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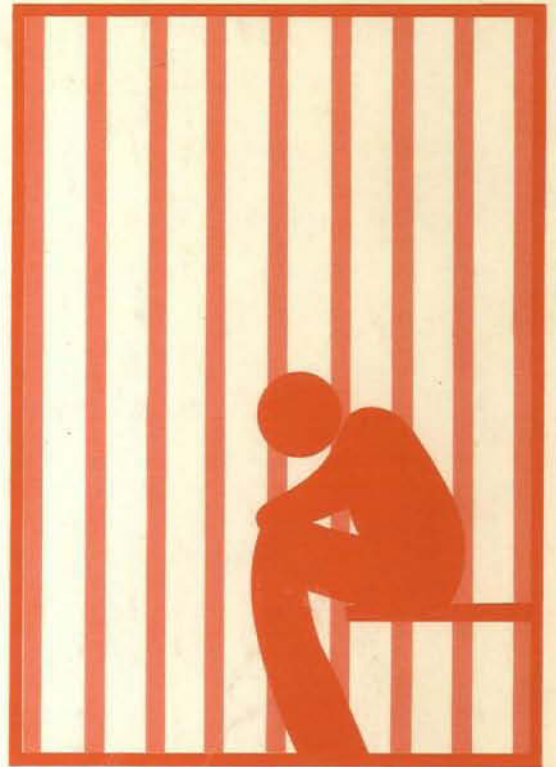
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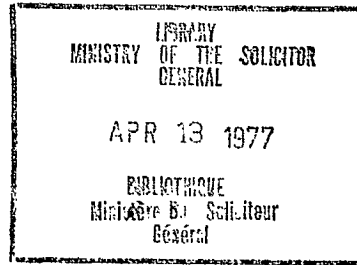
Annual Report of the Correctional Investigator

1975-1976



The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada



Annual
Report
of the
Correctional
Investigator

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The Correctional Investigator
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December 6, 1976

The Honourable Francis Fox
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Sir:

As Correctional Investigator, appointed to investigate and report upon complaints and problems of inmates in Canadian Penitentiaries, I have the honour to submit respectfully the attached report which covers our third year of operation (1 June, 1975 to 31 May, 1976).

Sincerely yours,

A handwritten signature in cursive script that reads "Inger Hansen".

Inger Hansen, Q.C.
Correctional Investigator

P.O. Box 950, Station B
Ottawa, Ontario
K1P 5R1

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Mr. B. McNally, Senior Inquiries Officer, assessing a complaint with Helga Wintal, Inquiries Officer.

Appointment and Terms of Reference

The Correctional Investigator has been in office since 1 June, 1973. This is the third annual report; it is for the period from 1 June, 1975 to 31 May, 1976.

The Correctional Investigator is appointed as a Commissioner under the **Inquiries Act** to investigate problems of inmates on subjects for which the Solicitor General is responsible.

For the full text of the mandate of the Correctional Investigator, reference may be had to the Annual Report of the Correctional Investigator 1973-1974, page 1.

The Correctional Investigator was appointed under the **Inquiries Act** as discussed under the heading "Comments" in our first (page 2) and second (page 4) annual reports.

The Correctional Investigator is appointed by the government and reports to a Minister, the Solicitor General, while a so-called classical ombudsman is appointed by Parliament and reports to it. Specific legislative provisions could give **de jure** independence to the Correctional Investigator and it is expected that this will eventually be forthcoming. However, the Correctional Investigator has the same powers of investigation as most other ombudsmen. Independence may be achieved by personal approach and the level of acceptance by the public the ombudsman is appointed to serve. The Correctional Investigator has three distinct "publics": the inmate complainants; persons employed in the Canadian Penitentiary Service; and the general public. Independence, of course, may be questioned after a single lapse of objectivity.

Information about our office is provided by word of mouth, the media, and through public appearances by members of our staff and me. During the year, I accepted an average of two speaking engagements each month. We appreciated these opportunities to explain what we are doing and are well aware that public scrutiny makes us reassess our philosophy and methods of operation on a continuing basis.

During the year I met personally with inmate committees in almost all institutions. These meetings serve two purposes: they provide an opportunity to explain the functions of the office and give our office information about inmate problems.

As there is a constant turnover of inmates and members of inmate committees, these meetings will become a regular part of our work. I explain that an ombudsman basically functions in the same way as an auditor who is responsible for auditing the books of a business. In other words, our office does not do the actual bookkeeping, nor do we run the business. I try to stress that it is important for our office to be objective and that we try to draw attention to errors, oversights and abuse of administrative power. I try not to pose like the bionic woman who may swoop in and create utopia in an imperfect world. I also explain that our office is only able to deal with matters of which we are accurately informed. I stress that, in many cases, it may be too late to remedy an individual complaint. However, once we are able to document through several complaints that a problem area does indeed exist and that complaints may be

justified, we are in a better position to recommend change. I stress that small, specific improvements do indeed lead to general improvements in various aspects of penitentiary life.

Regular meetings, both formal and informal, with members of the Canadian Penitentiary Service and our staff took place during the year. We find that a short meeting in a director's office, a cup of coffee with a classification officer or with a custodial officer, a walk through the range with a counsellor, all add to our understanding of the environment in which we work. On a few occasions, I have also appeared before large groups of staff or been on the "hot seat" in front of almost all inmates in a particular institution.

It has proven extremely useful for our office to visit all regions of Canada and to rotate our staff as well. It is particularly interesting that on occasion in one area we will be told unequivocally that something is impossible, and we find that it is being done in another without any problems.

We also corresponded with the inmate committees in response to their questions on matters such as inmate pay, contraband, and sentence interpretation. For example, we wrote to all inmate committees explaining the effects of the Marcotte⁽¹⁾ and LeHeinsworth⁽²⁾ cases.

Finally, when we started work for the purposes of the Millhaven Inquiry, (see page 9), we wrote a letter to all inmate committees asking them to explain to the inmates the extra demand on our resources. We believe our plea accounts in part for the relatively smaller increase in number of complaints (approximately 9% as compared to 21% in the second year). Undoubtedly, the number of inmates who choose to use our office as an avenue for complaints will level off eventually.

We have received critical comment from both inmates and the public to the effect that we are not solving the major, general problems of the correctional services. When discussing this type of criticism, I usually reply that we believe our primary function is, and must remain, that of assisting **individual** inmates who have grievances against the Canadian Penitentiary Service. Our mandate, as I interpret it, is to ensure that inmates are treated fairly, within the existing system. Large scale inquiries into general problems must remain the prerogative of Royal Commissions and Commissions of Inquiry and the setting of policy that of law-makers and administrators. It is, however, equally obvious that our office cannot remain completely aloof

from general issues involving policy. Whenever the investigation of a complaint, or several complaints, demonstrates that general policies result in unfairness, we make recommendations of general application. One illustration is recommendation number three in our first annual report to the effect that the automatic loss of statutory remission on conviction for an escape offence should be abolished. This has found its way into a legislative proposal.*

The Correctional Investigator's terms of reference are clear and easy to work with. They grant wide discretion in dealing with complaints and permit the Correctional Investigator to decide whether the complainant has "taken all reasonable steps to exhaust available legal or administrative remedies". This discretion is extremely valuable for anyone who is involved with handling of complaints from institutionalized individuals. It allows the person to deal immediately with cases where it would be unfair or impractical to insist that the complainant exhaust other remedies first.

Furthermore, unlike most other ombudsmen, the Correctional Investigator is not required to give notice of a complaint to the chief administrator. This, as well, is important for handling complaints from incarcerated individuals. On receipt of a complaint we are able to discuss it with the complainant first, without involving any administrator and if it appears that the complaint is premature or not well founded, no one else need be involved. If an investigation is required, we can often deal with it on the spot by discussing it with the administrator immediately involved and achieve a rectification without involving other levels of the bureaucracy.

(1) *Marcotte v. Deputy Attorney General of Canada* (1969) 19 C.C.C. (2d) 257; 51 D.L.R. (3d) 259.

(2) *LeHeinsworth v. Solicitor General of Canada* (1971) 21 C.C.C. (2d) 26.

* For the full text of all general recommendations and the reaction of the administration thereto, please refer to page 61.

Provincial Ombudsmen

The annual conference of Canadian ombudsmen was held in Halifax, Nova Scotia, from 22 to 25 September, 1975. The conference was hosted by Dr. Harry D. Smith, Ombudsman for Nova Scotia. It was most beneficial to compare notes on procedures and to find that our problems were very much the same.

The meeting for 1976 will be hosted by the Ombudsman for the Province of Alberta, Reverend Dr. Randall E. Ivany. It will coincide with the 1976 International Ombudsmen Convention, and ombudsmen from other countries will attend.

Procedures

Generally speaking, the procedures outlined in the first annual report, page 9, are still followed.

The addition of one inquiries officer has resulted in a reduction in the interval between visits to institutions. Maximum and medium institutions were visited every four to six weeks.

Interviews are generally conducted in offices; but segregated inmates are now more frequently interviewed in the segregation area. The segregation areas in the maximum institutions are visited regularly by the senior inquiries officer.

Staff and Office

At the conclusion of the third year of operation the following persons were engaged in our office:

Mr. D.C. Turnbull, Executive Assistant
Mr. B. McNally, Senior Inquiries Officer
Mr. J. Couillard, Inquiries Officer (Part-time)*
Helga Wintal, Inquiries Officer
Jane Longo, Administrative Assistant
Mrs. L. Schneider, Secretary
Miss F. Johnson, Secretary
Maureen LaBonté, Bilingual Assistant (Part-time)

I should like to express my gratitude for the competent manner in which staff members perform their duties. In particular, it is a source of deep satisfaction for me to see how everyone becomes involved in and concerned about the fair resolution of complaints. It was my original plan that the office should use the team approach when assessing the validity of complaints and devising recommendations. It is a pleasure to observe how each member of our staff is able to use his or her particular skills and life experience to assist in meeting the objectives of our mandate.

*The sudden death of Mr. J. Couillard on 15th September, 1976 was a tragic loss for our office. His gentlemanly attitude and humane approach provided a fine example to all of us.

Grievance Procedure

Many inmates are using the grievance procedure established within the Canadian Penitentiary Service (see page 13, first annual report).

