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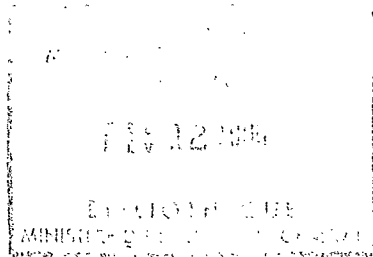
A PROPOSAL REGARDING
PROTECTIVE CUSTODY
IN FEDERAL INSTITUTIONS

James A. Vantour, Ph.D.

March, 1979

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April 2, 1979.

Mr. R. Diguier,
Deputy Commissioner, Security,
Corrections Services of Canada,
Ottawa, Ontario.

Dear Mr. Diguier:

Attached is the report A Proposal Regarding Protective Custody in Federal Institutions, commissioned by your office.

I will be pleased to discuss the report with you at your convenience.

Sincerely yours,

James A. Vantour, Ph.D.

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I wish to express my thanks to the many staff members throughout the Service for their contribution to this report. Many took time to collect data for us, arrange our visits to institutions and, above all, share their views on the "protection problem" with us. Their cooperation is appreciated.

Thanks, as well, to the many inmates who offered their views on the problem.

I particularly wish to thank Mr. C.W. Chitty of the Ontario Region. Mr. Chitty played a major role in the development of this proposal by visiting institutions, interviewing staff and inmates and offering sound advice to me on the basis of his many years of experience.

TERMS OF
REFERENCE

This study was begun on September 1, 1978 through the office of the Deputy Commissioner/Security, Correctional Services of Canada.

The mandate was:

1. To determine the factors resulting in an increase in the number of protection cases;
2. to determine methods of reducing numbers in protection; and
3. to determine the appropriate physical facilities and programs for protective custody units.

CHAPTER 1:
PROTECTIVE
CUSTODY: A
DEFINITION

Protective custody refers to the removal of an inmate from the population of the institution for his own safety. Such removal is an administrative action by the Director or his representative, in accordance with Penitentiary Service Regulation 2.30 (1) (b):

2.30 (1) Where the institutional head is satisfied that

- (a) for the maintenance of good order and discipline in the institution, or
- (b) in the best interests of an inmate

it is necessary or desirable that the inmate should be kept from associating with other inmates he may order the inmate to be dissociated accordingly. . .

Inmates generally regarded as requiring protection are:

- those who have, from the point of view of their peers, committed particularly abhorrent offences (e.g. sex offences especially where children are victimized);
- those who are, or are believed to be, crown witnesses or informers;
- ex-policemen or correctional officers and other authority figures;
- those who, for a variety of reasons, experience difficulties within the institution quite apart from the offence they may have committed.

CHAPTER 2:
THE INCREASE
IN NUMBERS

There is no reliable data on the number of federal inmates requiring protective custody prior to 1972.

Institutions did not have protection facilities *per se* until the early sixties. There is little, if any reference to protection until July, 1968 when a proposal was made to move protection cases to minimum camps.¹ This appears to be the first acknowledgement of the problem.

Data is available from December, 1972 to the present.

In December, 1972, 210 inmates (2.5% of the inmate population) were confined in protective custody facilities.

By November, 1974, the number in protection had increased to 369 or 4.25% of the total inmate population.

On October 31, 1978, the count in protection was 662 or 6.89% of the inmate population.

Figure 1 illustrates this increase.

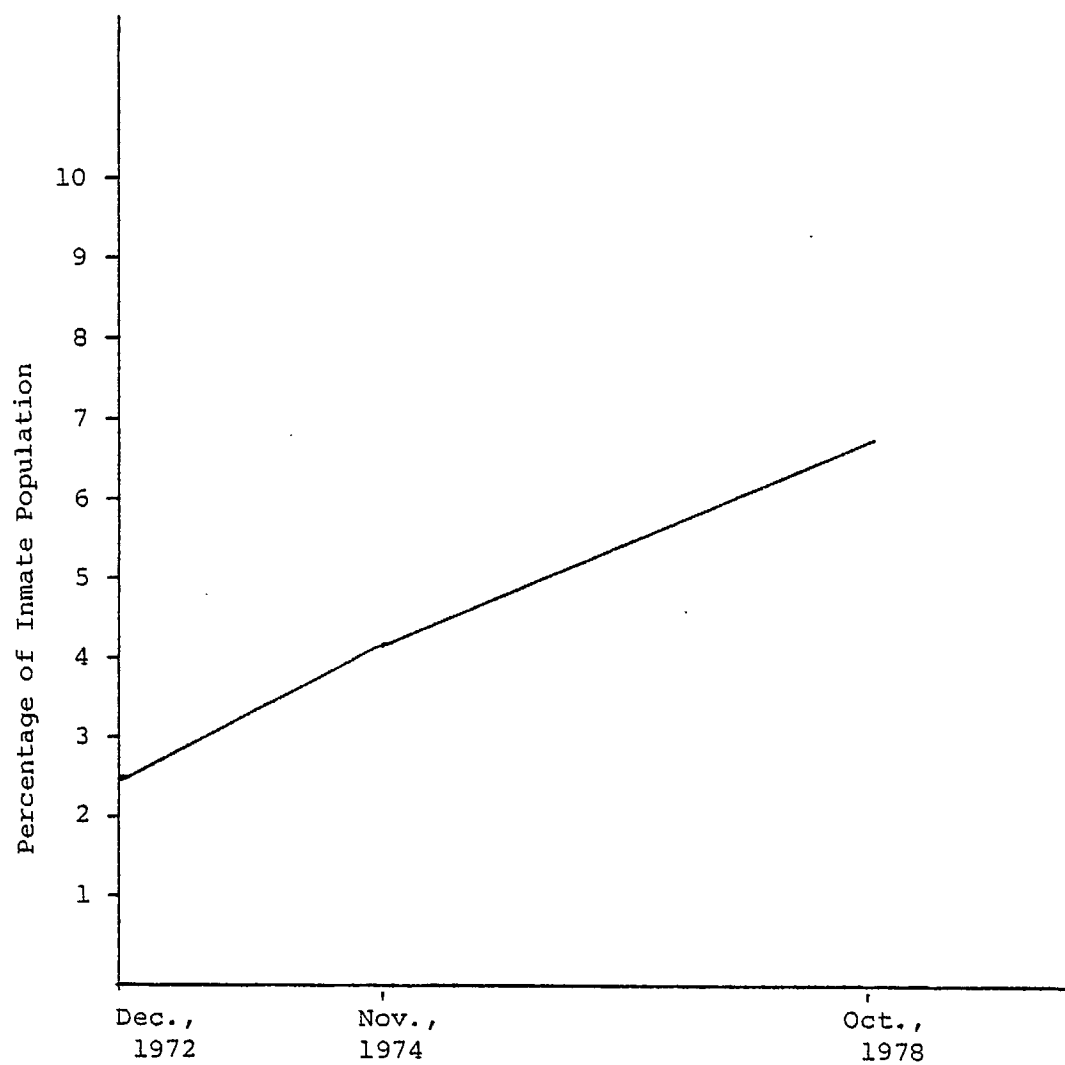


FIGURE 1
INCREASE IN THE NUMBER OF
PROTECTIVE CUSTODY INMATES,
1972 - 1978

Table 1 provides the percentage of inmates in protective custody per region on October 31, 1978 and, for comparative purposes, 1972-73 estimates.

TABLE 1
PERCENTAGE OF INMATES IN
PROTECTIVE CUSTODY PER REGION

Region	Percentage of Region's Population	
	1972-73*	Oct 31, 1978
Pacific	3.1	8.0
Prairies	3.4	12.6
Ontario	1.9	4.3
Quebec	1.0	5.5
Atlantic	3.2	7.7

* Estimates only

Although figures on protective custody are subject to considerable short-term fluctuations, there has clearly been a steady increase in numbers since protection became an acknowledged concern in federal institutions.

References

1. Canadian Penitentiary Service internal document, "Study of Dissociation: Summary of Headquarters Action since 1968." 1975. p. 1.

CHAPTER 3:

FACTORS ACCOUNTING

FOR THE INCREASE

We acknowledge that there has been a considerable increase in the protective custody numbers. This chapter is a discussion of the factors responsible for that increase.

Figure 2 is a summary of all the factors considered to be contributing to the increase.

