778
Unable to Resolve	92
Total	4476

TABLE H
COMPLAINTS RESOLVED OR ASSISTED WITH — BY CATEGORY

Category	Advice or Resolved	Assistance, Referral Given
Administrative Segregation		
a) Placement	35	86
b) Conditions	17	51
Case Preparation	79	253
Cell Effects	34	32
Cell Placement	11	9
Claims		
a) Decisions	5	18
b) Processing	8	52
Correspondence	13	16
Diet		
a) Medical	7	6
b) Religious	3	3
Discipline		
a) Procedures	19	43
b) ICP Decisions	0	7
c) Minor Court Decisions	3	12
Discrimination	2	6
Earned Remission	5	10
File Information		
a) Access	11	13
b) Correction	13	56
Financial Matters		
a) Access	9	13
b) Pay	20	77
Food Services	4	14
Grievance Procedure		
a) Decisions	7	20
b) Processing	28	62
Health Care	86	148
Mental Health		
a) Access	10	94
b) Programs	2	3
Penitentiary Placement	3	14
Private Family Visiting	28	16
Programs	9	20
Request for Information	2	20
Sentence Administration	14	35
Staff	16	34
Telephone	21	13

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

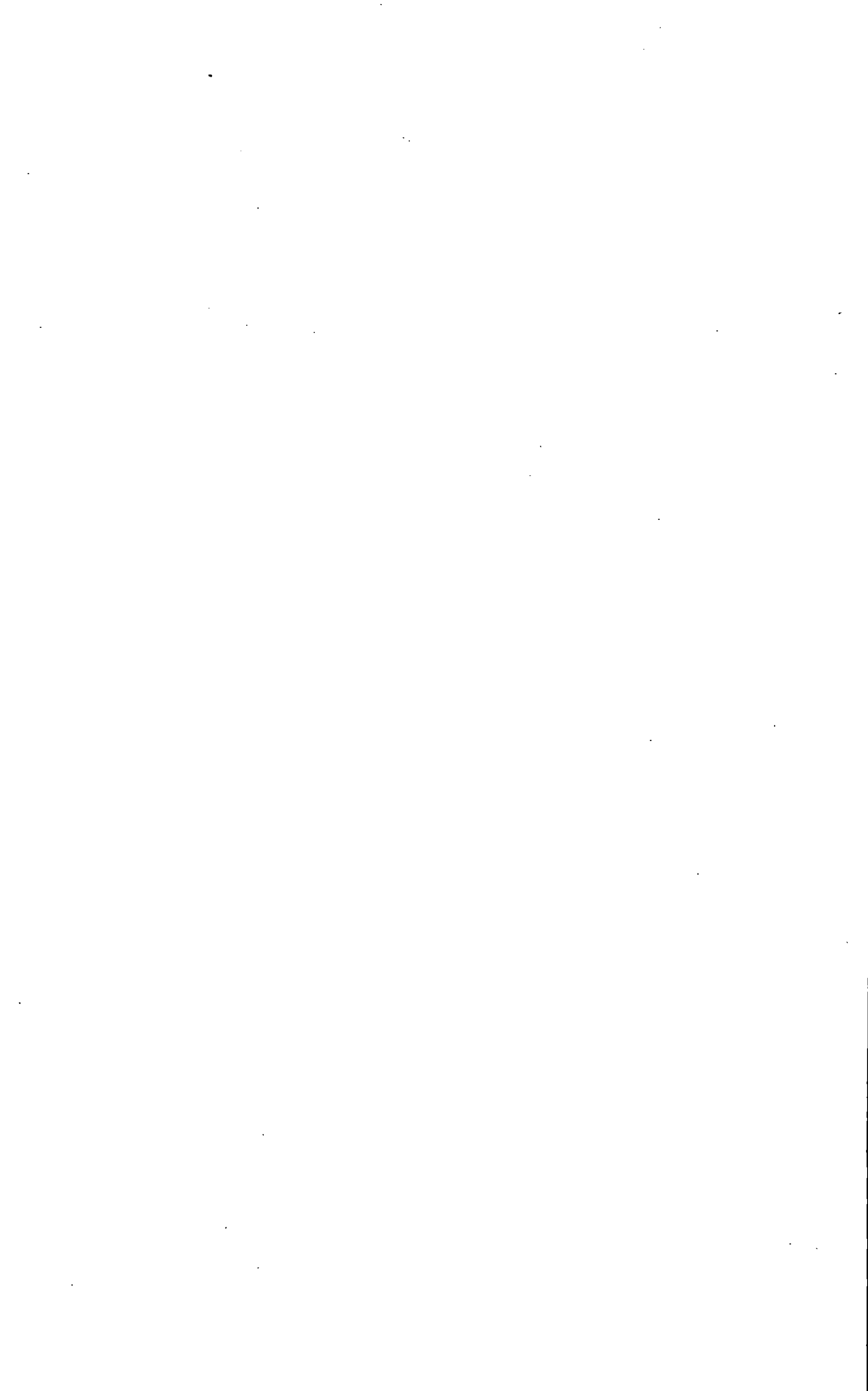
Temporary Absence		
a) Denial	13	24
b) Processing	19	61
Transfer		
a) Denial	31	35
b) Involuntary	34	75
c) Processing	81	208
Use of Force	4	13
Visits	41	98
Work Placement	31	31
Other	0	7
Total	778	1808
<u>Outside Terms of Reference</u>		
Parole Board Decisions	0	177
Court Procedures	0	5
Provincial Matters	0	13
Total	778	2003

ANNUAL REPORT 1989-90

In last year's Report I focused on what I considered to be the unreasonable delay, on the part of the Correctional Service, in responding to the issues raised. I highlighted the fact, that as a direct service agency, the decisions and policies of the Service had an immediate and ongoing impact on the offender population. While acknowledging that these decisions could not be taken in haste given their operational implications, I called upon the Service to take steps to ensure that its review and decision-making processes, especially at the headquarters levels, were capable of responding to and resolving issues in a timely fashion.

It came to my attention that the tone of the Report was viewed by some to be overly negative, a moot point perhaps but, because I am charged with the responsibility of reporting on the problems of inmates, there is little in the way of compliments to the Correctional Service. To be fair, correctional staff and management make hundreds of decisions every day which are not challenged by inmates. By bringing some of the ones that are to the further attention of the Service, it is hoped that improvements will be made which will be of benefit to both inmates and those working in the corrections field.

The issues detailed in last year's Report were, for the most part, issues carried over from previous years and while some have been resolved, others still remain under review by the Correctional Service.



OPERATIONS

Operationally the primary function of the Correctional Investigator is to investigate and bring resolution to individual offender complaints. The office as well has a responsibility to review and make recommendations on the Service's policies and procedures associated with the areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed.'