Some inmates continue to complain about not being able to obtain grievance forms or that they are required to go through a pre-grievance procedure established by the institution. There is no doubt that the analysis, review and solution of grievances require a considerable amount of work on the part of the Penitentiary Service. This work, however, appears absolutely necessary for the fair administration of the Canadian Penitentiary Service.

Some inmates are reluctant to use the grievance procedure. We use our discretion in this regard and where a complaint appears to be urgent, capable of an obvious or immediate solution, or of a delicate nature, we will not insist that the complainant use the grievance procedure.

If the written complaint has no indication that the inmate has used the grievance procedure, we find it useful to have one interview to find out whether he or she has used or should use the grievance procedure. The letter from the inmate may not be specific, and it is only through the interview that the exact nature of the complaint may be assessed.

We sometimes assist in the phrasing of a grievance and in monitoring its progress.

Special Investigation — Millhaven Institution

In the fall of 1975 the Solicitor General asked the Correctional Investigator to investigate the alleged improper use of gas and force at Millhaven Institution. Specific terms of reference were given and I accepted the task on the understanding that the hearings would be conducted in a formal manner and counsel would be provided.

Twenty-two days were consumed in the hearing of evidence; one inquiries officer was engaged in the preparation of the evidence. Our office staff was involved in the conduct of the hearings and approximately 20% of the productivity of our office for the year was devoted to the Millhaven Inquiry.

On 15 July, 1976, the report of the findings was made public.

The terms of reference of the Millhaven Inquiry asked for:

“suggestions with a view to improving the directives, instructions, and standing orders which pertain to the use of gas and force, and/or the way in which such directives, instructions, and standing orders are used”.

The result of the inquiry was that the lawful authority of staff to use force and gas was recognized, but it was found that:

- 1) Handcuffs and leg irons had apparently been used in a cruel and possibly dangerous manner.
- 2) Showers for the inmates in the segregation range had been stopped early on 3 November, 1975. A disturbance had resulted and the correctional officers feared that it might spread. One inmate was moved to the Environmental Control Area (ECA) without incident. However, after a scuffle with a second inmate, gas was used on five inmates in the area, four of them were taken to the hole, and one was left on the range.
- 3) More gas than necessary was probably used; but in particular, gas was applied in a potentially dangerous manner by officers who had had no practical training in the use of the particular equipment and no specific instruction in the inherent dangers of the use of gas.
- 4) There were no proper armourey records to indicate the amount of gas used.

-
- 5) Inmates who were taken to the hole were left in their cells, naked and without mattresses or bedding. This appeared to have been done as a matter of routine, and without specific justification on medical or security grounds. The inmates had no opportunity to wash off the gas particles. Necessary and proper medical examination of the inmates who had been exposed to gas did not take place until three days after the event.
 - 6) Requirements to notify the hospital services and the director or senior duty officer before using gas were not fulfilled. These omissions occurred because the reasons for having to notify were not understood, accepted or known by the officers in charge.

I concluded that the cumulative effect of human error, ignorance and failure to accept or understand policy, amounted to neglect of the welfare of inmates.

"The system" appeared to be the cause. I urged that efforts be made to enhance the competence and morale of those who work within the system.

Recommendations were also made for precise written instructions for the use of restraint equipment, the use of gas and for decontamination after the use of gas.

In order to diminish what appeared to be a gap between announced policy and reality, I suggested that a permanent editorial board be established to review Directives, instructions and standing orders to ensure that policy decisions are accessible to staff.

Finally, because schools and universities do not at present have the facilities to train correctional staff, I suggested that expanded in-service training be provided.

The full text of the recommendations appears at the conclusion of this report.

Normally, the preparation of our annual reports takes place during the last half of the reporting year. Because of the Millhaven Inquiry and the writing of the report on that inquiry, the preparation of the third annual report was delayed considerably.

National Parole Service

As was reported in the second annual report (page 12), the Correctional Investigator was asked in late 1974 by the Chairman of the National Parole Board to refer to him complaints alleging unfairness in administrative actions of the National Parole Service. This arrangement was experimental, to see whether the service of the Correctional Investigator could be useful to parolees and to the National Parole Service. Inmates are informed that we are not authorized to investigate decisions concerning parole and we suggest to them that they could themselves approach the National Parole Board or the appropriate regional representative.

We do not have the mandate, the staff or the facilities to investigate complaints concerning parole but in some cases, by arrangement with the Chairman of the National Parole Board, facts alleged by inmates indicating the possibility of a valid complaint are placed before the Chairman.

The following two cases illustrate our involvement:

Case No. 1312

The complainant suggested that his parole eligibility date had passed. On examining his file we noticed that the complainant's sentence was affected by the LeHeinsworth ruling⁽³⁾. The complaint was referred to the National Parole Board.

The National Parole Board reviewed his file and found that the complainant's eligibility date should, in fact, be changed to an earlier date.

The Chairman of the National Parole Board informed us that similar cases would also be rectified.

Case No. 1445

The complainant, who was deportable, requested assistance in obtaining consideration for an early parole. The inmate and his family had operated a small hunting and tourist camp in the far north and planned to return there after his release. The camp is not accessible from September to May because of the severe climate and isolation. The inmate was scheduled to be released in October and he would not be able to return to his home until May.

(3) *LeHeinsworth v. Solicitor General of Canada* (1971) 21 C.C.C. (2d) 26.

The National Parole Board was given this information and we were later informed that the inmate was deported in August, giving him sufficient time to reach home before the winter.

Complaints

The number of complainants who contacted our office between 1 June, 1975 and 31 May, 1976 was 785. They lodged a total of 1057 complaints.

The second year showed an increase of approximately 21% in number of complainants over the first year; the third year an increase of approximately 9% over the second year. The pattern of complaints as shown by the statistics remains relatively stable.

The manner in which statistics have been prepared has not changed substantially from previous years.

Pending Complaints

At the end of the second year of operation, 110 complaints were shown as pending. Separate statistics have been shown for those files. However, they have been included in the calculation of percentage rectified or resolved as having been handled during the third year.

Where a complaint has been closed on our files and the same type of complaint, requiring another interview, is made at a later date, it is treated as a separate, new complaint.

Where an inmate voices several complaints we have, to a greater degree than before, classified them as **one**. Only where complaints are distinctly separate have they been included in more than one category.

Categories of Complaints

The statistics show five files as "Request for Information". This has been done to increase the accuracy of reporting.

The original contact may not always indicate that the correspondent is merely seeking information and a file is opened for the sake of office routines.

Premature Complaints

Penitentiary inmates do not have as many opportunities to discuss or voice complaints as do ordinary people. The inevitable result of our approach is that an inordinate number of complaints must be rejected as premature. For our purposes this description seems more accurate than simply "declined" or "not justified". Quite often we are faced with a complaint where there has not yet even been an administrative decision. The complaint is merely anticipatory of an unfavourable response from the administration.

Effectiveness

Of the complaints which we do investigate, close to 18% lead to some sort of resolution or rectification.

The resolution percentage established by an ombudsman should not be seen as the sole indicator of the effectiveness of his office. The existence of the office itself is believed to have an effect on the care with which administrators make their decisions. Likewise, when accepted, explanations

given to complainants, even though the complaint is declined, might lead to a better relationship between the complainant and those who made the decision in the first place.

It should also be noted that although a complaint may be classified as not justified at the time of investigation, complaints of the same type may result in a recommendation for change in policy. Procedurally, it has not been possible to adjust statistics for complaints initially shown as not justified. Nevertheless, if the recommendation is accepted, the problem, it is hoped, will not occur again.

Statistical Tables

The tables that follow indicate:

TABLE

Category of complaints	A
Action taken on complaints	B
Complaints resolved or rectified during reporting year	C
Resolution or rectification by type of complaint	D
Complainants by region and insti- tutional classification	E
Complaints — Monthly by institution	F
Visits to institutions	G
Interviews conducted monthly — Third year	H

Table A
Category of Complaints

Sentence administration	105
Discipline (procedures and measures)	47
Dissociation (punitive and non-punitive)	40
Temporary absence	86
Transfers	212
Compensation (injuries and property)	53
Medical	62
Education	7
Visits and correspondence	34
Financial matters (inmates')	20
Information on file	12
Grievance procedures	9
Miscellaneous	133
Remission	36
Request for interview (pending)	26
Request for information	5

Outside Terms of Reference

Court procedures	15
Matters within provincial jurisdiction	28
Parole Board decisions	83
Other	<u>44</u>
	1057

Table B
Action Taken on Complaints

ACTION	NUMBER
Pending	139
Declined a) not within mandate	124
b) premature	375
c) not justified	138
Discontinued	96 ⁽¹⁾
Assistance, advice or referral given	91 ⁽²⁾
No immediate action required	7
Resolved or rectified	73
General recommendations and comments in report	6
Unable to assist	8
	1057

Action taken on complaints pending end of second year

ACTION	NUMBER
Pending	7
Declined a) No mandate	2
b) Premature	19
c) Not justified	16
Discontinued	18 ⁽¹⁾
Rectified / Resolved	22
Recommendations	5
Assistance, information, advice or referral given	12
Unable to assist	9
	110

(1) Complaints are sometimes discontinued at the request of inmates, sometimes because they are released. If a complaint has general implication it is not discontinued merely because an inmate has been released.

(2) Some of these are outside our mandate.

Table C
Complaints Resolved or Rectified
during Reporting Year

Complaints pending at completion of second year			
a) from first year	4		
b) from second year	110		114
Total complaints received during third year			
		1057	
Less complaints not investigated			
a) outside mandate	124		
b) premature	375		
c) pending	139	638	419
Total complaints actually handled during			
third year			<u>533</u>
Complaints resolved or rectified during third year			
a) of those pending at end of			
second year	22		
b) third year	<u>73</u>		
	95		
Percentage rectification of total complaints			
actually investigated			17.82%

Table D
Resolution or Rectification
by Type of Complaint

TYPE	(Pending)	
	THIRD YEAR	SECOND YEAR
Discipline	8	4
Compensation	8	3
Miscellaneous	7	1
Transfer	7	4
Medical	6	3
Sentence Administration	6	2
Temporary Absence	6	1
Parole	5	1
Visits & Correspondence	5	1
Grievance Procedure	4	0
Information on File	3	1
Other	2	0
Financial Matter (Inmates')	2	1
Provincial Matter	1*	0
Education	1	0
Remission	1	0
Dissociation	<u>1</u>	<u>0</u>
	73	22

*See Miscellaneous — Outside mandate, Case No. 1289,
Page 55.

