Annual Report of the Correctional Investigator

1998-1999

The Honourable Lawrence MacAulay
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Mr. Minister:

In accordance with the provisions of section 192 of the *Corrections and Conditional Release Act*, it is my duty and privilege to submit to you, the 26th Annual Report of the Correctional Investigator.

Yours respectfully,

R.L. Stewart
Correctional Investigator

Cat. No. JA1-1999
ISBN 0-662-64475-1

The Correctional Investigator is mandated by Part III of the *Corrections and Conditional Release Act* as an ombudsman for federal offenders. The primary function of the Office of the Correctional Investigator is to investigate and bring resolution to individual offender complaints. The Office as well, has a responsibility to review and make recommendations on the Service's policies and procedures associated with the areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed.

The notion of righting a wrong is central to the ombudsman concept. This involves measurably more than simply responding to specific legal, policy or technical elements associated with the area of concern under review. It requires the provision of independent, informed and objective opinions on the fairness of the actions taken so as to counter balance the relative strength of public institutions against the individual. It as well requires a responsiveness on the part of public institutions which is and is seen to be fair, open and accountable.

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OPERATIONS

In light of the current Parliamentary review of the *Corrections and Conditional Release Act*, I have provided within this section of the Report, a brief overview of the Office's legislative mandate. I have as well included a copy of Part III of the *Act* as Appendix A.

On November 1, 1992 the *Corrections and Conditional Release Act* ("an Act respecting corrections and the conditional release and detention of offenders and to establish the office of Correctional Investigator") came into force. Part III of the *Act* governs the operation of this Office and parallels very closely the provisions of most Provincial Ombudsman legislation, albeit, in our case, within the context of investigating the activities of a single government organization and reporting to the legislature through a single Minister. The "Function" of the Correctional Investigator, as with all Ombudsman mandates, is purposefully broad:

> to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for or on behalf of, the Commissioner, that affect offenders either individually or as a group.

Inquiries can be initiated on the basis of a complaint or on the initiative of the Correctional Investigator with full discretion resting with the Office in deciding whether to conduct an investigation and how that investigation will be carried out.

In the course of an investigation, the Office is afforded significant authority to require the production of information up to and including a formal hearing involving examination under oath. This authority is tempered, and the integrity of our function protected, by the strict obligation that we limit the disclosure of information acquired in the course of our duties to that which is necessary to the progress of the investigation and to the establishing of grounds for our conclusions and recommendations. Our disclosure of information, to all parties, is further governed by safety and security considerations and the provisions of the *Privacy Act* and the *Access to Information Act.*

The provisions above, which limit our disclosure of information, are complimented by other provisions within Part III of the *Act* which prevent our being summoned in legal proceedings and which underline that our process exists without affecting, or being affected by, appeals or remedies before the Courts or under any other *Act*. The purpose of these measures is to prevent us from being compromised by our implication, either as a "discovery" mechanism or as a procedural prerequisite, within other processes – an eventuality that could potentially undermine the Office's Ombudsman function.

The Office's observations and findings, subsequent to an investigation, are not limited to a determination that a decision, recommendation, act or omission was contrary to existing law or established policy. In keeping with the purposefully broad nature of our Ombudsman function, the Correctional Investigator can determine that a decision, recommendation, act or omission was; "unreasonable, unjust, oppressive or improperly discriminatory; or based wholly or partly on a mistake of law or fact" or that a discretionary power has been exercised, "for an improper purpose, on irrelevant grounds, on the taking into account of irrelevant considerations, or without reasons having been given".

The *Act* at Section 178 requires that where in the opinion of the Correctional Investigator a problem exists, the Commissioner of Corrections shall be informed of that opinion and the reasons therefore. The practice of the Office has been to attempt to resolve problems through consultation at the institutional and regional levels in advance of referring matters to the attention of the Commissioner. While we continue to ensure that appropriate levels of management within the Correctional Service are approached with respect to complaints and investigations, I believe this provision clearly implies that the unresolved "problems" of offenders are to be referred to the Commissioner in a timely fashion.

The legislation as well provides that the Correctional Investigator, when informing the Commissioner of the existence of a problem, may make any recommendation relevant to the resolution of the problem that the Correctional Investigator considers appropriate. Although these recommendations are not binding, consistent with the Ombudsman function, the authority of the Office lies in its ability to thoroughly and objectively investigate a wide spectrum of administrative actions and present its findings and recommendations to an equally broad spectrum of decision makers, inclusive of Parliament, which can cause reasonable corrective action to be taken if earlier attempts at resolution have failed.

A significant step in this resolution process is the provision at Section 180 of the *Act* which requires the Correctional Investigator to give notice and report to the Minister if, within a reasonable time, no action is taken by the Commissioner that seems to the Correctional Investigator to be adequate and appropriate. Section 192 and 193 of the legislation continues this process by requiring the Minister to table in both Houses of Parliament, within a prescribed time period, the Annual Report and any Special Report issued by the Correctional Investigator.

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

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

In addition to responding to individual complaints, the Office meets regularly with inmate committees and other offender organizations and makes announced visits bi-annually at each institution during which the investigator will meet with any inmate, or group of inmates, upon request.

The vast majority of the issues raised on complaints by inmates are addressed by this Office at the institutional level through discussion and negotiation. In those cases where a resolution is not reached at the institution, the matter is referred to regional or national headquarters, depending on the area of concern, with a specific recommendation for further review and corrective action. If at this level the Correctional Service, in the opinion of the Correctional Investigator, fails to address the matter in a reasonable and timely fashion, it will be referred to the Minister and eventually may be detailed within an Annual or Special Report.

The Office, over the course of the reporting year, received 4,529 complaints; the investigative staff spent nearly 300 days in federal penitentiaries and conducted in excess of 2,200 interviews with inmates and half again that number of interviews with institutional and regional staff. These numbers are somewhat lower than previous years and are directly related to an on-going resource problem which has impacted on our operations since the coming into effect of the *CCRA* in late 1992.

The areas of complaint, despite the decline, continue to focus on those long-standing issues which have been detailed in past Annual Reports. A specific breakdown on areas of complaint, dispositions, institutional visits and interviews are provided in the Statistics Section.

With respect to resources, the Auditor General noted in his December 1997 Report, in addition to identifying a number of operational problems, that the demand for the Office's services was incessant. Our resources base has not been reviewed since 1992. The *CCRA* and the Arbour Commission Report have added a number of significant operational requirements to the Office's mandate in terms of federally sentenced women, the timely and thorough review of CSC investigative reports on inmate death and serious bodily injury, and the review of video tapes on Emergency Response Team interventions. Over the course of this reporting year, further resources were diverted from our investigative process to actively participate in the legislative review of the *CCRA,* inclusive of the extensive public consultation process which formed an important element of that review.

I am committed to ensuring that the Office's resources are adjusted so that these additional requirements are reasonably addressed. The *CCRA* public consultation process has made it very clear that our resource base is and is seen to be directly related to our ability to fulfil our mandate. A proposal will be submitted shortly to ensure that this lack of resources will not negatively impact on our future ability to provide a thorough, timely and objective review of offender complaints.

In terms of the operational problems identified by the Auditor General, I believe a number of significant actions have been taken. The Office has finalized a Policy and Procedures Manual which more clearly details our investigative process and links that process to our legislative responsibilities. A staff training program and adjustment to our data collection process have as well been initiated consistent with the policy and procedural changes. In addition, an information package has been developed which details both the Office's mandate and method of operation. This information will be forwarded to all federal penitentiaries and parole offices as well as to community facilities which house federal offenders.

Although progress in these areas of concern have been made, I clearly understand that the Office must continue to move forward on these initiatives to ensure that our operations are capable of fulfilling our legislative responsibilities.

ISSUES

1. SPECIAL HANDLING UNIT (SHU)

Although this issue was closed in last year's Annual Report, a brief update is appropriate.

The Correctional Service has, over the last number of years, increased both the fairness provisions associated with the SHU decision making process and the availability of programming within the SHU. In addition, the administrative efficiency of the National Review Committee has measurably improved.

Despite these advancements, the Correctional Service has not undertaken a review of the SHU program for the purpose of determining the effectiveness of its policy of placing all dangerous offenders in one facility. The position of this Office has been, since the inception of the SHU, that it was an ill-designed policy that would label offenders as the "worst of the worst" and create a solidarity amongst these offenders that would negate the Service's objective of creating "an environment in which dangerous inmates are motivated and assisted to behave in a responsible manner so as to facilitate their integration in a maximum security institution".

There are currently two factors that lend credence to our long held position. First, the level of participation in programming at the SHU is extremely low, placing in question the utility of the time spent in the SHU. Second, the number of offenders that are released directly from the SHU to the street, placing in question the overall effectiveness of the SHU's operations in meeting its stated objective.

The Service is in the process of initiating two projects: a Task Force to review programming at the Special Handling Units, and an initiative with England and Wales to develop a strategy for the management of dangerous, persistently violent and disruptive offenders.

2. INMATE PAY

This Office's position for over a decade has been that there was a need for an across-the-board increase in inmate pay levels to offset the erosion of the inmates' financial situation. This increase would allow inmates to save more money for their eventual release and would help, in our opinion, to lessen tension and illicit activities within penitentiaries. The Office further recommended, to address the array of complaints received concerning the Correctional Service's application of its pay policy, specifically in the areas of unemployment, segregation and program participation, that the Service establish a reasonable minimum daily allowance and that all inmates, regardless of their status, receive at least that daily minimum.

We have recently been advised that the Commissioner has raised the issue of an inmate pay increase with the Secretary of the Treasury Board. The Service is currently conducting a further review of this matter and expects the review to be completed by June 1999.

On the related matter of the Correctional Service's Millennium Telephone System, which has significantly increased the cost of inmate telephone calls (from 25¢ to over $2.00 in some places for local calls) it was agreed that the inmate population and their families should not have to support the added administrative costs of what is essentially a security system.

The Service indicated that it would proceed as quickly as possible to implement a system which provides access to calls at the same cost as is available to the general public.

With respect to our recommendation that the inmate population be provided with a refund consistent with the commission received by the Service from the telephone companies, we were advised that the Service would review the options available.

3. INMATE GRIEVANCE PROCEDURE

The legislation requires that "there should be a procedure for fairly and expeditiously resolving offender grievances" and "every offender shall have complete access to the procedure without negative consequences".