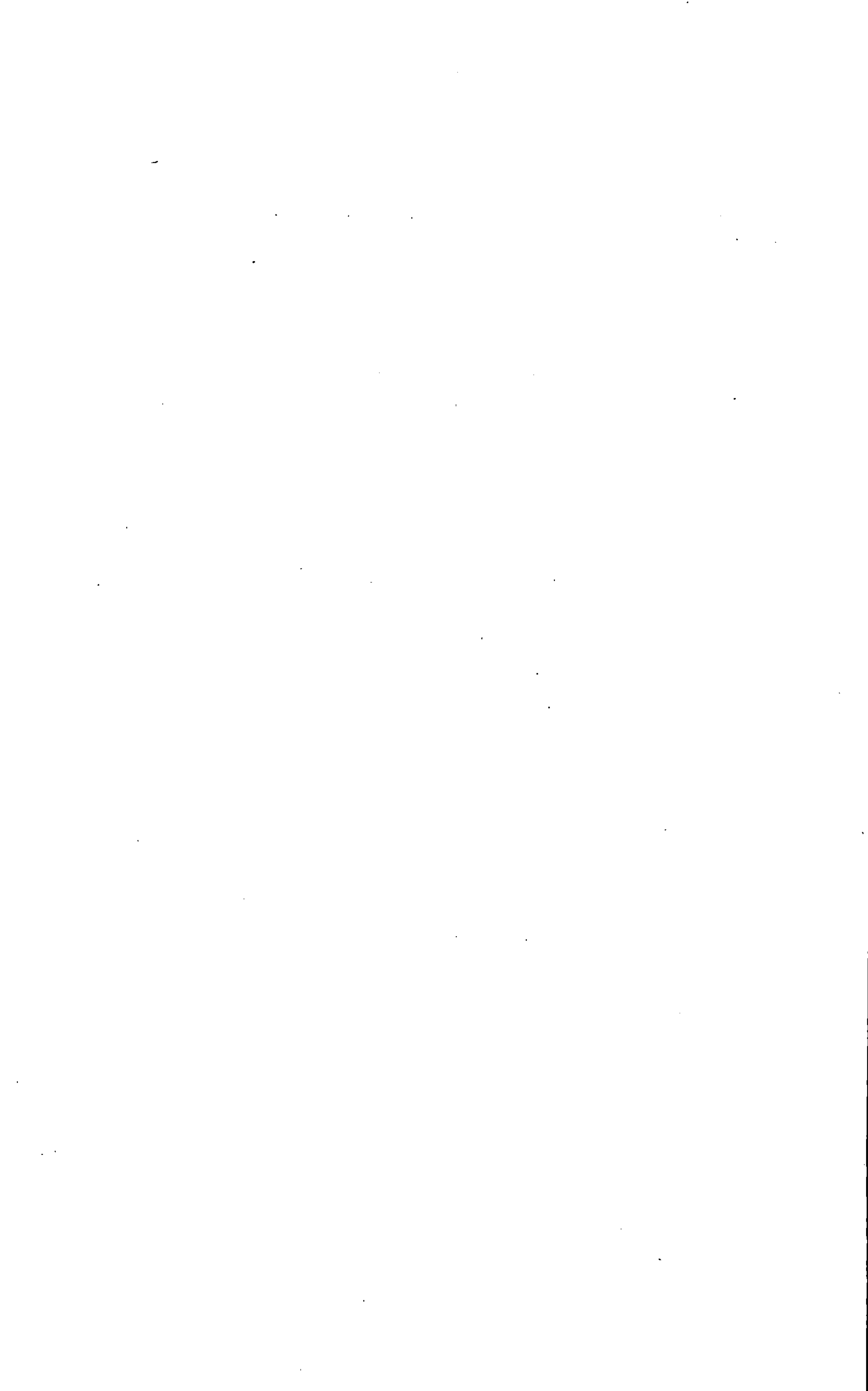
All complaints received by the office are reviewed and initial inquiries made to the extent necessary to obtain a clear understanding of the issue in question. After this initial review, in those cases where it is determined that the area of complaint is outside our mandate, the complainant is advised of the appropriate avenue of redress and assisted when necessary in accessing that avenue. For those cases that are within our mandate the complainant is provided with a detailing of the Service's policies and procedures associated with the area of complaint. An interview is arranged and the offender is encouraged to initially address the concerns through the Service's internal grievance process. Although we encourage the use of the internal grievance process, we do not insist on its use as a pre-condition to our involvement. If it is determined during the course of our initial review that the offender will not or can not reasonably address the area of concern through the internal grievance process or the area of complaint is already under review with the Service, we will exercise our discretion and take whatever steps are required to ensure that the area of complaint is addressed.

The Office is neither an agent of the Correctional Service of Canada nor the advocate of every complainant or interest group that lodges a complaint. The Office investigates complaints from an independent and neutral position, considers thoroughly the Service's action and the reasons behind it, and either endorses and explains that action to the complainant or if there is evidence of unfairness, makes an appropriate recommendation concerning corrective action. To assist in reaching a determination on the question of fairness in relation to the Service's decisions, procedures and policies, an Administrative Fairness Checklist is employed. This checklist was initially developed and published by the Ombudsman for British Columbia and is a most useful tool for our complaint investigators.

STAFF

After a very hectic and at times exhausting year of operation, I would like to publicly thank and extend my appreciation to all my staff for their dedication and hard work. The internal re-organization and increased workload have placed additional responsibilities on my Executive Assistant and support staff and I would particularly like to acknowledge their contribution.

I have been very fortunate over the years in attracting experienced professional staff from a variety of fields. The current staff bring to our operation training and experience from such areas as mental health programming, the legal profession, provincial ombudsman's operations, and most recently and belatedly with the assistance of Indian Affairs from the aboriginal community. But more important and especially for an independent review agency such as the Correctional Investigator, it is the level of dedication and humanity that each individual brings to the task at hand that makes the office work.



CURRENT ISSUES

I provided in last year's Annual Report a good deal of background information on the issues that were currently under review with the Commissioner's office. I have this year, in an attempt to avoid being overly redundant, limited my commentary to a brief overview of the issue and a detailing of its current status.

The following three issues, which I have commented on extensively in previous Reports, are ones where the respective positions of this office and the Correctional Service of Canada remain at odds.

1. INDEPENDENT CHAIRPERSON

The present avenue of redress available to offenders from the decisions of the Independent Chairperson concerning internal disciplinary charges, is the Federal Court of Canada. I noted last year that given the time involved in bringing a case before the Federal Court and the potential impact of decisions of the Independent Chairperson, that an interim avenue of redress be established to ensure that a timely independent review was available.

Although the Service is in the process of evaluating the Independent Chairperson process and preparing an option paper for Executive Committee consideration by September of 1991, it remains opposed to an independent avenue of redress prior to the Federal Court. I certainly support the Service's current evaluation efforts, basically designed to encourage consistency in decision making, but I remain of the opinion, in terms of basic fairness, that there is a need for an interim avenue of redress.

2. OFFICER IDENTIFICATION

Correctional Service of Canada staff at penitentiaries are not consistently wearing issued name tags so as to be identifiable to offenders and visitors. I referred in earlier reports to a copy of a letter received by this office in 1989 addressed to the Commissioner of Corrections raising this issue.

I support those who advocate that in this day and age that it is totally unacceptable for a public servant, especially a public servant designated as a peace officer, not to be identifiable to the public they serve.

The Service has reviewed the issue and taken a decision that where name tags are not being worn they will be introduced upon the issuing of the new Correctional Service of Canada uniform. The new uniforms are scheduled to be introduced between June and October of 1992. Although I appreciate the labour management considerations associated with this decision, I can not accept as reasonable a further eighteen-month delay in implementing a basic policy decision on an issue initially raised in early 1989.

