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report of the commission of inquiry into events at b.c. penitentiary june 9 to 11, 1975

chief justice john l. farris
of the british columbia supreme court

september '75

BC prison drama brings co.

OTTAWA (CP) — Concern over the state of criminal justice and about

A woman employed when the 'heir cap-

and com... relay it to the prison...

men or prison guards. and Mr.

Woman hostage dies

WESTMINSTER, B.C. (CP) — A bold

the govern-ly guarded the identity of the country which offered to take the convicts, old them and return them Canada after the host-

The opposition feelings were expressed by Patrick Nowlan (PC—Annapolis Valley) and Stuart Leggatt (NDP—New West-

15 hostages

HOSTAGE KILLED, 3 CONS CAPTURED

at the British Columbia... was killed. The others were... an ambulance attendant said she was... chest. One convict, believed to be Andrew... se, 26, originally from North Vancouver, was... and was being operated on. A second a.

ended brutally early... nantly turned on... nanded safe... ada. ing officials would not even... countries

woolliams (PC—Calgary North) seeking a royal commission. Mr. Nowlan and Andre (PC—Lotbiniere) call-

Prison siege ends... Mr. incement... penitentiary service will conduct an inquiry by saying such an investigation must be by a Supreme Court judge.

Both said how three highly dangerous convicts got into a relatively lightly-guarded... penitentiary must... who pressed... and Mr. Allmand on how the

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events at the British Columbia
Penitentiary, June 9 to 11, 1975

REPORT

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COMMISSION OF INQUIRY
INTO
EVENTS AT THE BRITISH COLUMBIA PENITENTIARY
JUNE 9 TO 11, 1975

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SOLICITOR GENERAL OF CANADA

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The report of the Commission of Inquiry into the events at British Columbia Penitentiary June 9 to 11, 1975, is printed almost in its entirety. Names of some individuals have been deleted except those inmates involved in the incident, members of the negotiating team, and lawyers who appeared before the Commission. Also titles have been replaced by generic titles, such as "an officer," to ensure the safety of the people concerned. For the same reason, a few lines of the report have been taken out because they contained comments which could reveal the identity of the individuals concerned and/or because the comments concerned individuals not directly related to the incident being investigated.

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OTTAWA, June 13, 1975

The Honourable John Lauchlan Farris
Chief Justice of British Columbia
Court House, 800 West Georgia Street
Vancouver, British Columbia
V6C 1P6

COMMISSION OF INQUIRY

Whereas at approximately 0800 hours, June 9, 1975, at the British Columbia Penitentiary, three inmates did seize and hold hostage a number of Penitentiary Service personnel.

Whereas at approximately 0100 hours, June 11, 1975, one hostage was killed, one inmate seriously injured, the remaining hostages freed, and two inmates apprehended.

Whereas, it is essential that the full circumstances, causes, reaction, procedures, result and other factors should be investigated.

Now, therefore, I, André Therrien, Commissioner of Penitentiaries, do, pursuant to Section 12 of the Penitentiary Act appoint:

Mr. Justice John Farris

Mr. Jack C. Lynch

Mr. H.E. Popp

of whom Mr. Justice John Farris shall act as Chairman to investigate and report upon:

- (a) the circumstances which led to the hostage taking;
- (b) the initial emergency response action;
- (c) the established policy and procedures prescribed at the British Columbia Penitentiary to prevent and to respond to such occurrences;

- (d) the circumstances surrounding the detention of the hostages;
- (e) the measures taken to react to the situation;
- (f) the circumstances of the intervention of the hostages to effect their release;
- (g) the nature of the response reaction which terminated the occurrence and the circumstances in which that reaction took place; and
- (h) such other matters as may be relevant to this or other similar situations which might contribute to the prevention of such incidents and/or effective response of such occurrences.

And I do further direct that the Chairman, if he considers it desirable to do so, shall submit a preliminary report on this matter;

And I do further direct that this inquiry be conducted in public. Where, in the opinion of the Chairman, information is likely to be received which should not be disclosed, in the public interest including in the interest of the safety and security of Penitentiaries, such information shall be received in camera.

And I do further direct that the Chairman shall engage a person to act as counsel to the Commission of Inquiry.

And I do further direct that the reports required hereby be furnished in three copies to me as expeditiously as possible.

Given under my hand, at the City of Ottawa, in the Province of Ontario, this 13th Day of June, A.D. 1975.



André Therrien
Commissioner of Penitentiaries

REPORT OF THE COMMISSION OF INQUIRY
INTO EVENTS AT THE BRITISH COLUMBIA PENITENTIARY
JUNE 9 to 11, 1975

INTRODUCTION

This Commission was appointed by André Therrien, the Commissioner of Penitentiaries, to inquire into the events at the British Columbia Penitentiary from June 9 to June 11, 1975. It was during this period that three inmates seized and held hostage a number of penitentiary service personnel. When this tragic affair was concluded, one hostage had been killed, one inmate seriously injured, the remaining hostages freed and the other two inmates apprehended.

The authority for the appointment of the Commission is found in Sec. 12 of the Penitentiary Act, 1970, Revised Statutes of Canada, Chapter P-6, which reads:

12. The Commissioner may, from time to time, appoint a person to investigate and report upon any matter affecting the operation of the service and for that purpose the person so appointed has all of the powers of a Commissioner appointed under Part 11 of the Inquiries Act, and Sec. 10 of that Act applies, mutatis mutandis, in respect of the investigations carried on under the authority of this section.

By direction in writing dated June 13, 1975, the Commissioner of Penitentiaries appointed Chief Justice John L. Farris, Mr. Jack C. Lynch and Mr. H.E. Popp, as a Commission of Inquiry and directed the Commission to investigate and report upon:

- (a) the circumstances which led to the hostage taking;
- (b) the initial emergency response action;
- (c) the established policy and procedures prescribed at the British Columbia Penitentiary to prevent and to respond to such occurrences;

- (d) the circumstances surrounding the detention of the hostages;
- (e) the measures taken to react to the situation;
- (f) the circumstances of the intervention of the hostages to effect their release;
- (g) the nature of the response reaction which terminated the occurrence and the circumstances in which that reaction took place; and
- (h) such other matters as may be relevant to this or other similar situations which might contribute to the prevention of such incidents and/or effective response and resolution of such occurrences.

It will be noted that the Commissioner did not purport to direct an investigation into the conduct of the Government of Canada in respect to these events. Indeed, he would have no authority so to do. Such an investigation could only be conducted by Parliament through its Parliamentary Committees or by a Royal Commission appointed for this purpose. An official, albeit a senior one, of the Solicitor General's Department, has no authority to direct an investigation into the conduct of the Government of Canada.

Further, the Commission did not consider that its terms of reference required it to conduct an inquiry into the overall operation of penitentiaries in Canada. Evidence of the conditions existing in the B.C. Penitentiary that the Commission considered relevant to this particular affair was heard. Investigation into the broader aspects of the operation of penal institutions and needs for reform are not within the scope or resources of this Commission. Such an investigation could only properly be conducted on a national basis and by a Commission with broad powers and a supporting staff. Essentially, this Commission was directed to inquire into the particular events occurring between June 9th and June 11th at the British Columbia Penitentiary.

PART I



PART I

THE EVENTS OF JUNE 9 TO 11, 1975 AT THE BRITISH COLUMBIA PENITENTIARY

A. The Locale

(1) Description of the B.C. Penitentiary

The B.C. Penitentiary is located in the City of New Westminster, British Columbia, on a hillside overlooking the banks of the Fraser River. It was first opened as a prison in 1878. The original complex comprised a few brick and wooden buildings surrounded by a wooden fence. From time to time, a four-tiered cell block was added and concrete walls were built. Its perimeter now consists of concrete walls averaging 30 feet in height and constituting approximately a rectangle. At each corner of the walls, an armed guard is stationed. Additions have been made from time to time. Within the confined area, are the housing units for the inmate population, the workshops, classification offices and administration offices. It is presently a maximum security institution with 447 inmates and a prison staff of over 300.

(2) Description of Classification Offices

Events under inquiry took place in the classification offices. This is a recently renovated frame structure about 20 feet wide and 220 feet in length. It is located 150 feet from the front wall where the administrative offices of the Penitentiary are housed. From the second storey of the administrative offices, one can see clearly into the classification offices, and particularly into Room 9. A plan of that part of the classification offices, where the events in question took place, was filed as Exhibit 5 and is reproduced here.

The offices are normally entered by inmates through the door into Room 201. After entering about 10 feet, they come upon a desk behind which a custodial officer is seated to receive their

(2) Description of Classification Offices (continued)

passes. A corridor 4 feet wide runs a distance of 218 feet along the length of the building. Individual offices, which are numbered on the plan, are located on the south side of this corridor. There are two doors to the outside, located about 20 feet apart near the centre of the building. These doors are indicated on the plan.

At about the centre of the building, there is located Room 9, which is the headquarters for the social and cultural development officers' activities. Entry to Room 9 is obtained through a dutch door, that is to say, a door that is split approximately 4 feet from the floor so that one can open the upper half and have complete vision into the room but access being restricted by the lower half. The lower half of the door is secured by a lock at about waist level and two locks a few inches from the floor and not easily accessible from the outside. In Room 9, are a sofa, TV and radio facilities and a telephone. The corridor wall of Room 9 has three opaque window partitions, one to the right of the dutch door as you enter the room and two to the left. Room 9 has a small sub-office approximately 8 feet by 10 feet, with windows about 5 feet above the floor to the ceiling. This office is located to the right of the dutch door, and is adjacent to Room 8 which is the office of the two social and cultural development officers.

About the centre of the outside wall of Room 9, is a vault, area 11 feet, 9 inches in depth and 16 feet, 2 inches in width. In the vault, there are two rows of shelves in the centre portion and shelves on the two side walls. These walls are made of concrete. There are no windows in the vault, but there are ventilation holes. Entry to the vault is through two doors which are slightly to the left of a line drawn at a 90 degree angle from the dutch door. The first door of entry is a swinging door that swings in an arc from right to left. Immediately behind this, is a steel sliding door without stops at either end. The result is that the door can be pulled so as to leave a space at either end.

B. PERSONS INVOLVED

(1) Inmates

- (a) Andrew Graydon Bruce - Bruce is nearly 27 years of age. He was born in North Vancouver, British Columbia. His adult criminal record began in September 1965 when he was convicted on two charges of indecent assault, for which he received two years less a day definite, and two years less a day indefinite. In November, 1966, he escaped from custody. On being apprehended, he was found guilty of theft of an auto and being unlawfully in a dwelling house and received a further two years imprisonment and was admitted to the B.C. Penitentiary in November, 1966 and released at the end of May, 1969.

Following his release, he consistently led a life of crime, including bank robberies and trafficking in drugs. He became a heroin addict.

In April, 1970, he murdered a dancer in Vancouver. She had become acquainted with many persons associated with the drug trade at a high level and could have been in a position to assist law enforcement officials had any prosecutions been initiated. An associate of Bruce took a contract to kill the dancer for the sum of \$2,400. He sub-contracted the job to Bruce who received one ounce of heroin as payment. The murder was carried out by the use of a gun, and the victim was shot in the presence of her child. There is no doubt that the child owes her life to the fact that the weapon jammed after firing two shots. This was a cold-blooded killing for hire. For it, he received a sentence of life imprisonment.

In August, 1972, he was transferred to the Saskatchewan Penitentiary for disciplinary reasons. While there, he attempted to escape and stabbed one officer and held another officer as hostage. The attack on the officer at the Penitentiary was particularly vicious, resulting in slash wounds to the officers's hands, ankle and abdomen. In November, 1973, he was transferred back from Saskatchewan Penitentiary to the B.C. Penitentiary where he remained until the events in question, except for a brief period in December, 1974, when he was returned to Saskatchewan to face charges arising out of the assaults on the guards in 1972.

- (b) Dwight Douglas Lucas - Lucas is 20 years of age, black, born in Medicine Hat, Alberta. He was adopted through the Manitoba Children's Society, and had a very difficult childhood. At the age of seven, he was put on a heavy tranquillizer program for a period of over a year. He was troublesome at home and at school; and, at the age of ten, he was expelled from school. He was placed in a boys' group home, from which he repeatedly ran away. He was involved in a stabbing incident at one of the detention homes.

In 1971, he was convicted of breaking and entering and sentenced to 12 months. In 1972, he was convicted of two counts of assault causing grievous bodily harm, and sentenced to two years less a day .

In 1974, he participated, with an associate, in a brutal and senseless axe murder. For this, he was sentenced to life imprisonment; and the jury recommended that he not be considered for parole until he had served twenty years.

He commenced serving his sentence in Stony Mountain Institution but was shortly transferred to the B.C. Penitentiary where he was immediately placed in SCU. While in SCU, he attacked a guard with a mop handle. His life has been characterized by aggressive assaultive behaviour.

- (c) Claire Daniel Wilson - Wilson is 26 years old. He was born in Campbell River, British Columbia. His criminal history goes back to February 1965, when he was convicted of assault causing bodily harm, breaking and entering, possession of stolen property, violation of immigration laws, auto theft, trafficking in narcotics, possession of heroin, forgery, possession of firearms.

He has a grade eight education. He is classified as being anti-social, dangerous, poorly controlled, hostile, primitive emotionally, with little regard for others. He has no work history. He is a drug addict.

He was first admitted to the B.C. Penitentiary in October 1967, serving sentences of 33 months, which were spent almost entirely in SCU, mostly at his own request. He apparently had difficulty adjusting to any work situation when in the general inmate population.

(c) Claire Daniel Wilson (continued)

He was released from the Penitentiary in September of 1969. From then to his reincarceration in February, 1973, he had a string of incarcerations in provincial institutions for a variety of offences, leading to his most serious offence; namely, 10 years for trafficking in heroin. It was this sentence that brought him back to the Penitentiary. On his admission to the Penitentiary, he was placed in SCU in July, 1973, at his own request. In August, he was returned to the inmate population, again at his own request. In July of 1974, he was placed in SCU for an attack upon another inmate. In August, at his own request, he was returned to the inmate population.