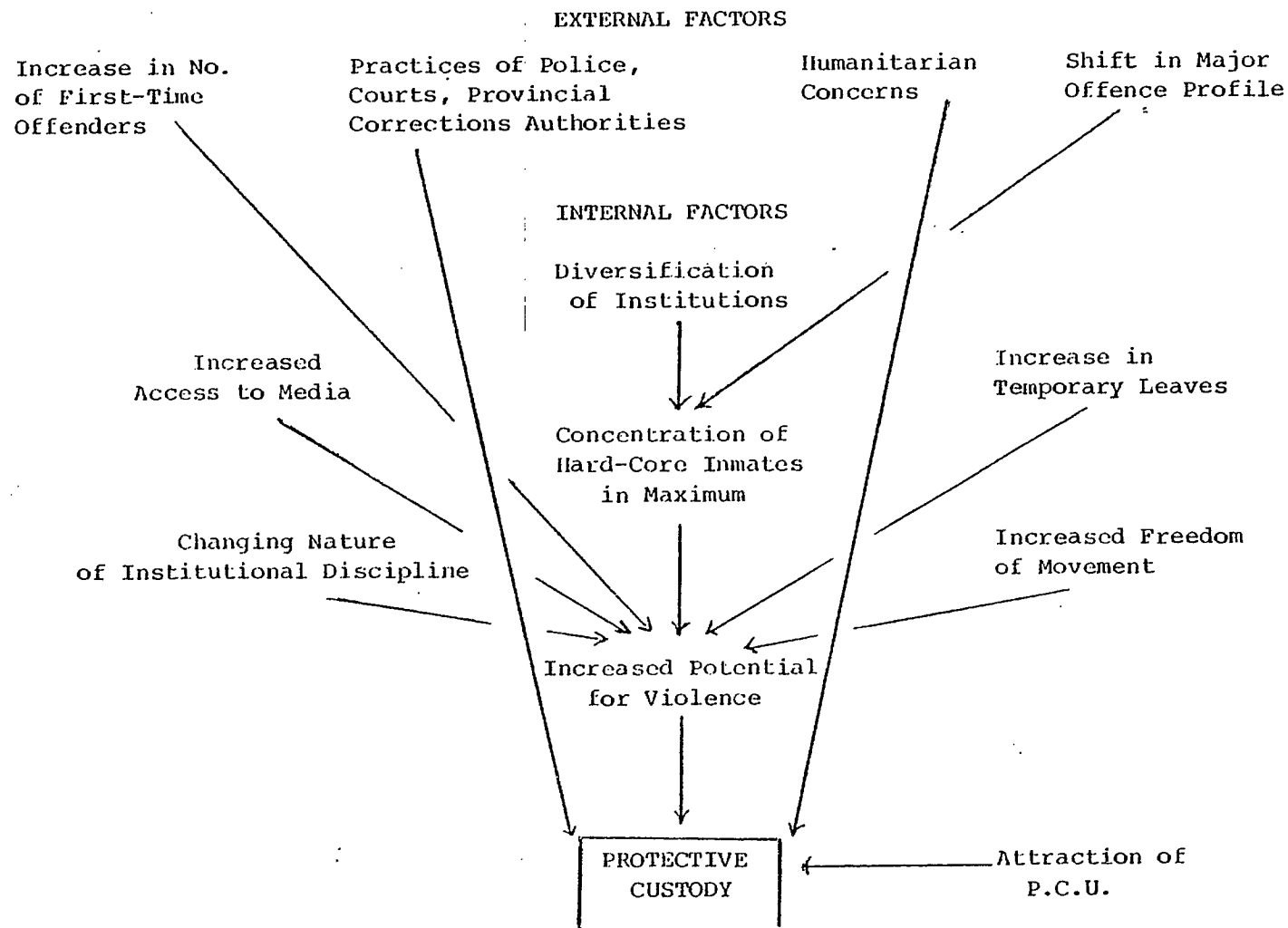
Two major clusters of factors are identified in the illustration:

1. External Factors - those attributed to sources other than the Correctional Services of Canada and therefore, at least to some extent, factors over which CSC has little control.
2. Internal Factors - those originating within the institutions and therefore, presumably, within the control of CSC.

Each factor is discussed in this chapter.

FIGURE 2

FACTORS ACCOUNTING FOR THE
INCREASE IN PROTECTION NUMBERS



The concept of "protective custody" implies a real or imagined threat of physical harm to those inmates deemed "undesirables" by the larger inmate population.

Since "protection" is a relatively recent phenomenon in the history of Canadian institutions, we assume that violence or the perceived threat of violence has increased from past to present.*

In examining this assumption, through an exploration of the changing character of the institution, we have identified a number of factors which suggest that, indeed, an increase in violence and/or the likelihood of violence has occurred and has been a significant factor in the recent increase in protection cases.

FACTORS CONTRIBUTING TO AN INCREASE IN THE POTENTIAL FOR VIOLENCE IN INSTITUTIONS

1. Increased Freedom of Movement

In an examination of the early years of penitentiary life in this country, we note the strict regime that prevailed. One of the most notable characteristics of the early penitentiary was the fact that the inmates' freedom of movement was so severely restricted.

ILLUSTRATION 3-1: Penitentiary Routine
Kingston Penitentiary, until 1900.¹

At Kingston Penitentiary, inmates were kept in absolute seclusion from society and were detained in a state of complete inactivity during the non-working hours...Rules of strict silence prevailed...As cells were too
(cont'd)

* This assumption does not preclude the possibility of other factors contributing to the increase in protective custody numbers. Additional factors are discussed later in this chapter.

small to allow for free movement, inmates were forced to lie down for twelve to sixteen hours per day...A teacher was employed to give individual instruction in cells during evening hours. No leisure or recreational facilities were provided.

Also noteworthy at that time was the "silent system" which ensured order on those occasions when inmates were not confined to their cells.

ILLUSTRATION 3-2: Rules and Regulations,
Kingston Penitentiary, October 22, 1836.²

The guards...had to 'preserve unbroken silence' among the inmates, who 'must not exchange a word with one another under any pretence whatever.' The convicts also 'must not exchange looks, wink, laugh, nod or gesticulate to each other.' When the bell rang for them to go to mess-hall, they were to come out of their cells 'in regular order and march with their faces inclined' in one direction. At chapel they were to be seated so 'as to confront the Minister, without looking into each other's faces.' The convicts were to yield 'perfect obedience and submission to their keepers', and were at all times 'to labour diligently'. Over them always hung this final threat, no idle one, as we shall see: 'for wilful violation of any of these duties, corporal punishment will be instantly inflicted'.

This lack of opportunity for inmates to interact with one another, due to both the long hours of cell time and the silent system that prevailed during non-cell time, certainly minimized the threat to any inmates who may have been perceived as "undesirables" and thus, in today's institution, would be candidates for protective custody.

The period from the late eighteen hundreds to the present is characterized by the gradual liberation of the inmate from his cell to considerable leisure time activity and the elimination of the silent system.

ILLUSTRATION 3-3: History of the Penitentiary Routine, 1900-1960.³

As a result of the revision of the penitentiary regulations in 1933, inmates employed in work-shops and offices were granted half-hour daily exercise periods in fresh air. The rule of silence prevailed...

Soon the importance of social activities was recognized. The rule of silence was relaxed; conversation between inmates was permitted at meal time, and in cells after lock-up until 7:00 p.m.. Silence at work still prevailed however...

The period from 1914 to 1939 was largely a transitional period introducing the idea described above that inmates were entitled to some limited enjoyment during their leisure hours. Recreation was still officially considered a "fringe benefit"...

This period culminated in the official recognition, through the recommendations contained in the 1938 Report of the Royal Commission to Investigate the Penal System of Canada (Archambault Report), of the importance of constructive application of recreation in the treatment of offenders.

Inmates were now permitted to walk in pairs and to converse during fresh air exercises. Competitive games were now allowed in all penitentiaries. Recreation was increased in non-working hours.

The institution has progressed from a situation of almost total lock-up with its rule of silence and where leisure time was non-existent to a situation much in keeping with the 1973 Swackhammer recommendation that "There should ... be no substantial period of time during the regular day when inmates are compelled to remain confined to their cells."⁴

ILLUSTRATION 3-4: The Daily Routine of the
Saskatchewan Penitentiary, 1979⁵

Routine for General Population

Monday to Friday

0600 -	hours	kitchen inmates to kitchen
0630 -		count
0715 -		population awakened by P.A. system
0730 - 0800		breakfast service
0805 -		inmates to work
1110 - 1140		lunch served
1140 - 1200		count
1305 -		inmates to work
1605 -		inmates from shops to cells
1630 -		count taken
1715 - 1735		dinner served
1755 - 2130		inmates to exercise from dining halls
2130 - 2145		inmates to cells from exercise
2200 -		final count
2230 -		water men to cells

Routine for General Population

Sat., Sun., and Stat. Holidays

0630 -	kitchen inmates to kitchen
0745 -	count taken
0800 -	wake up by P.A. system
0815 - 0845	breakfast served
0845 - 1100	exercise, auditorium and small yard - protestant and catholic church services available
1100 - 1140	lunch served
1140 - 1200	inmates to cell and count taken
1300 - 1545	inmates to exercise

(cont'd)

1545 - 1630	dinner served
1630 - 1700	inmates to cells - count taken
1730 - 2100	inmates to exercise, auditorium, small yard and main yard
2100 - 2130	inmates from exercise to cells
2130 - 2200	final count taken

The above discussion suggests that it was not until recent years that inmates had sufficient freedom of movement within the institution to allow them access to one another. The restricted movement, under the watchful eye of their keepers, was clearly a factor which prohibited inmate assaults or even threats of assault against those they considered "undesirable". With increased freedom of movement, more leisure time activities and the elimination of the silent system, the environment made necessary, and indeed, encouraged, interaction among inmates. It should have been anticipated that in a total institution, particularly where persons are being held against their will and are in competition for scarce resources, including status, conflict would ensue.

2. The Changing Nature of Institutional Discipline

Another noteworthy aspect of early institutions was the severity of punishments awarded for violations of penitentiary rules. This point was alluded to in Illustration 3-2. It suggested that the severity of punishments for offences much less serious than assaulting another inmate surely acted as a deterrent to rule-breaking behaviour.

ILLUSTRATION 3-5: Punishments at Kingston⁶
Penitentiary in the Early Decades.

Each day for the convict consisted of "labour in common, under the strictest surveillance to prevent conversation, and segregation in the cell when off work...with a continued watchful guard for the prevention of speaking, disturbance, or infraction of these rules."

...Breaches of regulations in the institution entailed punishment of a swift and often brutal nature. From June 1835, until April 1842, the punishments adopted were flogging with the cat-o-nine tails and flogging with the rawhide. From April 1842, to October 1846, irons, solitary confinement, and bread and water instead of regular rations were added to the list. Punishment was not only severe but also frequent, with offences being considered worthy of corporal punishment which in modern correctional institutions would be ignored or merely reprimanded...

With less than 500 convicts imprisoned in 1845 the number of recorded punishments was 2,102 and this figure rose to 6,063 by 1847. In the years 1845 and 1846 the number of corporal punishments alone averaged between four and five punishments each year for every man, woman and child in prison. As many a twenty, thirty, or even forty men were flogged in one morning.