This Office's concerns with the grievance procedure, focussing on its thoroughness, objectivity and timeliness plus senior management accountability for its operation, have been well documented in past Annual Reports. The Service issued a revised policy on inmate grievances in June of 1998 that addressed a number of our previously identified concerns. The Service as well advised this Office that "mechanisms have been established to permit managers to extract and analyse cumulative data from grievances to identify trends, patterns and anomalies".

While there has been an improvement in the system's operation, as previously noted, there continues to be far too many instances of excessive delays in responding to inmate grievances at the institutional and regional levels. There has as well been no evidence of management analysis of the cumulative data or management direction to address identified trends, patterns or anomalies such as excessive delays.

It is interesting to note, Madame Justice Arbour found that nearly all issues under review by the Commission of Inquiry had been referred by the inmates through the Correctional Service's internal grievance procedure. The grievance procedure had failed to reasonably address any of the issues. She further found that because the Commissioner of the day had delegated his responsibility as the final level of review within the process, none of the grievances were brought to the attention of the Commissioner. Justice Arbour concluded: "I am deeply troubled about the guidance that is given within the Correctional Service to the disposition of complaints and grievances which allege violations of the law".

The Arbour Commission Report recommended:

- that the Commissioner personally review some, if not all, grievances brought to him, as third level grievances, as the most effective, if not the only method for him to keep abreast of the conditions of life in institutions under his care and supervision;

- that, should the Commissioner be unwilling or unable to participate significantly in the disposition of third level grievances, such grievances be channelled to a source outside the Correctional Service for disposition, and that the disposition be binding on the Correctional Service.

With respect to federally sentenced women's grievances, the Commission Report recommended:

- that complaints and grievances procedures be amended to provide that all second level grievances arising from an institution for women be directed to the Deputy Commissioner for Women, rather than to the regional level;

- that the Deputy Commissioner for Women answer personally all complaints or grievances addressed to him or her;

Although all of the above recommendations have been rejected by the Service, I would recommend that a reconsideration of the Service's decisions on these issues be undertaken.

I further note, with respect to federally sentenced women's grievances, that during 1998 only nine grievances were referred to the national level. Over that same time period, this Office received in excess of 450 complaints from federally sentenced women.

This Office has long had a concern with both the inmate population's confidence in and willingness to use the Service's internal grievance process. Since the Service's rejection of the Arbour recommendations, we have focussed more on the federally sentenced women's population. The above numbers would appear to validate our concern and as such, I recommend that the Service initiate a thorough review of how inmate complaints are being managed at penitentiaries which house women, inclusive of the views of the women in terms of how effectively they believe their concerns are being addressed.

4. CASE PREPARATION AND ACCESS TO PROGRAMMING

The Office initially raised the Issue in its 1988/89 Annual Report. The focus at that time was on the increasing inability of the Service to prepare the cases of offenders in a thorough and timely fashion for conditional release consideration. It was evident from our review of the complaints received that a significant number of these delays were directly related to the

Service being unable to provide the required assessments and treatment programming in advance of the offender's scheduled parole hearing dates. A decade later our review of complaints from offenders indicates that this issue has yet to be completely addressed.

More than a third of an inmate's sentence, that time period between day parole eligibility and statutory release, is discretionary time. The measurement of the Service's effectiveness in reducing the relative use of incarceration must focus on the actions taken at the front end of the sentence in preparing the inmate for conditional release consideration and the timing within that period when decisions are taken. There is limited benefit in having cases presented for decision at the back end of the discretionary time period. In addition there is a need for an increased focus on the provision of community services to ensure that those who are released are not returned to penitentiary prior to the completion of their sentence.

This Office has always acknowledged the complexity of this issue, the inter-relationship between the numerous variables at play and their impact on the provision of effective case management and programming. The Office has as well acknowledged and encouraged the various initiatives undertaken by the Service in attempting to address this issue. Yet our review of offender complaints, and our review of data collected by the Correctional Service in this area, leads me to conclude that despite the numerous policy and operational changes initiated by the Service, the situation remains relatively as it was.

Although the Service's information base, with respect to the preparation of offenders' cases for conditional release decisions, has measurably improved, I have seen little evidence of a thorough analysis of this information or clear management direction on addressing the deficiencies identified by the information. I further note that the data provides no information on timely access to programming, the reasons for waivers or postponements of conditional release hearings, or the time of conditional release decisions in relation to review dates.

With respect to the information provided by the Correctional Service, I note the following :

- full parole waiver and postponement rates are virtually unchanged over the last year;
- the aboriginal full parole waiver rate is almost double that of non-aboriginal offenders;
- the number of offenders incarcerated past their full parole eligibility remains unchanged over the past six months;
- the percentage of aboriginal offenders incarcerated beyond their full parole eligibility date is measurably higher than non-aboriginal offenders (72% vs. 58%);
- the completion of the intake assessment process continues to take much more than the seventy calendar days provided for by policy;
- the number of suspension warrants issued decreased only slightly and the suspension rate for aboriginal offenders is significantly higher than for non-aboriginal offenders.

The above is not presented as either a total picture of the current situation or a blanket criticism of the Service's efforts but rather as observations in support of our ongoing concern with this issue.

The Correctional Service in response to last year's Annual Report stated:

> Our executive committee monitors statistics regarding individuals released on parole, those incarcerated past parole eligibility dates, the timely completion of Intake Assessment and the number of waivers/ postponements. These performance indicators allow senior management to assess how effectively current structures and processes are preparing inmates for successful reintegration.

What has not been provided to date are the results of senior management's assessment of the current structures and processes. I hope that my observations in this area will be of some assistance to this assessment and we look forward to providing any assistance we can in support of the Service addressing these areas of concern.

5. DOUBLE BUNKING

Double Bunking, specifically in non-general population cells, has been a priority issue with this Office for more than a decade. Although the level of double bunking has marginally decreased, it remains very much a reality for offenders housed in federal penitentiaries.

The Service has rightfully acknowledged that the issue of double bunking is an area of concern. In response to last year's Annual Report, we were advised:

> that an amended policy was promulgated in November of 1998 addressing the issue of double bunking and affirming the CSC's position that double bunking is inappropriate as a permanent accommodation measure within the context of good corrections.

The policy's objective is "the provision of reasonable, safe, secure and humane accommodation". With respect to double bunking, the policy identifies a number of types of cells, including segregation cells and cells smaller than $5M^2$ (approximately 8" by 6 ½") that "shall not be used to accommodate two inmates or more". The Service has provided an exemption to this restriction and as such, double bunking continues in segregation and cells less than $5m^2$. The last information received at this Office showed that 13% of segregated inmates are double bunked.

The Office was as well advised in response to last year's Annual Report, that:

> The Service's Executive Committee and the regions are able to review on a quarterly basis, data describing the number of inmates and the length of time spent housed two to a cell.

We have recently been advised however that in fact the Service <u>cannot</u> monitor the length of time inmates spend housed two to a cell although we are told that it will begin to produce this information.

Double bunking remains a priority of this Office and a reality for the Correctional Service with approximately 20% of federal penitentiary inmates living two to a cell. The housing of

two individuals in a secure cell, designed for one individual, for up to twenty-three hours a day, for months on end, is inhumane. As I have stated previously, this practice defies not only any reasonable standard of decency but also the standards of international convention.

The Service's actions to date, while acknowledging the inappropriateness of the situation have done little to address the inhumanity of the situation. I, again, recommend that the Correctional Service cease immediately the practice of double bunking in segregation and dissociation areas and in cells less than $5m^2$.

6. TRANSFERS

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

The Office concluded two years ago that the Service's transfer and penitentiary placement process is excessively delayed and poorly managed. Too many inmates are housed at a security level above that required by their security classification or are spending unreasonable periods of time in reception units. This fact places the Service at odds with the legislative principle that they "use the least restrictive measures consistent with the protection of society, staff members and offenders" and as well, negatively impacts on their efforts for timely reintegration. The process, I believe, needs to be centrally managed with the development of an information system capable of providing data relevant to the performance of the process.

In addressing these concerns in March of 1997, we were advised by the Commissioner that a review of the relevant directives governing transfers and penitentiary placements would be undertaken to ensure that the process complies with legislative and policy requirements, including the adherence to timeframes, decision-making and appeals. We were as well advised that a monitoring system to track performance would be developed. This work was expected to be completed by the end of June 1997. This has not as yet happened.

In response to last year's Annual Report, the Office was advised that a revised policy was to be issued shortly, which would result in a transfer process that was fair to offenders, easier to manage and effect transfers in a more timely manner. This policy has yet to be finalized. We

were further advised again that a monitoring system to track offender transfers had been developed. The system would provide, among other data relevant to the transfer process,

information on the number of offenders who are housed at a higher security level than called for by their individual security classification.

A review of the report produced by the Service on transfers indicates:

- there is no information on the timeliness of decisions taken in response to applications for transfer being collected;
- the number of offenders housed at a level higher than their security classification has increased over the past six months; and
- the quality of transfer data according to the Service "has long been in question and as a result the numbers presented are questionable".

In summary on this issue, the number of complaints concerning transfers received by this Office continues to be high, the Service's revised policy to address the areas of concern has yet to be finalized, and the data collected by the Service's monitoring system to track offender transfers remains "questionable".

7. PREVENTIVE SECURITY STANDARDS/GUIDELINES

This issue centres on a longstanding concern with the absence of any clear national direction with respect to the coordination, verification, communication and correction of preventive security information or the responsibility and accountability within the Service for the accuracy of this information. As such, the Office recommended in 1996 that Preventive Security Standards and Guidelines be developed so as to bring some clarity to this matter.

The Service acknowledged at the time that there was no clear national direction regarding the management of preventive security information and undertook to produce guidelines by the Fall of 1997.

The Office was subsequently advised in March of 1998 that a Standard Operating Practice (S.O.P.) had been developed on preventive security files focussing on the recording and follow-up on security information. Despite the recording of this in last year's Annual Report, this in fact did not occur.

We were advised again in April of 1999 that an S.O.P. on preventive security files is being developed. Despite the fact that no guidelines or standards have been issued and the S.O.P. remains under development, the Service has concluded on this issue: "Action has been completed and this issue is considered closed".

The issue and the areas of concern, which were further highlighted during the public consultation process on the CCRA, remain unaddressed.