3. DELEGATION OF AUTHORITY

This issue, raised in April of 1989, recommended that those decisions which have direct effect upon the conditions of an offender's incarceration or the offender's access to privileges and programming should be taken by the Warden. Decisions such as those

affecting discipline, visiting privileges, segregation or earned remission, should not be seen as minor or routine administrative matters. The Correctional Service of Canada, by virtue of its current practices of delegating authority for such decisions well below the level of the Institutional Head, is I suggest in contravention of Section 5 of the Penitentiary Service Regulations which reads:

Institutional Heads

> (5) (1) The institutional head is responsible for the direction of his staff, the organization, safety and security of his institution and the correctional training of all inmates confined therein.
>
> (2) Except where otherwise provided by the Act, the institutional head may delegate to members who are the immediate subordinates of the institutional head authority to deal with all routine or minor administrative matters, but the institutional head shall give personal attention to:
>
> (a) matters of general organization and policy of the institution;
>
> (b) important matters requiring the personal attention and decision of the institutional head; and
>
> (c) the general control and supervision of the duties allocated to subordinates by the institutional head.

The Service concedes that its current practice of delegation is inconsistent with the provisions of the Penitentiary Service Regulations but claims that it is consistent with its Mission Statement. It would appear that the Service believes that because efforts are under way, and have been for some time now, to amend the Regulations, that its current contravention is somehow acceptable.

The issue at question here, as I noted last year, is not the amendment of the Regulations to fit current Correctional Service policy and practice. It is rather the requirement of the Service to adjust current policy and practice to comply with the existing Regulations.

I support the view that the current provisions within the existing Penitentiary Service Regulations, with respect to the delegation of authority, are both reasonable and defensible given the significance such administrative decisions have on the offenders' conditions of incarceration.

CURRENT ISSUES UNDER REVIEW

4. SPECIAL HANDLING UNITS

The Correctional Service of Canada operates two Special Handling Units to house "dangerous inmates" at Ste. Anne Des Plaines in Quebec and Prince Albert in Saskatchewan. Dangerous inmates are defined by the Service as those whose "behaviour is such that it causes serious harm or death or seriously jeopardizes the safety of others".

I commented extensively last year on the evolution of these Units as well as this office's ongoing concerns with both the concept of separate institutions for these offenders, and the operation of the Units themselves.

The Service issued a revised policy on Special Handling Units in March of 1990, the highlights of which were detailed in last year's Report. I concluded by stating that although I continued to have concerns about the usefulness of the Special Handling Unit concept, I found that the current policy, as written, was a positive first step towards meeting the Commissioner's commitment of providing "suitable treatment and programming and a humane environment for violent offenders". I further cautioned at that time that the development of a reasonable policy was a number of steps removed from the implementation of a reasonable program.

The revised policy calls for an Annual Report from the National Review Committee on Special Handling Units to be presented to the Commissioner at the end of each fiscal year, containing the Committee's observations and recommendations. It is my hope that the Committee in its Report not only objectively evaluates the compliance of the Units' operation against the stated policy, but as well, objectively evaluates the effectiveness of the operations in meeting the stated objectives of the program.

I look forward to the issuing of the Committee's Report and the opportunity to review with the Commissioner its findings and recommendations.

5. PSYCHIATRIC SERVICES/SPECIAL HANDLING UNITS

Complaints were received from offenders requiring assessment and treatment who had been approved by the National Review Committee for transfer from the Special Handling Unit to one of the Service's Regional Psychiatric Centres. These transfers were cancelled by the Regional Psychiatric Centre despite the decision of the National Review Committee, which is identified within the policy directive as the sole decision-making authority on Special Handling Unit transfers. The offenders remained in the Special Handling Unit.

This matter has been discussed with senior officials from the Correctional Service of Canada who are presently reviewing the options available to ensure that responsive psychiatric programming is available to Special Handling Unit offenders and that the requirement for psychiatric treatment does not delay or negate the offender's transfer from the Special Handling Unit. I am currently awaiting the results of the Service's review of this matter.

6. EXCHANGE OF SERVICE AGREEMENTS (FEDERAL/PROVINCIAL)

This issue was initially raised with The Correctional Service of Canada in 1987 and focuses on the need for national policy direction in the area of inter-jurisdiction transfers to ensure that the duty to act fairly is adhered to by all parties.

As indicated last year, the final Report of the Federal-Provincial Policy Review in late 1989 concluded that "as federal-provincial/territorial transfers had increased significantly over the last years, a more comprehensive Commissioner's Directive and associated Regional Instructions are required."

The Service issued an interim instruction in October of 1990 and I am informed that by September of 1991 a new Commissioner's Directive relating to federal-provincial policy in this area will be completed. I anticipate that the called for "associated Regional Instructions" will be issued at that time.

7. CORPORATE POLICY FRAMEWORK AND INTERNAL REGULATORY DOCUMENTS

I recommended in 1987 following the Service's initial move towards decentralization;

> That a national review be undertaken to ensure that 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 policy enunciated in the Commissioner's Directives.

This recommendation was made as a result of our review of the new directives system in 1987 which found:

a) the called for operational guidelines and manuals that were to supplement the new Directives System did not exist;

b) a number of key areas covered by the previous Directives System such as Offender Conferred Rights, Investigations, Inmate Committees and Special Handling Units, although identified in the index of the new Directives System were without Directives;

c) the policy documents issued at the regional and institutional levels were inconsistent in both the subject areas addressed and the interpretation and application of the national policy enunciated in the Directives.

In April of 1989 the Mission of the Correctional Service of Canada was published and in September of 1990 the Service issued a final report on the Review of Policies Against the CSC Mission. This report called for each of the Regions to review their respective Regional Instructions and Institutional Standing Orders against the Mission to ensure compliance.

I was initially informed that this exercise was projected for completion in March of 1991. I was subsequently advised that I would be provided with a report on the status of this review by July of 1991. I intend, following my review of this report, to follow up with the Regions on the results of their examination of their Regional Instructions and Institutional Standing Orders.

8. WARNING SHOTS

In 1987, following our review of a number of incidents where staff and offenders were injured by warning shots, it was noted that the Service's policy on firearms did not contain a definition of what constituted a warning shot or any direction on how or when they were supposed to be used. In October of 1987, following several discussions with the previous Commissioner, I recommended that the Service undertake a comprehensive review of its current practices in this area, including an assessment of its existing training methods to ensure the safe use of firearms.

I have now been advised that the Service will publish in October 1991 a Security Manual that will include a section addressing the issue of warning shots. I am also awaiting a briefing on the Service's revised training program in this area.

9. OFFENDER PAY

Offender pay rates have not kept pace with the increase in costs that offenders pay for personal items. This erosion of the offender financial situation reduces their ability to purchase internally, and means they have less money in their savings account on release.

In my last report I indicated that a real problem existed in this area and called for steps to be taken as expeditiously as possible to ensure an across-the-board adjustment to the pay rates. To date there has been no adjustment.

I was advised by the Commissioner that the possibility of developing an indexing system for offender pay rates based on canteen prices was being reviewed. This review continues and I am expecting a final word on this matter in the near future.

10. POLICY ON HANDICAPPED OFFENDERS

I concluded in last year's report that the time had long past for general statements of principle and good intent on this issue and that the Service must clearly identify what standards of service it will provide and what it is prepared to do to ensure that those standards are met and maintained.

This office continues to receive complaints from offenders concerning both accommodation and program access despite the Service's pronouncement of 1989 that it would be sensitive to the needs of disabled offenders and make every effort to ensure that those offenders have access to all programs and services. I should note that the Commissioner has invited me to bring to his attention any such complaints that do not appear to have been dealt with properly.

I also received a further commitment from the Commissioner that efforts will be directed at ensuring that the needs of each handicapped offender are effectively met and that each region will have in place a plan for fully accommodating the needs of handicapped offenders throughout the course of their sentence.