In November of 1974, he was involved in a vicious attack on escorting officers, who were returning him to B.C. Penitentiary from Nanaimo where he had been taken for court hearings. These events resulted in conviction on three counts of attempted murder, for which he received a life sentence in each case. In these episodes, he, with two other inmates, overpowered two sheriff's officers. One of the officers suffered two broken cheek bones, a broken jaw and nose, nine stab wounds to the chest, neck and back, and may also lose an eye.

They escaped into the home of an elderly couple in Ladysmith, where they beat the husband, age 66, into unconsciousness and injured his wife, a lady 60 years of age.

On Wilson's return to the Penitentiary, he was confined to SCU. Four months later, he was released into the general inmate population.

(2) Hostages

The following personnel were taken hostage in the incident under review:

- (a) One Correction Officer
- (b) Thirteen Classification Officers
- (c) Two Social and Cultural Development Officers

(3) Canadian Penitentiary Regional Staff

The senior officers of the Canadian Penitentiary Service who had the responsibility of directing the response to the hostage taking were:

Regional Director - Pacific
 Acting Regional Director - Pacific
 Director, British Columbia Penitentiary

Members of the Penitentiary staff involved in the incident included correctional officers, sometimes referred to as custodial officers, who are designated CX-1 to CX-10; the higher number reflecting higher seniority.

C. EVENTS LEADING UP TO THE HOSTAGE TAKING ON JUNE 9

During the period the three inmates were in the B.C. Penitentiary, each had spent a substantial period of time in the Special Correction Unit, known as SCU. This means they were in solitary confinement, although the prison officials prefer either 'segregation' or 'dissociation'.

Inmates are put into SCU for one of three reasons:

- (a) for protective custody;
- (b) for punishment; and
- (c) the administrative discretion of the Director.

The SCU is located on the top of building B7, and is known as the Penthouse. There are a number of individual cells in this area, each extremely small. The entrance to each cell is through a steel door, double security locked, with a small observation window. Each cell contains a wash basin, toilet, a concrete pad and solid wood bedboard, recessed lights and a radio selector. There is no way in which the inmate may control the volume of the radio, nor is there any way in which he can control the temperature of the room. Three meals a day are provided on paper plates. The utensils are plastic. The last meal of the day is provided about 4:00 o'clock in the afternoon. A blanket and foam rubber mattress are delivered late in the afternoon, and picked up in the morning, in the case of inmates in SCU, for disciplinary reasons. If they are there for protective custody or under administrative discretion, the blanket and mattress remain in the room.

In disciplinary cases, the inmate spends 23-1/2 hours a day in this room. Exercise for the other half-hour usually means walking outside the cell alone, up and down a corridor in front of similar cells, containing other inmates. There is no opportunity for fresh air, nor is the inmate ever able to see the sky. In the case of administrative discretion, this may also hold true; but there may be modifications depending upon the attitude of the inmate. In the case of protective custody, some effort is made to provide meaningful work outside of the cell area.

When Bruce was transferred in November of 1973 from Saskatchewan Penitentiary to B.C. Penitentiary, he was put into SCU. This was for disciplinary reasons surrounding the taking as hostages of three security officers in the Saskatchewan Penitentiary. A decision was made to leave him in SCU pending the disposition of the charges in Saskatchewan. In April, 1974, Bruce, with others, somehow managed to get three live rounds of .38 calibre ammunition into SCU. In October, 1974, he was involved in other institutional offences. In November of 1974, his charges in Saskatchewan had been disposed of; and in December, 1974, on the recommendation and concurrence of the Director, the Inmate Training Board recommended his return to the general prison population. He was first assigned to the canvas shop; but, in May, 1975, was reassigned from the canvas shop to the social and cultural development area. He also was elected secretary of the Community Awareness Group.

The Community Awareness Group is an inmate group, and contains some very unruly persons. Its purpose was to involve the community with the inmates and to achieve this, from time to time, members of the outside community came to functions at the Penitentiary which were usually held in Room 9. Bruce's position as secretary gave him apparently legitimate reason to be in the classification offices. During the period between May 14th and June 16th, a log of the visits to the classification building showed that Bruce was there 23 times. These visits lasted fifteen minutes to three hours. Most of the visits were to see a Classification Officer. While Bruce was not on the Officer's caseload, he was involved with the officer in the preparation of functions of the Community Awareness Group.

Bruce was observed, from time to time, by inmates. They were extremely frightened of Bruce because of his reputation. They reported to a classification officer that they had seen Bruce on many occasions, and it looked like he is "measuring the place up for some reason". They also testified that they informed other Classification Officers and an unnamed Correctional Officer to the same effect. These other classification officers either did not admit receiving this information or denied it. A Classification Officer, however, acknowledges he received the information; but did not phone security because he didn't want to interfere with another Classification Officer's caseload; and it was also possible Bruce's activities were in connection with the coming social event. The Supervisor of Classification testified that he had no knowledge of the frequency of Bruce's visits and, if he had, he would not have permitted it. There seems to have been no monitoring of the log that revealed such visits.

While the inmates testified that, on occasions they saw Bruce around the classification offices with Lucas and Wilson, the log reveals that Lucas and Wilson each made only one visit. However, the log may not be accurate. In any event, it seems clear that at least one, and probably others of the classification officers, was informed of Bruce's activities and of the concerns of the inmates; and no action was taken to inform the security people. It also appears that there was no supervision that resulted in the disclosure that a dangerous man like Bruce had practically the run of the place. A Classification Officer had informed another Classification Officer, with whom the former had a close personal relationship, of being frightened of Bruce; that Bruce had mentioned several times about holding hostages. This Classification Officer had become so frightened that she intended to quit her job and go back in September to the University to take a doctorate degree. The second Classification Officer advised her to inform an officer of the security personnel of her fears. This she never did.

When Lucas was released from SCU in February, 1975, he was assigned to the canvas shop. In respect to Lucas' detention in SCU during the various periods in which he was in the Penitentiary, for the most part he was there at his own request. After the attacks on the police officers in 1974, he was confined to SCU. In February, 1975, he was returned to the prison population and assigned to the canvas shop.

Wilson was returned to the prison population in March of 1975. It does not appear, from an examination of his file, that he was assigned to a work location. It is of interest to note that, on the 25th of May, Wilson committed a disciplinary offence in that "he delayed lockup by approximately twenty minutes". When he returned to his cell, he was asked where he had been and he said, "I was seeing about that Awareness thing". The log of the classification office interviews, Ex. 89, does not show Wilson as having been at the classification offices on May 25th. Thus, we have an inmate known to be a very dangerous security risk loose in the premises for a period of twenty minutes; and no investigation made as to what, in fact, he had been doing. The only action taken was that he was warned and counselled.

It is the view of the Commission that the release of these three men into the general inmate population was a mistake. They were extremely dangerous men. They had a record of not only murder or attempted murder in the outside community; but within the prison institutions, they had records and recent records of attacks on prison personnel. It was unreasonable to believe that these men had, in

a matter of a few months or less, changed their ways. In fairness to the Director and to the other officers of the Penitentiary, they had a difficult decision to make. The alternatives available to them in the B.C. Penitentiary were, simply, solitary confinement or release into the general population. There is no facility, and no room for a facility, for segregation not amounting to solitary confinement for inmates such as these. They also are faced with the fact that there are 80 or 90 inmates with records of murder or of violence that classify them in the same dangerous category as Bruce, Lucas and Wilson. Nonetheless, the record of these three inmates and the recent offences that they had committed required their confinement to SCU. Certainly those records made it mandatory that if they were released into the inmate population, a close supervision of their activities be maintained. There was no such supervision.

D. THE TAKING OF THE HOSTAGES ON THE MORNING OF JUNE 9TH

The Correctional Officer on duty in the classification office had been a Correctional Officer at B.C. Penitentiary for nine months. On June 9, 1975, he reported for work at 7:45 A.M. in the classification office where he had been posted twice before. His duties were to receive and check the passes of inmates coming to the building for interview with one of the Classification Officers. He was not armed. He was the only Security Officer in the area. It was his understanding that he was not required to search the inmates. He had a telephone at his desk, but no buzzer or alarm system was available.

At approximately 8:00 A.M. he was seated at his desk in the waiting room in the classification offices designated Room 201 on Exhibit 5, Bruce, followed immediately by Lucas, entered the area through the door into the waiting room; and proceeded past the Correctional Officer's desk with Lucas one step behind him. The Correctional Officer asked him for his pass, and both inmates dropped passes on the desk. As the Correctional Officer examined them, the inmates drew knives and told him not to move; then said to get up and go towards the passageway near rooms 203 and 205. The knife held by Bruce was a kitchen knife, with a blade approximately 14 inches in length. The knife held by Lucas was a filleting knife, with a blade approximately 7 inches in length.

When the Correctional Officer complied with these orders, he saw Wilson standing at the door to Room 201 with a knife similar to the one carried by Bruce. A Classification Officer was standing outside Room 205. Another Classification Officer had been in Room 205. As he left the room, he was grabbed by Lucas by the shirt; a knife was held at his throat, and he was thumped on the chest. Another Classification Officer was in Office 207, with an inmate who was from the Protective Custody Unit. This inmate was screaming because he was afraid he would be killed. Bruce told the Classification Officer in Room 207 to come out or another Classification Officer's throat would be cut. Bruce kicked open the door, and the other Classification Officer came out into the corridor between Rooms 205 and 203.

Classification Officers were then prodded at knifepoint to proceed down the corridor to Room 9, which is known as the Social Development room. In the meantime, other Classification Officers were forced from their office or from the corridor where they were found, again at knifepoint, into Room 9. One of the classification officers was forced to provide the key for the door to the vault; and then all the prison personnel, sixteen in all, were herded at knifepoint into the vault.

Once in the vault, all the hostages were ordered to put their hands on their heads. This they were compelled to do for several hours with only brief moments of respite. Lucas frisked the hostages; and all wallets, watches, rings and shoes were taken from them.

E. THE HOLDING OF THE HOSTAGES THROUGHOUT THE 9TH AND 10TH OF JUNE

After the hostages were in the vault, one of the Classification Officers was brought outside, and was held by Bruce with his left arm around her waist and his right arm around her neck, holding the large knife at her throat. The knife was one from the kitchen of the institution. Later, this Classification Officer was seated on a chair with Bruce immediately behind her, with the knife either at her throat or at the ready. During the day, for the most part, Lucas and Wilson remained in the vault, each armed with knives. The knife that Wilson had was a duplicate of the one that Bruce had. Lucas had the filleting knife.

During the next two days, two penitentiary officers maintained positions outside the dutch door, with the bottom half secured and the top half open. From this vantage point, they communicated with the inmates; and were able to observe the hostages when they came out of the vault area. They could also see them when the steel door to the vault was opened. They developed a system of communication with the hostages consisting of signs, gestures, and the mouthing of words, when the inmates' attention was distracted. The system was only moderately effective.

Almost immediately after the taking had been effected, Bruce made their demands. These were:

- (a) That a helicopter be provided to take the inmates and the hostages to the airport to be flown to a foreign country. The inmates had no particular country in mind.
- (b) That a team of negotiators be brought to the scene; naming Mr. Bob Hunter, a newspaperman; Mr. James Spears, a newspaperman; Mr. Bryan Williams, a lawyer; Mr. Don Sorochan, a lawyer; Mr. Garry Bannerman, a radio journalist; Mr. Mordecai Briemberg, lecturer and researcher; and they requested an executive member of the Marxist-Leninist Party.
- (c) They demanded drugs, specifically demerol, a morphine substitute.
- (d) Restraint equipment for the hostages. This latter demand was repeated on several occasions. It was never complied with; and, indeed, the Director of the Penitentiary stated that if they had insisted on compliance with this demand, the Institution would have moved in on them.

The demand for a negotiating team was agreed to; and, during the course of the day, all the members of the team requested arrived at the Penitentiary and remained there, with the exception of Mr. Hunter, who was not available; and a member of the executive of the Marxist-Leninist movement was not located. The efforts of the negotiating team will be discussed in detail in a later part of the report.

An officer told Bruce that his demand to have the inmates and hostages taken out of the country would be pretty difficult to obtain; and asked him if he thought of any alternative. Bruce replied, "No way. Either we leave or we die, and we're going to take a lot with us." The inmates from time to time emphasized that this was a last resort. There was no alternative. They had to be taken out of the country, or heads would roll. There was little doubt in anyone's mind that they meant every word of this.

In response to the request for drugs, a vial of demerol was obtained by an officer. He informed Bruce he was not going to give him the vial, but he would administer the drug to Bruce or give him a syringe full and let him use it on himself. At this, Bruce flew into a rage and asked, "if he thought that one lousy vial of demerol was worth a hostage's life." He grabbed the hostage near him by the chin, and proceeded to what appeared to be an action of cutting her throat. The officer immediately told him to "cool it"; and, after consultation with the B.C. Penitentiary physician, the decision was made that the situation was so volatile that they must accede to his demands and turn over the vial of demerol with two syringes. This, the officer did. Bruce then broke off the top of the vial, put a small quantity of demerol in the syringe, and administered it to the hostage near him. When there was no adverse reaction from her, he then administered a shot to himself. He then passed the vial, with the syringe, into the vault to either Lucas or Wilson.

About half an hour later, more demerol was demanded because apparently the vial that had been handed into the vault had been broken. The broken remains were shown to the officer. The inmates were told they had no other quantities of demerol in the institution, and they would have to wait until 9:30 A.M. when the London Drugstore opened.