In this respect, it is interesting to note that as recently as the nineteen fifties, despite the fact that inmates enjoyed considerably more freedom than in earlier years, there was still no need for protective custody facilities.

The absence of a protection problem may be explained, in part, by the fact that the Warden held ultimate authority in instances where altercations occurred between inmates. They were brought before the

Warden who made it clear that if either were found to have been assaulted, the other would be held accountable and could expect to feel the full force of the disciplinary measures available which, at that time, still included the strap and punitive dissociation. In view of the Warden's warning, inmates in those circumstances would often protect themselves from administrative action by ensuring that no assaults occurred on their adversaries.

Today, disciplinary measures are generally considered more humane. Torture no longer exists and the administration's response to violations of prison rules is usually a loss of privileges, loss of remission or, at worst, punitive dissociation. The deterrent effect of prison discipline was probably more effective in the past than in the present.

3. The Diversification of Institutions

During the nineteen sixties, the Penitentiary Service developed an institutional classification system, a diversification program which recognized that many types of offenders were confined in one type of institution - maximum security. It was felt that only about thirty per cent of inmates required maximum security. Where the benefits of expanding to medium and minimum security institution were obvious for those offenders not requiring maximum, the new direction was not without disadvantages. It left, in the maximums, a concentration of hard-core inmates - those considered least amenable to treatment or serving very long sentences. Where once the inmate population had its own stabilizing capacity through a variety of age groups, offences and varying lengths of sentences, this no longer exists due to the classification process.

ILLUSTRATION 3-6: Security Classification
of Inmates, 1960 - 1978.⁷

Year	Maximum		Medium		Minimum		Total
	N	%	N	%	N	%	
1960	5900	94	200	3	200	3	6300
1971*	2665	37	3126	42	809	11	7265
1978	3065	33	4829	52	1300	14	9287
* 9% of inmate population in "specialized" institutions							

We believe that the present inmate composition in maximum security institutions in itself provides a greater potential for violence.

There are other factors which suggest that the maximum security institution has changed in character even from the mid-sixties.

4. Shift in Major Offence Profile of Inmates

A comparison of the major offence profile of federal inmates on January 1, 1968 and December 31, 1974 reveals a substantial increase in violent and drug-related offences and a corresponding decrease in offences again property.

ILLUSTRATION 3-7: Shift in Major Offences from 1968 to 1974. ⁸		
Major Offence Type	Net Change Jan. 1, 1968- Dec.31, 1974	Net Change as % of Inmates on Register, Dec. 31, 1974
Murder, Attempted Murder or Manslaughter	+567	+6.7%
D.S.O. or Rape or Other Sexual Offences	+194	+2.3%
Wounding, Assaults or Robbery	+739	+8.7%
Narcotics Control Act	+512	+6.0%
Sub-total	2,012	23.7%
Break and Enter or Theft or Possession	-729	-8.6%
Frauds	- 5	-0.1%
Other (including revocations)	-180	-2.2%
Sub-total	-554	-6.5%
Grand-total	+1,458	+17.2%

This trend indicates a higher percentage of inmates with offence backgrounds characterized by violence and results in a further concentration of "hard-core" inmates in federal institutions and, in particular, maximum security.

The trend can be explained in part by the recent emphasis on diversion. The federal institutions are just beginning to feel the impact of the diversion movement. This is illustrated by the following:

From 1960 to 1972 the annual number of convictions in Canada for indictable offences rose from 35,000 to 46,000; but sentences for incarceration in prisons and penitentiaries actually declined from 17,500 (about 50%) to 15,800 (about 35%). The penitentiaries are receiving an increasing proportion of these admissions.⁹

It should not be unexpected, then, that although average sentence lengths "have not changed markedly...there has been some increase from medium to long term sentences".¹⁰

This contributes to the greater concentration of hard-core offenders in federal institutions for longer periods of time.

5. Increase in the Number of First-Time Offenders in Federal Institutions

There has been a considerable increase in the number of first-time offenders in federal institutions with no previous prison or penitentiary experience. Their numbers have increased from twenty per cent of all admissions in 1968-69 to twenty eight per cent in 1973-74.¹¹

Many of the inmates interviewed during this study acknowledged that the character of the maximum security population had changed since the mid-sixties and attributed this change, in part, to the larger number of younger inmates in today's institutions with no previous institutional experience.

They depicted the inmate population of earlier years as "more professional" and more capable of "doing their own time". Most would not act without considering the consequences of attracting attention,

or "drawing the heat", to a particular area or segment of the inmate population.

This had obvious consequences for the protective custody problem. If an "undesirable" was housed with the main population, representation would be made to have the inmate moved elsewhere. An "emissary" would approach the Keeper in Charge and suggest that the man be allowed to apply for a job on the farm or the piggery. Most of the sex offenders and unwanted could be found in this type of employment. That is, the unpopular jobs fell to the unpopular inmates. Farm, piggery and coal gang inmates were housed together for convenience and were not in direct association with the general population. If a move was not immediately arranged, the inmate would simply be "put on the dummy" (ignored) and the inmate concerned would initiate his own move.

It seems that, with the harsher conditions of that era, there may have been more solidarity among inmates thus providing strength in numbers against an oppressive regime.

Today, with increased privileges through the attempt to "normalize" institutional life, and a greater proportion of inexperienced inmates, the same degree of solidarity does not exist, thus further jeopardizing the "undesirable's" safety.

ILLUSTRATION 3-8: Inmate Comment on Changing Population¹²

There has been a change in population. The older type cons and now the younger kids doing longer time and they can't do their own time. We didn't use to have the pill pushers and these punks have big time, nothing to lose and are determined to run the joint. The new generation does not appreciate the privileges we have fought for over the years. I feel you could open the place up if you got rid of the element of goofs and punks.

That new inmates may not be able to "do time" may also be evident from data presented in the Seunath Report, A Study of the Increasing Number of Protective Custody Cases: Prairie Region, 1978. Seunath reports on protective custody inmates at Saskatchewan Penitentiary:

1. Among the sex offenders 60% have never served a penitentiary term.
2. By extracting from the data 30% have served neither a provincial nor a federal term.

The same trend is noted for the non-sex group.

1. Seventy (70%) percent have never served a penitentiary term.
2. By extraction 34% of them have served neither a provincial nor a federal term.

The idea seems to be emerging that a large percentage of the PC inmates have no previous incarcerations and although their offence may have been serious enough to warrant placement in a maximum security prison they may be unable to cope with the environment.¹³

The conclusion seems to be that first-time inmates are less able to "do time" (no doubt due at least in part to the factors discussed above) and respond by either hassling other inmates or avoiding hassles by seeking protection.

6. Increased Use of Temporary Absences and Day Paroles

Programs which permit inmates temporary leaves from institutions have the unintended consequence of putting considerable pressure on inmates to "do favours" for other inmates, such as smuggling drugs into the institution upon return. An inmate's failure or refusal to cooperate with his peers is likely to place him in some jeopardy and he may feel the need for protective custody.

7. Inmates' Increased Access to Media

Coincidental with the increased freedom of movement and leisure time activities enjoyed by inmates has been their increased access to the media. This affords them an awareness of those sentenced by the courts and ultimately the knowledge of "undesirables" arriving at the institution.

New inmates cannot hide the nature of their offence as they once may have. They are stigmatized even before their arrival at the institution. This means that they will request protection immediately upon admission* or that the administration will take the initiative in providing protection. Failure to do so is likely to result in assault due to the population's prior knowledge of the new arrival.

* This implies that even offenders without previous institutional experience may be aware of the high risk situation in which they will find themselves. This point is discussed further below.

In summary, the following have been identified as factors contributing to an increase in violence or the potential for violence in the prison community:

- an increased freedom of movement within the institution providing inmates with greater access to one another;
- the changing nature of institutional discipline which today has lessened the consequences of rule-breaking behaviour;
- the diversification of institutions resulting in a greater concentration of hard-core inmates in maximum-security institutions;
- the shift in the major offence profile of inmates resulting in a greater concentration of inmates with backgrounds of violence and drug related offences;
- the increase in the number of first-time offenders with no previous institutional experience and less able to "do time" than their counterparts of the sixties;
- the increased use of temporary leaves resulting in inmates being pressured to "do favours" and introduce contraband;
- the inmates' increased access to the media providing a knowledge of "undesirables" prior to their arrival in the institution.

We suggest that, because of the above factors, violence or the perceived threat of violence has increased in institutions from past to present.

This increased violence or threat of violence has caused inmates to seek protection.

Some support can be found for this contention that the atmosphere of institutions, particularly maximums, is more violent today than ever before.

EVIDENCE OF AN INCREASE IN THE POTENTIAL FOR VIOLENCE IN INSTITUTIONS

1. In an examination of major incidents in federal institutions over the years, it is revealed that there were more major incidents in 1975-76 than in the previous forty-two years.

ILLUSTRATION 3-9: Major Incidents in Canadian Penitentiaries¹⁴

Seven years of comparative peace in the Canadian Penitentiary System ended in 1970 with a series of upheavals (riots, strikes, murders and hostage-takings) that grew in numbers and size with each passing year. By 1976 the prison explosions were almost constant; hardly a week passed without another violent incident. The majority were in Canada's maximum security institutions. In the 42 years between 1932 and 1974 there were a total of 65 major incidents in federal penitentiaries. Yet in two years - 1975 and 1976 - there was a total of 69 major incidents, including 35 hostage-takings involving 92 victims, one of whom (a prison officer) was killed.

This fact, in itself, suggests a potentially violent atmosphere which may scare inmates into protective custody. There is, as well, the fact that each incident can impact very directly on inmates who do not wish to become involved (refusal to become involved may, in itself, be a legitimate reason for seeking protective custody.) An inmate may

want to "do his own time" or simply not jeopardize his chances for parole or temporary absence. In addition, any incident can be accompanied by any number of witnesses and, again, this places the inmate witness in an unenviable position, the solution to which may be protective custody.