11. GRIEVANCE PROCESS

This office has long had concerns with the operation of the Correctional Service of Canada's internal grievance process. I commented in last year's Report that the effectiveness and credibility of any levelled redress mechanism were dependent upon a combined front end process which was capable in a participative fashion of thoroughly and objectively reviewing the issue at question and a final level within the process which had the courage to take definitive and timely decisions on those issues referred to its attention for resolution. I further stated that in my opinion the current difficulties with the process were related less to its structure and procedures than to the commitment and acceptance of responsibility on the part of those mandated to make the process work.

The Service's Internal Audit Report on the grievance process was published in June of 1990. In August of 1990, we were provided with an Action Plan which initiated a "comprehensive consultation process designed to review the existing policy, develop an effective monitoring and information system and identify other administrative and program management improvements". This office has, as part of the Service's consultation process, met with officials from the Inmate Affairs Division and provided our comments on the proposed changes to the Grievance Procedure. I am advised that in the fall of 1991 the results of the Service's review will be presented to its Executive Committee for decision.

The Service's Internal Audit of June 1990, in addressing the issues associated with the management of the grievance process, recommended that:

> National Headquarters and the Regional Headquarters must define the types of Information required to process grievances and establish formal procedures that would ensure that this information is forwarded to the subsequent levels of grievances.

In support of this recommendation it might be helpful if National Headquarters and the Regional Headquarters produce quarterly reports on their grievance decisions so as to ensure a degree of consistency in the Service's interpretation of it's policies in response to the concerns raised by offenders.

12. CASE PREPARATION AND ACCESS TO MENTAL HEALTH PROGRAMMING

I have commented extensively in my last two Annual Reports on the issues associated with these inter-related areas of concern. The number of complaints received by this office over the course of this reporting year concerning delayed and incomplete case preparation in conjunction with delays in accessing mental health assessments and programming continues to increase.

These delays mean that significant decisions concerning the offender's placement within the system and decisions concerning conditional release are not being taken in a timely fashion. These delays, as well, suggest that the following Strategic Objectives established by the Service in its Mission Document are not, on an individual basis, being met:

> To ensure that the needs of individual offenders are identified at admission and that special attention is given to addressing mental disorders;

To provide programs to assist offenders in meeting their individual needs in order to enhance their potential for reintegration as law-abiding citizens;

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 Service's Audit on Case Preparation and the Sharing of Information completed in early 1990 "noted significant deficiencies in the case preparation process related to a lack of consistency in the recording of waivers, delays in meeting established time frames for case preparation and inadequate controls for handling fast trackers".

The Audit Report recommended:

"a) That a uniform National system be instituted in each region and field unit to account for and track waivers and accurately document the reasons for each.

b) That a consistent approach to using and calculating waivers be adopted across the country by all regions and field units which differentiates between waivers and postponements.

c) As per National policy, all regions should ensure that they have procedures in place to address fast trackers."

The Service has acknowledged that there are problems in these areas and has undertaken a number of initiatives designed to address them.

The Case Management Manual issued by the Service in October of 1990 has established time frames for most case preparation activities leading to decisions on placement and conditional release. An analysis on the use of waivers is currently under way with a scheduled completion date of June 1991. The Service, as well, expects to publish guidelines and a training package on the use of waivers by September of 1991.

The Service's Executive Committee in April of this year began deliberations on a proposed Mental Health Framework and National Strategy designed to implement the recommendations of the Task Force on Mental Health completed in April of 1990.

Although I am encouraged by the Service's various initiatives in this area and look forward to reviewing with the Commissioner their eventual impact, the fact remains that offender referrals for mental health assessment and programming are not being actioned in a timely fashion. Delayed and incomplete case preparation continues to be a serious problem.

The implications of this present situation, as I have mentioned in the past, impacts measurably on the viability of the system's decision-making processes, the efficiency and effectiveness of the Service's existing programs, as well as the Service's ability to provide equitable and just treatment to the offender population.

I would recommend, in conjunction with the initiatives currently under way, that the Service establish at both the National and Regional levels a management information system

capable of providing accurate and up-to-date information on the number of offenders not being reviewed by the National Parole Board on their legislative review dates and the specific reasons associated with the individual delays.

I would also recommend that Regional and National quarterly reports specifically identifying the reasons for delays be produced and reviewed by the Service's Executive Committee to ensure that where systemic problems exist they are addressed as soon as possible.

13. OFFENDER RIGHTS AND PRIVILEGES

On this issue in last year's Annual Report I suggested that it was imperative that the relationship between rights, programs, activities and privileges be clarified and published by the Service for the benefit of both staff and offenders.

The Commissioner, in responding to this matter, has indicated that the Service considers the issues associated with offenders' rights and privileges as a high priority. The Service has established a Working Group on Offender Rights and Responsibilities which includes representation from the National Parole Board, the Secretariat of the Ministry, and this office.

I have been advised by the Commissioner that the Correctional Service of Canada will publish an offender handbook addressing the issue of rights and responsibilities by the end of 1991. Although it has been some time in coming, publication will assist measurably in identifying for both staff and offenders, the parameters of what constitutes fair and reasonable correctional practice.

14. NATIONAL PAROLE BOARD APPEALS

This year the statistics again show an increase in the number of complaints from offenders concerning excessive delays in receiving decisions from the National Parole Board's Appeal Division. The time frame established by the Board for re-examination and decision on appeal is forty-five days. It is our information that it is continuing to take in excess of three months for these decisions to be rendered.

As I noted in last year's Report, given the significance of the decisions in question, immediate steps should be taken to ensure that decisions on appeal are taken within the time frames indicated.

15. DOUBLE BUNKING

I am pleased to report the resolution of a long-standing problem which began in 1986, that being the double-bunking situation within the segregation\protective custody area at Kent Institution.

I have been advised by the Commissioner that the vacant unit at Kent Institution will be finally opened and the double bunking of administrative segregation cases at that institution will cease as of June, 1991.

The Commissioner has, as well, stated that double bunking is "not correctionally acceptable" and that the Service will continue in its efforts to reduce double bunking by preparing offenders for conditional release in a timely fashion.

The Service, as I mentioned in the introduction, has a chronic overcrowding problem. At the end of this reporting year there were nearly 1200 offenders double bunked in federal penitentiaries. Of that number, in excess of 500 are double bunked in non-general population cells within either reception or segregation units. There were times during the course of this reporting year when the Service, in its segregation and reception units, had two offenders in a single cell with one offender having to sleep on the floor. Offenders housed within the non-general population areas of institutions have limitations placed not only on their general movement within the institution, but also on their access to programming and employment opportunities.

I sincerely hope that the Service monitor, on an ongoing basis at the Regional and National level, both the number of offenders double bunked in non-general population cells and the length of time these offenders are double bunked to ensure that a situation similar to the one which existed at Kent is not repeated.

16. CORRECTIONAL SERVICE INTERNAL AUDITS

Some time ago this office made an observation that there was no national policy or direction to ensure that the Service's operations were reviewed in a timely, objective and systematic fashion. Since that time, the Service has developed a sound national policy on Internal Audits, the stated objective of which is:

> To demonstrate accountability within the Correctional Service of Canada through the provision of an independent internal audit function for the purpose of advising management as to the economy, efficiency and effectiveness of policies, practice and controls.

The cooperation and ongoing contact between this office and the staff of the Service's Audit section has continued over the course of this reporting year. I remain generally impressed with the observations and recommendations of the Audits but note that the Service's action on a number of the audit recommendations has been somewhat slow.