In the meantime, the Institutional Physician had obtained another vial with a small quantity of haldol. This is an anti-psychotic sedative; and can be used to reduce a tendency to moods of violence. Bruce was not familiar with haldol, and he questioned it. He didn't like the idea of taking it. The Institutional Physician who, at this time was present at the dutch door, told him it was all that the institution had that had anything near the effect of demerol;

he could take it or leave it. Bruce tested it out on the hostage near him, and then accused the Institutional Physician of giving him "Fraser River water". Apparently, no further use was made of the haldol. Later, at approximately 9:30 A.M., further quantities of demerol were obtained from the Royal Columbian Hospital; and, throughout the two days, from time to time when demanded, the inmates were given vials of demerol. A list of the amounts given and the times is to be found in Ex. 53. The use of drugs is discussed in more detail later in this report.

One of the hostages, a Classification Officer, suffered from a heart condition and was under medical treatment for it. This required the taking of drugs as prescribed. The officer at the door was able to persuade Bruce that he could die as a result of his heart condition. If this happened, Bruce would have a death on his hands for which he would be held responsible and yet for which he was not the immediate cause. Bruce acceded to this argument; and, at about 12:30 on Monday, the 9th, the Classification Officer was allowed to leave. This left 15 hostages.

In the meantime, in the vault, a reign of terror continued. Lucas and Wilson continually referred to the hostages as "pigs" and used various obscenities. There was frequent talk of "cutting throats". There was frequent mention of the Attica incident, and reiteration of the fact that the inmates "had nothing to lose". There was mention of a gun and a tear gas bomb. However, no one saw a gun; and it appears that, in fact, the inmates were not in possession of such a weapon. There were containers of what appeared to be inflammable liquid. From time to time, the inmates stated they would pour this liquid on the hostages and set fire to them. They smashed eyeglasses and told the hostages they "were on death row."

Lucas, in addition to a knife, had a pair of scissors and he ordered one of the hostages to cut off his beard with these scissors. He attempted to comply with this demand. There were threats to shave everyone's head.

A Classification Officer was singled out by Lucas for particularly vicious treatment. On the first day, Lucas poured mercurochrome over his head which ran into his eyes. This was wiped off by Wilson. Lucas cut the buttons off his shirt while he was wearing it. He threatened to cut off his finger if he didn't remove his ring. A knife was held at his throat whenever there was any activity outside the vault. At one point, Lucas put his knife on the

Classification Officer's eyelid. Along with the others, he was forced to keep his hands on his head for long periods of time. Lucas cut his trousers. He kicked him frequently throughout the ordeal, and told him that he would be the first to die and who would follow him. From time to time, Lucas put his knife on the Classification Officer's ear, abused him verbally, threatened to cut his eyes out, and generally treated him in an unbelievably vicious and cruel manner.

The inmates wore gloves almost continuously. They said they were doing so because, if they got blood on their hands, the knives would slip. Wearing gloves would give them a better grip.

For the most part, during the next two days, Bruce remained outside the vault with a hostage who was usually the same one. On occasions, she was relieved by another female hostage or by another Classification Officer amongst the hostages.

Lucas and Wilson remained in the vault. The younger hostages were, for the most part, ordered to remain at the back of the vault and the furthest away from the door. Lucas was usually to be found just inside the vault door; although, on occasions, he was in Room 9 but not far from the door of the vault. Wilson's activities in the vault were not of the same harrassing, vicious nature as those of Lucas. The credit for this probably goes to a Classification Officer. Almost immediately after being confined in the vault, this Classification Officer established a relationship with Wilson which developed into a sexual intimacy to the extent of kissing, holding hands and caressing. She testified that, over the period of the incident, Wilson took demerol about twelve times. She, herself, was forced to take some demerol. Her efforts were directed to attempting to keep Wilson less of a threat than he would, otherwise, be. In this, she succeeded. At the time of the breakout, Wilson was on the floor beside her and asleep.

At approximately 11:30 Monday morning, Mr. D.J. Sorochan, one of the negotiators, made the first visit of the negotiating team to Room 9. Mr. Sorochan had acted as counsel for Bruce, and also had had contacts with Lucas and Wilson. He was involved in the lawsuit that Bruce, along with other inmates, had brought on the Federal Court seeking a declaration, inter alia, that solitary confinement is cruel and unusual punishment.

When Sorochan came into the room, Lucas came out and took the position of guarding the hostage there with the filleting knife near her throat.

Sorochan asked Bruce if there was anything specific that brought about the hostage-taking action; and told him that the trial of the civil case was going to occur in July. At this, Bruce became agitated; saying, "Specifics, specifics - the whole system is rotten - there's no way we can exist in this system - we're dead. We have to get out now. We're either going to get out of here on a helicopter or we're going out on a slab."

Sorochan explained to him that the negotiating team was being assembled, and that they were prepared to negotiate and transmit the inmates' demands to the Penitentiary authorities. It was made clear to Sorochan that there were no alternative demands. They inmates considered they could not exist in the Penitentiary system. Sorochan had no doubt that the inmates meant business and that they were prepared to kill if necessary.

Throughout the rest of Monday afternoon, visits were made from time to time by members of the negotiating team; principally Mr. Garry Bannerman and Mr. Bryan Williams.

A portable toilet was brought in, which was placed in the small sub-office in Room 9. Prior to that, the only toilet facilities consisted of buckets which had been placed in the vault. From time to time, food (consisting mostly of sandwiches and soft drinks) was made available to the inmates and the hostages.

On Monday evening at approximately 8:00 o'clock, Bruce demanded and received a quantity of noludar. This is a hypnotic sleeping medication. On this occasion, it was in liquid form and was to be taken orally. Each hostage was ordered, at knifepoint, to take a quantity of noludar. Approximately one to two ounces was given in most cases. Two hostages were given double doses. Again, shortly before midnight, the inmates demanded and received more noludar which was given to the hostages. Wilson was the only inmate to take the noludar except that just prior to the breakout, Lucas took about 1-1/2 ounces of nodular.

The visits by the members of the negotiating team continued throughout Monday afternoon and Monday evening. Also, the inmates had on the TV set and radio, which they watched and listened to.

During the night from Monday until Tuesday morning, nothing of particular significance occurred. The hostages were permitted by the inmates to use the telephone which enabled them to 'phone their relatives and to give instructions for fresh clothing to be delivered.

Throughout Tuesday, the negotiating team continued their efforts and several visits were made by them to Room 9. Bruce continued to demand demerol; and both he and Wilson apparently took substantial quantities of it. Bruce perhaps took more than anyone. Lucas' use of demerol was limited.

At approximately 10:30 on Tuesday night, Lucas complained to the officer at the door that he was having low abdominal pains; and asked that the Institutional Physician be brought to Room 9. The authorities refused to allow the Institutional Physician to go into Room 9 for purposes of examining Lucas. However, Mr. Bannerman and Mr. Williams arrived; and the inmates agreed that, so long as Bannerman and Williams were inside Room 9, the examination of Lucas could be made by the Institutional Physician in the corridor. Lucas came out for this purpose, the examination was conducted, and the Institutional Physician was unable to find anything wrong. Lucas then returned to Room 9. Later, the Institutional Physician sent in some pills that would be effective if in fact Lucas had any kidney infection. Bruce, however, refused the pills; and Lucas went without any medication.

F. THE BREAKOUT

The events shortly prior to the breakout and the breakout itself, must be viewed in context. The hostages had been held at knifepoint for a period of nearly forty hours. They had every reason to think that they were, indeed, on "death row". They had had practically no sleep. They had been forced to take drugs. The system of communication with the Penitentiary staff was primitive in the extreme, and fraught with potential misunderstanding. Nothing that is said in this report is intended to be critical of the way the hostages behaved throughout their ordeal. One can only have the deepest sympathy for them.

It is convenient to review the events of the late evening of June 10th and the early morning of June 11, first from the point-of-view of the prison staff and, secondly, from the point-of-view of the hostages.

(1) The events of the breakout from the point-of-view of the prison staff:

At about 9:30 on Tuesday evening, one of the hostages was in Room 9, endeavouring to repair the video equipment. An officer was at the dutch door. Through their primitive means of communication, he asked the hostage if it was pretty rough in the vault. He replied that it was. He then asked him, by the mouthing technique, if the hostages were contemplating any action. The hostage indicated they were; and the officer understood that this action would take place at 11:00 o'clock. He asked the hostage if such action took place, would they be able to overpower Wilson; and the hostage replied they could as Wilson was apparently sleeping.

This officer, having been relieved by another officer, went to the conference room and had a discussion with the Acting Regional Director and the Regional Director. It was decided at this meeting, and apparently principally by the Regional Director, that the plan was not to go through. The officer was instructed to communicate to the hostages that the plan was to be cancelled.

The officer then returned to the dutch door, and asked Bruce if one of the hostages could come out and Bruce refused. He, then, asked for another hostage and stated he had a message for him.

This hostage was called out, and the officer said, "With reference to an earlier telephone call you had regarding a possible TV broadcast by your wife at 11:00 P.M., this has just been cancelled". He also said to "cool it", just take it easy. The second officer was also present with the first officer, and he formed the same impression that the hostage understood the communication. Also, another hostage was in the vicinity of the vault; and they were under the impression that he had gotten the message and understood it. Therefore, it was clear to the people on the outside that there was nothing going to happen that night as far as the hostages were concerned.

It appeared to the two officers at the door that the inmates were settled, the effects of the drugs were showing, especially on Wilson who was apparently asleep. Bruce had been shooting a lot of demerol, and Lucas was apparently quite heavily sedated. It seemed that they would have no problems with the inmates, who apparently were prepared to wait until morning.

Accordingly, the first officer made arrangements to leave and to go somewhere and get some sleep. The second officer was to remain at the dutch door.

The members of the tactical squad, who at this time were located in Room 14, were given the signal to leave; and they managed to go down the hall to Room 201. Here, they put down their guns on the table and either laid down or sat down preparatory to having a much-needed sleep.

The second officer at the door was also in need of sleep, and it was arranged with the consent of the inmates that a male nurse in the institution would take up the position at the dutch door. A member of the tactical squad testified that the male nurse had a holster before going down the hall to replace the second officer at the door; and that the member of the tactical squad took this from him and placed it on the desk in Room 202. The male nurse, in his evidence, made no mention of either a holster or a gun. There is some suggestion in the statements made to the New Westminster Police immediately after the incident that there were seven guns drawn from the armoury. Because of the inadequacy of the records, it is impossible to determine whether there were six or seven guns so drawn. The second officer at the door then retired to Room 13 to get some sleep, and apparently succeeded in doing so until the time of the breakout.

The first officer at the door left, and the male nurse remained on duty at the door. At this time, there was a couch across the entrance to the vault; and a hostage was lying down on the couch. There were tables in the form of a T. The top of the T was parallel to the couch and a couple of feet from it.

There was a request for a bottle of noludar, and a half bottle was passed in; and one of the hostages took some of it. Lucas took 1-1/2 ounces of noludar. Bruce and Lucas each fixed the other with demerol. Lucas went into the vault, and returned with a knife that is presumed to have been Wilson's. He gave this to Bruce. Lucas then sat on a chair behind the couch, leaning back against the door jamb to the right of the vault. Bruce was sitting at the right of the table in front of the dutch door. Lucas apparently fell asleep. Bruce could not rouse him, and then seemed to fall asleep himself.

Another officer was down the hall to the east; and the male nurse indicated to her, by mime, that both of the inmates were at this time asleep. She slipped a note along the floor with a pen attached to it, and asked the whereabouts of Wilson. The male nurse then wrote on the note that Bruce and Lucas were asleep and Wilson was in the vault and the three knives were out in Room 9. As he was writing his note, Bruce woke up, looked around and started to "fix" himself again. He had difficulty in doing so because he "was very woozy" at the time. At this stage, the male nurse wanted to pass the note to the other officer; and he walked down toward where she was and asked her to stand at the dutch door while he went into the washroom. At this time, Bruce was in the process of fixing and Lucas was still asleep.

He passed the note to the other officer, and walked to the washroom. As soon as he got in there, he heard a noise and a shout. The other officer called, "There's something going on in the back". The male nurse immediately came out, heard screams and ran out the exit door in the vicinity of the washrooms to the foot of the stairs of the trailer and shouted, "Hit it". He then rushed back to the dutch door, jumped on the chair in front of the door with one foot on the top of it, and was crouched in that position. He saw Lucas standing on the right-hand side of the vault door, waving a knife and shouting obscenities. Bruce was to the left of the door, holding a hostage with one arm around her and his knife in the other hand. She was slouched down, and he appeared to be holding her up. Her face was pointing downward. The large knife was in a raised position

over her, and the point of the blade was within six inches of her. Bruce was shouting, "I'll kill her"; and the male nurse called to him, "Don't make it worse Andy - cool it!"

At this stage, the members of the tactical squad arrived; two officers taking up positions at the dutch door and another at the other windows which they proceeded to break.

One of the two officers saw Bruce holding the hostage, who was slumped over to his left; and Bruce had the knife up. He yelled, "Freeze, drop the knife". Bruce did lower the knife in such a way that he thought Bruce had stabbed the hostage. Bruce's head was exposed; and the officer shot and, at the same time, the second officer shot. Bruce was struck in the jaw; and, as he turned and was falling, he exposed part of his back above the belt and both officers shot again. They then turned their attention to Lucas. Both shot at Lucas who was approximately 15 feet away. Lucas dropped, but neither shot hit him. In the meantime, another officer had run to the window to the left of the dutch door at Room 9. He knocked out the window, and saw Bruce whom he thought was sitting on the floor holding the hostage. He fired at Bruce, and was under the impression that he had hit him. This was the only shot that officer fired. He was using, he believes, a four-inch barrel Smith & Wesson .38 revolver.

Another officer was in Room 202 when an officer came in and shouted, "Go!" He picked up, he believes, a .38 and a night stick and ran down the hallway in a crouching position as he went past the dutch door and to the window looking into the glassed-in office within Room 9. He smashed that window, and saw nothing in there. He then went to the door between Rooms 8 and 9, which was barricaded, pushed it aside, and entered Room 9. He fired no shots.