2. Of particular relevance to the protective custody problem is the violence that occurred in April, 1971 at the Kingston Penitentiary. In that riot, the entire protective custody population was assaulted with a number being seriously injured and two killed. This incident demonstrated that the threat of violence toward those considered "undesirable" was real, and the riot may have been a turning point in the history of protective custody in federal institutions.

In fact, the Kingston riot may more appropriately be considered a causal factor in the increase in protective custody numbers rather than simply evidence of increased violence.

3. Coincidental with the growth in protective custody numbers is a similar increase in the number of inmates dissociated under P.S.R. 2.30 (1) (a) - Administrative Segregation - for the good order and discipline of the institution.

A decision to segregate an inmate under this regulation is an administrative action which may be prompted by one of the following:

- suspicion of having committed or planned some action which serves to disrupt the good order of the institution, such as an escape, assault, or riot, or an offence which is punishable in an outside court...
- refusal to cooperate in the institutional routine or programme;
- on request. An inmate may feel that he requires protection from other inmates but is afraid of the consequences of being labeled a "protection case". Or, he may simply feel that it is easier to serve his sentence in segregation since

he can avoid the relatively hectic and noisy pace and the harassments of institutional life.¹⁵

In November, 1974, 1.6% (139 inmates) of the total inmate population was in administrative segregation. By October 31, 1978, this figure had risen to 3.03% (308 inmates).

4. Further evidence of the changing character of the institution is the changing protective custody profile.

Traditionally, inmates in protection were sex offenders, informers and ex-policemen, with sex offenders constituting a large majority. Today's profile indicates that there has been a steadily increasing number of inmates in protective custody who do not fit any one of the above categories.

Seunath reports in his study of protection at Saskatchewan Penitentiary that "more than half (54.4%) of the present PC population are classified as non-sex offenders."*¹⁶

He also points out that, on average, the sex offender "has been there for a longer time. This may be reflecting the idea that non-sex offenders are more recently being granted PC status."¹⁷

* This figure is subject to limitation, however, Seunath points out that his population of protective custody inmates was..."separated into two groups - sex offenders and non-sex offenders based on the primary offence resulting in the present incarceration". (p. 8) He allows for the fact that a small percentage of non-sex offenders "may have committed crimes with sexual undertones e.g. manslaughter which may have involved sex..." (p. 10) It is also possible, however, that those categorized as non-sex offenders, based on the primary offence resulting in the present incarceration, may have committed a sex offence at some earlier point for which they may even have served time in protective custody. This problem of the protective custody recidivist is discussed later.

A similar profile can be seen in other institutions. Minutes of the Segregation Review Board of June 19, 1978 at Dorchester Penitentiary indicate that of fifty-seven inmates reported in protective custody on that date, only twenty-three were clearly identified as fitting the traditional profile of protection cases. Of these, fifteen were sex offenders, seven were informers and one was an ex-correctional officer.

Of the remaining thirty-four one was in protection because of his involvement in drug deals on the street, two had been transferred from protection in another institution (reasons for original protection not stated) and two at their own request (no evidence of sex offences).

It is interesting to note that two others were protective custody recidivists. That is, they had served time in protection on a previous term.

The remaining twenty-seven were classified as having institutional problems. Some of the reasons stated are as follows:

- gambling debts;
- peer group pressure;
- inability to adjust;
- involved in a fight (not clear why);
- cell thief;
- inability to interact with other inmates;
- supporting institutional authorities;
- personal feud;
- racial discrimination;
- identified with staff.

The Saskatchewan Penitentiary study reports a similar finding. Of the non-sex offender group, "more than half (58.9%) claimed that hassles in the population was the reason for their PC status."¹⁸

The same data was not available for all regions. Nevertheless, there seems to be some support for the contention that the protective custody inmate profile is changing. It suggests that many inmates cannot or do not want to do time in the population and, as a result, seek out protective custody.

OTHER FACTORS CONTRIBUTING TO THE INCREASE IN PROTECTIVE CUSTODY NUMBERS

In addition to those factors which contribute to a more violent institution, or one that is at least perceived as more violent, there are three other factors which would appear to have some impact on the growing numbers.

1. Practices of Police, Courts and Provincial Correctional Authorities

Another external factor is the awareness of the protective custody problem in penitentiaries by courts, police and provincial correctional authorities.

The Seunath Report comments at length on this problem. The report notes, first, that the largest percentage of inmates in Protective Custody at Saskatchewan Penitentiary are from the Edmonton and Calgary remand centres. Quite apart from the much larger population in Alberta than in Manitoba and Saskatchewan (the major sources of inmates for Saskatchewan Penitentiary), and a larger incidence of reported sex offences, Seunath has identified other factors that contribute to the large numbers from Alberta.

He notes that, in Edmonton in about 1976, the Office of the Crown Prosecutor

introduced a tactic which resulted in the trials of co-accused individuals being "split-up". When this procedure was instigated the Crown would then allegedly attempt to persuade individuals to testify against one another. Persuasion usually took the form of possible contempt of Court or perjury charges.

...this practice resulted in a large number of informers in the Edmonton area who required protective custody.¹⁹

In addition, he indicates that

Edmonton City Police had successfully managed to encourage many individuals to provide information on co-accused and individuals involved in separate incidents. Part of the Edmonton City Police's success in this area has stemmed from the fact that they offered these informants protective custody.²⁰

Seunath has also identified another factor at the police level that may contribute to the problem. He notes that one of the reasons why some inmates are identified as protection cases before they reach the provincial institution is due to RCMP policy in transporting offenders. They

are responsible for the transportation of inmates, mainly in large buses, which apparently have special screen areas for individuals the R.C.M.P. feel might need protection...the ride to the institution was often so unnerving for these individuals that many requested protective custody as soon as they reached the institution.²¹

At the level of the provincial correctional institution, Seunath notes that Fort Saskatchewan has no formal procedure for placing inmates in protection. "The inmate merely requests to be designated as such and after a brief assessment by supervisory personnel he is usually placed."²²

Seunath, then, has identified four factors related to the "administration of justice", at least in Alberta, as contributing to the protective custody situation at Saskatchewan Penitentiary.

2. General Humanitarian Concerns

Another external factor contributing to the increase in the number of protective custody inmates is an increased humanitarian concern on the part of the public and, more specifically, special interest groups and the media, about what takes place in institutions.

Prisons are no longer "closed" to public scrutiny and "inhumane treatment", such as placing an "undesirable" in a high-risk situation, is not tolerated by outside interest groups.

The 1972 Study Group on Protective Custody acknowledged this point in explaining number at that time:

persons on the outside are taking more notice of what goes on "inside". Inmates are allowed to write uncensored letters to the press, to relatives, etc. and these letters often cause members of the public to demand action. Lawyers are coming into the picture more than ever before and action from that quarter forces the Service to take cognizance of the rights of person seeking protective custody.²³

This concern was evident in 1969 when an attempt was made, on the initiative of the administration of the British Columbia Penitentiary, to force sixteen protective custody inmates into the population against their will:

Within a matter of weeks, these inmates returned to protective custody by slashing themselves, assaults or attempted assaults were made on them by other inmates, their cells were burned out, their behaviour was deliberate in committing offences so that they would be sent back to SCU, also members of the family and other people in the community made representation in getting them back to protective custody.²⁴

One could expect an even more vociferous community reaction, particularly from family and interest groups, today than the reaction to this incident.

The result is considerable pressure on institutional administration to avoid placing inmates in high-risk situations and therefore play it safe by granting protection to any inmate who requests it or is considered by the administration to require it.

3. Attraction of Protective Custody Units

We have talked to many inmates who regard the protective custody unit as "a good place to do time". Clearly, it is "good" in the sense that the inmate may feel free from the potential violence he perceives in the general population. In addition, however, it is seen by many as an "easy" place to do time. For inmates who do not want to work, or do not want even the "normal hassles" of institutional life, protection facilities can be attractive.

This may be particularly so at Saskatchewan Penitentiary where over one hundred inmates are housed in two dormitories. The facilities and atmosphere in the dormitories are clearly medium security.

We suggest, then, that inmates may seek out protective custody as a safe, comfortable place.

SUMMARY

We began this chapter with the assumption that violence or the perceived threat of violence in institutions has increased from past to present. Seven factors were identified as contributing to this changing character of the institution which, in turn, prompts inmates to seek protection:

- an increased freedom of movement within the institution providing inmates with greater access to one another;
- the changing nature of institutional discipline which today has lessened the consequences of rule-breaking behaviour;
- the diversification of institutions resulting in a greater concentration of hard-core inmates in maximum-security institutions;
- the shift in the major offence profile of inmates resulting in a greater concentration of inmates with backgrounds of violence and drug related offences;
- the increase in the number of first-time offenders with no previous institutional experience and less able to "do time" than their counterparts of the sixties;
- the increased use of temporary leaves resulting in inmates being pressured to "do favours" and introduce contraband;
- the inmates' increased access to the media providing a knowledge of "undesirables" prior to their arrival in the institution.

We pointed to the following as evidence that, in fact, institutions are more violent today than in earlier days:

- a drastic increase in 1975-76 in the number of major incidents in federal institutions;
- the Kingston Penitentiary riot of 1971 in which protective custody inmates were assaulted;
- an increase in the number of inmates segregated for the good order and discipline of the institution;

Furthermore, that institutions are perceived by certain inmates as more violent, or potentially more violent, is reflected in the evidence presented on the changing profile of protective custody inmates. A sizable proportion of inmates are in protection to avoid hassles in the population.

Three other factors were acknowledged as possibly having contributed to the growing numbers in protection:

- the practices of police, courts and provincial correctional authorities;
- general humanitarian concerns about the rights of inmates;
- the attraction of protective custody units.