I noted in my last Report on this issue that it was my intention to focus on the regional responsibility associated with the Service's overall audit function with the anticipation that a similar productive consultation process as had been established at the national level could evolve regionally. Our initial focusing indicated that the Regional Review function, as detailed in the Commissioner's Directive of 1990 on Internal Audits, was considerably less than fully operational in a number of the regions. The Directive, in defining the regional responsibilities in this area, states that the "Deputy Commissioner of each region is responsible for the establishment of a regional operational review function in accordance with the Guidelines for Regional Operational Reviews, in order to:

a) monitor compliance with policies and regulations;

b) assess the control systems of operational units; and,

c) monitor the implementation of the corporate direction at the regional level."

We intend to meet with each of the Regional Deputy Commissioners to discuss their policies and operations in this area and also to offer any assistance we can to ensure that those areas of mutual concern are promptly identified and addressed.

17. TRANSFERS

Transfer decisions are the most important decisions taken by The Correctional Service of Canada during the course of an offender's period of incarceration. Whether it is a decision taken on an initial placement, a decision taken to involuntarily transfer to higher security or a decision taken on an offender initiated transfer application, such decisions affect not only the offenders' immediate access to programming and privileges, but also their potential for future favourable conditional release consideration. There are very few offenders within the federal system who over the course of a year are not affected by a transfer decision. As such, it is not surprising that once again this year, transfer decisions and the processes leading to those decisions represent the single largest category of complaint received by this office.

The Service's policy on transfers, as written, is both fair and reasonable. The Commissioner's Directive and accompanying Guidelines call for the offender to be fully informed of the information used in reaching the decision. It provides the offender the opportunity to make a submission in advance of the decision being taken; it places the decision-making authority at an appropriate level within the regional bureaucracy; it establishes time frames within which the decision has to be taken; and it provides for a reasonable avenue of redress. Consequently, problems connected with the transfer process are not usually with the policy, but with the application of that policy in making individual decisions.

The Service makes thousands of transfer decisions each year. Within a bureaucracy making that many decisions, mistakes are going to be made. The individual significance of those decisions and the essential requirement for fairness are inevitably going to give way to assembly line efficiency.

I noted in a previous Annual Report that the Service now had in place a reasonable transfer policy and that the challenge now was to ensure that the policy was reflected in practice. Our review of individual complaints concerning transfers continues to find, in far too many instances, evidence of non-compliance with established time frames, the provision of insufficient information to offenders in support of the Service's decisions, incomplete documentation packages being provided to decision makers and a redress system which is excessively delayed.

I do not expect, given the significance of the decisions and the volume, that individual concerns are likely to decrease in the immediate future. I do believe however, beyond emphasizing the requirement for fairness in making these decisions, that there are steps that can be taken. The Service's internal audit on the transfer process recommended the establishment of a quality control mechanism and information system to assist in ensuring compliance with the policy. I fully support that recommendation.

I further recommend that the Correctional Service, through its Offender Grievance System, ensures:

a) that the system is capable of objectively reviewing and issuing a decision on transfer appeals in a timely fashion;

b) that during the course of its review on individual appeals that it focus not only on the decision taken, but as well, on the fairness of the process leading to that decision; and,

c) that a quarterly report be issued summarizing the review of transfer appeals.

18. VISITING

Decisions on visiting, by their very nature, affect both the offender and the potential visitor. The Service's current policy with respect to the denial of visits states: "The Director may refuse or suspend permission for a visit when such a visit is considered detrimental to the security or the good order of the institution".

I recommended in my 1988-89 Annual Report, given the Service's stated policy and the significance of the decision in question, that decisions to deny a visit should be taken by the Director of the institution and not delegated to a lower authority. With few exceptions, these decisions continue to be taken by an institutional committee not chaired by the Director nor reviewed by the Director unless questioned on complaint by the applicant.

Our reviews of individual decisions denying an applicant visiting privileges far too often finds no reasonable link between the reasons provided by the Service in support of the decision and the security and good order rationale provided for within its policy. The Service, despite its stated policy and its Mission Statement, continues to deny visits on what can only be characterized as arbitrary standards, such as, if the visitor:

— is an ex-inmate of a federal institution

— is on the visiting list of another inmate

— has been convicted of an indictable offence within the last twenty-four months or is presently charged under the Criminal Code (without specific reference to the charge/conviction or how it is seen as potentially detrimental to the security or good order of the institution;)

— has been released from custody within the past twelve months (again without specific reference being provided as to how this fact relates to the security or good order of the institution.)

— is participating as a volunteer in a federal institution

— is considered not to have a positive influence on the inmate.

I am not questioning the Service's need to review individual applicants and at times restrict access to its visiting programs. What I am questioning is the fairness of the Service's current procedures in exercising this authority. I therefore recommend again that decisions taken to deny access to the visiting program be taken by the Warden responsible for the institution

in question and that specific reasons relevant to the security and good order of the institution be provided to the applicant in writing.

On the issue of Private Family Visits, which the Service, from a policy and operational perspective, has separated from the general visiting program, I initially made representations in 1983 to the then Commissioner when the Service was establishing its eligibility criteria. I noted at that time that the proposed criteria, specifically with respect to the definition of common-law partners, was overly limiting and that there was a need for flexibility if the program was to meet its stated objectives. The Service, in 1987, transferred to the Regions the authority to establish eligibility criteria for their private family visiting programs. This delegation, rather than producing reasonable flexibility, produced inconsistency and confusion. In some cases, offenders who had been approved for and received private family visits at one institution, on transfer were advised that they were no longer eligible for participation in the program.

The issue of eligibility criteria was further questioned in 1988 when an offender challenged the denial of his eligibility to participate in the program with his common-law partner of the same sex. The Service in responding to the subject's grievance upheld the denial of his eligibility stating that the existing policy did not allow for such visits, but indicated that a review of its policy on private family visiting would be undertaken in the near future. The subject took his challenge to court and in May of 1990 the Federal Court of Appeal concluded that the Commissioner could have exercised his discretion and granted the visit and as such, the Commissioner had unlawfully refused to exercise that discretion. The subject's application for visits with his partner was subsequently re-reviewed and approved by the Service.

The Service has been reviewing its visiting policy, inclusive of the private family visiting program, for a good number of years now. In April of this year, in response to this latest round of consultations on the visiting policy, we wrote to the Correctional Service noting again that the inclusion of the word "family" in the private visiting section of the program continued to cause definitional problems generated, in a large part, by legal and moral concerns which have in turn resulted in on-going inconsistency and confusion with the policy's application. It was suggested that the Service approach the visiting program as a continuum, from security visits through open visits to private visits, maintaining a consistent eligibility criteria throughout.

As such, I suggest that the Service identify visiting as a right and that the individual's eligibility for the program be restricted only on the basis of reasonable concerns directly related to the security of the institution or the safety of the individuals involved.

I have been advised that a final decision on the Service's visiting policy is expected by the end of 1991.

19. ADMINISTRATIVE SEGREGATION

The Correctional Service of Canada in July of 1990, undertook a review of their policy on Administrative Segregation.

I received a copy of the Service's proposals, inclusive of a draft Commissioner's Directive, in January of 1991. In February 1991, I replied forwarding a detailing of our specific

comments on the proposal and identified two general areas of concern related to the delegated authority for the placement of offenders in administrative segregation and the effectiveness of the subsequent review processes being proposed. As of the end of the reporting year I had not received a substantive response from the Service on our comments. I am advised that the Service intends to approve a revised policy in this area by the early fall of this year.