Table E
Complainants by Region
and Institutional Classification

INMATE POPULATION AT 31 MAY, 1976	MARITIME REGION 828				QUEBEC REGION 2744				ONTARIO REGION 2408				WESTERN REGION 1435				PRAIRIES REGION 1773			
INMATE POPULATION BY CLASSIFICATION AT 31 MAY, 1976	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other	Max	Med	Min	Other
AT 31 MAY, 1976	323	385	120		1082	1353	278	31	835	1220	353		550	692	193		957	548	268	
TOTAL NUMBER OF COMPLAINANTS																				
1975																				
June	2	1	1		7	14	4		9	13	6	2	1	9	1		24	25	2	
July	2	2			9	15	2		31	9	7		4	23	1		6	10		
August	2	1			16	8	1	1	9	5	2		13	4	1		10	19		
September	3	3	2		3	8	1		17	14	4	2	4	6		1	2	9	1	2
October	3	1			4	2			5	1	1		1	2		1	2	3		1
November	2	1			3	3	1		1	3	9		6	1			6			
December	5				8	3	1		9	6	2	4	2	4	1	2	3	11		2
1976																				
January					3	3			7	10	1	1	3	4	1	1	2	3		
February	1	7			4	5	1		6	5	1	1	5	3		1	2	1	1	2
March	2	2			3	3	3	1	11	7	2		2	1			2	13	1	1
April	7	4			4	6			12	5	1	2	2	5		2	6	4		
May		2	1		5	4	3		8	6	2		8	3			6	5		1
TOTAL COMPLAINANTS BY REGION	29	24	4	0	69	74	17	2	125	84	38	12	51	65	5	8	55	109	5	9
TOTAL 785																				

Table F
Complainants
— Monthly by Institution

INSTITUTION
POPULATION AT
31 MAY, 1976

POPULATION AT 31 MAY, 1976																							
	CORRECTIONAL DEVELOPMENT CENTRE																						
	REGIONAL RECEPTION CENTRE																						
	ARCHAMBAULT																						
	REGIONAL MEDICAL CENTRE																						
	COWANSVILLE																						
	MONTÉE ST FRANÇOIS																						
	FEDERAL TRAINING CENTRE																						
	STE-ANNE-DES-PLAINES																						
	LECLERC																						
	LAVAL MAXIMUM																						
	DORCHESTER																						
	DUNGARVON																						
	WESTMORLAND																						
	SPRINGHILL																						
	REGIONAL RECEPTION CENTRE																						
	REGIONAL MEDICAL CENTRE																						
	MONTGOMERY																						
	WARKWORTH																						
	JOYCEVILLE																						
	PITTSBURG																						
	COLLINS BAY																						
	FRONTENAC																						
	PORTSMOUTH CENTRE																						
1975																							
JUNE			6		2	3	1	1	11	1	2		1	3			3	6		4	1		
JULY			6		5	1	4	1	6	3	2			2	1		3	2		4			
AUGUST		1	7	1	4			3	1	1	7	2		1	5		2	1		2	1		
SEPTEMBER		1	1		3				1	5	1	3		3	3		5	4	2	5			
OCTOBER			2						2	2	3			1	1	1		1	1				
NOVEMBER	1				1	1			2	2	2			1			2		1				
DECEMBER			4	1	2	1			1	3	5				4	1		2		4	2		
1976																							
JANUARY			2	1	1				2					3			3	5		2			
FEBRUARY			2		4	1			1	2	1			7	3		3		1	2			
MARCH			3			1		2	3		2			2	6		3	2	1	2	1		
APRIL			3	1	2	1			3		7			4	7			2		3			
MAY		2	2		1	2	1	1	2	1			1		4		2	1		3			
TOTAL																							
COMPLAINANTS	1	4	38	4	25	10	10	7	39	22	29	1	3	24	40	4	1	23	29	5	32	5	1

Table G
Visits to Institutions

INSTITUTION AND CLASSIFICATION		NUMBER OF VISITS		
MAXIMUM				
British Columbia		8	Grierson Centre	1
Saskatchewan		11	Scarboro Centre	1
Regional Psychiatric Centre (Western)		5	Altador Centre	1
Dorchester		14	Dungarvon Centre	1
Regional Reception Centre (Ontario)		15	Montgomery Centre	2
Regional Psychiatric Centre (Ontario)		2	Osborne Centre	1
Millhaven		19		<u>44</u>
Prison for Women		5	REGIONAL HEADQUARTERS	
Regional Psychiatric Centre (Quebec)		3	Western	6
Archambault		8	Ontario	5
Laval		6	Quebec	5
		<u>96</u>		<u>16</u>
	Total			<u>240</u>
			Grand Total	
MEDIUM				
Stony Mountain		1		
Drumheller		9		
William Head		2		
Mountain Prison		5		
Matsqui		5		
Bowden		3		
Springhill		8		
Warkworth		8		
Joyceville		8		
Collins Bay		12		
Cowansville		8		
Federal Training Centre		6		
Leclerc		7		
Ferndale		2		
		<u>84</u>		
	Total			
MINIMUM				
Parrtown Centre		1		
Burrard Centre		1		
Robson Centre		3		
Westmorland		4		
Carlton Centre		1		
Pittsburg		5		
Frontenac		4		
Portsmouth		1		
Beaver Creek		4		
Landry Crossing		2		
Bath		2		
Montée St François		3		
Ste-Anne-des-Plaines		3		
Duvernay		1		
St. Hubert Centre		1		
Oskana Centre		1		

Table H
Interviews Conducted Monthly
— Third Year

MONTH	NUMBER OF INTERVIEWS
June	74
July	105
August	106
September	37
October	68
November	67
December	3(1)
January	64
February	67
March	27
April	103
May	46
	<u>767</u>

(1) During the month of December the senior inquiries officer was totally engaged in preparation for the Millhaven Inquiry.

Comments

The usual interval between visits to maximum and medium institutions was four to six weeks. Institutions of minimum security were visited when required to deal with complaints.

During the first year of operation, when the Correctional Investigator did most of the interviews, approximately 400 interviews were conducted. Only handwritten notes of interviews and file examinations were kept. With the increase in investigatory personnel to two full time and one part time investigator, there has not been a proportionate increase in interviews conducted (633 and 767 during the second and third year respectively).

Typed reports are now made of all interviews so that correspondence and interviews may be coordinated. Because of the geographical distribution of our clients, one investigator is assigned all work on a given trip, thus there is a need for full documentation of all transactions.

Allocating a little more time for interviews and discussions with administrators, has, it is hoped, resulted in improved quality of service.

Case Reports

The number of complainants who contacted our office during the third year was 785. Comparative figures for the three years are:

Year	Complainants	Complaints
1973-74	595	782
1974-75	720	988
1975-76	785	1057

The first two reports contained mostly cases that had been resolved. This was done partly because there is greater variety in the resolved complaints.

Many of the complaints that we decline concern discretionary decisions such as on transfers and temporary absences where the administrator makes a value judgment and the inmate believes the decision should be reversed.

Where absolute administrative discretion has been exercised fairly, we cannot intervene. It sometimes takes time to explain this to complainants and we try to do this in person.

In order to more fully illustrate our work, this report includes a number of complaints where we could do nothing to help the complainant.

Sentence Administration

As explained in our previous reports the results of overlapping sentences are baffling. During the third year we received 105 complaints concerning the calculation of sentences, of these six were rectified. The category ranks third in terms of numbers of complaints received on a specific subject; and the second largest category is Miscellaneous. The following cases are relatively simple illustrations of the problems encountered:

Case No. 1860

The inmate complained to us regarding his sentence calculation as follows:

He was originally sentenced to a provincial term followed by a probation period. He completed the required term and all but a month of the probation period when the sentence he was serving was varied, on appeal, to a longer penitentiary term to commence the date of the original sentence.

The institutional sentence administrator did not credit time served on probation in reduction of his sentence. The complainant argued that he was legally fulfilling the obligations of his sentence until varied by the decision of the court of appeal.

The Canadian Penitentiary Service had received legal advice to the effect that credit should only be given for time actually spent in an institution. We had to advise the complainant that his recourse would have to be legal action. His release date was approaching, he chose to serve the remaining time.

Case No. 1929

The complainant was paroled on 19 October, 1973. On 10 July, 1974 when there were 285 days left of his sentence, the parole was revoked. On 17 February, 1975, when there were 62 days left of his sentence, the Canadian Penitentiary Service had to release him by operation of law.

However, the complainant had been charged with an offence while he was on parole and on 25 June, 1975 he was convicted and sentenced. The effect of that conviction was to forfeit his parole. The time he was imprisoned as a result of the revocation was credited against his old sentence, but 62 days were "owing".

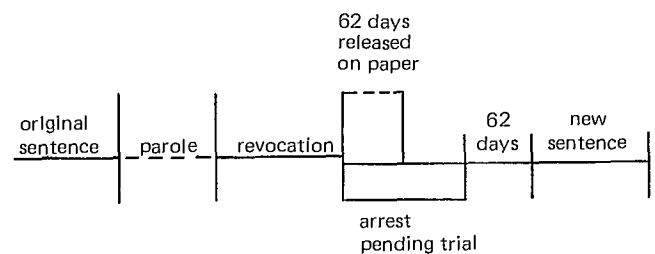
The inmate would probably not have had any complaint had he spent the 62 days at liberty, however, he was only

released on paper. The time between 17 February, 1975 and 25 June, 1975 became time awaiting trial. The time pending trial is not deducted from a new sentence although the judge may take it into consideration.

The rules had been followed, but our explanations probably did not make much sense to the complainant.

The problem will not arise if pending legislative proposals become law.

The following diagram illustrates the computation:



Case No. 2080

After conviction and sentencing, an inmate had been taken directly to a psychiatric hospital where he stayed almost two years after receiving a penitentiary sentence. Since he had not been "admitted" to a penitentiary, the administration did not credit him with the three days per month earned remission. Their decision was based on legal advice. Had he spent even one day in a penitentiary before transfer to the hospital, he would have been eligible for earned remission. The inmate eventually had the time restored by way of clemency. Both the Canadian Penitentiary Service and the Clemency Section of the National Parole Service assisted.

It would seem proper to provide for the possibility for everyone, sentenced to a penitentiary term, but who serve part or all of their penitentiary term in a psychiatric facility, to be eligible to earn remission.