8. USE OF FORCE, INVESTIGATIONS AND FOLLOW-UP

Past Annual Reports have indicated that for the Service to reasonably address the areas of concern associated with this issue, they must ensure that:

- all Use of Force incidents are thoroughly and objectively investigated, inclusive of input from those inmates affected;

- management is responsible for reviewing the reports and ensuring that corrective follow-up action is taken;

- an information base is maintained regionally and nationally on Use of Force incidents, types of force used, circumstances, number of injuries, etc., for the purpose of review and analysis to ensure that such incidents are kept to a minimum.

First, the information base, long promised, remains undeveloped. Last year's Annual Report indicated that the Service had committed to finalizing this initiative by the Fall of 1998. The Office was subsequently advised in March of this year that a means to provide information on use of force incidents within its database is anticipated to be finalized by February 2000.

Second, despite the issuing of a revised Use of Force policy, the re-designing of the Use of Force forms and the issuing of guidelines on the completion of these forms, the forms have more often than not been incomplete and improperly filled out. The review of this documentation is not being undertaken by management in a timely fashion and decisions are continuing to be made by management on the basis of incomplete information not to convene an investigation into these incidents.

Third, the provision and review of video tapes, to this Office and CSC senior management as recommended by Madame Justice Arbour, continues to be governed by a 1997 Interim Instruction. This Instruction is absent of detail as to specific responsibilities and accountabilities within the Service for ensuring that these incidents are thoroughly and objectively reviewed. The process to date has been one of confusion, resulting in a number of video tapes not being forwarded either to this Office or CSC senior management and no co-ordinated process by the Service of providing the results of their review to front line staff. In short, the current process is in immediate need of national clarification and direction.

Fourth, Use of Force in federal institutions is so common, 900 incidents last year, that the Service does not identify Use of Force as a variable in its monitoring of institutional violence. In addition, very seldom do these incidents result in the Service convening an investigation.

In summary, the Office's position has been that the Use of Force against an inmate is a significant action. It is an action that should only be taken as a last resort and an action that should be thoroughly and objectively reviewed to ensure full compliance with law and policy. There should as well be an ongoing review and analysis of these incidents

independent of the institution, to further ensure compliance and to provide reasonable and timely direction so as to keep these incidents to a minimum.

The actions of the Service to date would not appear to indicate that it is in support of our position on this matter.

9. INMATE INJURIES AND INVESTIGATIONS

These are the most troubling issues given our past Annual Report comments, the Service's previous commitments, and the current state of affairs.

The Service's compliance with section 19 of the *CCRA,* which requires an investigation into incidents resulting in inmate death or serious bodily injury and the provision of those investigations to this Office and the Commissioner, remains very much in question. The recent list of section 19 investigations provided by the Service's national headquarters failed to include ten incidents resulting in the death of inmates and a further thirteen incidents which resulted in serious bodily injury to inmates. This information has been provided to CSC officials and to date no substantive comment has been received.

The finalization of CSC Investigative Reports and follow-up action on the Report's findings and recommendations continues to be excessively delayed. The Service's national headquarters, which by legislation and policy is to receive and review all section 19 investigations, has been waiting, in some cases, in excess of ten months for the completion of an investigative report.

A number of the excessively delayed section 19 investigations involve inmate suicides. In 1997, the Office questioned the Service's delegation of suicide investigations to the regional level. Our concern focussed on the message being sent, in terms of priority on suicide prevention, and the ability of the Service to, in a timely fashion, review and coordinate nationally, the responses to the findings and recommendations of these investigations. The Office was advised at the time that suicide prevention would remain a national priority and that suicide investigations would be reviewed and actioned in a timely fashion at national headquarters.

There is no evidence of a timely responsive review at the national level of individual suicide investigations. There is as well no evidence at the national level of a timely co-ordinated response to either the findings and recommendations of suicide investigations or the Service's Annual Retrospective Report on Suicides. This inactivity, in light of the fact that inmate suicides over the course of this year rose from 9 to 16, placing the inmate suicide rate of our federal penitentiaries at or near the top of the international list for developed countries, is of great concern.

In terms of the Service's commitment to monitor institutional violence, the evidence raises similar concerns.

With respect to this issue, the Office recommended three years ago that the Service initiate a comprehensive review of institutional violence. The Service rejected that recommendation and advised that "all statistics dealing with institutional violence would be reviewed as part of the Service's Correctional Results Report". In response to a restatement of our ongoing concerns with the level of violence, we were advised that "CSC's statistics indicate that over the past 3 years, the number of violent incidents has decreased".

Although we do not have specific data, the following is offered in support of our continuing concern in this area.

- the Service's statistics, in terms of what they are monitoring, is inadequate;

  - first, they are identifying instances of inmate assaults, which have resulted in broken bones, multiple stab wounds and corrective surgery, as minor assaults. Minor assaults are not counted as incidents of institutional violence.

  - second, the statistics do not incorporate use of force incidents including Emergency Response Team interventions, as evidence of institutional violence,

  - third, the statistics do not include instances of voluntary segregation to avoid incompatibles, which are increasing, or transfers to avoid voluntary segregation, as indicators of institutional violence.

- the Service's response does not acknowledge the fact that violent institutional death (suicides and murders) have doubled over the past year.

In short, the Service has chosen, rather than address the issue of institutional violence, to claim on the basis of inaccurate and incomplete information, that it is not a problem.

With respect to the issues associated with accurate and timely recording and reporting of inmate injuries, identified as a concern four years ago, there is still no national direction or policy. I am advised that a review in this area is underway. I recommend that during the course of this review, the Service examine its current definition of "serious bodily injury" as it relates to section 19 of the *CCRA*. The current definition in my mind is inconsistent with both the intent of the legislation and any reasonable person's concept of what constitutes a serious bodily injury.

A decade ago, 25 to 30 inmates died annually in federal penitentiaries. Currently, over 50 inmates a year are dying in our federal institutions. These numbers should create concern and an international comparison of these numbers raises even further concern.

I suggest on all of these issues, that the Service's efforts to date could be improved. There needs to be a clear focus on these matters that have been on the table for a number of years, with specific and immediate action taken so as to ensure:

- a timely, responsive, investigative process;
- compliance with *section 19* of the *Corrections and Conditional Release Act*;
- co-ordination and analysis of investigative results on incidents of death and serious bodily injury;
- comprehensive ongoing reviews of institutional violence and use of force incidents;
- the thorough and timely review of suicide investigations at the national level;
- a national policy on the recording, reporting and review of inmate injuries.

In short, I believe that the Service needs to commit itself to a review and investigative process that is responsive to incidents of use of force, inmate injuries, institutional violence, death and suicide so as to ensure that they are kept to a minimum.

FEDERALLY SENTENCED WOMEN (FSW)

The Service's interim policy decision to involuntarily house maximum security women and women with serious mental health problems in male penitentiaries has gone on too long. The findings of this Office suggest that such a placement is inappropriate for women with a history of physical and sexual abuse and regardless of the accommodations made, it is in fact segregation. These women are not only removed from association with the general population of the institution that they are housed in, they are as well removed from the broader general population of female offenders housed at the regional facilities. This segregation status based on their maximum security classification places these women, in terms of their conditions of confinement and access to rights and privileges, at a considerable disadvantage to similarly classified maximum security men.

The temporary placement of female offenders in male penitentiaries commenced in August of 1996. I recommend that immediate action be taken to address this totally unacceptable situation.

ABORIGINAL OFFENDERS

The over-representation of Aboriginals incarcerated in federal penitentiaries demands immediate attention. While Aboriginals make up 2 to 3 percent of the general Canadian population, they represent 16 percent of the federal male penitentiary population and 20 % of the federally sentenced women's population.

A noted jurist suggests that "Aboriginal people of both sexes in Canada are over-represented in prisons and that the social realities that contribute to this imbalance have been embedded and hidden within a penal environment which is at odds with many Aboriginal cultures".

This disturbing imbalance is not new. A Task Force report in 1988 concluded that Aboriginal offenders were: less likely to be granted parole, granted parole later in their sentences, and more likely to have their parole revoked. The *Corrections and Conditional Release Act*, passed in November of 1992, provided two sections designed specifically to address the issue of Aboriginal over-representation in federal penitentiaries.

The intent of these legislative provisions, I suggest, was to require the Correctional Service to develop, in a timely fashion, policies and programs that were responsive to and inclusive of Aboriginal communities so as to reduce the excessive levels of Aboriginal incarceration. The implementation of these provisions, until very recently, has not been actively pursued by the Service.

The percentage of federal Aboriginal offenders incarcerated rose 31.5% between March 1993 and March 1997. Current projections are that this percentage will continue to increase disproportionately. Over this same time period the non-Aboriginal incarcerated population increased 9.5%. The Task Force conclusions of a decade ago remain today's reality; Aboriginal offenders are: less likely to receive temporary absences or parole, more likely to spend more time incarcerated prior to parole, more likely to be referred for detention, and more likely to have their conditional release revoked. In short, current policies and procedures appear to work against the stated objective of decreasing the level of Aboriginal incarceration.

The Office, over the course of this reporting year, in addition to addressing the individual concerns of Aboriginal offenders, held in excess of twenty meetings with Native Brother/Sisterhoods. Two very clear inter-related themes emerged from these meetings. First, was the discrepancy on availability, level of coordination, and acceptance of Aboriginal programming across the Service. Second was the failure of the Service to provide timely and culturally responsive case management work in support of the effective re-integration of Aboriginal offenders back into their communities.

Although the Service has measurably increased Aboriginal programming over the years and has recently appointed a Director General for Aboriginal Affairs at the national level, the clearly identified problems of a decade ago still remain. To begin addressing this issue, I recommend that two actions be taken. First, the Correctional Service must ensure that a Senior Manager, specifically responsible and accountable for Aboriginal programming and liaison with Aboriginal communities, is a permanent voting member of existing senior management committees at the institutional, regional and national levels. Second, given the continuing disadvantaged position of Aboriginal offenders in terms of timely conditional release, it is imperative that the Service's existing policies and procedures be immediately reviewed to ensure that systemic discriminatory barriers to reintegration are identified and addressed. This review should be independent of the Correctional Service of Canada and be undertaken with the full support and involvement of Aboriginal organizations.

CONCLUSION

The issues detailed in this Report are areas of long-standing offender concern. Although there have been years of meetings and exchanges of correspondence with the Correctional Service on these matters, the Commissioner requested an opportunity to provide further comment on the specifics of this year's Report. I have included as appendix B those comments received from the Service.