20. MANAGEMENT OF OFFENDER PERSONAL EFFECTS

The Service undertook in early 1990, a review of its policy on offender personal effects with the intention of developing national guidelines on the management of offender personal property.

In January of 1991, I received a copy of the Service's draft policy and guidelines which had been forwarded to the field for consultation. We met with the Service's headquarters staff to provide our comments in April of 1991.

I am hopeful that this initiative will address such issues as:

— the areas of responsibility for lost or damaged personal effects in a double-bunked situation;

— the replacement value cost in the settling of offender claims; and,

— the inconsistencies in allowable personal effects which have resulted in offenders purchasing effects at one institution only to be advised at another institution that they are not allowed.

Although there has been some delay concerning this issue, I was advised that a revised policy, inclusive of national guidelines, is expected to be approved by October of 1991. I look forward to the Service finalizing its policy in this area and hope that implementation at the operational level assists in addressing some of the long-standing areas of concern associated with offender personal effects.

21. OFFENDER ACCIDENT COMPENSATION

I received a complaint from an offender in 1988 concerning the denial of his claim for compensation under the Penitentiary Inmates Accident Compensation Regulations. The subject had injured himself as a result of having slipped and fallen on ice while on his way to breakfast. The claim was denied because the accident was not attributable to the offender's "participation in a normal program of a penitentiary". A normal program is defined within the Regulations as "participation in any work activity sponsored, approved or permitted by the Service or in any other activity required by the Service, excluding participation in any recreational or social activities".

I wrote the Commissioner in August of 1988 stating in part:

> Having reviewed the claims file, it is our opinion that too much attention was focused on the question of whether attending at the kitchen trailer was a "required activity". We note that the definition indicates that a normal program includes an activity "required by the Service". It also covers work activities, and excludes recreational or social activities. It is only

> necessary that the activity be part of a "normal program of the penitentiary", and not specifically excluded. This definition in no way excludes participation in the food service program. An indication of what it includes seems to have been confused with an exhaustive enumeration of compensable activities. In fact, given that the definition specifically excludes certain activities (recreational, social) it appears that any other normal program is thereby included.

I concluded by stating that I was of the opinion that the subject was in fact participating in a normal institutional program when injured and requested that consideration be given to a re-examination of the individual's claim.

I received a response from the Commissioner in September of 1988 indicating that although the Service maintained its position with respect to the subject's eligibility under the provisions of the Penitentiary Inmates Accident Compensation Regulations an alternative means of providing compensation would be reviewed.

In May of 1989 an offer of settlement was made by the Service and accepted.

I was subsequently contacted by the complainant, in June of 1989. He explained that he had been waiting for the settlement offer for over two years, during which time he had been living on welfare and that he had accepted the offer because of his financial situation, although he did not feel the amount was either reasonable or fair. I advised the subject that we would undertake a review of the Service's offer. Our review raised a number of substantive questions related to the Service's calculation of the settlement offer and I wrote to the Commissioner in November of 1989 requesting that the issue be re-opened. Although the Service's initial response was that the issue could not be re-opened, the Commissioner became personally involved and showed his sense of fair play by a further offer of settlement in January of 1991.

Central to this case at the outset was the question of what constituted participation in the normal program of a penitentiary. I was advised in September of 1989 that amendments to the Penitentiary Inmates Accident Compensation Regulations to address this question would be forthcoming. The 1990 Federal Regulatory Plan published in December of 1989 under the heading Penitentiary Inmate Accident Regulations states:

> Current regulations provide that an inmate may claim compensation when injured while participating in a normal program of a penitentiary and that medical reports be ordered for all claims before determining the validity of an application. This initiative will provide clarification of the activities which are considered to be a normal program of the penitentiary. The initiative will also provide for an amendment to sub-section 5(3) of the regulations in order to allow "the person in charge" at Labour Canada to exercise discretion in determining whether medical reports are necessary in respect of a claim.
>
> This initiative will have an impact only on Federal inmates, providing clear definition of whether an inmate was participating in a normal program of a penitentiary when the injury was sustained and ensuring a more efficient process by determining at the time of application whether a medical report is required.

The expected date for the initial publication of these amendments is identified in the Federal Regulatory Plan as the second quarter of 1990. As of the writing of this report, the second quarter of 1991, I am advised that these amendments have as yet not been finalized.

22. OFFENDER TELEPHONE ACCESS TO CORRECTIONAL SERVICE OFFICIALS

The Office established a 1-800 service in 1989 to afford offenders more reasonable and timely access to our investigative staff. The number of calls, not surprisingly, increased dramatically and we realized that a majority of these calls were from offenders requesting that we obtain information or clarification on a pending decision from Correctional Service officials outside the institution. Our review of this matter indicated:

a) that the requests being made by the offenders were legitimate; and

b) that offenders were calling our office because we were accessible and Correctional Service officials outside the institution were not.

I have had a number of discussions with the Commissioner on the problem over the past year. My position was that the Service should allow offenders telephone access to Correctional Service officials in their Parole Offices, Regional Headquarters and National Headquarters to demonstrate not only the Service's stated commitment to openness and accountability, but to aid in ensuring through the provision of timely relevant information, that the offender is, in fact, an informed participant in the correctional process. As well this added workload was causing a strain on our resources to which the Commissioner was most sympathetic to the point of offering us some staffing assistance.

The Service in late 1989 initiated a "pilot project" in two regions which allowed offenders telephone contact with regional authorities. I was advised in December of 1990 that the results from these "pilot projects" would be provided to National Headquarters staff by June of 1991 and that a final decision on this matter would be taken by the Service's Executive Committee shortly thereafter.

23. TEMPORARY ABSENCE PROGRAMMING

The office experienced over the course of this reporting year, an increase in the number of complaints related to the Service's temporary absence program. We were advised by a number of Inmate Committees that they felt there had been a significant decline in the number of offenders involved in this program, and that this in turn was delaying their release on day and full parole. These concerns were most often expressed by those housed within medium security institutions.

A review of the Service's data on temporary absence confirmed that in fact there had been a significant decrease over the preceding five-year period in both the number of temporary absences approved and the number of offenders involved in the program. Following a meeting with National Headquarters staff to review this matter in June of 1990, correspondence was forwarded to the Commissioner's office which stated in part:

> the number of escorted temporary absences from medium security institutions has gone from 9700 in 1982 to 7200 in 1984 to 5600 in 1989 while the number of unescorted temporary absences from these same institutions has gone from 5400 in 1983 to 2500 in 1989. This decline is further reflected at the minimum security level where the number of unescorted temporary absences has gone from 6200 in 1984 to 4500 in 1989.

The Service in responding on the issue indicated that they had been aware of this decline for a number of years and in November of 1990 stated:

> "As CSC is concerned with this decline, the Branch (Correctional Programs and Operations) is committed to undertaking a complete analysis on an institution-by-institution basis in an effort to identify where the statistical declines are occurring. These statistics are to be provided by the Research Branch at National Headquarters. They will then be provided to the Regions who will be asked to review the results and provide feedback with respect to the specific areas of decline. Through this process, it will be determined what action is necessary to ensure that the optimum use of the Temporary Absence Program is maintained.