Another officer had left his revolver in Room 202 with the others. He was in the psychiatric trailer when the breakout started. He then ran to Room 202 for his gun, and then continued on to Room 9. The shooting took place while he was running down the hall. He did not fire a shot.

Another officer was in Room 202, with the other, and rushed down the corridor. He found an officer having trouble knocking out the window to the left of the dutch door; and kicked it out with his boot. After the shooting, he entered the room through the dutch door.

His revolver was cocked, and he decided to uncock it; and, in the process of doing so, accidentally discharged it. The bullet hit the floor and ricocheted and narrowly missed another officer. It is an indication of the tension that existed that an experienced officer would accidentally discharge his weapon.

In summary then, there were eight shots fired in all. They were as follows:

An officer, using a four-inch .38, fired two shots at Bruce and one shot at Lucas. Total: three.

Another officer, using a four-inch .38, fired two shots at Bruce and one shot at Lucas. Total: three.

An officer, using a four-inch .38 Smith & Wesson, fired one shot at Bruce. Total: one.

An officer, using a four-inch .38, accidentally discharged one shot. Total: one.

After the shooting, the tactical squad and the male nurse immediately entered Room 9, pulled away the hostage there, and opened the vault door. Other officers came in, and the other hostages were escorted out through the doorway to Room 8. The first hostage was taken away in an ambulance and later Bruce. Inmates Lucas and Wilson were overpowered, put under restraint, and taken away.

The autopsy showed that the first hostage was stuck and killed by a bullet that struck her in the heart. The bullet entrance was in the left chest, penetrated through the pericardium, through the right ventricle of the heart, and into the chest wall between the 8th and 9th ribs where it was found in the tissues of the posterior back. There was also a slight bullet wound to the left shoulder, which exited at a point approximately one inch below the wound of entrance and four inches posterior to it. The wound was almost in a direct anteroposterior plane.

Bruce was hit by a bullet that passed through his jaw and lodged at the left side of his throat. A second bullet entered his left chest, slanted downward to the base of the lung, hit the spleen, crossed the bowels and exited from his back. At the time of the hearing, Bruce was still in hospital.

(2) The Events of the Breakout from the Point-of-View of the Hostages

The hostages were divided as to the advisability of initiating a breakout. The principal deterrent for such action was the danger that it would result in death or injury to the hostage in Room 9. On the other hand, some of the hostages were reaching the breaking point. Further, others considered that if action was not taken soon by morning one of the hostages in the vault and possibly others would be killed.

At approximately 10:00 P.M., one of the hostages was out of the vault and in Room 9 seeking to repair video tape equipment that the inmates had jammed. They brought him out for the repair purposes. It was at this time that he had a "conversation" with the officer at the door. This conversation was conducted by hand signals, with a certain amount of mouthing. It is not surprising that there was mutual misunderstanding resulting from it. It was the hostage's understanding, from what the officer at the door signalled, that there were armed guards stationed outside Room 9; and that they were planning an attack with these armed guards at midnight.

After failing to repair the video equipment, the hostage returned to the vault. He passed the message from the officer at the door to the rest of the hostages.

A short while later, one of the hostages received the message referred to earlier from the officer at the door that the plans for his wife to appear on TV at 11:00 o'clock had been cancelled. This message was interpreted by the hostages to mean what it said. They did not relate it to any planned attack. It will be observed, therefore, that there was a complete lack of understanding between the prison staff and the hostages.

The next hour or two, up until midnight, was spent by some of the leaders of the hostages preparing themselves for the attack when it took place. Towels or blankets were to be wrapped around the arm in case Lucas should attack them. Anything that could be used as a weapon, such as a milk jug or tripods or microphone stands, was to be used.

When 12:00 o'clock came and passed with no attack from the outside, it seemed to the hostages that probably the tactical squad was waiting for the initial attack from the hostages. Accordingly, a plan was developed as follows:

At this time, Lucas and Bruce were both outside the vault. Lucas was on a chair at the vault door. Bruce was outside in Room 9, and a fair distance away from the hostage located there. Both Bruce and Lucas were showing the effects of lack of sleep. Wilson was inside the vault. He did not have his knife. He was under a shelf at the east side of the vault, and apparently was asleep with one of the hostages.

There was a metal tripod on one of the shelves in the vault. The plan was that one of the hostages would get this weapon. A second hostage, who was lying on the floor alongside the vault door, would pull the vault door open. The first hostage would then come out and hit Lucas on the head, hopefully putting him out of commission. Simultaneously, another hostage was to rush around to the other side of the vault, get hold of Wilson and hold him down. He had a piece of wood, with which he was going to strike him over the head. Two other hostages would arm themselves with their belts, and rush out of the vault and attack Bruce and hopefully hold him away from the hostage in Room 9. They were in hopes that this would give sufficient time for the tactical force to intervene.

At approximately 1:00 A.M. on June 11th, the plan was put into operation. Unfortunately, it did not work out as intended. One of the hostages opened the door alright; a second hostage came out and hit Lucas over the head three times; but it did not have the effect of putting him out of commission.

Bruce and Lucas came at the second hostage and another hostage with their knives, with the result that they pulled the steel doors substantially shut. Bruce and Lucas endeavoured, through the partial remaining opening, to slash at them with their knives. One of the hostages was successful in getting around to subdue Wilson.

The next thing the hostages heard was the shooting. Pandemonium broke loose in the vault. A tape recorder had been placed outside the vault area and a recording of this pandemonium was heard by the Commission. Practically no words could be identified; but it enabled the Commission to have some appreciation of the terror that the hostages endured.

There were discrepancies in the evidence of the various witnesses as to the events occurring immediately prior to, and during, the breakout. These discrepancies are to be expected when witnesses are testifying as to such traumatic events. The foregoing narrative of these events is the Commission's best assessment of what probably happened.

G. AFTERMATH OF THE BREAKOUT

After the shooting, a member of the tactical squad, with others, entered Room 9 and assisted in getting the hostages out. He then went into the vault and saw Wilson was tied. Bruce, at this time, was on the floor bleeding profusely. Lucas, according to this officer's evidence, was standing up against the wall. Other evidence indicates that, at this time, he was handcuffed. In any event, he was surrounded by several of the prison personnel. The Officer stated that he saw firearms sticking out of the pockets of the various members of the tactical squad and "I figured if one of those guys grabbed those guns, we are in trouble". He says that he took everybody's gun except one of the officer's gun; and took them down the hall to Room 202, where he unloaded them and put expended shell cases and live rounds in an ashtray. He kept no record of the persons from whom he obtained each particular gun. The consequence of his action was that it is now impossible to determine which person held the gun that fired the fatal shot.

His excuse for his action was that he was afraid one of the inmates would get a gun is unacceptable. Bruce was bleeding profusely; Wilson was tied up; and Lucas was under complete control. The Commission does not believe the explanation given by the officer. We are satisfied that it was done with the deliberate intention of making it impossible to determine who fired the fatal shot. It is inconceivable that a man of his experience and background would not know the importance of preserving evidence and of keeping a record of the number on the gun and the person from whom he received it.

In reviewing the officer's action, it is of importance to realize that either he, or the Officer with him, must have fired the fatal shot. The ballistics expert from the RCMP testified that the fatal bullet was fired from a four-inch .38 Smith & Wesson numbered D643085. This weapon is shown in exhibit 81, and it has a lanyard ring on its butt. This weapon also probably fired the shot that struck Bruce in the jaw. There were only two persons who fired two shots or more. The remaining members of the tactical squad either fired no shots or only one. This being so, the fatal shot must have been fired by either of these two officers.

It is the opinion of the Commission that the reasonable inference is that this officer was under the impression that he had fired the fatal shot. If he had thought it was the other officer with him, it is most unlikely that he would have mixed up the guns intentionally.

with the result that suspicion would be directed to him when such suspicion would be unjustified. On all of the evidence, there is no doubt in the view of the Commission that this Officer intentionally mixed up the guns for the purpose of preventing it being known who fired the fatal shot.

There was a further failure on the part of the prison personnel to preserve evidence in respect to cartridges.

Around 3:00 A.M., two members of the tactical squad went to Room 202 to pick up any remaining equipment and return it to the armory. The first member of the tactical squad carried the bullets and spent shells, and though he left them on the counter in the armory. A few days later, he learned the shell casings were being sought. His wife had found them in the pockets of his uniform. He turned five casings over to his superior officer.

His superior officer reported the matter to the Assistant Director, Security; and gave him the casings. Because the Armory Officer was with the superior of the member of the tactical squad at the time, the Assistant Director, Security, believed it was the Armory Officer who had pocketed them; and he so testified. He later changed his testimony, and the member of the tactical squad gave evidence that he was the person who took the casings. The Assistant Director, Security, turned the shells over to the New Westminster Police and subsequent ballistics tests indicated at least three of the casings had been fired from revolvers used by the tactical squad. None of the spent shell casings, other than the five pocketed by the member of the tactical squad, had been found.

There was evidence before the Commission from a New Westminster Police Constable that it would be normal to note the number of bullets fired. There is a directive with regard to the preservation of evidence. The Assistant Director, Security, testified he was familiar with it; and that such directives are discussed at divisional meetings. The failure to obey the directives cannot be justified.

There was a further failure to preserve evidence in respect of the plastic containers of paint thinner which were in the vault. It was this liquid which the inmates had threatened to pour on the hostages and ignite. The Assistant Director of Technical Services found these in the vault on the early morning of Wednesday, June 11th. He did not show them to police, but simply put them on a shelf in Room 9. Later that day, he noticed they were gone; and was unable to ascertain what happened to them. This evidence should have been preserved.

H. THE RESPONSE OF THE PRISON STAFF TO THE TAKING OF HOSTAGES

(1) Its Procedures in General

The most senior officer present at the institution at the time of the hostage taking was the Assistant Director of Security at the B.C. Penitentiary. He learned of the taking at 8:25 A.M. He immediately dispatched several correctional supervisors and CX staff to the area. He ordered a general lockup and a count of the inmates, which was finished at 9:15 A.M., and disclosed that three out of the 447 inmates were missing. These were, of course, Bruce, Lucas and Wilson. After giving these orders, he then proceeded to the classification offices and spoke briefly with Bruce. He then directed personnel to keep the inmates talking and occupied. He ordered tactical teams to be formed with the orders to "wait and see". The tactical squads were to consist of:

- (a) a fire team of six men, equipped with spray nozzle extinguishers;
- (b) a demolition team composed of four or six men, equipped with pry bars and pinch bars;
- (c) two assault teams of six men each, equipped with .38 revolvers;
- (d) back-up teams of twelve men, equipped with riot gear.

He then proceeded to meet with the Director of the Institution, who arrived at the Penitentiary at 8:45 A.M.

The Director was briefed on the incident by prison staff officials. The Director gave the following orders:

- (a) That Royal Columbian Hospital Emergency be alerted and an ambulance called;
- (b) That one of two designated officers be at the dutch door constantly;
- (c) That the perimeter security be maintained;
- (d) That the New Westminster Police be informed of the incident and requested to send a liaison officer;

- (e) That all staff leave the switchboard open for official business only;
- (f) Confirmed the organization of the tactical squads;
- (g) Ordered an accounting of all staff;
- (h) Appointed a Classification Officer, a hostage in a previous incident, to communicate with the hostages' relatives;
- (i) Ordered an immediate assembly of all divisional heads for briefing in his office.

This briefing took place at 9:05 A.M. and, following it, telexes were sent to the Commissioner of Penitentiaries in Ottawa; the first one being sent at 10:00 A.M. The Director then proceeded to the classification office, to the dutch door. When he arrived there, Bruce was holding a knife to a hostage's throat. She was sitting on the couch with Bruce behind her. Bruce, in a cynical tone, required that either the demands be met or that bodies would be carried out. He repeated the demand for a helicopter to take the inmates and hostages to the airport to be flown to a foreign country. He also demanded negotiators.

The Director gave instructions to the Assistant Director, O & A, to call the proposed negotiators. A negotiating team, consisting of Mr. Gary Bannerman and Mr. Mordecai Briemberg, was set up. The first negotiator, Mr. Sorochan, arrived at the Penitentiary at 11:15 Monday morning. The team functioned continuously throughout the next two days.

The Director then ordered a Command Centre to be set up in the board room of the administration offices, which is close to the classification offices.

Throughout the next two days, the Director was nominally in charge of directing the response of the prison staff. It is the view of the Commission that he operated under extremely difficult circumstances. The Regional Director, shortly before June 9th, had been granted leave of absence; and one of his deputies had been appointed Acting Regional Director. Throughout the period in question, the Director was carrying out his responsibilities with his two superiors "looking over his shoulder". The Regional Director testified that he only acted as a consultant and communicator with Ottawa. This, in fact, is not accurate as will be seen later. In any event, it seems to the Commission that, in discharging his responsibilities, the Director should have been free of the surveillance of his immediate superiors.

(2) Communications with Ottawa

The office of the Commissioner of Penitentiaries in Ottawa was notified of the situation by telephone call made at 9:05 A.M. At 10:00 A.M., a telex was sent to the Solicitor General. Throughout the incident, the closest communication was maintained with the offices in Ottawa of the Solicitor General and the Commissioner of Penitentiaries by telephone and telex. In addition, there were telephone calls to the Solicitor General and the Commissioner, who both were in Toronto throughout the period in question.

They were informed of the demands of the inmates for a helicopter and an airplane to take them to a foreign country. In response, Ottawa, and particularly the Solicitor General, instructed the Regional Director to continue to negotiate to do whatever else could be done to keep the lines of communication with the inmates open. The Regional Director was told that Ottawa would continue to work, through the Department of External Affairs, to see if a country could be found which would accept them. He was fully aware that, under no circumstances, would Ottawa permit Canadians to be taken out of the country as hostages.