It is therefore recommended that:

- (1) Anyone who is sentenced to a term in a penitentiary be eligible to earn remission, regardless of whether that person has been formally admitted to a penitentiary.

Comment

It is intended that this recommendation should include those who, by reason of an order of a court, may be conveyed directly to a psychiatric facility after sentencing.

Case No. 2030

An inmate's wife telephoned our office complaining about the computation of her husband's sentence. In addition to a penitentiary term he had been sentenced to pay a fine of \$100.00 or thirty days in default of payment. The husband had not paid the fine, however, the wife was anxious to pay the fine so that the husband might be released thirty days earlier. She had attempted to pay the fine but had been unsuccessful. Our investigation showed that the thirty days were not concurrent with a penitentiary sentence because they were imposed for an indictable offence that resulted in the forfeiture of parole. Apparently, the authorities of the court where the wife had attempted to pay the fine were under the impression that the thirty days had been absorbed in the penitentiary sentence. Contact was made with the office of the ombudsman for the particular province and that office explained the situation to the provincial authorities. The money for the fine was accepted, the provincial ombudsman's office arranged for the wife to be driven to the penitentiary with the receipt, and the husband was immediately released.

Disciplinary Proceedings

There were forty-seven complaints in this category, eight were rectified.

There were several complaints by inmates that they had not been dealt with in accordance with the rules of natural justice by the internal disciplinary boards.

As discussed on page 31 of our second annual report, the Commissioner's Directives are quite specific. There is currently an appeal pending before the Supreme Court of Canada, dealing with the question of whether these boards are purely administrative⁽⁴⁾. Further comments at this time would seem inappropriate.

The following cases illustrate different issues:

Several Cases

We found several examples of inmates who were convicted of flagrant and serious offences by disciplinary boards and who, as a sentence, received a number of days dissociation "and indefinite segregation thereafter".

These sentences of indefinite duration appear to contravene article 2.28 (4) of the Penitentiary Service Regulations. It would, of course, be easy for the director to order the segregation on the last day of the dissociation sentence.

Nevertheless, we made representations concerning this technical matter and the Commissioner issued a direction to the effect that "such a sentence contravenes Section 2.28 (4) of the Regulations and its use has to cease immediately".

Records of Hearings

The concern about incomplete records expressed in both previous annual reports continues. Some institutions have improved their record keeping.

Several institutions have adopted our recommendation of taping the hearings of disciplinary proceedings. However, certain new problems have arisen. For instance, the evidence given by witnesses may have been recorded, but not discussions on procedure.

One example was where a complainant stated that he had been tried for breaking into a penitentiary storage area. A correctional officer, the only witness, stated in evidence that the inmate had carried certain burglary tools in his jean pockets. The inmate alleged that he had demonstrated that this was a practical impossibility and the officer was alleged, as a result, to have changed his evidence. The taping was in fact interrupted several times. The value of transcribing the evidence decreases considerably when transcription is interrupted in this manner. We were not able to uphold the complaint of the inmate, on other grounds.

It is apparent that the administrators face difficulties when having to conduct hearings. They have, on various occasions, indicated that they are well aware of the need for more information on how to properly conduct hearings. The following case illustrates both practical and procedural difficulties:

Case No. 1104

The complainant alleged that he had not been given a fair hearing before the Internal Disciplinary Board.

After investigating the complaint, we asked the Commissioner of Penitentiaries to reconsider the conviction and sentence. The following report was sent to the Commissioner:

"The above named referred his grievance to this office after having used the grievance procedure. He has been interviewed and the institutional file has been examined. There appear to be no minutes of the evidence before the disciplinary court and I am therefore making representations based only on the statements in the grievance procedure, the offence report and the inmate's version of the event.

I am concerned that the disciplinary board failed to act properly, particularly if, in fact, the only question put to the inmate was 'Lors de l'appel pour la parade de travail, vous êtes-vous présenté au travail? Votre réponse fut 'non'.

According to the offence report, this inmate was charged with three different 'counts', namely:

- a) Disobeying an order;
- b) Refusing to work; and,
- c) Doing an act to the prejudice of the good order and discipline of the institution.

(4) Decision of the Federal Court of Appeal in the matter of an appeal from a decision of the Inmate Disciplinary Board, Matsqui Institution (Martineau and Butters, applicants), rendered 23 January, 1976.

It is not clear from the 'Instruction' whether these are three different offences or they are three charges covering the same event.

The inmate informs me that he wished to plead not guilty but was prevented from doing so.

I am referring the matter to you because I think it is open to question whether the inmate was given a fair opportunity to present his case and also whether the conviction was registered after a fair and partial weighing of the evidence.

It has been reported to me, that the Assistant Director, who presided over the disciplinary court at the relevant time, had to hear 250 disciplinary cases in three days. While it is understandable that these hearings had to be disposed of quickly for the good order of the institution, it is nonetheless equally important that each individual case is dealt with justly".

The complainant had been sentenced to a loss of thirty days statutory remission. This in effect meant a prolongation of his time of incarceration.

The Commissioner reviewed the matter and directed that the convictions and sentence be set aside. He did the same for 116 other inmates.

We were also pleased to learn that the Legal Service of the Ministry began conducting seminars on procedures for disciplinary hearings for administrators in the Canadian Penitentiary Service.

The following case demonstrates the need for proper records:

Case No. 1119

The complainant had called an inmate witness at a disciplinary hearing and the board had agreed to hear the witness. However, the accused inmate said he had been excluded from the hearing during the testimony of his witness.

The witness confirmed that the accused inmate was absent when he testified. There was no detailed record of the proceedings before the disciplinary board and the recollection of the administrators differed from that of the inmates.

Without records, it was impossible to establish what actually occurred.

Although the complainant was convicted, he did not wish our office to make recommendation for a new hearing. The director has assured us that precautions will be taken to ensure that accused inmates will not be excluded during the hearing of evidence in the future.

Other interesting cases were:

Case No. 1297

The complainant had been charged and convicted before a disciplinary board and received a sentence of thirty days in dissociation and thirty days loss of statutory remission. Our investigation showed that there was no evidence before the board which implicated the complainant except a statement by the Chairman of the Board after the evidence had been given and the hearing concluded, to the effect that the inmate had admitted the offence to the Chairman on a previous occasion.

We suggested to the Commissioner that this procedure was improper.

The conviction was set aside and the lost statutory remission was restored.

Case No. 1695

An inmate complained to us that he had been unjustly convicted in disciplinary court of being under the influence of an intoxicant. The inmate was, at the time, receiving medication to control physical pain. However, it was alleged that in addition to the prescribed medication the inmate had taken medication not prescribed by the doctor. The inmate agreed that this was so and the complaint was declined.

Case No. 1738

When an inmate's file was reviewed for another reason it was discovered that he had been charged and convicted in disciplinary court of six charges arising basically out of the same incident. The officers' reports and the offence reports disclosed the following:

Charge 1

"During the disturbance of the Central Dome, entered Central Dome Office broke the light switches and smashed the Radio Control Panel and the Intra Mural Telephone".

Charge 2

"At approx. 1615 hrs. during the disturbance in the Central Dome, he smashed Central Dome windows".

Charge 3

"At approx. 1615 hrs. during the disturbance in the Central Dome, he threw garbage cans and benches off the landings and broke open the mail box and read inmates outgoing mail".

Charge 4

"At approx. 1615 hrs. during the disturbance in the Central Dome, shouted abusive language at officers".

Charge 5

"During the disturbance in the Central Dome, deliberately broke the windows in the I.T. Control Centre".

Charge 6

"I gave the above mentioned inmates an order to go to their cells on two different occasions during the disturbance on They failed to comply with my orders".

The inmate was convicted on all six charges; he was given the maximum of thirty days loss of statutory remission on each charge; i.e. 180 days. We suggested that there might be duplication of charges and the Commissioner agreed. Charges 1, 2, 3 and 5 were set aside and the inmate was recredited with 120 days statutory remission.

Forty complaints were received, one was rectified.

In spite of a landmark court decision⁽⁵⁾, in spite of the "Report of the Study Group on Dissociation"⁽⁶⁾, improvement in conditions for the inmates in dissociation is not substantial. In some institutions there has been a change in attitudes and a little more care is taken before placing inmates in administrative dissociation. There is more colourful paint in some places, a larger window in the doors in another, but the actual conditions have changed little since our first annual report.

While I realize that only a small number of the total inmate population spend their time in punitive, administrative or protective dissociation and that it is difficult for the administration to provide better conditions without money and personnel, I feel compelled to reiterate that something must be done.

For instance, it is very difficult to find any records that show how many inmates with serious mental problems are placed in dissociation as the only form of "treatment". Segregation of such inmates may be necessary, the horrible conditions are not.

Segregation as a disciplinary measure is probably required in some cases, but its use against individuals with diagnosed mental disorders is questionable.

Segregation for the good order of the institution cannot be done away with but the removal of most amenities probably could be avoided. The mingling of administrative and punitive types of segregation (as described by Professor Vantour) should be avoided. Finally, it must be remembered that dissociation without amenities is sometimes provided as protection for inmates whose only problem is the fear of other inmates.

(5) *McCann et al. v. Her Majesty the Queen*, Federal Court of Canada, Trial Division, 30 December, 1975.

(6) Vantour, James A. "Report of the Study Group on Dissociation." Published under the authority of the Honourable Warren Allmand, Solicitor General of Canada.

Block B-1

In the spring of 1976 a surprise visit was made to the segregation range called block B-1 at Laval in Quebec. The cell block is H-shaped and two-storied. In the centre there is a two-storey hall with room for officers and a warming area for the food. There is a gun cage for one officer, and four or five officers are working on the floor. Two of the ranges were examined. The cells have doors with bars in front of them, they are side by side against the inside wall and facing the range corridor which is between the cell and the windows. Each cell measures about 6' by 8', contains a bed, the end of which is right against the grille door to the cell. Daylight comes from the windows across the corridor. It is hard to read by it. The bed is made of metal frame, there is a mattress on it and the bed may be turned up against the wall. Across from the bed is a very narrow shelf on which papers and books may be kept. At the back wall there is a small hand sink and in some of the cells a toilet. In most of the cells there are only the leftover fixtures from broken toilet bowls and plastic buckets with lids. The windows across the corridor were almost all broken and in some cases, a piece of opaque plastic that had been fastened over the window was flapping in the wind. It was a hot, humid day and the range was filthy. Only a few cells had any semblance of order. The corridor was littered with garbage, ten to twelve inches deep in places. The garbage consisted of meal trays, food remnants, burnt books, paper and completely charred soft drink cans. Apparently the inmates make fire bombs out of the soft drink cans and throw them out from their cells. They had just been informed that they would no longer have the privilege of having matches in their cells. The garbage had been there for days. The inmates themselves do not wish to clean the ranges. Inmates from Protective Custody who often accept the jobs of cleaners, have after a couple of attempts, refused to go back. The inmates from protection ranges might risk their lives by trying to clean up these ranges. There were no civilian cleaners.