I was hopeful of this undertaking. In March of 1991, the Service provided us with their temporary absence statistics for the year 1990, which indicated an overall increase over the previous year. We were subsequently advised in April of 1990, without benefit of a complete analysis on an institution-by-institution basis, that the declining rates experienced in previous years no longer appeared to represent a concern and that the issue was therefore considered complete.

The 1990 figures for temporary absences while showing a general increase over those of 1989, as well showed:

a) a wide variation between the Regions on the number of temporary absences for family and community activities being granted (Pacific 15,076, Prairies 1,653);

b) the 1990 unescorted temporary absence figure, while up over that of 1989, was still less than 70% of the 1986 figure; and,

c) a number of major medium security institutions had fewer escorted temporary absences in 1990 than they had in 1989.

I intend to pursue this issue with the Commissioner's office by recommending that the initial step in addressing this issue rests with the Service fulfilling its 1989 undertaking and completing a thorough institution-by-institution analysis of its temporary absence program.

ISSUES RESOLVED

The following issues are considered to be resolved from a policy perspective. Although concerns may arise with the interpretation and application at the operational level, I feel that the policy revisions themselves have addressed in a reasonable and fair manner, the issue raised.

24. CRITERIA FOR HUMANITARIAN ESCORTED TEMPORARY ABSENCES

The result of our investigations into complaints concerning the denial of temporary absences for the purpose of attending the funeral of a family member, as I reported last year, indicated that the overriding criterion in far too many instances in reaching such decisions, was the financial cost to the Service in terms of transportation and overtime. It was as well noted that in some cases to assist in offsetting these costs, the Service had requested money from the offender and the family.

I reported that this practice was without reasonable justification and inconsistent with the Service's Mission document. I indicated that the application of such criteria, based on geography and personal finances, had established an inequity of access for offenders to this form of temporary absence programming.

The Service issued a revised Commissioner's Directive in January of 1990, entitled Temporary Absences, which reads in part:

> 6. Escorted temporary absences for humanitarian reasons shall be granted in the following instances unless significant security or case management information exists that is unfavourable to such an absence:
>
> a) to attend the funeral of a parent, a foster parent, a relative who has acted as a foster parent, a child, a spouse or other person, if the inmate has had a meaningful relationship with the person;
>
> b) to visit a person, as described above, who has been declared by a medical practitioner to be in an advanced stage of a terminal condition resulting from illness or injury.
>
> 7. The costs for escorting officers or transportation shall not be a factor in the decision.

This policy is clear and consistent with the Service's stated objectives in this area and the interpretation given this policy at the institutional level should reflect that.

25. APPLICATION OF OFFENDER PAY POLICY FOR SEGREGATED OFFENDERS

The issue here centred on the absence of reasonable flexibility within the Service's pay policy. Offenders placed in Administrative Segregation, for whatever reason, were automatically paid at the lowest level and were not being compensated if cleared of the allegations or charges which led to their placement in segregation. During the course of our discussion with the Correctional Service on this matter, the current situation of offenders unable to work for medical reasons or because there was a lack of available work, was also reviewed.

In May of 1991, the Commissioner's Directive on Inmate Pay was amended affording the institutional Director greater flexibility in determining the level of pay for those offenders placed in administrative segregation.

Section 28 of Commissioner's Directive 865 now reads:

> 28. When an inmate has been placed in administrative segregation as a result of an offence report, and later found to be not guilty, the Director shall review each incident and, where warranted, adjust the individual's pay accordingly.

In addition to this amendment, the Service issued a Memorandum of Clarification which further emphasized the Warden's authority to adjust the pay rates for those offenders who are willing but unable to participate in programs or work due to long-term illness or incapacity as a result of an accident. The Memorandum, as well, provided for a measure of financial protection for those offenders who were unemployed stating "in principle the institutional Work Board should review, at two-week intervals, all inmates who are paid at

level one pay. Those who are unemployed because no work is available and have been at level one for two weeks, may be awarded level two pay at the discretion of the Warden".

I am encouraged by these changes and expect that a reasonable exercising of discretion at the institutional level will go a long way in alleviating some of the inequities inherent in the previous application of the Service's pay policy.

26. ANTABUSE AND TEMPORARY ABSENCES

Antabuse is a prescription drug used generally as an adjunctive therapy for individuals already involved in an alcohol treatment program.

In September 1990, we received complaints from a number of offenders who were claiming that the taking of Antabuse was a condition of their being granted a temporary absence and that they were required to sign a discharge of responsibility waiver for any side-effects caused by the medication. Our review of this matter indicated that this was in fact taking place. It was also noted in those cases reviewed, that there was not a clear indication on the file that the offenders had an alcohol problem nor were any of the offenders involved in an alcohol treatment program within the institution. The stated purpose for the use of Antabuse during temporary absences was to ensure an appropriate level of control over the offender and reduce risk.

Following discussion with both the Warden and the Regional Deputy Commissioner, our concerns in this area were detailed in a letter to the Regional Deputy Commissioner with a copy to the Director General, Medical Services. Our concerns focused on the following areas:

a) despite the Service's claims, the prescription of the medication was not limited to those offenders with an identified alcohol problem;

b) Antabuse was not being used as an adjunct to an ongoing treatment program but was being used in isolation as a condition of receiving a temporary absence;

c) the rationale for the use of the medication, "control and reduce risk" constituted medical intervention contrary to the Service's policy that the administration of medication to offenders for restraint or other security purposes shall not be undertaken; and,

d) the alleged voluntary aspect of the offender's agreement to involve himself in this program was open to serious question.

A prompt and detailed response to our areas of concern was received from the Director General, Health Care Services. I was subsequently advised by the responsible Regional Deputy Commissioner that following a further review, the practice of prescribing Antabuse as part of a temporary absence program had been terminated. Although I am pleased by the final position taken by the Service on this matter, I am concerned that it took nine months to reach that position and only after we had referred the matter to the Director General, Health Care Services.

27. TRANSFERS TO REGIONAL PSYCHIATRIC/TREATMENT CENTRES

The Office had received during the course of the reporting year, a number of complaints from offenders who had been denied transfers to the Service's Regional Psychiatric Centres. A review of these cases indicated that the existing directive on transfers did not identify who the decision maker was on such transfer applications, that offenders were not being notified in writing of the reasons for the decision being taken, and that considerable confusion existed because no decision maker was identified as to the appropriate avenue of redress available on such decisions.

The Service, following its review of the matter, issued the following revision to the Commissioner's Directive on Transfer:

> The clinical directors of the Regional Psychiatric/Treatment Centres shall determine which inmates may be admitted to the Centres. For these cases, the clinical director shall be considered the decision maker and, thus, shall ensure that the reasons for any denial are provided in writing to the inmate, as per paragraph 16 of this directive.

This revision has clarified the procedures to be followed on such transfer applications and I anticipate that future confusion in this area will be measurably reduced for all concerned.

28. OFFENDER ACCESS TO DISCIPLINARY TAPE RECORDINGS

The Service's position on this matter as stated in 1988, was that "reasonable access by inmates to disciplinary hearing recordings must be provided".

The issue resurfaced in March of 1990 as a result of a memorandum from a Regional Headquarters entitled "Independent Hearings — Access to Tape" which states in part: "Unless an inmate makes a request for the tape under the *Privacy Act*, there is no legal requirement to provide the tape at CSC's expense and time". As this appeared to be a retreat from the Service's initial position on reasonable access, the issue was referred to the Commissioner's office in April of 1990 with a request for their further review and comment. On May 17, 1990, correspondence was received from the Deputy Commissioner, Correctional Programs and Operations, saying that "reasonable access to disciplinary tapes does not necessarily demand that a copy of the tape be provided. Reasonable access could expect to include the provision of a suitable room where the inmate is able to listen to the recording and to take notes".