STATISTICS

TABLE A
COMPLAINTS RECEIVED BY CATEGORY

Administrative Segregation	
a) Placement	50
b) Conditions	141
Case Preparation	
a) Parole	219
b) Temporary Absence	82
c) Transfer	164
Cell Effects	212
Cell Placement	77
Claims	
a) Decisions	45
b) Processing	41
Correspondence	47
Diet	
a) Food Services	23
b) Medical	37
c) Religious	25
Discipline	
a) ICP Decisions	33
b) Minor Court Decisions	7
c) Procedures	52
Discrimination	25
Employment	65
Financial Matters	
a) Access to Funds	52
b) Pay	110
Grievance Procedure	116
Health Care	
a) Access	254
b) Decisions	207
Information	
a) Access	66
b) Correction	223
Mental Health	
a) Access	31
b) Programs	7
Other	23
Pen Placement	45
Private Family Visiting	104
Programs	232
Request for Information	259
Security Classification	53

TABLE A (cont'd)
COMPLAINTS RECEIVED BY CATEGORY

Sentence Administration	55
Staff	272
Temporary Absence Decision	67
Telephone	106
Transfer	
a) Decision	231
b) Involuntary	219
Use of Force	28
Visits	201
Outside Terms of Reference	
National Parole Board Decisions	169
Outside Court	29
Provincial Matter	25
TOTAL	**4529**

TABLE B
COMPLAINTS - BY MONTH

Month	**Number**
1998	
April	418
May	569
June	358
July	195
August	335
September	446
October	365
November	304
December	472
1999	
January	254
February	458
March	355
TOTAL	**4529**

TABLE C
COMPLAINTS RECEIVED BY INSTITUTION

Institution	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total
Pacific													
Elbow Lake	0	1	2	1	1	0	0	0	0	1	0	0	6
Ferndale	0	10	1	1	2	1	3	0	1	0	7	0	26
Kent	2	26	6	4	31	1	15	3	1	4	19	2	114
Matsqui	3	6	1	1	11	3	4	0	1	2	5	1	38
Mission	1	20	1	1	5	1	7	0	4	4	12	3	59
Mountain	1	31	1	1	16	6	3	7	2	2	6	1	77
Regional Health Ctr.	1	9	1	1	3	0	2	4	1	2	5	1	30
William Head	0	19	4	3	5	6	8	1	2	1	8	3	60
Prov-Pacific	0	0	0	0	0	1	0	0	0	0	0	0	1
Prairies													
Bowden	11	5	15	2	5	8	6	9	6	4	29	3	103
Drumheller	11	6	16	3	1	4	2	4	16	2	22	2	89
Edmonton	28	1	16	4	3	1	3	14	12	8	28	2	120
Grande Cache	3	1	11	0	1	7	1	3	10	5	17	1	60
Pe Sakatew Ctr	6	0	4	0	0	0	2	0	1	0	3	0	16
Regional Psychiatric Ctr.	18	3	2	1	9	0	0	12	0	3	20	0	68
Riverbend	14	0	1	1	8	0	3	10	0	5	0	0	42
Rockwood	0	0	10	1	0	0	0	0	0	1	0	0	12
Saskatchewan Pen.	9	2	1	2	22	9	1	33	12	30	3	5	129
Stony Mountain	6	4	37	1	1	9	1	2	4	17	1	1	84
Prov-Prairies	1	0	1	0	0	1	0	0	1	0	2	1	7
Ontario													
Bath	6	3	2	3	10	7	4	5	5	7	1	0	53
Beaver Creek	0	41	2	0	3	1	1	3	2	1	0	2	56
Collins Bay	30	6	3	2	3	7	4	4	16	8	47	0	130
Fenbrook	0	0	0	0	0	0	1	0	2	2	3	0	8
Frontenac	4	0	0	1	2	1	3	0	3	2	8	1	25
Joyceville	3	16	12	2	59	12	4	13	0	4	15	10	150
Kingston Penitentiary	20	15	22	5	19	52	7	7	17	8	16	19	207
Millhaven	0	6	8	4	1	19	7	4	32	1	4	4	90
Pittsburgh	1	8	0	0	12	1	2	3	3	0	2	0	32
Regional Treatment Ctr.	6	4	10	1	0	6	0	0	2	3	2	0	34
Warkworth	3	43	7	5	2	44	24	13	13	7	12	37	210
Prov-Ontario	1	1	12	3	1	3	4	1	2	1	4	2	35

TABLE C (cont'd)
COMPLAINTS RECEIVED BY INSTITUTION

Institution	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total
Québec													
Archambault	7	8	5	2	3	36	2	6	11	10	51	6	147
Cowansville	24	6	3	34	6	4	3	4	33	3	4	3	127
Donnacona	4	40	5	3	6	5	47	8	1	5	5	2	131
Drummond	5	5	15	1	4	8	3	22	4	5	2	9	83
Federal Training Ctr.	1	4	24	3	2	0	3	30	3	7	4	0	81
La Macaza	30	11	7	9	7	8	22	10	4	9	4	6	127
Leclerc	39	14	10	44	10	14	6	5	56	2	12	2	214
Montee St. Francois	27	6	4	4	3	6	1	3	19	5	3	5	86
Port Cartier	3	30	12	3	6	2	41	0	6	8	11	2	124
RRC	6	8	0	2	4	10	4	4	3	2	4	8	55
SHU	1	1	0	3	0	8	2	4	2	8	4	13	46
Ste-Anne-des-Plaines	3	2	0	0	0	18	2	2	2	2	0	11	42
Prov-Quebec	2	0	0	1	4	0	5	1	0	4	2	1	20
Maritimes													
Atlantic	9	40	13	11	6	48	5	4	37	17	9	61	260
Dorchester	6	28	6	5	9	17	22	7	26	14	7	49	196
Springhill	2	13	1	0	2	10	8	8	17	3	5	18	87
Westmorland	1	2	1	0	4	5	1	1	9	2	0	5	31
Prov-Maritimes	0	1	1	3	0	1	0	0	1	0	0	0	7
FSW Facilities													0
Burnaby*	0	0	0	0	0	4	0	0	0	0	0	0	4
Edmonton Womens' Facility	16	2	0	2	8	1	0	4	1	1	8	0	43
Okimaw Ohci	1	0	0	0	5	1	0	0	0	0	6	0	13
Isabel McNeil House	8	1	3	0	0	0	1	0	2	0	0	0	15
Joliette	0	52	7	2	3	6	45	4	3	4	3	41	170
Grand Valley	11	1	13	2	0	6	2	0	31	1	0	0	67
Nova	0	1	0	0	0	1	6	0	5	1	0	3	17
Prison for Women	10	3	12	1	0	6	3	0	22	0	0	0	57
Regional Psychiatric Ctr. .Prairies**	0	1	0	0	0	0	0	3	0	0	4	0	8
Saskatchewan Pen.**	11	0	1	1	2	0	1	6	0	2	0	0	24
Springhill**	0	1	1	0	0	5	0	0	0	0	0	1	8
CCC's and CRC's	2	1	5	5	5	5	8	13	3	4	8	9	68
Total	**418**	**569**	**358**	**195**	**335**	**446**	**365**	**304**	**472**	**254**	**457**	**356**	**4529**

* *Provincial Institution which houses Federally Sentenced Women*

** *Male institution which houses Federally Sentenced Women*

TABLE D
COMPLAINTS AND INMATE POPULATION BY REGION

Region	Complaints	*Inmate Population
Pacific	411	1754
Prairies	730	3151
Ontario	1030	3373
Quebec	1283	3335
Maritimes	581	1163
Federally Sentenced Women	426	
CCC's and CRC's	68	
TOTAL	**4529**	

* Figures provided by the Correctional Service for March 31, 1998

TABLE E
DAYS SPENT IN INSTITUTIONS

Institution	Days
Archambault	8
Atlantic	7
Bath	5
Beaver Creek	3
Bowden	5
Collins Bay	8
Cowansville	7
Donnacona	6
Dorchester	7
Drumheller	4
Drummondville	8
Edmonton	4
Edmonton Institution for Women	4
Elbow Lake	1
Federal Training Centre	4
Fenbrook	1
Ferndale	4
Frontenac	3
Grand Valley	6
Grande Cache	6
Hobema Healing Lodge	5
Isabel McNeil House	2
Joliette	5
Joyceville	8
Kent	4
Kingston Penitentiary	11
La Macaza	6
Leclerc	10
Matsqui	4
Millhaven	5
Mission	4
Montee St. Francois	4
Mountain	4
Nova	4
Okimaw Ohci Healing Lodge	2
Pittsburgh	3
Port Cartier	13
Prison for Women	4
Regional Health Centre, Pacific	3

TABLE E (cont'd)
DAYS SPENT IN INSTITUTIONS

Regional Psychiatric Centre, Prairies	
Men	4
Women	3
Regional Reception Centre, Quebec	
Men	4
Women	2
Regional Treatment Centre, Ontario	7
Riverbend	4
Rockwood	2
Saskatchewan Penitentiary	
Men	4
Women	4
Special Handling Unit	3
Springhill	
Men	4
Women	4
Ste. Anne des Plaines	4
Stony Mountain	6
Warkworth	14
Westmorland	6
William Head	3
TOTAL	**280**

TABLE F
INMATE INTERVIEWS

Month	**# of Interviews**
1998	
April	270
May	298
June	156
July	74
August	144
September	196
October	190
November	126
December	277
1999	
January	51
February	220
March	211
TOTAL	**2213**

TABLE G
DISPOSITION OF COMPLAINTS

Disposition	Number
Advice given	308
Assistance given	968
Information given	941
Not justified	294
Not within mandate	171
Pending	391
Premature	882
Resolved	362
Unable to resolve	96
Withdrawn	116
TOTAL	**4529**

TABLE H
COMPLAINTS RESOLVED BY CATEGORY

TYPE	RESOLVED
Administrative Segregation	
a) Placement	4
b) Conditions	11
Case Preparation	
a) Parole	18
b) Temporary Absence	6
c) Transfer	14
Cell Effects	41
Cell Placement	14
Claims	
a) Decisions	1
b) Processing	3
Correspondence	2
Diet	
a) Food Services	3
b) Medical	3
c) Religious	2
Discipline	
a) ICP Decisions	1
b) Procedures	6
Discrimination	1
Employment	6
Financial Matters	
a) Access to Funds	8
b) Pay	9
Grievance Procedure	19
Health Care	
a) Access	22
b) Decisions	18
Information	
a) Access	11
b) Correction	8
Mental Health	
a) Access	3
b) Programs	2
Other	1
Pen Placement	4
Private Family Visiting	6
Programs	24

COMPLAINTS RESOLVED BY CATEGORY

Request for Information	2
Security Classification	4
Sentence Administration	4
Staff	12
Temporary Absence Decision	11
Telephone	10
Transfer	
a) Decision	17
b) Involuntary	7
Use of Force	1
Visits	23
TOTAL	**362**

APPENDIX A

Third Session, Thirty-fourth Parliament
40-41 Elizabeth II, 1991-92

STATUTES OF CANADA 1992

CHAPTER 20

An Act respecting corrections and the conditional release and detention of offenders and to establish the office of the Correctional Investigator

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BILL C-36

ASSENTED TO 18th JUNE, 1992

PART III

CORRECTIONAL INVESTIGATOR

Interpretation

Definitions

157. In this Part,

"Commissioner" "Commissioner" has the same meaning as in Part I;

"Correctional Investigator" "Correctional Investigator" means the Correctional Investigator of Canada appointed pursuant to section 158;

"Minister" "Minister" has the same meaning as in Part I;

"offender" "offender" has the same meaning as in Part II;

"parole" "parole" has the same meaning as in Part II;

"penitentiary" "penitentiary" has the same meaning as in Part I;

"provincial parole board" "provincial parole board" has the same meaning as in Part II.