The visit was not announced in advance to the administration. The inquiries officer who was with me, and I, had no difficulty going through the range and were let through with the same speed with which we are usually admitted. It happened that we arrived at the inmates' exercise time. We saw some of them in the yard and spoke to a couple of them, during their movement to and from the yard. The officer in charge despaired at not being able to have experienced officers in the unit. He indicated that he only had one or two men with experience beyond a year and that some of the others, he said, are very young with just months of experience and without the benefit of having

attended the Penitentiary Staff College. He also explained that when there are insufficient applicants for positions, it is indeed difficult to be selective about whom you employ. He talked about the stress of officers working in the range, about broken marriages and shattered nerves.

The inmates are generally very young. Staff reports that occasionally they succeed in persuading the administration to transfer one of them to the psychiatric hospital but within two or three days the inmate is returned, having been diagnosed as having a behaviour or character problem, beyond the help of a psychiatrist. A few of them, as we have discovered from previous interviews, are seriously disturbed.

It is difficult to say anything positive about dissociation areas in any of the big maximum institutions, but in terms of physical facilities, cell block B-1 is the worst.

Zoologists talk about "personal space" and "critical distance" in relation to both animals and people. They say that each animal or group of animals requires a distinct area for its physical and mental well-being. Zoologists who keep animals in aquaria, cages or reserves ensure that the number of confined animals is related to the available space. From experience, they know that a reduction in space results in a predictable propensity for behaving aggressively.

The following quotation from "On Aggression"⁽⁷⁾ aptly describes the phenomenon:

"This most violent form of fighting behaviour is motivated by fear, by the most intense flight impulses whose natural outlet is prevented by the fact that the danger is too near; so the animal not daring to turn its back on it, fights with the proverbial courage of desperation. Such a contingency may also occur when, as with the cornered rat, flight is prevented by lack of space, or by strong social ties, like those which forbid an animal to desert its brood or family. The attack which a hen or goose makes on every thing that goes too near her chicks or goslings can also be classified as a critical reaction. Many animals will attack desperately when surprised by an enemy at less than a certain critical distance, whereas they would have fled if they had noticed his coming from farther away. As Hediger has described, lion-tamers

(7) Konrad Lorenz, *On Aggression*, Methuen & Co. Ltd., London, 1966, pp. 21-22.

manoeuvre their great beasts of prey into their positions in the arena by playing a dangerous game with the margin between flight distance and critical distance; and thousands of big game hunting stories testify to the dangerousness of large beasts of prey in dense cover. The reason is that in such circumstances the flight distance is particularly small, because the animal feels safe, imagining that it will not be noticed by a man even if he should penetrate the cover and get quite close; but if in so doing the man oversteps the animal's critical distance, a so-called hunting accident happens quickly and disasterously".

It is a well-known fact that if an inmate has to be removed from his cell, he rarely goes peacefully. Is the cell the only personal space he has? Must it be defended? Is it possible that in the unnatural environment of the cell, the prisoner is forever in a state of aggression because there is not sufficient "critical distance" between him, other inmates, the walls, and the correctional officer on the range?

The following case points up a related issue.

Case No. 2213

The Regulations under the Penitentiary Act provide in article 2.09 that:

"Every inmate is entitled, where weather permits, to a daily period of exercise in the open air in accordance with directives".

The Commissioner's Directive 224 adds a further qualification, namely that the exercise is to be, "...when weather and other conditions so permit". Several inmates in administrative or punitive dissociation complained that they did not receive the exercise time to which they are entitled.

Penitentiary Service Regulations article 2.30 (2) states:

"An inmate who has been dissociated is not considered under punishment unless he has been sentenced as such and he shall not be deprived of any of his privileges and amenities by reason thereof, except those privileges and amenities that

(a) can only be enjoyed in association with other inmates, or

(b) cannot reasonably be granted having regard to the limitations of the dissociation area and the necessity for the effective operation thereof".

The Commissioner's Directive 224 provides that:

"Every inmate who is physically fit and does not engage, outside of his quarters, either as a participant or spectator, in the approved sports or other recreational activities of the institution shall be given an opportunity to walk in the open air for at least one-half hour in winter time and, if possible, one hour at other seasons of the year, on every day when weather and other conditions so permit".

At this time, we are not proposing to deal with the question of whether it is legally possible to use Directives to diminish an entitlement provided in Regulations, nor whether this has in fact been done.

In some institutions "open air" does not necessarily mean that there is nothing between an inmate and the sky.

For example, in one maximum security institution the exercise yard is on the top floor of a building, in the centre, between ranges. There is a raised roof over the area to protect against rain, and only at certain angles can the inmates see the sky.

On the ranges, the cells have windows, but they face into a corridor. Some persons find exercising in "open air" under these conditions acceptable. Other inmates will frequently not exercise regardless of conditions as a matter of personal preference, but there are others who need the stimulation of the openness of the outdoors, without the limitation of vision.

Certain institutions have managed to achieve this, in part by the use of wire mesh in a large outside area.

We are concerned with the interpretation of the words "other conditions". It goes without saying that during a riot or any other emergency, the Canadian Penitentiary Service should be entitled to abolish exercise.

However, some inmates complain that "other conditions" are too liberally construed to prevent regular exercise. Staff shortages and overcrowding may result in cancellation of exercise time.

In order to clarify this situation and to ensure that inmates receive exercise time whenever possible,

it is recommended that:

(2) The Commissioner's Directive be amended to more clearly define "open air" and "other conditions" so that open air means access to an area in which the person may view the sky vertically and so that other conditions be limited to specific, exceptional conditions,

it is also recommended that:

(3) If weather conditions do not permit exercise in the open air, each inmate should be given the option of a minimum of thirty minutes away from his cell in indoor facilities, every day.

Temporary Absence

We received eighty-six complaints concerning temporary absence. Six were resolved or rectified.

One example of a case where we did not help was:

Case No. 1811

The complainant in this case was serving a life sentence. His application for a temporary absence had been denied. The application was made to allow the complainant to be with his family on a specific occasion which was important for his children. The application was made prior to the complainant having served the required time to be allowed a temporary absence for other than humanitarian reasons.

The temporary absence application was considered by the appropriate board and the application was denied on the grounds that the specific occasion was not of sufficient importance to warrant the granting of an absence for humanitarian reasons. This decision was grieved to all three levels of the grievance procedure and the decision of the board was re-affirmed at each level.

After a review of the complaint, this office came to the conclusion that the administrative decision was appropriate and the complainant was so advised by letter and through a personal interview. While the complainant was not pleased with the result, after being made aware of the delicate matter of "public opinion" in these decisions, he reluctantly accepted our explanation.

A quotation from the complainant's thank you letter gives food for thought:

"It is unfortunate that one has to wait for more serious circumstances . . . to get a pass.

However my three years is coming up and will try again at that time. It's not that I am getting impatient for a pass but was more concerned with it being a happy time rather than serious sickness etc. as one in these places confronts sadness and bitterness every day".

Case No. 1662

The inmate complained that after having had two successful temporary absences, a further temporary absence was suddenly turned down. No explanation was given. Investigation lead us to believe that the inmate had refused to be an informer.

Representations were made on behalf of the complainant and the director granted a temporary absence. It was successfully completed.

Case No. 1545

The complainant thought his temporary absences and visits had been unfairly discontinued. In 1973 he had impulsively married a much older woman while on a temporary absence. He only saw her the day of the marriage, and soon after, he realized that it was a mistake. He told the woman involved; but he did not inform the Canadian Penitentiary Service of the marriage. He received and successfully completed several temporary absences until May, 1974, when his marriage was discovered. His temporary absences were then discontinued. In February, 1975, the National Parole Service stated that if parole were deferred, they would have no objection to temporary absences being granted. The complainant had also become friendly with a woman of his own age, but visits from her were also discontinued when the marriage was discovered.

The denial of both temporary absences and the visits appeared to be based on the fact that the complainant had acted so impulsively in getting married. We advised the inmate to use the grievance procedure. He succeeded in respect of the visits, but not in respect of the temporary absences.

We discussed the question of temporary absences with the administration because we thought the Canadian Penitentiary Service was being too moralistic. Eventually the question was resolved by the inmate being transferred to a minimum institution where he had reasonable expectations of obtaining temporary absences.

Case No. 1525

An inmate complained that he had been denied temporary absences to visit a woman he knew. Our investigation showed that the woman was not as interested in the inmate as he believed. She was probably living with another man. We declined the complaint, but with the administration's knowledge, tried to persuade the inmate to make other plans.

Transfers

Being transferred and not obtaining a transfer remains the area of concern for the greatest number of inmates. Two hundred and twelve complaints were received in this category; this represents 20% of the total number of complaints received during the twelve month period. Only in seven of this large number of complaints were we able to be of assistance.

As described in our second annual report (page 36) transfers are sometimes used as a punishment.

Numerous discussions have been had with inmates on the subject. The absolute discretion of the Canadian Penitentiary Service is explained as is the fact that our office should not substitute its value judgment for that of the administrator.

We do, however, urge that careful attention be paid by administrators to this subject and that efforts be made to ensure that wherever explanations and advance notice can be given, they are in fact given.

There appears reason to believe that the overcrowding of Canadian Penitentiaries will continue for some time and that for this and other reasons, complaints about transfers will remain numerous.

A few cases follow to demonstrate the type of complaints we receive:

Case No. 886 (pending from second year)

The complaint of this inmate was that he had been transferred from one province to another on the understanding that he would be admitted to a psychiatric hospital. The receiving institution could not fulfill that promise. Under those circumstances, the complainant would rather have stayed where he originally was. Representations were made on his behalf at all levels and finally, one year after the complaint was lodged, the administration agreed to send the complainant back and that his complaint was justified. Then he refused to go.