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CHAPTER 4:
THE PRESENT
SITUATION

DISTRIBUTION OF PROTECTIVE CUSTODY INMATES

On October 31, 1978, 662 inmates were housed in protective custody facilities. This constituted 6.89% of the total inmate population. Forty six were being held in medium security (including twenty six in Mountain Prison), some of whom were awaiting transfer to maximum security; two female inmates were in protection in the Prison for Women. The remaining 614 were confined in five maximum security institutions as each region has designated one maximum for all protection cases within the region.

Table 2 illustrates the distribution by region and, within regions, by institution.

TABLE 2
NUMBER OF INMATES IN
PROTECTIVE CUSTODY PER
REGION/INSTITUTION

Region	Institution	No. In Protection	Total Popul. of Region	% of Regional Count in Protection
Pacific	B.C.P.	85	1357	8.0
	Mt. Prison	26		
	<u>Total</u>	<u>111</u>		
Prairies	<u>Sask. Pen</u>	<u>215</u>	1718	12.6
	<u>Total</u>	<u>215</u>		
Ontario	R.R.C.	88	2320	4.3
	Prison for Women	2		
	Collins Bay	7		
	<u>Joyceville</u>	<u>5</u>		
	<u>Total</u>	<u>102</u>		
Quebec	<u>Laval</u>	<u>168</u>	3041	5.5
	<u>Total</u>	<u>168</u>		
Atlantic	Dorchester	58	851	7.7
	Springhill	3		
	Prov. Institutions	5		
	<u>Total</u>	<u>66</u>		
Total		662	9287	6.89

ACTIVITIES FOR PROTECTIVE CUSTODY INMATES

The following is a brief discussion of activities for inmates presently in protective custody. Discussion is limited to the five maximum security institutions which collectively house 93 per cent of all protection cases.

The discussion focuses on three aspects of the inmate's life: time out of cell, work and programs.*

1. Time out of Cell

The amount of time a protective custody inmate spends out of his cell is as follows:**

B.C. Penitentiary - 14-15 hours per day, including one half hour outside exercise during week and 5½ hours on weekends.

Saskatchewan Penitentiary - 12½ hours per day, including 4-5 hours outside exercise for inmates in dormitories; three hours per day, including one hour outside exercise for those in cell blocks.

R.R.C. (Ontario) - up to twelve hours per day, including 1½-2 hours outside exercise.

Laval - nine hours per day, including five hours outside exercise for those who work and six hours outside for those who do not work.

Dorchester Penitentiary - ten hours per day, including one hour outside exercise.

* All data in this section is derived from correspondence from G. Fife, Coordinator, Implementation Parliamentary Report on the Penitentiary System, November 15, 1978.

** The data does not apply to protection cases in the maximum security institutions who are confined within special facilities such as segregation and the hospital.

2. Work Opportunities

Table 3 Indicates the number of inmates in protective custody who were, on October 31, 1978, listed as employed.

TABLE 3
NUMBER OF INMATES IN
PROTECTIVE CUSTODY EMPLOYED/UNEMPLOYED,
OCT. 31, 1978

INSTITUTION	EMPLOYED	UNEMPLOYED	TOTAL
B.C.P.	54	31	85
Sask. Pen	121	94	215
R.R.C. (Ont)	54	34	88
Laval	126	42	168
Dorchester	14	44	58
Total	369	245*	614

* It should be noted that some inmates are unemployed because they are confined to the hospital or segregation. Sask. Pen. also acknowledges those unemployed due to "security reasons".

The work opportunities available and the numbers employed in each are listed below by institution:

B.C. Penitentiary

Recreation	4
Cleaners	17
Barber	1
GED School Program	11
University Program	1
Library	1
Carpentry	10
Engineers	1
PCU maintenance such as plumbing, electrical, paint and carpentry	8
Total	<u>54</u>

Saskatchewan Penitentiary

Industries	
Canvas Shop	24
Tailor Shop	15
Technical Services	
Cleaners	17
Barbers	11
Kitchen	11
Electricians	2
Plumbers	1
Carpenters	1
Heating	2
Education and Training	
Upholstery	9
Academic Upgrading	14
Social Development	
Coordinators Clerk	1
Recreation Gang	9
Spare Gang	2
Library	1
Newspaper	1
Total	<u>121</u>

Regional Reception Centre (Ontario)

Cleaners	6
Barbers	1
Canvas Repair	31
Gardening	13
Recreation Clean-Up	3
Total	<u>54</u>

Laval

Industries	
Mail Bags	28
Metal Shops	16
Paint Shop	7
Services and Maintenance	
Kitchen	25
Barber	1
Personal Effects Clerk	1
Change Room	3
Cleaners	17
Inmate Committee	1
Cell Block Paint Team	2
Extras	3
Socialization	
School	11
Library	2
Sports Team	4
Temporary Absence	5
Total	126

Dorchester Penitentiary

Cleaners	4
School	10
Total	14

3. Programs

Generally, a wide range of program activities is available in protective custody units although not all inmates have access, and some institutions have more than others.

The types of programs available are listed below by institution:

B.C. Penitentiary

- outside recreation facilities (tennis, badminton, jogging and weight lifting)
- library
- hobbycraft
- closed visits plus open visits on request
- quiet time activities on ranges (card games, pool, shuffelboard)
- PCU inmate committee

All PCU inmates can take part in the above. Participation is moderately high.

Saskatchewan Penitentiary

All P.C. inmates are on Individual Program Planning (I.P.P.). For inmates locked up 23 hours per day this means their program plan is to demonstrate good behaviour in order to increase the time out of the cell. For inmates spending more time out of their cells, programs include:

- separate P.C. library and access to main library
- publication of P.C. newspaper
- visiting and correspondence
- hobbycraft
- A.A. program
- life skills course
- indoor-outdoor recreation (i.e. shuffleboard, weightlifting, movies, cards, ping pong).

R.R.C. (Ontario)

- Alcoholics Anonymous 21 inmates
- National Coaching Clinic 8 inmates
- library 2 half days per week 74 inmates
- movies (1 per week)
- organized bridge games 2 afternoons per week plus quiet-time games on the ranges every day
- life skills for 3 half days involves 10 inmates
- hobbycraft for 1/2 day per week 4 inmates
- discussion groups 1 1/2 days per week 8 inmates
- recreation: yard 1 1/2-2 hours except
 - Sat. & Sun. - 1 hour
 - gym - Monday 1 1/2 hours
 - Thursday 2 1/2 hours

Laval

- library
- recreation yard (softball, weight lifting, volley ball, handball, ping pong, skating and pool)
- social cultural programs (2 per night four times per week, e.g. A.A., music, film club in French and English, animal life studies and therapy groups)
- religious services
- academic courses (15 full time, 30 in correspondence courses)
- hobbycraft - 75 inmates are involved.

Dorchester Penitentiary

- academic courses for 5 half days per week
- recreation in yard and on the ranges.

Conclusion

The following conclusions are drawn from the above data:

1. Most inmates spend a reasonable part of their day outside their cells.

The most notable exceptions, apart from protective custody inmates in special facilities such as the hospital and segregation, are the inmates confined in the cell blocks at Saskatchewan Penitentiary. They spend only three hours per day out of cells.*

2. Time spend out of cells is, however, largely unproductive.

An analysis of the above data suggests that very few of the inmates in protection are learning a trade/developing

* Saskatchewan Penitentiary finds itself in a situation where the numbers have increased dramatically. In early February, 1979, the protection number had reached 250, or one-half the total population. (This obviously is a problem in itself and one which is considered in this report). To accommodate the growing numbers, a third dormitory is near completion. We are concerned, nevertheless, that protective custody inmates in the cell block must "demonstrate good behaviour in order to increase the time out of the cell". Protective custody inmates should not be punished by virtue of their status and we consider this type of policy to be contrary to the regulations.

marketable skills. Nor will many experience any long term benefits from program activities. We note, in particular, the Dorchester situation where any semblance of meaningful activity is lacking.*

From the inmate's point of view, and perhaps the administration's, most non-cellular activities are designed to make the task of "doing time" a little easier.

This is due to the fact that almost all protection inmates are housed in maximum security institutions. For these inmates, it constitutes a "dead end". They are rarely considered seriously for medium security due to their status as protection cases. In addition, as long as they are in maximum security, they do not have the same access as population inmates to parole or temporary leaves. Routes out of protection, then, are extremely limited and many can only wait for their Mandatory Supervision date or, in the case of those at Saskatchewan Penitentiary, a transfer to the Saskatchewan Farm Institution.

There is, then, little incentive for the inmate to attempt to earn his release and there is little incentive for the staff to engage in serious pre-release programs or planning.

The result is that inmates confined in protective custody units are being "warehoused".

* This statement should not be interpreted as critical of the administration at Dorchester. In fact, this study was prompted by a concern which was initiated in the Atlantic Region. Their plans for protection inmates have been contingent upon the approval of the building program and, in particular, the fate of the Dorchester Penitentiary.

THE FUTURE

Unless action is taken, it can be expected that the numbers in protective custody will continue to grow as they have in the recent past. We have discussed the factors which we believe are responsible for the increase and note the following as having some effect on the future:

1. The major offence profile will continue to shift from property offences to violence-oriented offences, furthering the move toward a greater concentration of hard-core inmates and thus forcing others to seek protection.
2. Average sentence lengths will continue to increase due to the shift away from the incarceration of property offenders and the recent legislation pertaining to persons convicted of murder. Longer sentences and an increase in the number of so-called "no-hope" inmates will contribute to the atmosphere of violence in institutions.
3. An increase in the number of protective custody recidivists can be expected. It can be assumed that since the great increase in protection has only been in recent years, the system has yet to experience many inmates returning to protective custody units. With the present numbers eventually being released, it can be expected that some will return and, because of their previous status as protection cases, will require protection on any subsequent sentences. We are, in effect, developing a "pool" of protective custody inmates.