Given that the Service had earlier acknowledged that it was a "widespread practice" within the Correctional Service to provide an offender with a copy of a tape recording of his disciplinary hearing and that, if the offender requested a copy under the provisions of the *Privacy Act*, the Service would "be under a legal obligation to provide a copy", I could not support its position on this matter. A follow-up letter was sent to the Commissioner's Office requesting a further review with a recommendation that a policy clarification be issued to ensure that offenders are provided with both reasonable and equitable access to disciplinary tapes. I was subsequently advised in January of 1991 that offenders, on request and at a cost of $3.00, will be given a copy of their disciplinary tapes.

29. RECORD OF MINOR DISCIPLINARY HEARINGS

I recommended in November of 1988 that the Service maintain a record of minor disciplinary court hearings. In January of 1990 the Service issued an interim instruction indicating that basic information concerning minor court proceedings be recorded via electronic or any other means and retained in accordance with the established procedures for federal government records.

The Commissioner's Directive on Discipline of Inmates, inclusive of the above-noted requirement to maintain a record of minor court proceedings, was issued in August of 1990 and reads in part:

> The summary of the minor court proceedings shall include, but not be limited to, the following Information:
>
> a) the date, time and place of the minor court hearing;
>
> b) the principles involved, including witnesses, if called or an indication of why witnesses were not called;
>
> c) the charge;
>
> d) the "gist" of the proceedings;
>
> e) the finding(s); and,
>
> f) the punishment awarded.

I reported last year that it was quite evident during the time period between the issuing of the interim instruction and the Directive that the communication of the policy change to the institutional level was considerably less than universal. During the course of this reporting year our review of complaints relating to minor disciplinary decisions has indicated that although the policy is certainly known at the institutional level, there exists a wide variance on the quality and content of the records maintained. This inconsistency obviously has an effect on the review of offender complaints on minor court decisions, whether undertaken by the Service's grievance process or this office and as such, I suggest that the Regional Operational Review process include an analysis of minor court records as an element of its review.

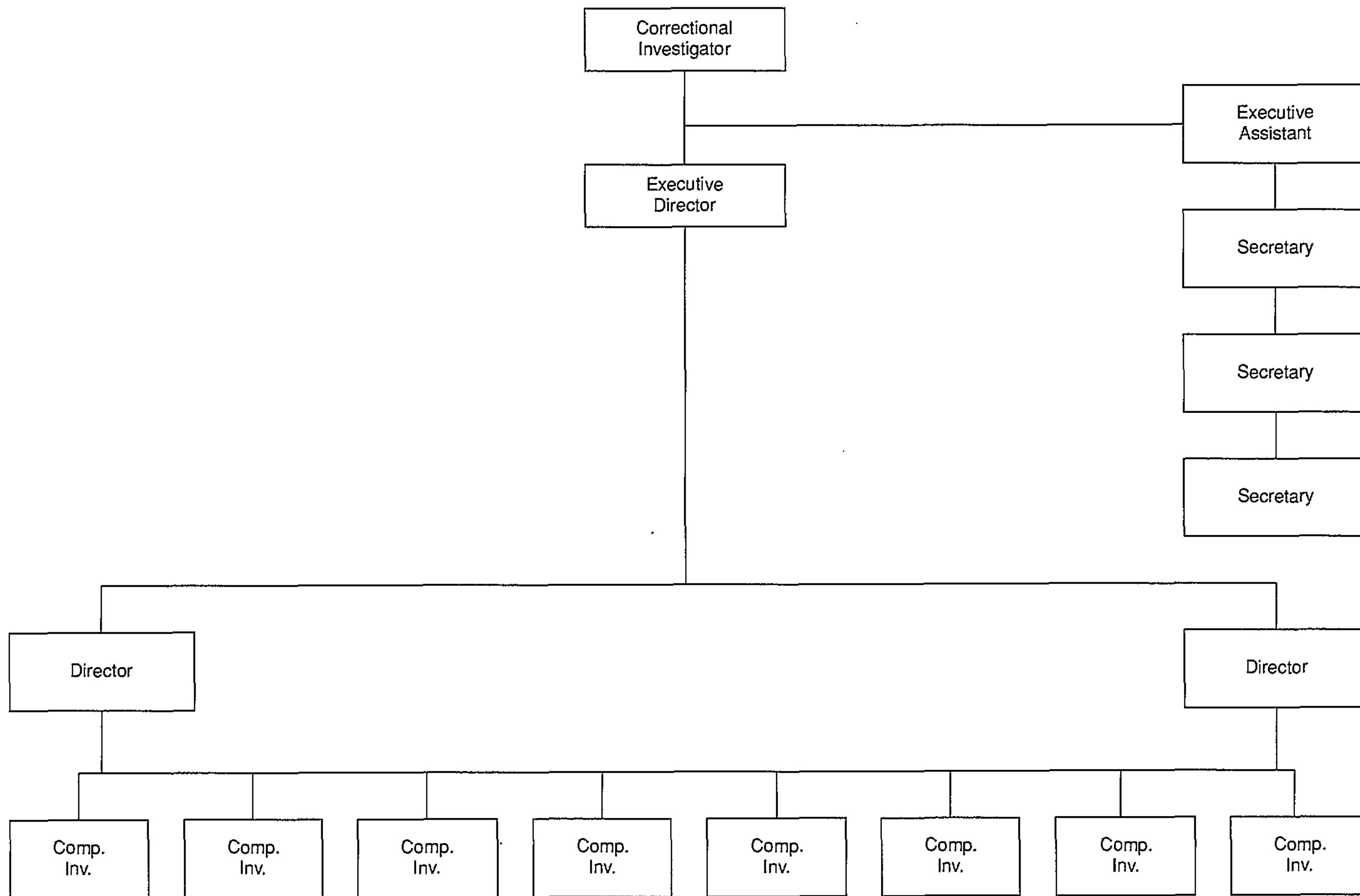
CONCLUSION

The Service's Mission Statement has projected a positive public image and established a sound framework of core values, guiding principles and strategic objectives for the management of its operations. But a Mission document, regardless of its detail and eloquence, cannot be seen or accepted as a replacement for sound policy and clear direction. Nor can it be seen as reflective of an organization's operational reality. The operational reality from my perspective is that the number of complaints have increased significantly, and that some areas of complaint again from my perspective, are slow to be resolved. We continue to stress at the national level the significance these issues hold for the offender population, and the impact that non-action has on decisions taken at the operational level.

The Correctional Service of Canada is a direct service agency whose policies, procedures and decisions directly and immediately affect the offender population. Consequently, it is important that the Correctional Service continue to strive to improve its responsiveness to inmate concerns. Delays, defensiveness and non-commitment are inconsistent with the Service's stated Mission and the basic concept of administrative fairness and I sincerely hope that our comments are taken in the constructive way that they are offered.

As I have indicated in the past, the vast majority of our work is done at the operational level through personal contact with offenders and the Service's front line staff. I am encouraged by the high number of resolutions and effective referrals achieved over the course of this reporting year and I will take this opportunity to extend my appreciation particularly to those operational staff for their cooperation in assisting us in doing our job. The corrections field is not an easy place to work and I applaud all the dedicated men and women who are committed to making the Service the very best it can be.

APPENDIX A



APPENDIX B

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 C

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

(i) 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