Case No. 1350

This inmate complained that he had not been transferred although the transfer had been approved by the administrators.

This is what the inquiries officer reported:

22 April, 1975

"This inmate has not changed at all since the last interview, he is a psychiatric case if I dare add my unqualified opinion. He talked to me for about half an hour without saying anything he had not said before, that the psychiatrist refuses to see him, that the psychiatrist at the Medical Centre told his mother that if she wanted treatment for her son it would cost her \$

The administration at the institution tell me that the psychiatrist maintains that the inmate is not a mental case, he is just suffering from maladjustment to prison life. This inmate has tried to bleed himself to death, tried to hang himself again and to really set fire to the whole place.

I know that there is nothing we can do for the inmate as long as the institution's psychiatrist will not declare him a mental case and send him to . . . or some such institution nor can the authorities at the penitentiary do any more; the inmate is already a protection case. Again I will state that I am not at all qualified to make any statements in this regard but I certainly do not like it at all. I thought of taking it up with the Regional Director but he would be in his full right to tell me that I am interfering and to mind my own business".

The inquiries officer followed up and provided the following report:

14 July, 1975

"This inmate got a transfer to a medium institution in late May, 1975. This he had been asking for for some time and one would be inclined to believe that he would improve but he has not changed at all.

His major complaint now is against the administration at the maximum institution, the injuries he received there, etc. It must be remembered that his injuries were self-inflicted, he tried to hang himself, he cut his arms and even set fire to his cell; now he complains that the scars on his arms should be removed. He tells me that they wanted to do such an operation at the Medical Centre but he wanted X-rays taken before such operations. I asked him why would X-rays be necessary to correct scars on his arms? His answer is that he had been subjected to "gas" at the time he got those scars and the X-rays are necessary to see if there is any gas left in his arms

I tried to reason with him but there is no way he will understand, he says that he has given all the necessary information to his brother who will find a lawyer and institute judicial procedures against the director at the institution.

This is still a hopeless case and I would not be surprised if he did not stay very long at the medium institution. He will not make it in the population there anymore than at maximum. He claims he is due for parole in"

The complaint features in the statistics as "unable to assist".

Case No. 1479

The complainant requested an interview with an inquiries officer. This was arranged. The complainant wanted a transfer to another region. It became apparent during the interview that the complainant did not know of the procedure to be followed in applying for such a transfer. The procedure was explained. He got a transfer.

Case No. 1876

An inmate complained that he had been transferred to medium security from minimum and that the only reason given was that "his attitude and behaviour was not satisfactory". The inmate thought the real reason was that he had been suspected of involvement in a fire that occurred at the institution. He suggested that it was unfair that he had not been given reasons and an opportunity to vindicate himself. Our investigation substantiated the inmate's complaint and the matter was discussed with the administration. Eventually, the inmate was officially advised through the grievance procedure that he was "returned to medium security because he was suspected of having been involved" in the fire. The reply, which forms part of the inmate's file, also added that "there was no definite proof" of the complainant's involvement.

Case No. 1637

The complainant was transferred from a medium to a maximum institution on 6 February, 1975, on suspicion of drug involvement. A number of other inmates were moved for the same reason. The complainant grieved and finally complained to us alleging his innocence of involvement. The answer to the grievance stated "I have thoroughly examined the subject matter of your grievance and am convinced that the director of . . . , as a result of his investigation, rightly concluded that you were active in trafficking contraband (drugs)". From a review of reports we concluded that the complainant had been **suspected** only, whereas there was more definite evidence against the others.

A further investigation was made by the CPS administration at our request. We were then advised "that there appeared to be enough doubt surrounding his involvement at . . . to give some consideration". The inmate was then transferred back to a medium institution.

Compensation

(For Injuries and Loss of Property)

In this category we received fifty-three complaints of which eight were resolved or rectified.

One of the complainants wrote us as follows:

Case No. 648 (pending from second year)

"18 months ago, my Pinkie was swiped, after I had turned it over to the Hobby Officer, Mr. And since then I've gotten stories from everyone that says, we'll get something done, which is normal, for this penitentiary, cept when it is not to the inmates convenience. Then it's just wait, wait and wait, for nothing. As for you and your dept.? ? You people have a lot of inmates fooled and at least one good counsellor that was here. Cause if it were not for her, cooling me out over my Pinkie. I would have charged Mr. . . . or this joint with theft. Which it was. Now I'm stuck for waiting. Where I shouldn't have to wait this long. 18 months. If I owed Mr. . . . \$40.00 from a hobby loan. This joint would take my few dimes every 2 weeks from my canteen money. Right? Well all I'm asking is what is mine. ? ? ? ? Sure I know I'd have to wait, you told me so. But this is too long a wait. How about getting me some action, that's your line, isn't it.

Ah! Sorry this letter came out like this. But it just burns me up when I start to think of what this joint can get away with. And the grievance. Same thing. I did the right thing over the Pinkie, and what happens. This wait, wait: What really burns me up is you people had a good person in this establishment fooled, as she touted you to me. And this is B.S. Wait! Wait! Wait!

One thing. You people proved me wrong. Cause I've touted you off to a few people, saying you people are for the inmate. Another thing. You people are confirming my thoughts now. Your just taking the stink off this rotten establishment. Right? ? ? "

The "pinkie" was a work of petit point. It had been lost while in the custody of the Canadian Penitentiary Service. It took us a little while longer, but compensation was paid in the end. We got a thank you note.

There were sixty-two complaints concerning medical treatment. Of these six were rectified or resolved.

Many of these complaints deal with delays in obtaining medical services and a few with variance in opinion between doctors as to whether certain procedures are elective or not.

Transsexuals

Our office was involved with two cases this year concerning transsexuals. They were investigated and we are satisfied that the Canadian Penitentiary Service dealt with these cases on their particular merits.

In the first case the inmate had requested an operation to complete his change from male to female. He has previously gone through other stages of this transformation while not in penitentiary. He was given the necessary medical assistance.

Later a second case came to our attention. A similar request for medical assistance from the Canadian Penitentiary Service had been made by this complainant. This inmate was more concerned because he had been isolated, and he complained about the lack of amenities such as exercise and the chance to associate with other inmates. The administration was faced with a dilemma. Allowing this inmate into the general male population might cause a problem.

Eventually a compromise was reached. The inmate was allowed more movement within the institution under supervision. However, the medical authorities concluded that the request for an operation by the second complainant should not be approved.

When the first complaint was received, there appeared no definite policy concerning sex change operations. The practice now appears to be that each case will be decided on its merits.

The difficulties confronting a prisoner who is a transsexual are almost incomprehensible to others. The administrators do try to handle the additional security and medical burdens, but resources are limited.

Psychiatric Care

Our office has not had occasion to question medical competence as the result of complaints, nor would we presume to do this without independent advice. The following case is not presented with the intention of

questioning medical, or psychiatric competence. It is presented because it reveals a general problem that disturbs the psychiatrists, penitentiary staff and other inmates as well as those of us who have had occasion to observe it.

We are totally aware that psychiatrists as well as administrators do not select those who go to penitentiaries. They must deal with the people and situations as they find them.

Case No. 1511

The complainant and his lawyer had asked for help in obtaining a transfer to a provincial psychiatric hospital. The inmate was serving a life sentence for a violent crime and he had received psychiatric treatment on several occasions. He had spent several years in protective dissociation while in penitentiary.

He described his physical and mental deterioration from the lack of fresh air, exercise and meaningful activity very articulately. He told us that he had made several attempts at suicide. Intellectually, he is totally aware of his own violent characteristics and he pleaded for help.

One correctional officer mentioned to our investigator that this man would probably meet a violent death.

Eventually, the complainant was transferred to a provincial psychiatric hospital for assessment. He did not stay long and was returned to the penitentiary because he was, as the file revealed, "not receptive to treatment".

The complainant is not likely to be considered for transfer to a federal penitentiary of less than maximum security nor is he likely to qualify for any form of temporary absence or parole. We have not been able to do anything specific for this inmate.

Comment

The complainant's case is not unique. We have received several similar complaints from inmates who have been referred to either provincial or federal penitentiary psychiatric services. These inmates state they have been rejected by the psychiatric facilities and in their files they are variously described as "uncooperative", "suffering from behaviour disorders", having "character defects" or being "disruptive of the programme". Others are diagnosed as schizophrenic or paranoid.

Those who are rejected as not amenable to psychiatric treatment are returned to penitentiaries. They are, to the lay person at least, frequently deeply disturbed mentally but receive little or no treatment in penitentiary. What is particularly disturbing is that some custodial officers do not

make distinctions. Some officers express the view that if these men are mentally ill, they should be in a mental hospital. Since they are not, they must be considered fully responsible. The inmates in question frequently have to be kept in dissociation. They are left alone to cope with irrational fears and uncontrolled anger. This anger may be directed towards themselves resulting in slashing of wrists and suicide, or directed outwards resulting in violence to property or other individuals.

Many files disclose reports of correctional officers who write up charges of disciplinary offences of verbal and physical abuse. Some officers question directors whether they are required to put up with such things as having food tray or toilet pail contents thrown at them.

These inmates' problems may not be amenable to treatment, but it is questionable whether they deserve to be treated as if they were at all times in full control of their own actions.

These inmates suffer; so does the staff, who with little training seem to be left with people who are too violent and too disturbed to be able to partake in psychiatric or penitentiary programs. There appears to be no simple solution.

While it is only reasonable that psychiatric services should be reserved for cases where there is some hope that the treatment might lead to improvement, the result hardly seems fair to those who are rejected.

There were seven complaints received in this category, one of which was resolved.

One inmate complained that he had been misled into thinking that once he had finished one stage of an educational program, he would automatically receive parole to complete the course. Our investigation indicated that there had been a misunderstanding. The teacher was usually careful to explain to inmates that just because they were successful in a portion of a course of education, there were no guarantees that they could complete the course on the outside.

Other complaints involve inability to pursue courses because they are not available at the specific institution; in a few instances inmates complain that they have been limited in the number of courses they have been permitted to follow. In some cases there have been security reasons or it would appear that the individual has ordered more courses than he has demonstrated he could manage.