CHAPTER 5:

A PROPOSAL ON

PROTECTIVE CUSTODY

We have considered the factors which we believe have resulted in the dramatic increase in the number of protection cases. According to our mandate, our remaining goals are:

1. To determine methods of reducing the numbers in protection.

This may simply be interpreted to mean reducing access to protection and thus eventually achieving, through inmate releases, a reduction in numbers. However, we interpret it to include the development of means by which some protective custody inmates may be reintegrated in the main population.

2. To determine appropriate physical facilities and programs for protective custody units.

"Appropriate physical facilities" implies first, facilities sufficiently removed from the main population, either through distance or appropriate security barriers, as to render the protective custody unit inaccessible to population inmates. Secondly, the facility must constitute the appropriate level of security for inmates housed therein. Thirdly, the facility itself should not prohibit appropriate programs.

We interpret "programs" to imply meaningful and purposive activities directed toward eventual release to the community rather than "time-waster" activities which serve no more than an institutional maintenance function. We preface our proposal for protective custody with the following assumptions:

1. Although we recognize that the changing character of the institutions (from "punitive" to more liberal, with an increased freedom of movement) has been a contributing factor in the increase in protective custody numbers, we are opposed to what is perhaps an obvious conclusion from Chapter 3: that a return to a stricter regime would eventually reduce the numbers in protection. We believe that the present freedom of movement is justified and protective custody is simply recognized as a costly spin-off.

2. Although we recognize the inevitability of protective custody for some inmates, we acknowledge that many presently housed in protection lacked sufficient reason for being granted protection and could perhaps be reintegrated in a general population.
3. Inmates in protective custody are not considered under punishment and therefore are entitled to all the rights and privileges, including work opportunities, meaningful programs and access to temporary leaves and parole as are population inmates.

We propose a two-phase solution to the protection problem:

1. Phase 1 is the development and implementation of a plan to control admissions to protective custody and reduce existing numbers through reintegration. This phase may be seen as a short-term goal.
2. Phase 2 is the development and implementation of a strategy to "normalize" the institutional experience of protective custody inmates not affected by Phase 1.

PHASE 1: CONTROLLING ADMISSIONS AND
REDUCING THE NUMBERS IN PROTECTIVE CUSTODY

The following five steps should be taken in order to control admissions to protective custody.

1. The Development of a Strategy for More Effective Decision-Making

There are no guidelines for institutional staff or parole officers (Penitentiary Placement) which govern the circumstances under which an inmate should or should not be granted protective custody.

When an inmate is considered for protection, either at his own request or on the initiative of the administration, the critical question is: "Is there a risk involved in refusing the inmate protection?"

The staff is aware that the inmate may be harmed should he be refused protection. Staff may also consider themselves in a situation where their judgment is at stake and, further, may have to live with the consequences of an error in judgment. In the absence of clear guidelines, many inmates may be granted protection simply because staff members do not wish to take chances.

This dilemma can be resolved through a Commissioner's Directive providing criteria for admission to protective custody. Such a directive would have the effect of limiting the discretionary powers at the institutional level and providing staff members with support for, and greater confidence in, their decisions (particularly where the decision is to refuse protection). In effect, it would remove some of the decision-making from the institutional level.

RECOMMENDATION 1:

WE RECOMMEND A NATIONAL POLICY, IN THE FORM
OF A COMMISSIONER'S DIRECTIVE, GOVERNING THE
USE OF PROTECTIVE CUSTODY FACILITIES.*

RECOMMENDATION 2:

THE COMMISSIONER'S DIRECTIVE SHOULD PROVIDE
CRITERIA FOR ADMISSION TO PROTECTIVE CUSTODY.

Such a directive, with some guidelines for admission to protection spelled out, would ease the decision-making burden at the institutional level. There is a need, however, for further dispersing the initial decision-making responsibility to ensure more effective decisions.

* See, for example, C. D. 174 governing the use of Special Handling Units. This may be used as a prototype.

The Study Group on Dissociation acknowledged this problem in 1975 when it stated that

Decisions regarding protective custody, particularly those to refuse protection, are difficult... Since judgment is difficult and mistakes can be costly, we believe that the responsibility for these decisions should be shared.¹

In addition to recommending that the Segregation Review Board be charged with the decision-making responsibility in protection cases, the Study Group recommended that

The Regional Classification Board should monitor the proceedings of the Segregation Review Board.²

Such a strategy has the effect of dispersing decision-making responsibility, or sharing the risk factor, to ensure more effective decisions. It also makes the Service accountable rather than the institution or the individual.

RECOMMENDATION--3:

THE COMMISSIONER'S DIRECTIVE SHOULD PROVIDE
FOR A REVIEW OF DECISIONS TO GRANT OR REFUSE
PROTECTIVE CUSTODY.

SUCH REVIEWS SHOULD TAKE PLACE AT THE REGIONAL
OR NATIONAL LEVEL.*

* C.D. 174, governing the use of Special Handling Units is, again, an example. It provides for a review at the National level with a view to dispersing the decision-making responsibility (sharing the risk factor), thus presumably resulting in more effective decisions.

In developing admission guidelines with a view to restricting protection to those inmates who genuinely require it, the critical factor to consider is the degree of risk. We view the entire Criminal Justice System as a "risk-taking" system. Risk is taken in the decisions to grant bail, probation, parole and temporary leaves. Yet, the prevailing assumption in the decision to grant or refuse to grant protection is that the Service cannot take any risks and therefore is reluctant to deny a request for protection.

We believe that the Service is obligated to provide reasonable care for inmates. This does not mean that it can, or even should, eliminate any possibility of risk. To do so will only result in increasing numbers of inmates in protective custody.

Guidelines or criteria developed should be based on this principle of "reasonable care". This implies that before an inmate is granted protection there should be some evidence that his situation warrants it. Evidence may simply be the fact that the inmate is a sex offender. On the other hand, where "hassles in the population" is stated as the reason for requesting protection the Service should attempt to determine if there is any evidence to support the inmate's claim. The absence of such evidence should certainly weaken the inmate's case for protective custody.

2. The Use of Reception or Segregation Facilities Pending a Decision

No inmate should be placed directly in protective custody upon request. The Study Group on Dissociation pointed out that

At no time prior to a decision regarding protection being made should an inmate be placed in a protective custody unit since his mere presence there results in his being labeled a protection case.³

The Seunath Report takes the same position, suggesting that "Upon request, the inmate be placed in segregation for a period of 30 days."⁴

For inmates in the main population who request protection, the alternate facility of segregation should be readily available pending a decision.

In the case of new admissions, however, the alternative to direct placement in protective custody is not so obvious in that the Service is moving in the direction of "penitentiary placement". This lessens the considerable use that was once made of "reception". We emphasize that the Service must have a holding unit facility where new admissions may be housed pending an examination of their need for protection.

RECOMMENDATION 4:

THE COMMISSIONER'S DIRECTIVE SHOULD REQUIRE
THAT EVERY INMATE WHO IS BEING CONSIDERED FOR
PROTECTION BE CONFINED IN AN ADMISSION HOLDING
UNIT OR SEGREGATION FACILITIES PENDING AN
EXAMINATION OF HIS NEED FOR PROTECTION.

3. Counselling Inmates on the Consequences of Being in Protective Custody

During the period in which the inmate's case is being considered, he should be advised that in order to be granted protection he must meet certain criteria; and he should be made aware of the consequences of being in protection.

This, too, is a recommendation made by both the Study Group on Dissociation and the Seunath Report.⁵

RECOMMENDATION 5:

EVERY INMATE WHO IS BEING CONSIDERED FOR PROTECTION SHOULD BE COUNSELLED AS TO THE NEGATIVE CONSEQUENCES OF BEING LABELED A PROTECTION CASE.

4. Identifying and Segregating Aggressors

We have noted that many inmates are in protective custody as a result of "hassles in the population".

In this respect, Seunath recommended that the inmate seeking protection "be required to name the individuals who are posing a threat to him and why (especially in non-sex offenders)."6

We agree that every effort should be made to have the inmate identify the aggressor and indicate the reason for the conflict. However, we acknowledge that this will often place the inmate in an even more threatening situation and we cannot expect every inmate to comply with this demand..

We suggest in cases where inmates seek protection due to conflicts in the population, an attempt should be made to identify the source of the problem either through the inmate's identification of the aggressor or through staff investigation of the situation. It may be that staff members may already have some knowledge of a conflict between two inmates and, on the basis of their knowledge, can assist in assessing the degree of risk.

RECOMMENDATION 6:

WHERE INMATES SEEK PROTECTION DUE TO CONFLICTS IN THE POPULATION, PROTECTION SHOULD NOT BE GRANTED UNTIL A THOROUGH INVESTIGATION TO IDENTIFY THE SOURCE AND SERIOUSNESS OF THE PROBLEM HAS BEEN COMPLETED.

Seunath also recommends that "if names of other inmates are mentioned frequently as troublemakers they should be placed in segregation".⁷ During our interviews at Saskatchewan Penitentiary we were frequently advised that the Service "was locking up 250 inmates to protect them from twenty".

ILLUSTRATION 5-1: An Inmate's Comment⁸

"You have to weed out troublemakers. Most of the 250 here (Saskatchewan Penitentiary) don't need to be locked up except the child molesters. I would say 75 per cent could come out but you would have to clear out the muscle in the general population."

Just prior to our visit to Saskatchewan Penitentiary, ten population inmates, identified as "troublemakers", were segregated. Protective custody inmates suggested that if ten more known troublemakers were removed from the population many of those in protection could return.

We are aware of the constant charges that the practice of segregating inmates "for the good order of the institution" is unjust. Nevertheless, there seems to be little justice in a situation where a victim rather than an aggressor may be segregated and thus deprived of the privileges and amenities to which he is entitled.