CORRECTIONAL INVESTIGATOR

Appointment

158. The Governor in Council may appoint a person to be known as the Correctional Investigator of Canada.

Eligibility

159. A person is eligible to be appointed as Correctional Investigator or to continue in that office only if the person is a Canadian citizen ordinarily resident in Canada or a permanent resident as defined in subsection 2(1) of the *Immigration Act* who is ordinarily resident in Canada.

Tenure of office and removal

160. (1) The Correctional Investigator holds office during good behaviour for a term not exceeding five years, but may be suspended or removed for cause at any time by the Governor in Council.

Further terms

(2) The Correctional Investigator, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term.

Absence, incapacity or vacancy

159. In the event of the absence or incapacity of the Correctional Investigator, or if the office of Correctional Investigator is vacant, the Governor in Council may appoint another qualified person to hold office instead of the Correctional Investigator during the absence, incapacity or vacancy, and that personal shall, while holding that office, have the same functions as and all of the powers and duties of the Correctional Investigator under this Part and be paid such salary or other remuneration and expenses as may be fixed by the Governor in Council.

Devotion to duties

160. The Correctional Investigator shall engage exclusively in the function and duties of the office of the Correctional Investigator and shall not hold any other office under Her Majesty in right of Canada or a province for reward or engage in any other employment for reward.

Salary and expenses

161. (1) The Correctional Investigator shall be paid such salary as may be fixed by the Governor in Council and is entitled to be paid reasonable travel and living expenses incurred in the performance of duties under this Part.

Pension Benefits

(2) The provisions of the *Public Service Superannuation Act*, other than those relating to tenure of office, apply to the Correctional Investigator, except that a person appointed as Correctional Investigator from outside the Public Service, as defined in subsection 3(1) of the *Public Service Superannuation Act*, may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of appointment, elect to participate in the pension plan provided for in the *Diplomatic Service (Special) Superannuation Act*, in which case the provisions of that Act, other than those relating to tenure of office, apply to the Correctional Investigator from the date of appointment and the provisions of the *Public Service Superannuation Act* do not apply.

Other Benefits

(3) The Correctional Investigator is deemed to be employed in the public service of Canada for the purposes of the *Government Employees Compensation Act* and any regulations made under section 9 of the *Aeronautics Act*.

MANAGEMENT

Management

159. The Correctional Investigator has the control and management of all matters connected with the office of the Correctional Investigator.

STAFF

Staff of the Correctional Investigator

165.(1) Such officers and employees as are necessary to enable the Correctional Investigator to perform the function and duties of the Correctional Investigator under this Part shall be appointed in accordance with the *Public Service Employment Act*.

Technical assistance

(2) The Correctional Investigator may engage on a temporary basis the services of persons having technical or specialized knowledge of any matter relating to the work of the Correctional Investigator to advise and assist the Correctional Investigator in the performance of the function and duties of the Correctional Investigator under this Part and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of those persons.

OATH OF OFFICE

Oath of Office

166. The Correctional Investigator and every person appointed pursuant to section 161 or subsection 165(1) shall, before commencing the duties of office, take the following oath of office:

"I, (name), swear that I will faithfully and impartially to the best of my abilities perform the duties required of me as (Correctional Investigator, Acting Correctional Investigator or officer or employee of the Correctional Investigator). So help me God."

FUNCTION

Function

167.(1) It is the function of the Correctional Investigator to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner or any person under the control and management of, or performing services for or on behalf of, the Commissioner that affect offenders either individually or as a group.

Restrictions

(2) In performing the function referred to in subsection (1), the Correctional Investigator may not investigate

(a) any decision, recommendation, act or omission of

(i) the National Parole Board in the exercise of its exclusive jurisdiction under this Act, or

(ii) any provincial parole board in the exercise of its exclusive jurisdiction

(b) any problem of an offender related to the offender's confinement in a provincial correctional facility, whether or not the confinement is pursuant to an agreement between the federal government and the government of the province in which the provincial correctional facility is located; and

(c) any decision, recommendation, act or omission of an official of a province supervising, pursuant to an agreement between the federal government and the government of the province, an offender on temporary absence, parole, statutory release subject to supervision or mandatory supervision where the matter has been, is being or is going to be investigated by an ombudsman of that province.

Exception

(3) Notwithstanding paragraph (2)(b), the Correctional Investigator may, in any province that has not appointed a provincial parole board, investigate the problems of offenders confined in provincial correctional facilities in that province related to the preparation of cases of parole by any person under the control and management of, or performing services for or on behalf of, the Commissioner.

Application to Federal Court

168. Where any question arises as to whether the Correctional Investigator has jurisdiction to investigate any particular problem, the Correctional Investigator may apply to the Federal Court for a declaratory order determining the question.

INFORMATION PROGRAM

Information Program

169. The Correctional Investigator shall maintain a program of communicating information to offenders concerning

(a) the function of the Correctional Investigator;
(b) the circumstances under which an investigation may be commenced by the Correctional Investigator; and
(c) The independence of the Correctional Investigator.

INVESTIGATIONS

Commencement

170.(1) The Correctional Investigator may commence an investigation

(a) on the receipt of a complaint by or on behalf of an offender;
(b) at the request of the Minister; or
(c) on the initiative of the Correctional Investigator.

Discretion

(2) the Correctional Investigator has full discretion as to

(a) whether an investigation should be conducted in relation to any particular complaint or request;
(b) how every investigation is to be carried out; and
(c) whether any investigation should be terminated before its completion.

Right to hold hearing

171.(1) In the course of an investigation, the Correctional Investigator may hold any hearing and make such inquiries as the Correctional Investigator considers appropriate, but no person is entitled as of right to be heard by the Correctional Investigator.

Hearings to be in camera

(2) Every hearing held by the Correctional Investigator shall be *in camera* unless the Correctional Investigator decides otherwise.

Right to require information and documents

172.(1) In the course of an investigation, the Correctional Investigator may require any person

(a) to furnish any information that, in the opinion of the Correctional Investigator, the person may be able to furnish in relation to the matter being investigated; and

(b) subject to subsection (2), to produce, for examination by the Correctional Investigator, any document, paper or thing that in the opinion of the Correctional Investigator relates to the matter being investigated and that may be in the possession or under the control of that person.

Return of document, etc.

(2) The Correctional Investigator shall return any document, paper or thing produced pursuant to paragraph (1)(b) to the person who produced it within ten days after a request therefor is made to the Correctional Investigator, but nothing in this subsection precludes the Correctional Investigator from again requiring its production in accordance with paragraph (1)(b).

Right to make copies

(3) The Correctional Investigator may make copies of any document, paper or thing produced pursuant to paragraph (1)(b).

Right to examine under oath

173.(1) In the course of an investigation, the Correctional Investigator may summon and examine on oath

(a) where the investigation is in relation to a complaint, the complainant, and

(b) any person who, in the opinion of the Correctional Investigator, is able to furnish any information relating to the matter being investigated, and for that purpose may administer an oath.

Representation by counsel

(2) Where a person is summoned pursuant to subsection (1), that person may be represented by counsel during the examination in respect of which the person is summoned.

Right to enter

174. For the purposes of this Part, the Correctional Investigator may, on satisfying any applicable security requirements, at any time enter any premises occupied by or under the control and management of the Commissioner and inspect the premises and carry out therein any investigation or inspection.

FINDINGS, REPORTS AND RECOMMENDATIONS

Decision not to investigate

175. Where the Correctional Investigator decides not to conduct an investigation in relation to a complaint or a request from the Minister or decides to terminate such an investigation before its completion, the Correctional Investigator shall inform the complainant or the Minister, as the case may be, of that decision and, if the Correctional Investigator considers it appropriate, the reasons therefor, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

Complaint not substantiated

176. Where, after conducting an investigation in relation to a complaint, the Correctional Investigator concludes that the complaint has not been substantiated, the Correctional Investigator shall inform the complainant of that conclusion and, where the Correctional Investigator considers it appropriate, the reasons therefor, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

Informing of problem

177. Where, after conducting an investigation, the Correctional Investigator determines that a problem referred to in section 167 exists in relation to one or more offenders, the Correctional Investigator shall inform

(a) the Commissioner, or

(b) where the problem arises out of the exercise of a

power delegated by the Chairperson of the National Parole Board to a person under the control and management of the Commissioner, the Commissioner and the Chairperson of the National Parole Board of the problem and the particulars thereof.

Opinion re decision, recommendation, etc.

178.(1) Where, after conducting an investigation, the Correctional Investigator is of the opinion that the decision, recommendation, act or omission to which a problem referred to in section 167 relates

(a) appears to have been contrary to law or to an established policy,

(b) was unreasonable, unjust, oppressive or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice or policy that is or may be unreasonable, unjust, oppressive or improperly discriminatory, or

(c) was based wholly or partly on a mistake of law or fact,

the Correctional Investigator shall indicate that opinion, and the reasons therefor, when informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of the problem.