Several complaints were received concerning the use of tape equipment for educational purposes. Directors have discretion to decide what educational material is allowed in their institutions. Some allow cassettes, others do not, some remove the recording portions, others do not. We found that when inmates had been given authority to take a particular course, the cassettes were also provided.

Visits and Correspondence

Thirty-four complaints concerning visits and correspondence were received, five were rectified.

Inmates continue to complain, in general conversation, that their correspondence is being read rather than checked. They say some administrators reveal that they have read correspondence because they show knowledge of matters they could not have obtained except by reading of mail. They also report that they can observe the reading in medium institutions.

We have asked for specific instances so that we will be able to investigate further.

Case No. 2004

An inmate complained that he had been called by the public address system to the visits and correspondence area. He went, looking forward to a visit. He was searched by security but there was no visitor.

The complainant did not have many visitors and he also agreed that searches are necessary for the purpose of visits. However, he felt that other methods should be used by the administration to avoid this type of disappointment.

The matter was discussed with the administrators and an order was issued that inmates were not to be called to the Chapel or the visitors' area for the purpose of surprise searches.

Financial Matters (Inmates')

Twenty complaints were received in this category. Two were resolved or rectified.

The most often repeated complaint of inmates is that wages are controlled but not prices. It appears that canteen prices are revised upwards frequently, but the interval between inmate pay raises is much longer. The spending portion of an inmate's weekly pay is between \$2.50 and \$3.25. Many inmates say that it is a choice of doing without one or more of the following: coffee, tobacco, stamps and paper.

One case involved Inmate Trust Funds and another, inmate pay.

Case No. 1361

The inmate complained that he had been unable to convince the Canadian Penitentiary Service that he should have \$34.09 in his trust account. The Canadian Penitentiary Service stated he had no money on admission as he had suggested.

With the voluntary assistance of the local police force, we discovered that a cheque in the amount of \$34.09 was issued to the penitentiary when the inmate was transferred from provincial to federal custody. This information was supplied to the Penitentiary Service, and it came to light that the cheque in question had never been cashed. The provincial authorities issued a new cheque to reimburse the complainant.

Case No. 1627

The inmate contacted this office with a complaint concerning his pay, which he had not received for some time. In the opinion of the institutional doctor he had not been ill, he had not worked, and he did not get any pay. Later the inmate was referred to a specialist who diagnosed a back ailment. He had an operation, but felt he had unfairly been deprived of his pay. We made representations on his behalf. He got his minimum pay.

We also received several complaints concerning funds for temporary absences, for instance:

Case No. 1854

The complainants stated that some inmates were not in a financial position to take advantage of group recreational events outside the institution (medium) and that the use of their compulsory savings was contrary to the purpose of this account.

The Commissioner's Directives provide that an inmate is to have \$50.00 on release; any difference between his savings and this amount is provided at public expense. Under the present pay structure, inmates may be credited with a maximum of \$1.50 compulsory savings and \$3.25 spending money for a five-day work week. Inmate pay, as described in the Penitentiary Regulations, is designed in part to encourage inmates to accumulate reasonable financial resources for their release.

An inmate or his family is expected to pay the expenses of a humanitarian or rehabilitative temporary absence, including transportation, meals and other costs. Money from an inmate's trust fund, which includes money in his possession on admission and money sent in for him, may be used for this purpose. Money may also be transferred from his spending account, or his compulsory savings, provided that the balance of the savings does not drop below \$50.00. If the inmate or his family cannot provide the necessary funds, temporary absence expenses may be paid out of public funds administered by the institution. At the writing of this report we are still studying this subject.

Information on File

We received twelve complaints concerning information on file. Three of those were rectified or resolved.

Complaints expressed in general conversation with inmates were often about being "labelled". Inmates suggest that in some cases the labelling in reports and elsewhere is almost automatic. They particularly refer to labels such as being members of motorcycle gangs, being involved with organized crime, being members of the FLQ, being addicts. They argue that it would be preferable if labels could be avoided; partly because of the assumptions that arise from labels and partly because of the self-fulfilling prophecy inherent in the label. It appears reasonable to suggest that narratives should be descriptive of the individual rather than a group.

Two specific cases that were resolved seem worthwhile mentioning:

Case No. 1840

The inmate complained that there was a letter from him on his file requesting permission to marry another inmate, also a male. He first learned of this when he was told that his request for permission to marry was refused. The inmate explained to the administration that the letter was a joke and that he had never written any such letter. The inmate did not know the information was left on his file.

Some two years later, during an interview, it was suggested by a counsellor that he might have a problem of homosexuality. The complainant denied any such orientation and made several unsuccessful requests to have the letter removed from his file.

The inmate was advised by our office to use the grievance procedure. This he did. On review by the first level, the grievance was accepted and it was ordered that the information be removed from his file and destroyed. However, an inquiries officer, on checking the file on a subsequent occasion, found that the information had not yet been removed. It was brought to the attention of authorities and the letter was finally removed and destroyed.

Case No. 1656

This complaint concerned a transfer and specifically a letter written by a classification officer to an inmate's parents indicating that after a group of inmates had been suspected of smoking marijuana, a laboratory test done in respect of the inmate had been positive.

Our investigation showed that although the institutional test had been positive, a subsequent commercial laboratory test had been negative. We ascertained that samples for these tests do not deteriorate. The complainant was also concerned that the incorrect information might affect his chances for parole.

Representations were made to the classification officer who promptly agreed to write the parents of the inmate explaining the full situation. A letter of explanation and a copy of the laboratory test results were also sent to the Chairman of the National Parole Board.

Grievance Procedure

Nine complaints were received concerning the grievance procedure, four were resolved or rectified. We become involved both in explaining the procedures and occasionally in explaining the responses to grievances, particularly when they have been partly upheld. For instance, the administration admits that a staff member has acted improperly, but refuses to take measures of discipline suggested by the inmate.

We have been asked by quite a number of inmates whether the procedure could be reduced to two rather than three levels. Their rationale is that it would be faster and also that there is little difference in the replies. The difficulty in redesigning seems to be that the responsibility for action in respect of complaints varies and may fall on any one of the three administrative levels.

Another complaint is that a reply to an inmate to a grievance may include a statement to the effect that "this matter has been fully investigated". We have been asked: "How can it be fully investigated when no one ever questioned me?" When true, the inmate certainly has a point.

Miscellaneous

An assortment of unique cases was categorized as "miscellaneous". Seven were rectified out of a total of one hundred and thirty-three.

The following cases indicate the variety:

Case No. 973 (pending from second year)

The complainant alleged that on a visit to his home during a temporary absence, he had changed into other clothes. His reason was that he had gained weight. The clothes were later seized by the administration. Later when he was transferred to another institution, he found that those same clothes were not forwarded with his other belongings.

The reason given by the administration was that "They were not sent over because they are NOT on his personal effects card nor on his clothing permit and are therefore considered to be contraband; either brought into the institution illegally or bartered, purchased, etc. in the institution, also illegal".

Undoubtedly the inmate broke the rules; undoubtedly there must be limits on what inmates may bring into institutions. We did, however, make representations to the effect that the assumptions quoted above did not appear to be sufficient grounds for depriving the inmate of proprietorship, as opposed to possession, while incarcerated.

The inmate got his clothes back.

Case No. 1313

The complainant wrote:

"As I read the Directives pertaining to clothing for inmates on release... Directive 243 Discharge of Inmate, Paragraph 3... the Assistant Warden (Service and Supplies) will provide the inmate with discharge clothing suitable for the season of the year or local climatic conditions in accordance with the Directive on Maintenance of Inmates.

Commissioner's Directive 204:

Sub paragraph E

Work and leisure clothing appropriate for the season and climate, and on discharge

Sub paragraph F

A complete outfit of civilian clothing and other necessities

These are the items that I have been issued:

All work clothes:

- 2 (two) used green shirts
- 2 (two) pair new jean pants
- 2 (two) pair new socks
- 1 (one) used blue jean jacket
- 1 (one) pair new shoes
- 2 (two) new hankies
- 1 (one) small suitcase
- 1 (one) new towel

After the issue of these items I was told that I would take the shaving gear I now have with me. These represent the total of what the administration here have told me that I can get. I was under the impression by reading these Directives that I would be entitled to working clothes as well as leisure or dress clothes as is the case in other federal institutions. I cannot find an amendment to any of the pertaining Directives. I have also been lead to believe that these Directives are complete and up to date as they now read.

I have talked to the Classification Department and to the Acting Director with absolutely no satisfaction. I believe that I was calm and reasonable on each of the several occasions when I did make my request for dress or leisure clothing.

I also showed Directive 204 to Classification. At the time I talked with the Acting Director I told him of this Directive and he read the same Directive in my presence.

I believe that I have suffered an injustice. Although I am a working man without professional skill I still do not wish to spend all of my time hidden away some place because I do not have the type of clothing that would permit me to appear in public until such time as I am working and am able to buy some type of casual or dress clothing.

If I have misread these Directives and am wrong about the fact that I am entitled to both work and

dress clothing, then please accept my apology. However if I am in the right I should very much appreciate hearing from you on this matter.

You may reach me at . . ."

Our investigation showed that at the relevant time, the regular staff member responsible for issue was away. The director of the institution assured us that necessary articles would be forwarded to the complainant.

Case No. 1472

The complainant, who was about to be released, complained to our office stating that his place of release was a considerable distance from the hospital where he was to receive out-patient treatment. With the assistance of both the classification officer and the parole officer, other arrangements were made so that the complainant was permitted to live close to the hospital.

Case No. 1683

The complainant contacted our office stating that at the time of his arrest the Royal Canadian Mounted Police had seized certain personal documents, and that these had not been returned to him.

The complaint was declined as being outside our mandate; however, the particulars of his complaint were referred to the Deputy Solicitor General.

The complainant later informed us that the problem had been resolved.

Case No. 2142

The complainant contacted our office stating that a sweater sent to him as a gift had been returned to the sender, rather than being placed with his personal effects to be held until he was released. On the basis of a conversation with a senior administrator, we suggested to the inmate that he ask that the sweater be sent to him again. A short while later we found that the sweater had been sent to the institution and returned to the sender a second time.

The administrator involved was told and he then took action by contacting the person who sent the gift. The administrator asked that the sweater be addressed to him personally and promised that it would be put in the inmate's personal effects. Money for postage was provided

as well. The inmate was informed of the institution's action by the administrator. The sweater is now safely among the inmate's effects.