On the morning of June 10th, the Regional Director received from Ottawa the names of five countries that were being approached to see if they would accept the inmates. At that time, it was considered essential that the names of the five countries be kept confidential. The confidentiality was maintained, and the names of the countries were not released even in the hearings before this Commission.

One of the countries had rejected the proposal. This fact was communicated by the negotiating team to the inmates. They were also advised that the other countries were being tried. The names of the countries, of course, were given to the inmates. From time to time, the response of a country was communicated to the inmates; although it involved informing them that the reply was negative.

While the negotiators, particularly Mr. Bryan Williams, became somewhat impatient and were concerned that Ottawa was not acting with sufficient urgency, there is nothing in the evidence before this Commission upon which any such conclusions can be based. Mr. Williams made telephone calls to Ottawa, to the local Member of Parliament and to the Commissioner of Penitentiaries, to make sure that the urgency of the situation was fully realized. He received assurances that it was.

For the next two days, conferences and briefing sessions were held at frequent intervals. Full minutes of these meetings were kept until the latter part of Tuesday when instead of a secretary's minutes being kept, the proceedings at the meetings were taped. These minutes and tapes were filed as exhibits.

At the meetings there were usually present the senior officers of the Penitentiary, the Regional Director, members of the negotiating team and, from time to time, one of the officers at the door. The Deputy Regional Director, Health Care Services, was also frequently in attendance.

(3) Policy Decisions

Certain policy decisions were established, the principal ones being:

- (a) The tactical squad was not to move on its own initiative. Initially, it was decided it would only move if the inmates injured or killed a hostage. Subsequently, this policy was enlarged so that the tactical squad would move if the hostages took any action.
- (b) The senior officials at the Penitentiary had no authority to authorize an attack without first obtaining permission from Ottawa, except as indicated in paragraph (a) above.

It is the opinion of the Commission that such a restriction on local authority is unwise. While it cannot be said with any certainty that this decision affected the result, it might have.

Obviously, the decisions taken at the National Headquarters level stemmed from a desire to effect the release of all hostages without serious injury or endangering the lives of innocent persons. The fact that this primary objective was not achieved leaves the wisdom of restricting local authority open to question, and dictates a close re-examination of all relevant factors.

In the present case, a review of the evidence discloses that at least on one occasion a possible opportunity presented itself to "knock down" two of the three perpetrators by sniper fire while the third was in the vault, no longer a serious threat.

The evidence also discloses that on one other occasion all three inmates were asleep at the same time, albeit a short period. Again, the two most dangerous ones were outside the vault and the third inside the vault vulnerable to an attack by the hostages. With authority to move, it may be the inmates could have been overpowered without resorting to the dangerous use of firearms which subsequently resulted in the accidental death of one of the female hostages.

The Commission realizes that it is reviewing the situation with the advantage of hindsight. It does not assert that opportunities were missed that should not have been missed. It simply suggests that the policy adopted need not establish a firm precedent to be followed automatically and without question in future events of this kind. It proposes that each situation be assessed on its own merits, with due consideration for the decision-making capabilities and judgment of the persons in command locally.

(4) Relations with Other Police Forces

(a) RCMP

The RCMP was requested to send an experienced officer to the scene for advisory purposes. An inspector arrived at the Penitentiary on Monday, June 9th, at 1:45 P.M. He has been with the RCMP for 26 years, and has been involved in aircraft hijackings and has familiarized himself with methods of handling hostage situations.

At no time, was the RCMP requested to take over the situation. He was told by the Regional Director that what they wanted from him was advice. He was, however, not included in the planning of tactical operations.

It was the Inspector's opinion that at one point on Tuesday evening both Bruce and Lucas could have been "knocked down" by sharpshooters located in the administration building. Bruce and Lucas were both at the window on the side of Room 9 facing the administration offices, and could have been hit. Their sharpshooter, however, could not guarantee they would survive. Even with the advantage of hindsight, the Commission is not prepared to say that such sharpshooting action should have been taken; or that fault can be attributed to anyone for failure to institute such action.

(b) New Westminster Police

The New Westminster Police were immediately informed of the hostage taking; and, by 9:00 o'clock, a Deputy Chief and an Inspector were at the Penitentiary and attended an informal briefing session. Throughout the episode, a representative of the New Westminster police was present.

(5) The Use of Drugs

The Institutional Physician and another officer concerned testified that, almost immediately after the taking, the inmates demanded drugs. First of all, the drug demerol. Later, noludar and also librium. It must be remembered that Bruce and Wilson were addicts, and that demerol is a morphine substitute. The two officers considered they had no choice but to comply with the demands that were made over the two days. With respect to the noludar, after the first issue of it, the noludar that was supplied had been substantially diluted. The drugs that were dispensed are reported in exhibit 53, which in substance, is as follows:

"Subject: Drugs Dispensed June 9th and 10th, 1975

Monday, June 9/75

0930 hrs. - Demerol 30 cc vial
 - Haldol 8 cc (in Demerol vial)

These bottles were both broken at 0945 hours.

1000 hrs. - Demerol 100 mg ampoules x 50
 borrowed from Royal Columbian Hospital

1020 hrs. - Demerol 100 mg - 5 ampoules dispensed

1230 hrs. - Demerol 100 mg - 5 ampoules dispensed

1530 hrs. - Demerol 100 mg - 5 ampoules dispensed

1720 hrs. - Demerol 100 mg - 5 ampoules dispensed

1950 hrs. - Noludar 400 mls - bottle dispensed
 - Demerol 100 mg - 5 ampoules dispensed

2330 hrs. - Noludar 200 mls & water

Drugs Dispensed June 9th and 10th, 1975 (continued)Tuesday, June 10/75

0630 hrs. - Demerol 100 mg x 5 ampoules dispensed
 1100 hrs. - Demerol 100 mg x 5 ampoules dispensed
 1800 hrs. - Demerol 100 mg x 5 ampoules dispensed
 Noludar 400 mls - bottle dispensed
 2100 hrs. - Noludar 200 mls - 1/2 bottle & water dispensed
 2200 hrs. - Noludar 200 mls - 1/2 bottle & water dispensed

Wednesday, June 11/75

0005 hrs. - Noludar 200 mls - 1/2 bottle & water dispensed

LIBRIUM DISPENSEDMonday, June 9/75

1330 hrs. - Librium 10 mg - 15 dispensed
 1930 hrs. - Librium 10 mg - 15 dispensed

Tuesday, June 10/75

0930 hrs. - Librium 10 mg - 15 dispensed
 1700 hrs. - Librium 10 mg - 6 dispensed

The institutional physician did not consider the dosages dangerously large. It would seem that he had little choice, and no adverse comment is made in respect of the dispensing of these drugs on June 9th and 10th.

(6) The Deployment of the Tactical Force

On the Monday morning, various tactical squads were established. The personnel for these teams were selected by correctional supervisors (CX-8's). The names were submitted to the Assistant Director for Security for his approval.

There were two assault squads consisting of six men each, armed with Penitentiary issue .38 revolvers. Initially, these squads were to alternate two hours on and two hours off. Later, this was extended to three on, and three off. The pattern was interrupted, from time to time, by the difficulty of moving the squads in the vicinity of Room 9 without detection. The task of the assault squads was to move into an office in the classification building as near as possible to Room 9. There, they would be prepared to rush the inmates if the inmates turned on the hostages, or if the hostages initiated a breakout attempt. The squads crept up and down the corridor of the classification building, in stocking feet, on the signal of the person posted at the dutch door. At the time of the final incident, the officers in these squads were resting in a room at the end of the classification building. They had been sent there for a rest after being told that, because of negotiations, they were not required to be close to Room 9.

A senior staff supervisor had assigned a specific position to each of the six men on a squad. In the event of action, two of the assault squad were to go to the dutch door, two were to go to the opaque window immediately before the dutch door, a fifth man was to kick in that window, and the sixth was to kick open the dutch door.

The members of the assault squad were to order the inmates to cease whatever they were doing. If the inmates did not comply, the squad was to use its guns.

The assault team was to be followed by a fire-fighting team of three to four men (six were assigned to this squad, to spell one another off), equipped with spray-type nozzle fire extinguishers. The authorities believed the inmates had flammable liquid in plastic containers, which they might use to start a rapid fire. The extinguishers provided were suitable for the type of fire a flammable liquid would create.

The fire squad was to be followed by a demolition team of four men (again six men were assigned), armed with pry bars to force open the steel sliding door at the entrance to the vault; thereby providing access to, and an exit for, the hostages and any inmates who might be inside.

Finally, a backup squad, equipped with riot gear, such as helmets, masks, shields and batons, would follow the demolition team into the area. The task of the backup squad was to rescue the hostages, arrest the inmates, and escort both the hostages and the inmates from the area. One member of this squad was equipped with a shotgun, and instructed to stay on the grassy bank overlooking the classification building in case one of the inmates made a run for it.

Throughout the two days, there was two-way radio communication between the tactical squads, the operations room of the security staff, and the Assistant Director for Security. One of the assault teams was always in an office in the classification building near Room 9 or resting in a room at the end of the classification building. The other tactical squad was in the general area or in the psychiatric trailer, which is located adjacent to the classification building.

While the deployment of the various squads was appropriate, the Commission is concerned that, for the most part, they were not afforded any opportunity to rest. They were on almost continuous duty for 41 hours.

Not only was this true of the various squads, it was also true of the Director and the other senior officers manning the command post. No one can be expected to function at maximum efficiency over such a long period without adequate rest. This lack of rest may easily have been a contributing factor to the inept shooting of the tactical squad.

I. THE EFFORTS OF THE NEGOTIATING TEAM

The members of the negotiating team requested by the inmates and who functioned on the team were:

- (a) Mr. Don Sorochan, Lawyer, who had previously acted for Bruce;
- (b) Mr. Bryan Williams, Lawyer, who was acting as counsel with Sorochan in the action brought by Bruce and others in the Federal Court for a declaration that solitary confinement was cruel and unusual punishment;
- (c) Mr. James Spears, a newspaper reporter;
- (d) Mr. Garry Bannerman, a prominent radio journalist, who acted as an intermediary in a previous hostage-taking incident at the Penitentiary;
- (e) Mr. Mordecai Briemberg, a researcher and lecturer.

These gentlemen played a very important role in satisfying the inmates that bona fide efforts were being made to comply with their demand that they be supplied with a helicopter to take them to the airport and an aircraft to take them to a foreign country. They were able to persuade them that the obtaining of the consent of a foreign country was a difficult matter, and required time. Without such assurances, one can fairly assume that the inmates would have taken drastic action; and the tragedy would have been even worse than it was.

The relations between the negotiating team and the Penitentiary Service personnel were, for the most part, cordial and characterized by mutual respect. The negotiators were told of the policy that no action would be taken by the tactical squad unless there was action taken by the inmates against the hostages. They also were advised of the later enlargement of this policy to the effect that the tactical squad would move if the hostages, themselves, initiated action. Apart from this, the negotiating team did not wish to be involved in any discussion of tactics. The reason for this was that the team was negotiating in good faith. If they had information of tactical manoeuvres, it would impair their ability to deal with the inmates in the spirit of frankness that good faith required. They did, of course, demand and receive an assurance that the members of the negotiating team would not be used for tactical purposes. That is to say that,

while they were visiting with the inmates, no aggressive action would be taken. They were already incurring sufficient risk, without a further complication of this nature.

Except in two areas, members of the negotiating team had nothing but praise for the way in which the members of the Penitentiary staff responded to the hostage taking. The two areas in which they were critical were:

- (1) The failure to disclose certain information that had been communicated by the Solicitor General to the Regional Director.

At approximately 9:45 P.M. on Tuesday, June 10th, the Solicitor General talked on the 'phone to the Regional Director, who was then at the Penitentiary, and said a country had been identified which might accept the inmates if certain conditions were met. He was given the name of the country, but required not to disclose it. He was further instructed to discuss this information with only a limited number of select people, who would be associated in devising a plan to implement the removal of the inmates in the event that a foreign country did, in fact, agree to accept them. This plan was to be communicated to the Solicitor General no later than 8:00 A.M. Pacific Time the following morning, Wednesday, June 11th.

The Regional Director did not communicate this information to the Director of the Institution, nor to the negotiators. The criticism of the negotiators was that, if they had had this information, they would have advised the inmates of it and they would have advised them in tones loud enough to be heard by the hostages. The negotiators were of the view that then no action by either the inmates or hostages would have been taken until after the plan had been communicated to Ottawa and a time for response had expired.

The Regional Director's explanation for not communicating the information was twofold:

- (a) He was instructed not to communicate with anyone except people involved in preparing the plan;
- (b) He did not think it would make any difference because it was still only a possibility and really added nothing to the possibilities that they had been discussing for the last two days.

With deference to the members of the negotiating team, it is the Commission's view that their criticism of the Regional Director is unjustified.

First of all, it must be noted that the failure to communicate the information to the inmates was not a cause of the breakout. It was not the inmates who initiated the events that terminated in hostage taking. This resulted from the initiative of the hostages.

Secondly, the leaders of the breakout by the hostages testified that, in their view, if they had had such information, it would have made no difference. They would have still proceeded with their breakout, as planned, and at the time that it did in fact occur. There were two reasons for this:

- (a) They would have considered that such information was being passed on to the inmates simply for the purpose of stalling and obtaining further time;
- (b) In the view of the leaders of the breakout, several of the hostages were reaching the breaking point. They were also concerned that Lucas would probably kill one of the hostages during the course of the night.

Accordingly, the passing of such information to the hostages would not have, in any way, deterred them from the action that they took.