Opinion re exercise of discretionary power

(2) Where, after conducting an investigation, the Correctional Investigator is of the opinion that in the making of the decision or recommendation, or in the act or omission, to which a problem referred to in section 167 relates to a discretionary power has been exercised

(a) for an improper purpose,

(b) on irrelevant grounds,

(c) on the taking into account of irrelevant considerations, or

(d) without reasons having been given,

the Correctional Investigator shall indicate that opinion, and the reasons therefor, when informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of the problem.

Recommendations

179.(1) When informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of a problem, the Correctional Investigator may make any recommendation that the Correctional Investigator considers appropriate.

Recommendations in relation to decision, recommendation, etc.

(2) In making recommendations in relation to a decision, recommendation, act or omission referred to in subsection 167(1), the Correctional Investigator may, without restricting the generality of subsection (1), recommend that

(a) reasons be given to explain why the decision or recommendation was made or the act or omission occurred;

(b) the decision, recommendation, act or omission be referred to the appropriate authority for further consideration;

(c) the decision or recommendation be cancelled or varied;

(d) the act or omission be rectified; or

(e) the law, practice or policy on which the decision, recommendation, act or omission was based be altered or reconsidered.

Recommendations not binding

(3) Neither the Commissioner nor the Chairperson of the National Parole Board is bound to act on any finding or recommendation made under this section.

Notice and report to Minister

180. If, within a reasonable time after informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of a problem, no action is taken that seems to the Correctional Investigator to be adequate and appropriate, the Correctional Investigator shall inform the Minister of that fact and provide the Minister with whatever information was originally provided to the Commissioner, or the Commissioner and the Chairman of the National Parole Board, as the case may be.

Complainant to be informed of result of investigation

181. Where an investigation is in relation to a complaint, the Correctional Investigator shall, in such manner and at such time as the Correctional Investigator considers appropriate, inform the complainant of the results of the investigation, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

CONFIDENTIALITY

Confidentiality

182. Subject to this Part, the Correctional Investigator and every person acting on behalf or under the direction of the Correctional Investigator shall not disclose any information that comes to their knowledge in the exercise of their powers or the performance of their functions and duties under this Part.

Disclosure authorized

183.(1) Subject to subsection (2), the Correctional Investigator may disclose or may authorize any person acting on behalf or under the direction of the Correctional Investigator to disclose information

(a) that, in the opinion of the Correctional Investigator, is necessary to

(i) carry out an investigation, or

(ii) establish the grounds for findings and recommendations made under this Part; or

(a) in the course of a prosecution for an offence under this Part or a prosecution for an offence under section 131 (perjury) of the *Criminal Code* in respect of a statement made under this Part.

Exceptions

(2) The Correctional Investigator and every person acting on behalf or under the direction of the Correctional Investigator shall take every reasonable precaution to avoid the disclosure of, and shall not disclose, any information the disclosure of which could reasonably be expected

(a) to disclose information obtained or prepared in the course of lawful investigations pertaining to

(i) the detection, prevention or suppression of crime,
(ii) the enforcement of any law of Canada or a province, where the investigation is ongoing, or
(iii) activities suspected of constituting threats to the security of Canada within the meaning of the *Canadian Security Intelligence Service Act*,
if the information came into existence less than twenty years before the anticipated disclosure;
(b) to be injurious to the conduct of any lawful investigation;
(c) in respect of any individual under sentence for an offence against any Act of Parliament, to
(i) lead to a serious disruption of that individual's institutional or conditional release program, or
(ii) result in physical or other harm to that individual or any other person;
(d) to disclose advice or recommendations developed by or for a government institution within the meaning of the *Access to Information Act* or a minister of the Crown; or
(e) to disclose confidences of the Queen's Privy Council for Canada referred to in section 196.

Definition of "investigation"

(3) For the purposes of paragraph (2)(b), "investigation" means an investigation that
(a) pertains to the administration or enforcement of an Act of Parliament or of a province; or
(b) is authorized by or pursuant to an Act of Parliament or of a province

Letter to be unopened

184. Notwithstanding any provision in any Act or regulation, where
(a) a letter written by an offender is addressed to the Correctional Investigator, or
(b) a letter written by the Correctional Investigator is addressed to an offender, the letter shall immediately be forwarded unopened to the Correctional Investigator or to the offender, as the case may be, by the person in charge of the institution at which the offender is incarcerated.

DELEGATION

Delegation by Correctional Investigator

185.(1) The Correctional Investigator may authorize any person to exercise or perform, subject to such restrictions or limitations as the Correctional Investigator may specify, the function, powers and duties of the Correctional Investigator under this Part except

(a) the power to delegate under this section; and

(b) the duty or power to make a report to the Minister under section 192 or 193.

Delegation is revocable

(2) Every delegation under this section is revocable at will and no delegation prevents the exercise or performance by the Correctional Investigator of the delegated function, powers and duties.

Continuing effect of delegation

(3) In the event that the Correctional Investigator who makes a delegation under this section ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Correctional Investigator

RELATIONSHIP WITH OTHER ACTS

Power to conduct investigations

186.(1) The power of the Correctional Investigator to conduct investigations exists notwithstanding any provision in any Act to the effect that the matter being investigated is final and that no appeal lies in respect thereof or that the matter may not be challenged, reviewed, quashed or in any way called into question.

Relationship with other Acts

(2) The power of the Correctional Investigator to conduct investigations is in addition to the provisions of any other Act or rule of law under which

(a) any remedy or right of appeal or objection is provided for any person, or

(b) any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Part limits or affects any such remedy, right of appeal, objection or procedure.

LEGAL PROCEEDINGS

Acts not to be questioned or subject to review

187. Except on the ground of lack of jurisdiction, nothing done by the Correctional Investigator, including the making of any report or recommendation, is liable to be challenged, reviewed, quashed or called into question in any court.

Protection of Correctional Investigator

188. No criminal or civil proceedings lie against the Correctional Investigator, or against any person acting on behalf or under the direction of the Correctional Investigator, for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any function, power or duty of the Correctional Investigator.

No summons

189. The Correctional Investigator or any person acting on behalf or under the direction of the Correctional Investigator is not a competent or compellable witness in respect of any matter coming to the knowledge of the Correctional Investigator or that person in the course of the exercise or performance or purported exercise or performance of any function, power or duty of the Correctional Investigator, in any proceedings other than a prosecution for an offence under this Part or a prosecution for an offence under section 131 (perjury) of the *Criminal Code* in respect of a statement made under this Part.

Libel or slander

190. For the purposes of any law relating to libel or slander,

(a) anything said, any information furnished or any document, paper or thing produced in good faith in the course of an investigation by or on behalf of the Correctional Investigator under this Part is privileged; and

(b) any report made in good faith by the Correctional Investigator under this Part and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast is privileged.

OFFENCE AND PUNISHMENT

Offences

191. Every person who

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Correctional Investigator or any other person in the exercise or performance of the function, powers or duties of the Correctional Investigator,

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Correctional Investigator or any other person under this Part, or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Correctional Investigator or any other person in the exercise or performance of the function, powers or duties of the Correctional Investigator,

is guilty of an offence punishable on summary conviction and liable to a fine not exceeding two thousand dollars.

ANNUAL AND SPECIAL REPORTS

Annual reports

192. The Correctional Investigator shall, within three months after the end of each fiscal year, submit to the Minister a report of the activities of the office of the Correctional Investigator during that year, and the Minister shall cause every such report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it.

Urgent matters

193. The Correctional Investigator may, at any time, make a special report to the Minister referring to and commenting on any matter within the scope of the function, powers and duties of the Correctional Investigator where, in the opinion of the Correctional Investigator, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for the submission of the next annual report to the Minister under section 192, and the Minister shall cause every such special report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it.

Reporting of public hearings

194. Where the Correctional Investigator decides to hold hearings in public in relation to any investigation, the Correctional Investigator shall indicate in relation to that investigation, in the report submitted under section 192, the reasons why the hearings were held in public.

Adverse comments

195. Where it appears to the Correctional Investigator that there may be sufficient grounds for including in a report under section 192 or 193 any comment or information that reflects or might reflect adversely on any person or organization, the Correctional Investigator shall give that person or organization a reasonable opportunity to make representations respecting the comment or information and shall include in the report a fair and accurate summary of those representations.

CONFIDENCES OF THE QUEEN'S PRIVY COUNCIL

Confidences of the Queen's Privy Council for Canada

196.(1) The powers of the Correctional Investigator under sections 172, 173, and 174 do not apply with respect to confidences of the Queen's Privy Council for Canada, including, without restricting the generality of the foregoing,

(a) memoranda the purpose of which is to present proposals or recommendations to Council;

(b) discussion papers the purpose of which is to present background explanations, analyses of problems or policy options to Council for consideration by Council in making decisions;

(c) agenda of Council or records recording deliberations or decisions of Council;

(d) records used for or reflecting communications or discussions between ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;

(e) records the purpose of which is to brief ministers of the Crown in relation to matters that are before, or are proposed to be brought before, Council or that are the subject of communications or discussions referred to in paragraph (d);

(f) draft legislation; and

(g) records that contain information about the contents of any record within a class of records

referred to in paragraphs (a) to (f).

Definition of "Council"

(2) For the purposes of subsection (1), "Council" means the Queen's Privy Council for Canada, committees of the Queen's Privy Council for Canada, Cabinet and committees of Cabinet.

Exception

(3) Subsection (1) does not apply with respect to

(a) confidences of the Queen's Privy Council for Canada that have been in existence for more than twenty years; or

(b) discussion papers described in paragraph (1)(b)

(i) If the decisions to which the discussion papers relate have been made public, or

(ii) where the decisions have not been made public, if four years have passed since the decisions were made.

REGULATIONS

Regulations

197. The Governor in Council may make such regulations as the Governor in Council deems necessary for carrying out the purposes and provisions of this Part.

HER MAJESTY

Binding on Her Majesty

198. This Part is binding on Her Majesty in right of Canada.

APPENDIX B

CORRECTIONAL SERVICE OF CANADA

RESPONSE TO CORRECTIONAL INVESTIGATOR'S 1998-1999 ANNUAL REPORT

SPECIAL HANDLING UNIT

CSC agrees it is important to enhance reintegration programming. To address this issue the CSC commissioned a Task Force to review programming at the SHU and to suggest methods of program improvement. The position of the Task Force is that offender program participation can improve substantially at the SHU without the need for policy revisions regarding the role or mandate of the Unit. The final report of the Task Force to review programming at the SHU is currently in preparation. The Report will contain recommendations that will be presented to EXCOM. Decisions will then be made with respect to specific actions to be taken. The Task Force has identified several areas that should increase program effectiveness. Some of these areas are:

1. Providing structured incentives for the offenders who participate in programs;

2. Reducing the existing obstacles associated with program participation;

3. Design the SHU program to include motivation enhancement intervention and flexible modes of program delivery. The model for this type of program exists in the Segregation Program currently piloted at one institution in each region.