Several Cases

Numerous complaints were received concerning delays in submitting documentation for and application for privileges such as temporary absences and parole.

We found many of these complaints to be justified and in some cases were able to persuade administrators to give special attention to make up for the delays.

The procedures used by those processing such applications vary to a considerable degree. For instance, some applications for parole are held back until all community reports are available. Sometimes there is no effective follow up to see that the reports are provided and the inmate may miss a parole hearing. This was drawn to the attention of the Chairman and he issued directions that all applications for parole should be forwarded when made. In another case we found that a particular classification officer had neglected a number of applications. The inmates whose applications had been delayed received special treatment once the situation was discovered. In another case we discovered that an application had not been processed because a psychiatric report was needed. The psychiatrist who was to have completed the report, however, had left the Penitentiary Service and no one else had been asked.

In order to avoid instances such as those described above, it is recommended

- (3) That a system for the chronological processing and follow up of inmate applications for privileges such as temporary absences and parole be implemented to prevent, as far as possible, delays and variation in time required to process.

Miscellaneous-Outside Mandate

In several cases it has been necessary for our office to approach provincial authorities; they have always been more than helpful. The following case report shows how an inmate's problem that was not within our mandate was resolved.

Case No. 1289

The complainant informed us that he had a number of outstanding charges in another province. He had appeared

in answer to the charges and plead guilty but had failed to appear for sentencing. He had also been charged with failing to appear. The charges were about two years old and the complainant wanted to have them disposed of. He had tried without success to accomplish this.

With the concurrence of the inmate's classification officer, our office wrote the Deputy Attorney General of the province in question. We explained our function and indicated that the inmate's problem was not within our mandate but that he seemed to have arrived at an impasse. We asked whether the Deputy Attorney General would agree to a withdrawal of the guilty pleas and waive the charges to the province in which the inmate was incarcerated, on the understanding that he would enter guilty pleas there. With the cooperation of the office of the Attorney General in the other province this was achieved.

Résumé

A résumé of types of complaints received and action taken will be made available to researchers on request.

Concluding Remarks

During the reporting year, we received several complaints which could not immediately lead to recommendations. We began research but because of the demands made upon our time due to the Millhaven Inquiry, that research remains incomplete. We hope to report next year and to provide a number of recommendations based on our research.

All of which is respectfully submitted,

A handwritten signature in cursive script, reading "Inge Hansen". The signature is written in black ink and is positioned above the title "Correctional Investigator".

Correctional Investigator

Recommendations — Third Year

It is recommended that:

- (1) Anyone who is sentenced to a term in a penitentiary be eligible to earn remission, regardless of whether that person has been formally admitted to a penitentiary.
- (2) The Commissioner's Directives be amended to more clearly define "open air" and "other conditions" so that open air means access to an area in which the person may view the sky vertically and so that other conditions be limited to specific exceptional conditions.
- (3) If weather conditions do not permit exercise in the open air, each inmate should be given the option of a minimum of thirty minutes away from his cell in indoor facilities, as a matter of right.
- (4) That a system for the chronological processing and follow up of inmate application for privileges such as temporary absences and parole be implemented to prevent, as far as possible, delays and variation in time required to process.

Recommendations —

Millhaven Inquiry

It is recommended that:

- (1)
 - (i) Precise written instructions be issued to penitentiary staff as to the way to use mechanical restraint equipment and the types of equipment authorized by the Penitentiary Service.
 - (ii) Instructions make it compulsory that any inmate placed in mechanical restraint shall immediately be placed under the direct supervision of the Medical Services and if the equipment is used for longer than a specified period, the inmate shall be physically examined by a qualified physician who shall make a written report on the condition of the inmate to the director.
- (2) The Divisional Instructions and the Standing Orders are redrafted:
 - (i) to provide concise step-by-step procedures required to decontaminate areas where gas had been used;
 - (ii) to provide concise step-by-step procedures to be used to assist inmates and staff who have been exposed to gas, including the requirement that anyone, staff or inmate, who has been exposed directly to gas be given a change of clothes and a shower as soon as possible and that he or she be physically examined by a duly qualified physician within a given minimum time after the emergency has been resolved;
 - (iii) to require penitentiary staff to use a loud-hailer to warn inmates that gas will be used if their unlawful activities do not cease; and
 - (iv) to require the Medical Services to maintain and post in each unit a list of both staff and inmates who should not be exposed to gas for medical reasons.
- (3) A permanent editorial board be established to supervise the communications of policy as expressed in the Commissioner's Directives, Divisional Instructions and Standing Orders, and in particular:
 - (i) that the board shall consist of persons with knowledge in law, editorial expertise and, without question, practical operational experience;
 - (ii) that the board shall identify portions of the Commissioner's Directives, Divisional Instructions and Standing Orders in relation to job description and in relation to each job category in the Canadian Penitentiary Service and designate the portions which it is obligatory for an employee to know, apply and understand for the purposes of his or her job category;
 - (iii) that the board shall edit or cause to be edited, the Commissioner's Directives and Divisional Instructions and Standing Orders to remove superfluous matters, to simplify the language, and to standardize the format and content, bearing in mind that each institution may have particular need in respect of Standing Orders;
 - (iv) that the board shall prepare or cause to be prepared **one, unified cross-referenced indexing and numbering system** applicable to Commissioner's Directives, Divisional Instructions and Standing Orders.
- (4) A uniform comprehensive in-service training program be established by the Canadian Penitentiary Service.

Recommendations — Second Year

The second annual report contained six recommendations. They are restated here with comments.

Recommendation (1)

A formal arrangement be made whereby inmate committees be encouraged to submit one brief annually (or one combined brief) to the Solicitor General.

Comment

We have been informed that this will be implemented.

Recommendation (2)

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

Comment

We have been informed that this will be implemented.

Recommendation (3)

The Commissioner's Directive be amended to provide that an individual who has been identified as having been affiliated with organized crime shall be eligible for a temporary absence for rehabilitative reasons after he has served three-quarters of his sentence or three years, whichever is the shorter.

Comment

This has been implemented.

Recommendation (4)

Only in an apparent emergency shall an inmate be transferred without prior consideration by a Transfer Board.

Comment

This has been stated policy.

Recommendation (5)

If a transfer of an inmate has taken place without consideration by a Transfer Board, then a Transfer Board shall automatically be convened within thirty days to assess the reasons for the transfer as well as the inmate's present behaviour, and to make appropriate recommendations for the future placement of the inmate.

Comment

We have been informed that this is under consideration.

Recommendation (6)

The Commissioner's Directive concerning deceased inmates be amended to provide that:

- (i) No public announcement of the name of a deceased inmate shall be made until next-of-kin have been informed or until it has been confirmed that there are no next-of-kin.
- (ii) Announcement of the death of a deceased inmate shall be made in person, not by telephone, by a person nominated by the director of the institution where the inmate resided.
- (iii) The nominee shall make discreet inquiries to ascertain the family situation and the state of health of the next-of-kin.
- (iv) The assistance of local police or clergy to act as nominee or otherwise assist shall be obtained whenever necessary.
- (v) Arrangements for the attendance of a sympathetic person (e.g. a neighbour or clergy) shall be made for a period of time after the person conveying the news of the death has left.

Comment

This has been implemented.

Recommendations — First Year

The first annual report contained ten recommendations. They are restated here with comments.

Recommendation (1)

That the relevant acts be amended to permit all persons under sentence equal opportunity to earn remission regardless of place of incarceration.

Comment

This has been incorporated in a legislative proposal.

Recommendation (2)

That the Commissioner's Directive be amended to provide that time spent in custody after conviction regardless of place of incarceration be taken into consideration in respect of time required to be served before being eligible for temporary absence.

Comment

We have been informed this is under consideration.

Recommendation (3)

That the automatic loss of statutory remission on conviction for escape and related offences be abolished.

Comment

This has been incorporated in a legislative proposal.

Recommendation (4)

That a special study of the use of dissociation in Canadian Penitentiaries be made to determine: a) whether it is useful as punishment; b) whether it is the most efficient way of providing protection to certain inmates; c) whether some or all dissociated inmates could be detained in other small structures which provide adequate security, but outside the main institutions.

Comment

This has been implemented.

Recommendation (5)

That the requisite number of persons be appointed whose only duty would be to preside over disciplinary hearings to make findings of guilt or innocence of inmates who have been charged with a flagrant or serious offence as defined in the Commissioner's Directives. Decision on punishment might be left or shared with the institutional authorities.

Comment

We have been informed that this recommendation will be considered in conjunction with the report on Inmates' Rights to be submitted by Professor R. Price.

Recommendation (6)

That authority to forfeit inmate property of any kind be stipulated by statute and that statutory provisions be made for relief against forfeiture or, in the alternative, that the practice of forfeiture be discontinued.

Comment

This has been incorporated in a legislative proposal.

Recommendation (7)

That consideration be given to an amendment to the Commissioner's Directive to provide that time spent in custody before conviction may be included in the calculation of the waiting period required before privileges such as temporary absence are granted.

Comment

Declined because the Canadian Penitentiary Service cannot evaluate performance.

Recommendation (8)

That a specific individual, preferably with legal training, be employed by the Canadian Penitentiary Service and be charged with examining, adjusting and making recommendations for disposition of inmate claims for injuries and loss of personal property.

Comment

This has been implemented.

Recommendation (9)

That instructions be given to all institutions to report on all injuries and all claims for loss of personal property to this specific individual and that such reports be given within a specific time.

Comment

Instructions have been issued as outlined in this recommendation. The requested statistics are reported herewith. Authority for the Minister to pay compensation to a discharged inmate, his surviving spouse or dependant children from physical disability or death attributable to the inmate's participation in the normal program of a penitentiary have been incorporated in a legislative proposal.

**CANADIAN PENITENTIARY SERVICE
INMATES COMPENSATED – LOSS OF PROPERTY
OR INJURIES**

YEAR	LOSS OF PROPERTY	INJURIES
1973	9	2
1974	14	4
1975	30	9
1976 to Nov. 24, '76	<u>31</u>	<u>7</u>
<u>TOTAL:</u>	84	22

Recommendation (10)

That inmates be permitted to invest their funds and compulsory savings in specified securities or savings accounts in their own names.

Comment

Inmates are permitted to invest their funds and compulsory savings in Canada Savings Bonds. A feasibility study is planned on the possibility of allowing inmates to have savings accounts in their own name in banking agencies.