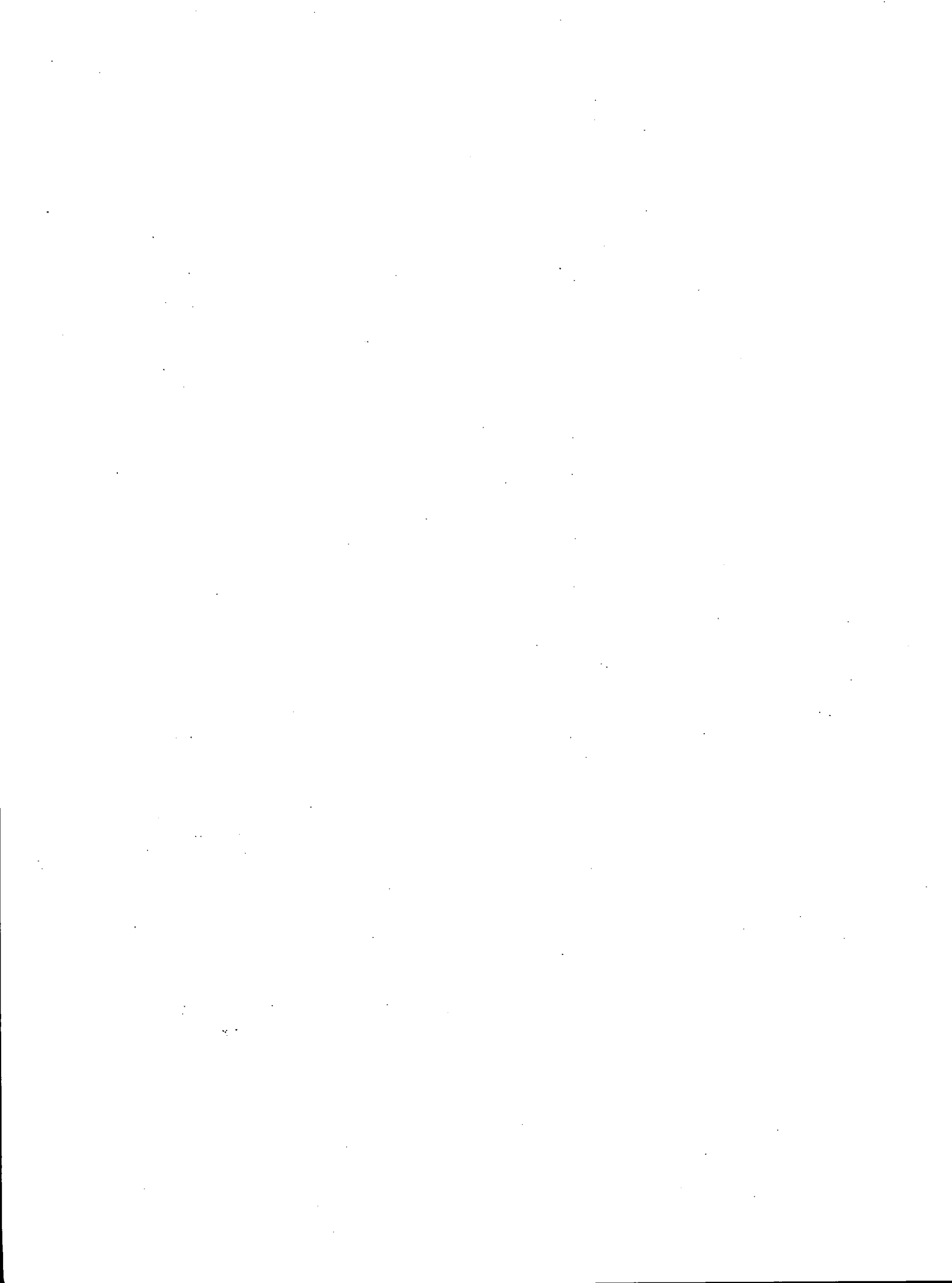
Therefore, it is the Commission's opinion that the failure to communicate this information made no difference to the events that occurred.

- (2) A mistaken idea that there had been a change in policy in respect to the use of force by the tactical squad:

Mr. Bannerman testified that, on Monday evening, he overheard the Assistant Director, Security talking on the walkie-talkie to the Director of the Institution; and stating that the Regional Director had overruled a plan being formulated by the Assistant Director, Security to have the tactical squad rush in and overpower the inmates because, in his view, the inmates were then being lax in their own security measures. Such action would, of course, have been contrary to the declared policy that the assault team would move only if the inmates moved or if the hostages moved.

Again, with deference to the negotiating team, we do not think their criticism is justified. There was, in fact, no change of policy. The mere circumstance that the Assistant Director, Security was making a suggestion which was not accepted cannot be a proper foundation for criticism. Accordingly, Mr. Bannerman's testimony that "Overall, I think a brilliant job was done," must stand, as his view of the manner in which the prison staff discharged their responsibilities.

PART II



PART II

A. THE NATURE OF THE INSTITUTION

(1) Inmate Profile

An inmate profile shows the prison population of the B.C. Penitentiary by offences:

Non-capital murder	42
Attempted murder	8
Rape	11
Dangerous sexual offender	4
Habitual criminal offender	3
Robbery and theft (property)	152
Fraud	13
Drugs (trafficking & possession)	105

Personal offences:

Kidnapping	
Causing bodily harm	
Manslaughter	
Indecent assault	102

(2) Staff Profile

In the British Columbia Penitentiary, over 50 per cent of the total staff is comprised of Security Officers.

The duties and responsibilities of this large segment of staff relate primarily to the maintenance of good order and control in the institution. Involved in this process, are two types of security; namely, static security and dynamic security. Static security refers to the use of permanent physical facilities such as towers, walls and fences, and the establishment of such procedures and routines as may be necessary for the safe and orderly operation of the institution.

Dynamic security is preventive in nature. It is people oriented with greater reliance on controls other than on the physical. It is characterized by the disciplined observation of

of an alert staff, engaged not only in the enforcement of rules and regulations governing the conduct of inmates, but in all aspects of basic security functions. These functions include:

- perimeter security and access control;
- control of contraband;
- control of inmate movement;
- searching, locking and counting;
- escort duties;
- inmate discipline.

In order to meet these responsibilities, the full cooperation of all other staff is necessary; particularly that of the classification staff who, in the course of their duties, have access to information that must be shared with security staff.

(a) Turnover

The turnover of staff at the B.C. Penitentiary is appalling. In 1974, there was a turnover in respect of all the staff of close to 40%. There was a turnover of correctional officers of 61.2%. This means, of course, that, at the time in question, a large portion of the security staff had very limited experience. The turnover in classification officers was heavy. Out of a total of sixteen, there were ten new classification officers between October, 1973 and June, 1975.

(b) Training

(i) Correctional Officers

The implementation of the formal training program developed for correctional officers, outside of such training as may be given on the job, is rendered almost impossible by the turnover of staff. As a result, there is a very heavy backlog in all areas of training.

(ii) Classification Officers

There is no previous training for classification officers. It is, substantially, an on-the-job training proposition. The qualifications for classification officers include a university graduation, preferably with a degree in the behavioural sciences. There is a one-year probationary period. It is the policy to have a three-week orientation program; but, because of the backlog of work, this apparently is not carried out.

(c) Relations between correctional officers and classification officers

There is a conflict between the correctional staff and the classification staff of the Penitentiary. The correctional staff is, primarily, oriented to security measures. They are in close contact with the inmates over long periods of time. They have a much more intimate knowledge of the behaviour of inmates than is possible to a person who only sees an inmate on limited occasions and at a time when probably the inmate is putting his best foot forward.

On the other hand, the classification officers are frequently persons with academic qualifications, but little practical experience. They are, primarily, oriented to matters affecting rehabilitation. In order that the correctional people and the classification personnel can each discharge their respective responsibilities, it is essential that there be the closest cooperation between the two groups. Unfortunately, this is not the general rule at the Penitentiary. With some exceptions, there is little or no communication between the two groups. They do not meet informally, apart from their professional duties. In some cases, there is a marked hostility between them.

This lack of cooperation and communication between correctional personnel and classification officers was a contributing factor in making possible the hostage-taking incident.

(d) Supervision of Staff Functioning

It appears to the Commission that the supervision of the functioning of the staff, particularly in relation to security, was inadequate. For example, the supervisor of classification officers, while aware that a classification officer was not cooperating in security measures, took no effective steps to correct the situation. Other incidents of lack of supervision in respect of knives and passes are discussed later in this report.

B. ITS SECURITY PROBLEMS

The B.C. Penitentiary has grave security problems. The physical plant is an ancient one, and its growth has been haphazard; embracing a conglomerate of facilities, buildings, and activity areas that are, for the most part, overcrowded and so located as to create problems of both programming and control.

According to the evidence of the Director of the Institution, there are 80 to 90 inmates that are as dangerous as Bruce, Lucas and Wilson. The only alternative open to the prison staff, in dealing with such people, is to have them in SCU or in the prison population. There is no intermediary way of segregating them without subjecting them to the inhumane treatment of solitary confinement for 23-1/2 hours a day for prolonged periods of time.

The Commission was, initially, concerned as to how it would be possible that three such dangerous men could arrange to be in the classification building at the same time. However, on reflection, when one considers that there are 80 to 90 inmates with dangerous propensities, it is inevitable that there will be at least three or four of them in the classification building at any given time. Indeed, wherever there are group activities within the Penitentiary, whether in shops, work areas or recreational areas, several dangerous men will, at any given time, be found together. This emphasizes the need for the monitoring of the conduct of the men by the security staff, and the cooperation in security aspects by the classification officers. It appears to the Commission that these responsibilities were not adequately discharged by either group.

With these conditions, namely, a grossly inadequate physical plant, a largely untrained staff with excessive turnover, a lack of communication and cooperation between the security people and the classification people, an inmate population containing 80 to 90 extremely dangerous men, an inhumane way of controlling such dangerous offenders, it is inevitable that there will be incidents of a like nature to those under investigation. In the last two years, including the incident under investigation, there have been five hostage-taking incidents at the Penitentiary. Three of these were previous to the one under review. A brief description of them is as follows:

- (a) At nine in the morning, August 21, 1972, a classification officer was taken hostage by two inmates armed with knives. She was captured in her office in the classification building. The inmates took her to the vault in Room 9, the same vault used in

the incident presently under investigation. Negotiators were brought in, and the inmates demanded a full pardon and release. They threatened to kill themselves and the classification officer if these demands were not met. The incident lasted until 7:50 in the evening, when the hostage was released on a promise by the authorities that an officer from the Parole Board would meet with the two inmates the following day.

A one-man administrative inquiry investigated the incident and recommended, among other things, that a security officer be stationed at the classification building to scrutinize the passes of all inmates entering and exiting and to frisk the inmates. The inquiry also recommended a panic button alarm system in all offices in the building, and the installation of an alternate exit on the outside wall of the vault.

(b) At 8:05 P.M. on February 17, 1975, a physical fitness instructor was seized in the prison auditorium/gymnasium by an inmate wielding a knife. The hostage was led to the shower area, and told to sit on a chair placed in a toilet cubicle. The knife was held at his throat at all times.

Three other inmates acted as "go-betweens". The first inmate demanded to see the Director and a radio journalist, Gary Bannerman. The inmate, who was serving a 17-year sentence, had recently been in SCU; had attempted suicide; and was depressed because he could not obtain a transfer to another institution.

He released the hostage unharmed after a tape of his grievances was broadcasted on a radio station, and he was assured that he would be taken to the regional psychiatric centre at Matsqui. He claimed to have found the knife in an empty cell, and to have grabbed a hostage as it was his only alternative to suicide.

(c) On March 11th, 1975, at 2:20 in the afternoon, two carpentry instructors were taken hostage by an inmate with a knife. One hostage was ordered to tie the other to a chair. The inmate then tied the second hostage to another chair.

The inmate was apparently seeking a transfer. He came to the B.C. Penitentiary in March, 1971, and was to serve a 7-year term. He had apparently been in SCU under administrative discretion. He had not seen his classification officer in a year, claimed he had been unable to ascertain his release date, and believed the only way he could get a transfer was to take the action he did.

He surrendered his knife to two penitentiary officers around 3:40, two hours and twenty minutes after the incident started, on a promise from the officers that they would act on his behalf in a transfer request.

During the hearings, there was a hostage-taking incident, when an inmate held at knifepoint a barber instructor for several hours.

It is gratifying to note that the Canadian Penitentiary Service is aware of the problems. As a result of a report published by the Mohr Commission in 1971, which had been appointed by the Solicitor General to do the necessary research into the requirements for a design and construction of new maximum-security institutions, it is intended that the B.C. Penitentiary be phased out by 1979. The timing is the result of the priority set and the monies authorised by Parliament. However, unless the recommendations made at the conclusion of this report are implemented, further similar incidents in the next four years must be expected. Even if implemented, there is no assurance that such incidents will not occur.

C. SECURITY MEASURES

(1) Standing Orders

Standing orders issued by the regional office and by the B.C. Penitentiary, relating to the administration of the institution and more particularly relating to matters of security, are considered by the Commission to be appropriate. The enforcement of these orders, however, was inadequate and, in some instances, completely so,

(a) Pass Control System

A revised Pass Control System, designed to permit inmates in the general population to proceed unescorted from place to place within the institution, was implemented in April of this year. The system is essentially as follows: When an inmate is required in a part of the prison, other than in the area he works, (e.g. for an interview with a classification officer or a psychiatrist), the person requiring the inmate fills in a pass on a standard form. This is done on the day previous to the time of the meeting. The pass is forwarded to security people before 4:00 P.M. Security delivers it to the officer in charge of the appropriate work area for that inmate on the following morning. This officer issues the pass to the inmate, noting his time of departure. The pass permits the inmate to move directly from his work area to the place where he is required.

When the inmate is finished, the officer concerned marks the time; and instructs the inmate to return to his work area. He telephones the officer in charge of the work area that the inmate is on the way. On his return, the inmate hands the pass back to the officer in charge of the work area. If an inmate does not show up five minutes after he left the place of interview, he is reported missing. At the end of the day, all used passes are returned to security. Some 300 such passes are used daily in the B.C. Penitentiary.