We therefore support the suggestion that inmates who are identified as persistently hassling other inmates should be segregated.

RECOMMENDATION 7:

INMATES WHO ARE IDENTIFIED AS "TROUBLEMAKERS",
AS A RESULT OF PERSISTENTLY THREATENING OTHERS,
SHOULD BE SEGREGATED FOR THE GOOD ORDER OF THE
INSTITUTION.

5. Representation to Police, Courts and Provincial Corrections
Authorities

We have indicated that some offenders are provided protection, or are advised to request protection, even before they reach a federal institution. This may often be necessary. However, in some cases to label the offender a protection case may be a matter of premature designation based on assumptions about federal institutions and the protective custody situation by the police, courts or provincial correctional authorities.

It is possible that an offender who is identified as a protection case at the "police level" may not meet the Service criteria other than the fact that as a result of the police action, he will have been labeled as such prior to his arrival at the institution.

RECOMMENDATION 8:

THE SERVICE SHOULD UNDERTAKE TO ADVISE
CRIMINAL JUSTICE AGENCIES OF ITS POLICIES
REGARDING PROTECTIVE CUSTODY AND THE
CONSEQUENCES OF STIGMATIZING OFFENDERS
AS "PROTECTION CASES".

The following action is designed to reduce present numbers by reintegrating some inmates presently in protective custody.

The Re-Integration of Inmates Presently in
Protective Custody

Many inmates in protection may not be "genuine" protection cases and perhaps would never have been granted protection had the principle of "reasonable care" prevailed.

Some were granted protection due to situational or local circumstances which may no longer exist.

Many are not "genuine" maximum security inmates but are housed in maximum and treated as such simply because of their status as protection cases.

Some information is available from two institutions on the security classification of their protective custody inmates. Table 4 indicates that institutional staff considered more than fifty per cent of those confined in Dorchester and the R.R.C. (Ontario) to be medium security.

TABLE 4
SECURITY CLASSIFICATION OF
PROTECTIVE CUSTODY INMATES
IN TWO INSTITUTIONS

Institution	Security Classification			Total
	Maximum	Medium	Minimum	
Dorchester	23	23	-	46*
R.R.C (Ont.)	40	46	1	87
Total	63	69	1	133

* no security classification available on twelve others reported in protection at that time.

Source: Dorchester. Minutes of Segregation Review Board, June 19, 1978.
R.R.C. (Ont.). "Security Classification - Protective Custody
Inmates - Ontario Region, August, 1978."

These inmates are being denied meaningful work opportunities, programs and equal access to parole and temporary release procedures because of their confinement in protective custody. In that appropriate facilities and programs are a long range goal which will be of little benefit to many of those presently in protection, we suggest that a systematic review of all protective custody inmates be undertaken in order to determine those who may be suitable for some other type of institution. Criteria for assessment should include factors such as the initial reason for granting protection (distinguishing first between internal and external factors); length of time spent in protection; time to serve; and willingness to reintegrate. We contend that many would be found suitable for reintegration and would be willing to participate in such a program.

RECOMMENDATION 9:

- THE SERVICE SHOULD UNDERTAKE A REVIEW OF ALL INMATES PRESENTLY HOUSED IN PROTECTIVE CUSTODY UNITS, WITH A VIEW TO DETERMINING:
- THEIR APPROPRIATE SECURITY CLASSIFICATION;
 - THE ORIGINAL REASON FOR THEIR BEING GRANTED PROTECTION (E.G. INTERNAL VS. EXTERNAL);
 - TIME SERVED IN PROTECTIVE CUSTODY;
 - TIME REMAINING TO MANDATORY SUPERVISION DATE;
 - THE INMATE'S WILLINGNESS TO PARTICIPATE IN A REINTEGRATION PROGRAM.

Perhaps even more critical than identifying inmates who meet given criteria for reintegration is the task of identifying suitable "receiving" institutions.

There is a reluctance on the part of medium security directors to receive protection inmates at their institutions because of the risk and the possible disruption to the routine of the institution.

There is evidence, however, of some success in transferring protection inmates to medium security institutions. Mountain Prison and the Saskatchewan Farm Institution are obvious examples. Close to half the population of the Saskatchewan Farm Institution has been transferred there from protective custody with very few difficulties encountered. In fact, Seunath points out that "This integration of PC inmates with others at the SFI represents a breakdown of the prison subculture..."⁹

These institutions - Mountain Prison and the Saskatchewan Farm Institution - appear suitable as "receiving" institutions for former protective custody inmates. They have a different character than the maximum security institutions. Perhaps the major distinguishing feature is the fact that inmates are nearing the completion of their sentences. As a result, they are more intent on "doing their own time". That is, they may have too much at stake to risk "hassling" inmates labeled as protection cases.

We suggest, then, that some inmates are good candidates for reintegration and that some institutions may represent good "receiving" institutions due to the factor mentioned above.

Furthermore, since the Service is presently undergoing a re-classification of its inmates and institutions, this is an excellent opportunity to structure some of the institutions under the new system as "receiving" institutions for protective custody inmates and could result in a considerable decrease in the protection numbers.

Designating certain institutions as such at the beginning of the re-classification process is likely to result in a more successful reintegration of protection cases than a situation where they may be imposed on an existing population.

RECOMMENDATION 10:

WE RECOMMEND THAT THE SERVICE EXAMINE ITS PROPOSED INSTITUTIONAL CLASSIFICATION SYSTEM WITH A VIEW TO DESIGNATING AND STRUCTURING SOME INSTITUTIONS AS "RECEIVING" INSTITUTIONS FOR PROTECTIVE CUSTODY INMATES.

RECOMMENDATION 11:

UNTIL SUCH TIME AS THE RE-CLASSIFICATION SYSTEM IS IMPLEMENTED, THE SERVICE SHOULD EXAMINE ITS PRESENT MEDIUM AND MINIMUM SECURITY INSTITUTIONS WITH A VIEW TO DETERMINING THEIR SUITABILITY AS "RECEIVING" INSTITUTIONS FOR PROTECTIVE CUSTODY INMATES.

RECOMMENDATION 12:

THE SERVICE SHOULD ATTEMPT TO REINTEGRATE SUITABLE PROTECTIVE CUSTODY INMATES INTO CERTAIN "RECEIVING" INSTITUTIONS AS SOON AS POSSIBLE.

PHASE 2: "NORMALIZING" THE INSTITUTIONAL
EXPERIENCE OF PROTECTIVE CUSTODY INMATES

We began this chapter by pointing out that protective custody may be inevitable for some inmates but that these inmates are entitled to the same rights and privileges as any other inmate. This includes the same work opportunities, meaningful programs and access to temporary leaves and parole. That is, for the period of their confinement, their institutional experience should be a "normal" one.

To accomplish this, we propose a two stage plan:

1. The Concentration of the Protective Custody Population
in Two Institutions

Having protection inmates located in five different maximum security institutions has resulted in a number of problems.

First, their numbers in any one institution are not sufficient to warrant a full range of work opportunities and meaningful programs.* This problem will be even more acute if the Service is successful in controlling admissions and reintegrating some inmates presently in protection. Demands on staff would be heavy and costs would be high if the Service provided a full range of programs. The separate scheduling of inmate movements already results in increased man year requirements and reduces the time available for inmate work.

Secondly, we note again that, since the five institutions in which protection cases are presently confined are maximum, access to the usual release opportunities is restricted.

* We acknowledge the large numbers of protection cases at Saskatchewan Penitentiary and suggest that although they are sufficient in number, the cost in duplicating full services would be excessive.

Thirdly, the protective custody unit's proximity to the main population results in a preoccupation with security which overrides other factors. The Study Group on Dissociation noted the commonplace feeling of paranoia in these units and suggested that

The mere existance of a protective custody unity can mean for its occupants that the wrongfulness of their behaviour is easily repressed by them and is lost to the view of the administration and programme staff.¹⁰

The day-to-day concern for their safety results in a "tendency to forget that they are individual offenders who require treatment for the behaviour which resulted in their incarceration."¹¹

Separate protective custody institutions would have the following advantages:

- a) Because of the concentration of numbers, full work opportunities and programs would become viable and cost would not be excessive since there would not be a duplication of services and inordinate staff requirements during inmate movements.
- b) The threat of harm from population inmates would be removed. This, of course, is an advantage in itself. In addition, it is likely that the heavy emphasis on security would diminish. In this respect, the Study Group on Dissociation noted that, with separate institutions, "protection will no longer be the major concern of either staff or inmates and more effort can be devoted to the treatment of the inmates."¹²

RECOMMENDATION 13:

WE RECOMMEND THAT THE SERVICE DESIGNATE TWO
EXISTING MAXIMUM SECURITY INSTITUTIONS AS
PROTECTIVE CUSTODY FACILITIES.

RECOMMENDATION 14:

THESE INSTITUTIONS SHOULD PROVIDE A FULL
RANGE OF WORK OPPORTUNITIES AND PROGRAMS
IDENTICAL TO THOSE AVAILABLE IN OTHER
INSTITUTIONS.

The concept of two separate protective custody institutions is not without disadvantages. For example, many inmates would obviously be incarcerated some distance from their homes and, therefore, perhaps deprived of regular visits from family members. We believe, however, that most inmates would prefer a normal day-to-day institutional life than a periodic visit. The possible lack of visits simply constitutes a cost to the inmate which he must weigh against several advantages.

Also, if these institutions are designated as maximum security, the inmate still will not have the same access to parole and temporary leave opportunities. This means, then, that the only real advantage of the separate institutions would be to the Service since many of its difficulties with protection would have disappeared. However, the Service has an obligation to the inmate and to society to provide all inmates some transition to the community. The inmate must, before his eventual release, experience increasing degrees of freedom. This can best be accomplished by providing, in addition to the maximum security facility, medium security facilities for those requiring protection.