INMATE PAY

The Service agrees that the current pay envelope is inadequate and will continue to make efforts to get additional funds. In the meantime, CD730 on Inmate Program Assignment and Pay was revised in order to ensure consistency, clarity and equity in the pay system and to establish a minimum pay level. According to the new policy, a basic daily allowance of $1.00 will be provided to inmates who have refused to accept all program assignments offered by the program board and unemployed inmates. Furthermore, the zero pay level has been eliminated for all but inmates who are under suspension from their program assignment or who are directly involved in the shutdown of all or part of an institution or who are on unauthorized absence.

In response to the continuing concerns to address insufficient pay levels, the Commissioner created a Working Group to look at the impact of the new pay system on the purchasing power of inmates. The CSC will also be including proposals within the National Capital Accommodation and Operations Plan for further improvements to the Inmate Pay system. The proposals include increasing all pay levels; introducing annual indexing into the inmate pay system; and, increasing offenders' purchasing power to offset costs for certain products and services that inmates must currently pay for.

In response to claims made by the CI, in the area of the Millennium telephone system, the Service provides the following information. CSC does not apply any administrative costs to inmates for this system. The charges involved are the standard CRTC approved rates for collect calls, and apply for both inmates as well as the public at large.

The CI has been advised that CSC does not receive any revenue from inmate calls, and that the Service is not in a position and has never agreed to provide refunds. The CI's office is aware that the Service is actively pursuing avenues to reduce the costs of telephone calls through other means.

INMATE GRIEVANCE PROCEDURE

CSC has analyzed data on timeliness of complaints and grievances and has found that in 1998/99, 80% were handled within prescribed time limits. However, our second level grievances were late 48% of the time. Clearly, the Service must make an effort to improve performance in this area.
There are numerous ways in which the data are being used, including:

- quarterly production of grievance data for women which is shared and discussed at national wardens' meetings, and a current project which is being conducted by the Women Offenders Sector (shared with the CI) to undertake a qualitative examination of the grievances related to staff performance and harassment categories based on the "cumulative data" from the grievance system;
- quarterly production of grievance data for health care issues which is shared and discussed at national health care meetings;
- preparation of grievance data for various audits and security investigations;

Regarding the recommendations by Justice Arbour, these have been examined and responded to by CSC more than two years ago. Our position has not changed. Although the Commissioner does not review individual 3rd level grievances, the semi-annual report of grievance data provided to all Executive Committee members and the CI allows him to "…keep abreast of the conditions of life in institutions…(basis for Arbour recommendation)". With respect to the DCW's role in the grievance process, it was considered to be more appropriate for all grievances to be responded to by a single position (Assistant Commissioner Corporate Development), however, each response to a grievance from a woman offender is reviewed and signed off by the DCW before consideration by the ACCD. CSC felt that it was important that the Regional Deputy Commissioners continue to be involved in the system as the 2nd level respondent given their need to keep abreast of the issues that are raised by women offenders who come under their jurisdiction.
In 1998-99, 406 women offenders used the complaint level of the grievance system. Of those 406 complaints, 19% were upheld or upheld in part. It appears that women are becoming accustomed to and comfortable with using the system.

CASE PREPARATION AND ACCESS TO PROGRAMMING

CSC shares the CI's desire for timely case preparation and access to programming. Operation Bypass, a project aimed at streamlining the case management process, was implemented in February 1999. The major changes brought about by Bypass should ensure the accurate identification of dynamic risk and need factors along with proper matching to programs at the front end of the sentence. This will improve the chances of safe and successful reintegration to the community at an earlier point in the sentence. At

this time, it is too early to determine the effectiveness of Bypass. As we measure the intermediate and final results of the implementation of Bypass, this information will be shared with the CI.

A recent review of waivers revealed that approximately 25% of offenders have not completed identified programs prior to their Parole Eligibility Date. As a result of this review exercise, the Service is currently refining and broadening OMS codes to provide more information as to the specific reasons offenders remain incarcerated past their eligibility dates and to act on them.

CSC recognized the need to increase the provision of community programming and adjusted the submission to the National Capital Accommodation and Operations Plan to secure additional resources in 1999-2000 to increase program capacity in the community. This has improved the balance between institutions and the community.

To address the provision of community services aimed at maintaining safe reintegration for all offenders in the community, the Service will initiate or is in the process of conducting studies in the following areas:

- Parole Officer Workload (completed);
- Role of Community Corrections Centres (in progress);
- Community Management and Administration Infrastructure (to be completed this fiscal year);
- National Case Management Audit (to be completed this winter)

In addition, the following actions will be undertaken:

- A review of intensive supervision programs and initiatives across Canada will be completed this fiscal year.
- An alternative to suspension paper will be completed. This paper will examine our collective experience using suspensions and where improvements and approaches can be effected.
- We are exploring opportunities for new CCCs in four cities across Canada.
- CSC is also preparing an NCAOP submission for 2000-2001 in order to get appropriate funding for the provision of employment assessment, counselling and job search program in each district.

With respect to aboriginal offenders, a review of the case management practices and programs will be undertaken to determine what changes could be made to improve their timely and safe reintegration. Some of the changes will include: changes to intake assessment to ensure it is more responsive to cultural differences, determination of the applicability of standardized actuarial assessment tools to aboriginal offenders, increasing the capacity to deliver more aboriginal-specific correctional programs and addressing community reintegration through section 81 and 84 initiatives.

DOUBLE-BUNKING

The Service acknowledges that the issue of double-bunking is an area of concern and is taking steps to address these concerns. CSC's accommodation policy was promulgated in November 1998. This amended policy addresses the issue of double occupancy and affirms that CSC believes that double occupancy is inappropriate as a permanent accommodation measure within the context of good corrections. However, it was also noted that CSC expects the reduction of double occupancy (including double-bunking) will be gradual, given current resources and the inmate population.

It is likely that double-bunking will continue on a temporary basis given current population management needs. For example, the following situations may result in temporarily housing two inmates in one cell:

- housing inmates at the least restrictive environment;
- housing federal offenders of a particular province in a penitentiary in their province of origin; and,
- special circumstances, such as emergencies or maintenance/retrofitting of cells.

Statistics describing levels of double-bunking in segregation and general population areas are included in the Corporate Results Report that is reviewed at each EXCOM meeting. The Corporate Results Report for April 1999 indicates that there has been a decrease in the percentage of offenders double- bunked at all security levels except in multi-level institutions. Additionally, the percentage of offenders sharing a cell while in segregation status has also shown a decrease (February 98 - 14.9% to February 99 - 12.9%).

The CI was informed in February 1999 that we are experiencing data quality issues with the Offender Management System's (OMS) ability to provide the length of time individual inmates have been double-bunked for the purpose of monitoring at the regional and national level. These data quality issues came to light after the CI was informed in November 1998 that the Service was monitoring the length of time individual inmates had been double-bunked. Unfortunately, due to the concerns raised with Y2K and the updates being made to the OMS victims' module, the definitive changes required in OMS to accurately reflect the length of time spent in double-bunking situations will not be completed in the near future. The field has been advised through a Security Bulletin dated November 17, 1998, of our commitment to the office of the Correctional Investigator to better track the extent of double-bunking. This bulletin advises staff to pay particular attention during data entry to ensure the accuracy of information until such time as this problem is addressed in an automated way.

In the meantime, we have begun to produce quarterly reports on the length of stay in double-bunked cells for segregation areas only and are sharing this information with the Regional Administrative Segregation representatives so that they may take appropriate action. The CI was provided with our first such report in May 1999.

Double-Bunking in Segregation

The Commissioner's Directive on Inmate Accommodation (CD 550) specifies that segregation cells shall not be used to accommodate two inmates or more. According to Section 27 of the policy, other than in emergency situations, any exception to this policy as it relates to housing more than one inmate in a cell must be included in CSC's Accommodation Plan and approved by the Commissioner. Furthermore, Section 28 states that "In an emergency situation, and as a temporary measure, the institutional head may make necessary exceptions to the normal accommodation policy. The rationale and expected duration of such actions shall be provided to the respective Regional Deputy Commissioner and reported to the Commissioner."

The Service has attempted to, and continues to strive to reduce and wherever possible eliminate, both the instances and the duration of double-bunking in administrative segregation areas.

A database has been developed to allow us to monitor both the duration and the number of segregated inmates who are double-bunked. We are currently seeing a reduction of double-bunking in segregation (February 98 - 14.9% to February 99 - 12.9%).

In May 1999 the Regional Segregation Oversight Managers were asked to:

- Familiarize themselves with the database that has been created and to work with their OMS Coordinators to ensure timely and accurate reporting of information related to double-bunked inmates;
- Evaluate the use of double-bunking in each of the regions in the context of CD 550 and steps that are being taken to reduce the instances of double-bunking;
- Isolate voluntary instances (inmates who insist on remaining double-bunked) and the options that are available to manage these cases; and,
- Provide status reports to NHQ and develop initiatives to reduce the instances of double-bunking.

National responsibility for segregation related issues have recently become the responsibility of the Institutional Reintegration Operations Division at NHQ. This Division is currently developing further direction for the Regional Segregation Oversight Managers. This direction will reinforce the Services' commitment to minimizing, and to the extent possible, completely eliminating the practice of double- bunking in segregation cells. Regional Segregation Oversight Managers will be asked to provide action plans detailing how the matter will be resolved and a timetable for the elimination of systematic double-bunking in segregation cells in their respective regions.

TRANSFERS

CSC agrees with the CI that offenders have the right to timely transfer decisions. The 1999 Auditor General's Report recognized that CSC had made improvements in the timely completion of intake assessments resulting in offenders being transferred to their placement institutions earlier in their sentence. The major changes brought about by Bypass should lead to further improvements. However, there has not been enough time for these changes to make their influence felt in terms of concrete results.