Theoretically, any prisoner outside his work area at any time of the day must have a pass. The major exception to this is the time at which the general prison population is moving from the cells to the work area and back again. Within these narrow time frames, an inmate can move without a pass if he is apparently heading toward a normal work area or towards the cells, as the case may be. Security is informed if any inmate does not turn up at his expected destination within five minutes.

Prior to the pass system, an escort was required every time a prisoner went some place within the Penitentiary other than where he worked. A return to this former system would require a significant increase in manpower or a corresponding reduction in programs for the inmates.

This pass control system was loosely enforced. Classification officers were supplied with pass forms, which they filled out as occasion required. It was the responsibility of the classification officers to keep the blank pass forms under lock and key, so that no inmate could possibly obtain one. The evidence shows that this was not always done.

The hostage killed during the hostage taking was particularly known to have frequently left pass forms on her desk, which would be easily available for an inmate to obtain. The pass used by Bruce on the morning of June 9, was, in fact, a forged pass.

Further, as indicated above, there was no monitoring of the log showing the issuance of such passes. A review of this log, properly carried out, would have alerted the security people to the unreasonable amount of time that Bruce was being permitted to spend in the classification building. Similarly, a review by the supervisor of the classification officers, of the work of personnel under his jurisdiction, would have disclosed that the amount of time one of the classification officers was spending with Bruce was unreasonable and appropriate action should have been taken.

(b) Control of Knives

The standing orders provide for extensive control of tools, including knives. Each officer in charge of a department is responsible for safekeeping and preservation of such implements. He is to keep a record of all tools and utensils, and is to see that every implement is stamped or permanently marked with the departmental initials. There are provisions governing the disposal of worn-out implements and restricting the loan of such items between departments.

At the end of the day, the officers are to check all such tools before the inmates are allowed to leave the area. The rules also provide that Master Shadow Boards are to be used as a means of tool control. Knives are to be kept to a minimum, and are to be always under lock and key in a secure safe or cupboard when not in use. When such things are found missing, the officer in charge is to immediately inform security.

There was testimony before this inquiry that these standing orders are not always carried out insofar as the kitchen is concerned. An attempt was made to justify this failure by testimony that, if the kitchen is to be able to function, the standing order has to be overlooked. This Commission does not accept this point-of-view. The standing order procedure is reasonable and necessary. Another Penitentiary official testified that knives are kept in a drawer, rather than on a shadow board, and that, although the food services officer should count the knives at the end of the day, sometimes he doesn't. There was evidence of knives being missing for days before this was reported.

The standing order on the duties of a kitchen custodial officer do not require that he check knives at the end of the day. This would appear to be left to the food services officer.

It is the view of the Commission that the standing order in respect of knives was honoured more in the breach than it was in the performance. There were sixteen knives in the kitchen that were of types used in this incident. All knives used by Bruce, Lucas and Wilson came from the kitchen supply. The filleting knife held by Lucas was missing on the Thursday, June 5. The security people were not advised of this fact. These knives were kept in a drawer. Theoretically, the last officer in charge for the day had the responsibility of counting these knives. This would involve taking all knives out of the drawer, putting them on a table, counting them, and returning them to the drawer. We are satisfied that, if this was carried out, it was done in an extremely sloppy manner. There was no shadow board so that the absence of a knife would be readily apparent. We do not consider there was any reasonable excuse for the failure to take careful supervision of the knives. If a hostage-taking incident was to occur, the most likely weapon to be used would be a knife. This made it imperative that the kitchen knives be kept under closest control. This was not done.

(c) Alarm Facilities

The recommendation of the Board of Inquiry investigating the hostage-taking incident on August 21, 1972, in the classification building where the hostage was taken to the vault in Room 9, that an alarm system be instituted was not implemented. The Assistant Director, Security, testified that it was overlooked. The Director

of the institution confirmed this, but appeared to be not too enthusiastic about the institution of such a system. In our view, while it is not necessary that a so-called panic button be installed in each classification officer's office, it is essential that some alarm system be installed in this building.

(d) Search Procedures

The same Board of Inquiry recommended that there be a custodial officer stationed at the classification office to receive the passes of the inmates and to search them for weapons. The Assistant Director, Security, testified that this recommendation was concurred in and the necessary orders given. However, the person who was the custodial officer on the morning in question and who received the passes from Bruce and Lucas testified that he was not aware that he was required to search. Again, an illustration of the failure to enforce appropriate orders.

D. THE USE OF DRUGS AS A CONTROL MEASURE

Two of the inmates, Bruce and Wilson, were heroin addicts. Some medical evidence was heard in respect to the amount of medical treatment, including the prescription of drugs that they received from the medical staff of the Penitentiary. Unfortunately, the psychiatrist who was principally involved with the treatment of these men was ill and unable to give evidence. In the absence of evidence from him, the Commission cannot say the extent, if any, to which drugs, or the lack of them, was a factor in this incident. However, the Commission has misgivings as to the use of mood-changing drugs in the Penitentiary.

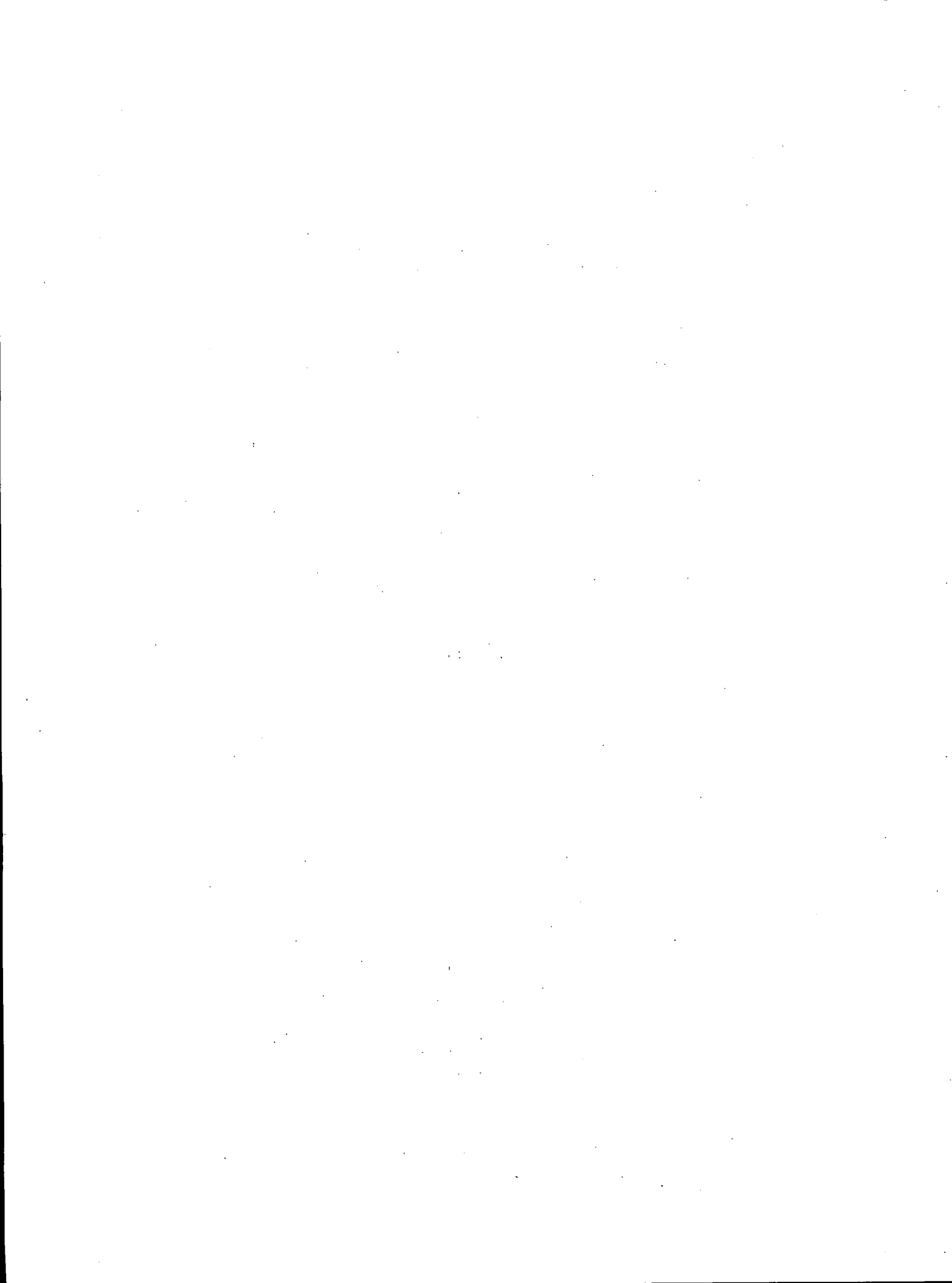
The evidence in respect of the practices in the British Columbia Penitentiary of dispensing drugs, including the amount so dispensed, and the purposes for which they were dispensed, that was introduced to the Commission was extremely sketchy. There were two reasons for this. In the six-month period prior to the events in question, no adequate records were kept of the amount of drugs used in the Penitentiary. This was the responsibility of an officer, no longer with the institution.

Secondly, the inability of the psychiatrist concerned to give evidence.

However, enough was learned to give the Commission serious concern as to whether or not drugs may not have been prescribed as a chemical straitjacket. We are unable to say to what extent drugs were issued for disciplinary control measures, for behaviour modification procedures, or for the treatment of mental illness. We are concerned that the prescription of drugs to an inmate, over a long period of time, may result in addiction. We are not satisfied that there is any valid distinction between drug dependency, which the medical evidence indicated could occur, and addiction. It is our opinion that this area should be investigated by a committee having the necessary expertise and one that is independent of the Canadian Penitentiary Service.



PART III



PART III

A. CONCLUSIONS:

(a) The primary responsibility for the taking of hostages at the British Columbia Penitentiary between June 9 and June 11, and the resulting death of one of the hostages, rests on Andrew Bruce, Dwight Lucas and Claire Wilson whether or not they are guilty of murder as defined in the Criminal Code.

(b) Contributing factors were the inadequate recognition of security requirements and the inadequate enforcement of security measures at the Penitentiary. Particulars of these inadequacies are:

(i) The release of Bruce, Lucas and Wilson into the general prison population without adequate supervision.

(ii) Permitting Bruce for two to three weeks prior to the events in question to roam almost at will in the classification building and thus permitting him to plan the taking of hostages.

(iii) The ignoring by some of the classification officers of the warnings that they had been given by inmates that Bruce and Wilson were obviously planning something.

(iv) The inadequate control of knives in the kitchen.

(v) The failure of some classification officers to adhere to standing orders and routines in respects of security.

(vi) The lack of cooperation between classification officers and security personnel.

(vii) The failure to carry out the recommendations of previous boards of inquiry in respect to an alarm system in the classification offices.

(c) The response of the prison staff to the hostage taking was for the most part appropriate. In particular:

(i) The organization of the command post and the manning of it was in accordance with the requirements of the situation. We have some misgivings in respect to the presence at the command post of the Regional Director, and the Acting Regional Director. The Director of the Penitentiary did not assert that their presence inhibited him. However, it is reasonable to assume that it may have. The person responsible for the handling of a very difficult situation should not be subjected to the restrictions implicit in the presence of his immediate superior officers.

- (ii) The organization of the tactical squads was proper.
 - (iii) The deployment of the tactical squads was correct, with the proviso that the lack of rest periods is not approved.
 - (iv) The acceding to the demands of the inmates for drugs was justified.
 - (v) The policy of not taking action until the inmates injured or killed a hostage and the enlargement of this policy to "or until the hostages initiated action" is understandable. It would have been preferable if local initiative had not been restricted.
 - (vi) The response of the tactical force at the time that the hostages initiated the breakout was justified.
 - (vii) The shooting by members of the force was terribly inept; but, under the circumstances, understandable. These men, while expert shots, were not trained for the task assigned to them. This emphasizes the need to have an outside tactical force independent of the Penitentiary Service available for such incidents.
- (d) The actions immediately subsequent to the breakout of the staff in failing to preserve evidence was contrary to standing orders; and is strongly condemned. In particular:
- (i) The action of one member of the tactical squad in collecting revolvers used, making no note of which person had which revolver, of emptying the cartridges, and in all of rendering it impossible to determine who fired the various shots cannot be justified. His explanation that the reason for collecting the revolvers was because he was concerned that the inmates might gain possession of one of them is not accepted. The conclusion is irresistible that he deliberately made it impossible for anyone to learn who fired the fatal shot.
 - (ii) An Officer's mishandling of the shell casings and ammunition.
 - (iii) The Assistant Director, Technical Service's failure to inform the New Westminster Police of the plastic containers of inflammable liquid and his failure to preserve these containers.
- (e) The responsibility for the failure to enforce the standing orders and directives relating to security rests primarily on the Assistant Director of Security. It was his duty to ensure that these orders and directives were carried out. He failed in this duty.
- (f) The Commission makes no adverse findings against the Director of the B.C. Penitentiary. While in the administration of the Penitentiary there may have been mistakes in judgement particularly in the premature release of Bruce, Lucas and Wilson

into the general inmate population, it is the Commission's view that he is a humane man discharging his responsibilities under extremely difficult circumstances. He was entitled to rely on the Assistant Director, Security. The latter's failure cannot be fairly attributed to him. The Director's response to the hostage-taking incident is not open to responsible criticism.

B. THE COMMISSION'S RESPONSE TO THE SPECIFIC MATTERS REFERRED TO IT ///

The terms of reference instructed the Commission to investigate and report upon the following matters:

(1) The Circumstances Which Led to the Hostage Taking

Major contributing factors in this regard were:

- (a) the premature release from segregation of inmates Bruce, Lucas, and Wilson;
- (b) permitting Bruce to act as secretary of the Community Awareness Group with the consequent freedom of movement that is not normally extended to dangerous inmates and introducing an unacceptable element of risk;
- (c) a poorly administered inmate pass system that permitted the perpetrators to forge passes and move unhindered to the classification building, the scene of the planned hostage-taking event;
- (d) ineffective control of kitchen knives, a security weakness exploited by the inmates.