RECOMMENDATION 15:

A PART OF EACH OF THE TWO MAXIMUM SECURITY
INSTITUTIONS SHOULD BE DESIGNATED MEDIUM
SECURITY.

We are aware of two existing institutions that appear "ready-made" for that purpose both in design and location: the Saskatchewan Penitentiary and the Prison for Women.

RECOMMENDATION 16:

WE RECOMMEND THAT THE SERVICE STUDY THE
POSSIBILITY OF UTILIZING THE SASKATCHEWAN
PENITENTIARY AND THE PRISON FOR WOMEN AS
PROTECTIVE CUSTODY INSTITUTIONS.

We regard the above plan as only the first step in "normalizing" the institutional life of the protective custody inmate.

He will have a greater feeling of security due to the absence of an adjacent population. Programs, work opportunities and access to routes out of prison will be similar to those of any other inmate.

If, however, the attempts to control admissions to protection cases are successful, it can be assumed that there will be fewer inmates in the unit as a result of "hassles in the population" and thus a greater concentration of sex offenders. The protection inmates, then, will be confined in an environment made unique by the "sameness" of its residents.

A mix of types is essential for the inmate during his incarceration and in preparation for his return to the community. For this reason, we suggest a further step in the attempt to "normalize" the protective custody inmate's life.

2. Phasing Population Inmates into the Protective Custody Institutions.

We have acknowledged that many protection cases cannot be reintegrated in the main prison population. We propose, however, that certain non-protection inmates can and should be phased into the protective custody institutions.

The goals of this strategy are:

- 1) to further "normalize" the protection inmates' unnatural environment; and
- 2) to destigmatize "protective custody".

We suggest that certain types of offenders, if given a choice between a "protective custody" prison and a normal maximum or medium security prison may well choose the protective custody institution.

Protection units over the years have not experienced the violence and unrest that has become characteristic of some institutions. Perhaps because of the unique situation of protection cases, and maybe because of unique personality types, protection inmates have been regarded as relatively passive. Many staff members and inmates consider protection units as quiet and safe places to work and live.

Certain types of non-protection offenders appear suited for integration in protection institutions. As examples, we suggest the following:

- the non-violent first offender (e.g. serving a sentence for fraud);
- the offender convicted of second degree murder (specifically, "crimes of passion");
- the older experienced but "burned out" inmate.

We believe that the integration of such inmates in the protective custody facility is possible and would have the following benefits:

- 1) Those integrated would be afforded the opportunity to serve their sentences in an environment most suitable to their needs;
- 2) They would have a stabilizing or "normalizing" impact on the protection population;
- 3) The ultimate effect, given a sufficient mix of types, could be the destigmatizing of "protective custody".

RECOMMENDATION 17:

THE SERVICE SHOULD ATTEMPT TO INTEGRATE
NON-PROTECTION INMATES IN THE POPULATION
OF PROTECTIVE CUSTODY INSTITUTIONS.

CONCLUSION

This two-phase proposal is an attempt to meet two goals:

- 1) controlling admission to protective custody and reducing present numbers; and
- 2) providing appropriate physical facilities and programs for protection inmates, thereby "normalizing" their institutional experience.

Clearly, the implementation of Phase 1 can be achieved with considerably less difficulty and expense than Phase 2. It alone, would do nothing, however, to provide protection inmates with the rights and programs to which they are entitled.

Others have recommended separate institutions for protection inmates and no action has been taken. We feel that the eventual implementation of the proposed inmate/institution classification system affords the Service an excellent opportunity to come to grips with the protection problem in a meaningful manner.

References

1. Report of the Study Group on Dissociation, p. 87.
2. Ibid., p. 88.
3. Ibid., p. 89.
4. Seunath, A Study on the Increasing Number of Protective Custody Cases, Prairie Region, "Summary of Recommendations".
5. Report of the Study Group on Dissociation, p. 90.
6. Seunath, A Study on the Increasing Number of Protective Custody Cases, Prairie Region, "Summary of Recommendations."
7. Ibid., "Summary of Recommendations."
8. Inmate Interview. Saskatchewan Penitentiary, February 7, 1979.
9. Seunath, A Study on the Increasing Number of Protective custody Cases, Prairie Region, p. 4.
10. Report of the Study Group on Dissociation, p. 82.
11. Ibid., p. 83.
12. Ibid., p.101.

A PROPOSAL REGARDING PROTECTIVE CUSTODY IN FEDERAL INSTITUTIONS

James A. Vantour, Ph.D.

March, 1979

No. 1

WE RECOMMEND A NATIONAL POLICY, IN THE FORM OF A COMMISSIONER'S DIRECTIVE, GOVERNING THE USE OF PROTECTIVE CUSTODY FACILITIES.

No. 2

THE COMMISSIONER'S DIRECTIVE SHOULD PROVIDE CRITERIA FOR ADMISSION TO PROTECTIVE CUSTODY.

No. 3

THE COMMISSIONER'S DIRECTIVE SHOULD PROVIDE FOR A REVIEW OF DECISIONS TO GRANT OR REFUSE PROTECTIVE CUSTODY.

SUCH REVIEWS SHOULD TAKE PLACE AT THE REGIONAL OR NATIONAL LEVEL*

* C.D. 174, governing the use of Special Handling Units is, again, an example. It provides for a review at the National level with a view to dispersing the decision-making responsibility (sharing the risk factor), thus presumably resulting in more effective decisions.

No. 4

THE COMMISSIONER'S DIRECTIVE SHOULD REQUIRE THAT EVERY INMATE WHO IS BEING CONSIDERED FOR PROTECTION BE CONFINED IN AN ADMISSION HOLDING UNIT OR SEGREGATION FACILITIES PENDING AN EXAMINATION OF HIS NEED FOR PROTECTION.

No. 5

EVERY INMATE WHO IS BEING CONSIDERED FOR PROTECTION SHOULD BE COUNSELLED AS TO THE NEGATIVE CONSEQUENCES OF BEING LABELED A PROTECTION CASE.

No. 6

WHERE INMATES SEEK PROTECTION DUE TO CONFLICTS IN THE POPULATION, PROTECTION SHOULD NOT BE GRANTED UNTIL A THOROUGH INVESTIGATION TO IDENTIFY THE SOURCE AND SERIOUSNESS OF THE PROBLEM HAS BEEN COMPLETED.

No. 7

INMATES WHO ARE IDENTIFIED AS "TROUBLEMAKERS", AS A RESULT OF PERSISTENTLY THREATENING OTHERS, SHOULD BE SEGREGATED FOR THE GOOD ORDER OF THE INSTITUTION.

No. 8

THE SERVICE SHOULD UNDERTAKE TO ADVISE CRIMINAL JUSTICE AGENCIES OF ITS POLICIES REGARDING PROTECTIVE CUSTODY AND THE CONSEQUENCES OF STIGMATIZING OFFENDERS AS "PROTECTION CASES".

No. 9

THE SERVICE SHOULD UNDERTAKE A REVIEW OF ALL INMATES PRESENTLY HOUSED IN PROTECTIVE CUSTODY UNITS, WITH A VIEW TO DETERMINING:

- THEIR APPROPRIATE SECURITY CLASSIFICATION;
- THE ORIGINAL REASON FOR THEIR BEING GRANTED PROTECTION (E.G. INTERNAL VS. EXTERNAL);
- TIME SERVED IN PROTECTIVE CUSTODY;
- TIME REMAINING TO MANDATORY SUPERVISION DATE;
- THE INMATE'S WILLINGNESS TO PARTICIPATE IN A REINTEGRATION PROGRAM.

No. 10

WE RECOMMEND THAT THE SERVICE EXAMINE ITS PROPOSED INSTITUTIONAL CLASSIFICATION SYSTEM WITH A VIEW TO DESIGNATING AND STRUCTURING SOME INSTITUTIONS AS "RECEIVING" INSTITUTIONS FOR PROTECTIVE CUSTODY INMATES.

No. 11

UNTIL SUCH TIME AS THE RE-CLASSIFICATION SYSTEM IS IMPLEMENTED, THE SERVICE SHOULD EXAMINE ITS PRESENT MEDIUM AND MINIMUM SECURITY INSTITUTIONS WITH A VIEW TO DETERMINING THEIR SUITABILITY AS "RECEIVING" INSTITUTIONS FOR PROTECTIVE CUSTODY INMATES.

No. 12

THE SERVICE SHOULD ATTEMPT TO REINTEGRATE SUITABLE PROTECTIVE CUSTODY INMATES INTO CERTAIN "RECEIVING" INSTITUTIONS AS SOON AS POSSIBLE.

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WE RECOMMEND THAT THE SERVICE DESIGNATE TWO EXISTING MAXIMUM SECURITY INSTITUTIONS AS PROTECTIVE CUSTODY FACILITIES.

No. 14

THESE INSTITUTIONS SHOULD PROVIDE A FULL RANGE OF WORK OPPORTUNITIES AND PROGRAMS IDENTICAL TO THOSE AVAILABLE IN OTHER INSTITUTIONS.

No. 15

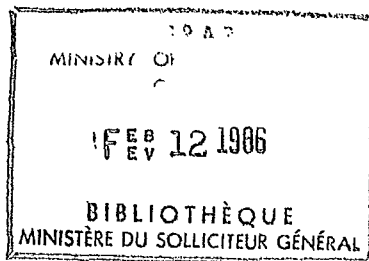
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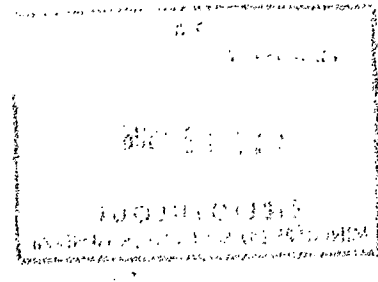


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