A recent preliminary report indicates that 87% of transfer decisions are made within the prescribed timeframes. In the case of involuntary transfers, some delays can be attributed to the fact that offenders require legal assistance to respond to the proposed transfer. This anomaly will be addressed with the implementation of the revised Commissioner's Directive (CD) and Standard Operating Practice.

About 6% of offenders are accommodated at a higher security level than called for by their security classification. Of that 6%, the following are the causes:

- 63% is as a result of program considerations;
- 11% because of victim/community reaction;
- 10% because of protection issues;
- 16% because of deportation orders, medical reasons and compassionate/family related reasons.

For the most part, accommodation of the offender at a security level higher than his security classification is temporary until a program is completed or a protection concern is resolved.

The Service is monitoring performance in the area of transfers. A report was provided to the CI in July 1999 and included data as well as an analysis of the timeliness of transfer decisions. With respect to the quality of the data, it is steadily improving as we continue to do in-depth reviews of sample cases, identify discrepancies and take action to resolve them.

PREVENTIVE SECURITY GUIDELINES

The CSC has developed a framework for policy development on issues related to Security Infrastructure, Management of Security Information, Preventing Situations and Containing and Controlling Situations. The area of Preventive Security is a priority for the Service.

The Preventive Security Standard Operating Practices (SOPs) are in draft form and we are now proceeding with our consultation process. The office of the CI will be included in our consultation. The SOPs will provide policy guidance in the following areas: creation, control and handling of preventive security files, reporting of security incidents, recording of preventive security information and management of human sources. Once the SOPs have been approved by EXCOM and promulgated, Preventive Security Standards will be developed and the necessary training will be provided.

USE OF FORCE - INVESTIGATIONS AND FOLLOW-UP

The Service remains committed to providing a means for information contained in the Use of Force Report to be entered into OMS. This is a significant task consisting of the collection, recording, reviewing, analysis, and sharing of information, on a national basis. To that effect, we have expanded our planned changes to the existing incident report screen to include the capability of producing additional information related to Use of Force. It is anticipated that these changes to OMS will be part of release 6.1 which will be the first operational release following the implementation of Operation By-Pass, planned for February 2000. In the meantime, the Security Branch has committed to producing a manual report on Use of Force information which will be included as part of the monthly incident reports. This will assist the Service in monitoring Use of Force incidents. Our first manual report was shared with the CI in early May 1999.

We agree that despite our continuous efforts to improve both the quality and timeliness of our Use of Force Reports, we are not yet satisfied with our performance in this area. The Service will continue in its efforts to provide the Institutions, via Regional Headquarters, the appropriate feedback to address noted problem areas and deficiencies.

The Service has developed a draft procedure dealing with the provision and review of videotapes. This SOP is currently in the consultation process. The SOP will address the issues of provision and review of videotapes to the CI and CSC senior management as recommended by Madame Justice Arbour. The SOP will also clarify specific responsibilities and accountabilities within the Service for ensuring that these incidents are thoroughly and objectively reviewed.

INMATE INJURIES AND INVESTIGATIONS

Violence

EXCOM reviews statistics dealing with institutional violence as part of the regular Correctional Results Report. In addition, a report on trends is provided to the regions, on a monthly basis, for information and action.

The Service agrees that violence in our institutions is of serious concern. We continue to monitor its' occurrence, and the Security Task Force will address this issue in its' December 1999 report to EXCOM.

As a result of discussions with the office of the CI, we have proposed to expand our reporting of institutional violence to include a wider range of indicators. This should result in a more representative picture of violence within our institutions.

In addition to broadening the indicators for institutional violence, the Service will ensure that the data are analyzed and that appropriate actions are taken. To this end, a multi-sectorial group of individuals who have involvement in the area of institutional violence will be formed to analyze each report that is produced. The following areas will be represented on this group: Security, Performance Assurance, Reintegration, Correctional Investigator Relations, Inmate Affairs and Research.

With respect to the number of violent deaths in institutions, the CI reports that this rate has doubled over the past year. According to CSC data, the national average over the last six years is 19.5 suicides and murders per year. Last year there were a total of 22 suicides and murders. Comparison of last year's total to the previous year's all time low total of 11, does indicate a 'doubling' of the numbers over the past year. However, when viewed in the broader context of the national trends over the last several years, last year saw a slight increase in the number of murders and suicides.

Suicide

CSC shares the CI's concern for the lives lost through suicides. Investigations of inmate suicides are the responsibility of the individual regions. Subsequently, Health Services at National Headquarters responds to suicide investigations by completing an Annual Retrospective Report on Suicides, albeit 18-24 months after the events. The retrospective report allows for the analysis of each suicide, with the aim of gathering statistics, identifying trends and identifying any areas for corrective action. EXCOM is updated on the number of suicides within the context of the Corporate Results Report.

Analysis of investigation reports has not revealed ways in which the majority of suicides could have been prevented. For example, there are few pre-indicators, most suicides are unpredictable and they are done on the spur of the moment. Further to a recommendation of the 1996-97 Retrospective Study, the Research Branch has initiated a study on male suicide attempters versus completers. This study is designed to examine predictors of suicide attempts and to assist in the management of risk and prevention of attempts.

Commissioner's Directive 843, Prevention of Suicide and Self-inflicted Injuries is being revised, based in large part on the recommendations of a recent independent external review of our policies and practices with respect to suicide prevention. A Standard Operating Practice will also provide even greater specificity to our institutional and community personnel with respect to issues of intervention and prevention.

EXCOM has committed to implementing one of the strongest recommendations in the report; the national implementation of a peer support program ("buddy system"). This fiscal year, CSC will also be reviewing the safety of inmate housing as well as determining the training requirements of its front-line staff. Finally, Health Services will consult with the Security Division regarding the appropriateness of stripping, special gowns, isolation, and camera observation.

Investigations

In response to concerns raised by the CI regarding:

- the timeliness of regional investigation reports, including suicide investigations;
- the need for more thorough investigations in instances of natural deaths; and,
- transmittal of investigation reports to the CI.

NHQ reinforced the importance of improving in these areas during a meeting in May 1999 with Regional Administrators, Performance Assurance. In addition, direction on these same issues was provided to the Regional Deputy Commissioners in June. This direction has been shared with the CI. NHQ works closely with regional counterparts to ensure a high quality of reports and regions are consistently advised of unsatisfactory reports. Our current training initiatives will also contribute to the quality of regional reports.

With respect to national investigations, CSC has reviewed the investigative process and made a number of changes, which has assisted in expediting the finalization of investigations. CSC will continue to consider other methods to speed up this process. CSC is currently conducting an analysis of the timeliness of national investigation and this will be shared with the CI.

The Service is also undertaking analysis in the area of the discrepancy between section 19 investigations received by the CI and those received at NHQ. Results of this analysis will be shared with the CI.

The Service acknowledges that the absence of adequate direction for the recording and reporting of inmate injuries has been a long-standing issue and there is a need for policy direction in this area.

In order to ensure that a coordinated approach to recording and reporting inmate injuries is in place, a commitment was made to the CI in late March 1999 to implement policy specific to this issue. Policy development will ensure that all injuries are reported and recorded and that those injuries that are categorized as "serious bodily injury" are investigated as per s. 19 of the CCRA. Further to consultation on CD 041, the definition of "serious bodily injury" was approved by the Executive Committee without changes and will therefore not be revisited.

FEDERALLLY SENTENCED WOMEN

The conditions of confinement for maximum security women do not meet the legal requirement of segregation, i.e. only out of cell for shower and 1 hour exercise daily.

As is the case with men offenders, maximum-security women are housed separately from medium and minimum-security offenders. There are those who do not accept the legitimacy of separating maximum- security women from the minimum and medium security women. This is problematic in that minimum and medium security women also have rights to safe and secure custody. Maximum-security inmates have institutional adjustment problems; they are often assaultive not only to staff but also towards other women offenders.

Maximum-security women are provided with programs and services and have freedom to associate within the maximum-security unit, unless they are segregated in accordance with the law. It should be noted that under the original plan for the regional facilities, maximum-security women also would not have associated freely with the general [minimum and medium security] population; they would have been housed in the Enhanced Units and would have left the unit for programming only under escort.

CSC has kept the CI informed of the status of the Intensive Intervention Strategy. A significant amount of work has been done to develop the Strategy and CSC is eager to move forward on its commitment to implement a long-term strategy that will see the closure of the co-located units. CSC hopes to be able to make the details of the Strategy public in the near future.

ABORIGINAL OFFENDERS

CSC agrees with the CI that overrepresentation by Aboriginal offenders is a high priority for continued action, and will review his recommendations carefully.

The disproportionate representations of Aboriginals in the federal correctional system are caused by many socio-economic factors beyond the control of the CSC. Although courts, through the recent Supreme Court decision in *Gladue*, will begin to consider alternatives to incarceration, it is highly likely that Crown Prosecutors will continue to advocate for federal incarceration for convicted Aboriginal offenders due to the fact that CSC offers a wide range of Aboriginal programs.

The CSC is committed to making federal corrections more responsive to the unique needs of Aboriginal offenders and to focussing on their reintegration by ensuring their safe, timely and successful conditional release. We have been working towards implementing a comprehensive aboriginal community correctional strategy that specifically addresses issues faced by Aboriginal offenders. The Service has engaged aboriginal communities in the development of a wide array of initiatives that may reduce the period of incarceration for aboriginal offenders.

The Service has five dedicated Aboriginal facilities, either existing or under construction. These facilities have full aboriginal community support and highly focussed programs for aboriginal offenders. They will greatly assist in addressing the timely release of Aboriginal offenders.

The Prairie Region together with National Headquarters has made significant gains in the area of reintegration. The Solicitor General, under Section 81 of the *CCRA* has transferred the Stan Daniels Centre from CSC authority to the Native Counselling Services of Alberta (NCSA). Also, in May of 1999, the Minister signed a Section 81 agreement with Alexis First Nations of Alberta. This agreement allows for the transfer of up to five Aboriginal offenders to a non-institutional care and custody environment. This type of agreement is the first of its kind and will act as a model that will lead to new dynamic Aboriginal care and custody initiatives.

The Service agrees with the comments made by the Correctional Investigator with regard to the under-representation of aboriginal offenders on conditional release. The service is committed to addressing this issue through its new approved Aboriginal Community policy. The new policy identifies the need for the Service to develop Aboriginal community correctional capacity where it does not exist, and more comprehensively access capacity where it does exist. This will be completed in full partnership with First Nations, Metis and Inuit communities.