(2) The Initial Emergency Response Action

The initial emergency response action of the Director and senior members of his staff was correct and reasonable. The measures taken at the outset resulted in the early containment and control of the situation, as well as could be expected, within the limits of prevailing circumstances.

(3) The Established Policy and Procedures Prescribed at B.C. Penitentiary to Prevent and Respond to Such Occurrences

Policies and procedures developed at B.C. Penitentiary to prevent and respond to occurrences of this kind do not relate specifically to hostage-taking events. They refer more directly and in a general sense to riots and disturbances of which a hostage taking may be a part.

There is obviously an urgent need to develop better guidelines for the prevention and management of these events. Recommendations along these lines will follow later in this report.

(4) The Circumstances Surrounding the Detention of the Hostages

The perpetrators chose a time and place particularly well suited to their bid for freedom. The time coincided with the opening of the prison in the morning and the first major inmate movement of the day. It is during this time that the institution is most vulnerable, with the majority of security staff engaged in unlocking procedures and supervising a large inmate population moving over a wide area.

The element of surprise was used to good advantage in the seizure of classification staff.

The place, the vault area, because of its isolation and inaccessibility offered an excellent place for the detention of hostages.

The loosely-controlled pass system provided easy access to the scene of the crime for the inmates.

The knives easily obtained from the kitchen, provided the type of weapon required to enforce their demands and hold the staff captive.

(5) The Measures Taken to React to the Situation

These measures have been reviewed in detail and need not be here repeated. It is the Commission's view that for the most part the response of the prison staff was appropriate.

(6) The Circumstances of the Intervention of the Hostages to Effect their Release

The plan to overpower the inmates at a time when they appeared to be over-tired, sleeping and very much under the influence of drugs cannot be faulted. It had a good change of success. Wilson was asleep, and totally out of the picture; both Bruce and Lucas appeared to be off their guard and winding down. At one point, both were actually asleep. The plan was only partially successful because the element of surprise was lost when Lucas failed to go down when knocked on the head.

(7) The Nature of the Response Reaction Which Terminated the Occurrence and the Circumstances in Which the Reaction Took Place

Termination of the occurrence came as a result of the move of the hostages triggering the tactical squad with firearms, into action.

The acting of the hostages came as a complete surprise to everyone including the tactical squad. This surprise move may have been a contributing factor in the poor marksmanship displayed by some of the members of the tactical squad.

(8) Such Other Matters As May be Relevant To This Or Other Similar Situations Which Might Contribute To the Prevention Of Such Incidents And For Effective Response And Resolution Of Such Occurrences

(a) The institution should, if it has not already done so, take the corrective action necessary to ensure adherence to institutional Standing Orders, with respect to:

- (i) the control of kitchen knives;
- (ii) the searching of inmates;
- (iii) the inmate pass system;
- (iv) the preservation of evidence.

(b) Install an alarm system in the classification building, as recommended in previous inquiries.

(c) Develop an improved system for recording the issue and return of firearms and ammunition, to facilitate control and accountability.

(d) Revise procedures for interviewing inmates to eliminate unnecessary inmate movement to and from the classification building.

(e) Amend procedures and policies regarding return of inmates from SCU to general population, to ensure work placements that will provide adequate supervision.

(9) It is recommended that contingency plans and comprehensive guidelines for the management of hostage-taking events be developed.

These would include:

(a) The determination of a policy as to the aims and objectives in dealing with hostage-taking incidents:

- (i) Is the objective to be the freeing of the hostages without injury?
- (ii) Is this objective to be carried out even if it means killing the captors? or
- (iii) Should an attempt be first made to carry out the objective without any killing?

It is recognized that each incident will present its own peculiar problems. Nonetheless, the moral responsibilities should be defined.

(b) The pre-conditioning of management and staff to the possibility of being taken hostage.

(c) The development of preventive measures - before the event - setting out ways and means of reducing the hostage-taking potential.

(d) Management responses - during the event - developing check lists for the guidance of the officer in command - negotiating techniques and procedures.

(e) The organization of tactical squads from outside the Penitentiary Service.

(f) Suggested behaviour for hostages.

(g) Management responsibilities - after the event.

Counsel on behalf of the Penitentiary staff made several recommendations in respect to the administration of the Penitentiary with a view to preventing such occurrences as the one under investigation. These recommendations were carefully reviewed, and those considered practical and reasonable have found approval in this report. However, it is our view that a rigorous enforcement of the present Standing Orders and Directives relating to security is primarily what is required.

APPENDICES



APPENDIX 1

Counsel appearing for the various interested parties were

Commission Counsel

John F. Rowan, Esq.

Paul D. Meyers, Esq.

Counsel

T.L. Robertson, Esq.

for A.B. Bruce

J.W. Hogan, Esq. and
A.P. Serka, Esq.

for C. Wilson
and D. Lucas

R.E. Eades, Esq.

for the hostage killed
during the incident

D. Cave, Esq. and
Terrence W. Stewart, Esq.

for the Director of
the Institution, the
Acting Regional Director
and others

W.P. Lightbody, Esq.

for Classification
Officers

T.K. Fisher, Esq., Q.C.
D.G. Harris, Esq.

for Dept. of Attorney
General

APPENDIX 2

LIST OF EXHIBITS PRODUCED AT THE HEARING

- Exhibit 1 Letter dated June 13, 1975 from André Therrien, CPS
- Exhibit 2 Three copies of oath by
John L. Farris, H.E. Popp and J.C. Lynch
- Exhibit 3 Four sheets of information
- Exhibit 4 Plan of Penitentiary
- Exhibit 5 Plan of Classification Offices
- Exhibit 6 Telex, June 9, 1975
- Exhibit 7 Telex, June 9, 1975, Bulletin #2
- Exhibit 8 Telex, June 9, 1975, Bulletin #3
- Exhibit 9 Telex, June 9, 1975, Bulletin #4
- Exhibit 10 Telex, June 9, 1975, Bulletin #5
- Exhibit 11 Telex, June 9, 1975, Bulletin #6
- Exhibit 12 Three tapes
- Exhibit 13 Transcription of tapes
- Exhibit 14 Photo of area of Correctional Officer's desk
- Exhibit 15 Photo of hallway
- Exhibit 16 Photo of entrance to vault
- Exhibit 17 Photo of interior of vault
- Exhibit 18 Photo of interior of Room 9
- Exhibit 19 Photo of dutch door
- Exhibit 20 Photo of dutch door and windows
- Exhibit 21 Standing Order on Prison Passes

LIST OF EXHIBITS (continued)

- Exhibit 22 Photo of knife allegedly held by Bruce
- Exhibit 23 Photo of knife allegedly held by Lucas
- Exhibit 24 Photo of knife allegedly held by Wilson
- Exhibit 25 Transcription of Bannerman's tapes
- Exhibit 26 Photo of inside of Office
- Exhibit 27 CPS Directive #241
- Exhibit 28 CPS Directive #213
- Exhibit 29 Annual Report of the Correctional Investigator 1973-1974
- Exhibit 30 Autopsy Report of hostage who was killed
- Exhibit 31 Sketch plan of Room 9
- Exhibit 32 to 52 Photos of rooms and grounds of classification building
- Exhibit 53 List of drugs dispensed
- Exhibit 54 List of drugs and effects
- Exhibit 55 Summary of medical and psychiatric treatment to Wilson
- Exhibit 56 Summary of medical and psychiatric treatment to Bruce
- Exhibit 57 Summary of medical and psychiatric treatment to Lucas
- Exhibit 58 Policy and Standing Orders
- Exhibit 59 Monthly medical inventory report August, 1974
- Exhibit 60 Monthly medical inventory report September, 1974
- Exhibit 61 Photo of door to kitchen
- Exhibit 62 Photo of food servery slots
- Exhibit 63 Servery slots from inside
- Exhibit 64 Photo of knife drawers

LIST OF EXHIBITS (continued)

- Exhibit 65 Photo of locked cupboard for new knives
- Exhibit 66 Rota of food services officers, June 2-15, 1975
- Exhibit 67 Standing Order on Tool Control
- Exhibit 68 Inventory of knives
- Exhibit 69 Transcript of telephone conversations
- Exhibit 70 Tape of probe
- Exhibit 71 Two copies of Armory Diary
- Exhibit 72 Summary of Bruce's file
- Exhibit 73 Summary of Lucas' file
- Exhibit 74 Summary of Wilson's file
- Exhibit 75 Special Report on Design of Federal Maximum-Security Institutions
- Exhibit 76 Strategic accommodation planning report
- Exhibit 77 Policy statement by Commissioner
- Exhibit 78 Comparative Statistical Analysis, B.C. Penitentiary
- Exhibit 79 Photos of revolvers
- Exhibits 80 to 85 Photos of butts of guns
- Exhibit 86 Det. Rutherford' summary
- Exhibit 87 Letter from Dr. Robinson
- Exhibit 88 Profile of Classification Officers
- Exhibit 89 Records of visits to classification building
- Exhibit 90 Standing Order on Riot Control
- Exhibit 91 Directive on preservation of evidence

LIST OF EXHIBITS (Continued)

- Exhibit 92 Bruce's inmate file
- Exhibit 93 Lucas' inmate file
- Exhibit 94 Wilson's inmate file
- Exhibit 95 Affidavit of Senior Health Care Officer
- Exhibit 96 Letter from Dr. Ulrich
- Exhibit 97 Profile of B.C. Penitentiary inmates by offence
- Exhibit 98 Affidavit of Senior Health Care Officer
- Exhibit 99 Tactical Squad's statement to New Westminster Police,
June 11, 1975
- Exhibit 100 Letter from Supt. Price
- Exhibit 101 Letter from Mr. Bannerman
- Exhibit 102 Security report and photos in two volumes
- Exhibit 103 Summary of Mr. Lightbody's recommendations

APPENDIX 3

IMPORTANT RULINGS MADE BY THE COMMISSION AND THE REASONS THEREFOR

From time to time, the Commission was required to make certain rulings in respect to the conduct of the hearings and the taking of evidence. These rulings, and the reasons for them, are set out as follows:

- (1) The ruling that the records of Bruce, Lucas and Wilson be taken in camera

It was essential that the records of the three inmates be placed in evidence. The knowledge of the prison staff of the character of these men was highly relevant in considering the response made to the hostage-taking incident.

Counsel for the three inmates strongly urged that this evidence be taken in camera because of the possibility that a capital murder charge, or a non-capital murder charge, might be laid against them. If their records were taken in public and reported in the press, they were fearful that this would prejudice a fair trial on a murder charge. The Commission acceded to this argument. It is noted that subsequent to the conclusion of the hearings a non-capital murder charge arising out of the incident was laid against all three inmates.

- (2) The ruling that some of the evidence of the hostages be taken in camera

The order appointing the Commission of Inquiry by the Commissioner of Penitentiaries provided:

"I do further direct that this Inquiry be conducted in public. Where in the opinion of the Chairman information is likely to be received which should not be disclosed in the public interest, including in the interest of the safety and security of Penitentiaries, such information shall be received in camera."

2. (continued)

The first hostage called to give evidence was the correctional officer. Upon taking the witness stand, he refused to testify in public. We were advised by counsel for the hostages, Mr. W.P. Lightbody, that they were unanimous in their decision, and that none of them would testify in public. The reason for their refusal was their fear of reprisals by members of the inmate population or their friends. They were particularly concerned with the action taken by some of the hostages at the time of the breakout, directed against the three inmates. Subsequently, the hostages modified their position, and gave evidence in public in respect of being taken hostages and of the events up to about 9:00 o'clock on Tuesday evening. They refused to give evidence of events after that time in public but were prepared to testify fully and frankly if their evidence was heard in camera.

The Commission, after anxious consideration, concluded it had no choice in the matter but to accede to the request of the hostages that this portion of their evidence be heard in camera. The commission has no power to punish for contempt. Under Section 10 of the Inquiries Act, R.S.C. 1970, Cap. 1-13, the only action open to the Commission where a witness refuses to testify, is to have a charge laid against him. On summary conviction, he would be liable to a fine not exceeding \$400. The Commission was not prepared to take such action for two reasons:

- (a) These hostages had, the week before, undergone a dreadful ordeal. The Commission was not prepared to add to that ordeal by the laying of a charge in the police courts for a refusal to testify that was made in good faith and with some justification.
- (b) If such charges had been laid, it would be some time before they would be heard, and probably the most that would happen would be that the magistrate would grant absolute discharges. By taking such procedure the Commission would not obtain the evidence as to what happened at the time of the breakout.

Accordingly, the evidence of the hostages as to the breakout was taken in camera. Their evidence was given fully and frankly, and every question the Commission or counsel asked was answered.

(3) The ruling that the evidence of the tactical force be taken in camera

The Commission decided that the evidence of the members of the tactical force should be taken in camera. Here were officers of the Penitentiary Service that in the performance of their duty were called upon to assume the dreadful responsibility of shooting at inmates.

It is well-known that over a period of years, reprisals have been taken by the inmate populations against guards for far less serious grievances than this. Members of the Penitentiary Service have been killed; they have been wounded and stabbed. They have not only had their families threatened, but not too long ago in the Vancouver area, an officer of the Penitentiary Service had his daughter murdered as a reprisal against his actions while serving in the Penitentiary.

Under these circumstances, the right of the public to know must give way to the right of the personnel of the Penitentiary to be protected for what they did in the performance of their duty.

(4) The ruling that the counsel for the three inmates be excluded from the in-camera proceedings

This ruling and the reasons for it are set out in Volume 12 of the transcript, at p. 1020, as follows:

" At the commencement of the in camera proceedings, Mr. Lightbody made a further motion that Mr. Hogan and Mr. Serka, counsel for the inmates Wilson and Lucas, and Mr. Robertson, counsel for the inmate Bruce, be excluded during the course of the in camera proceedings. It was his submission that, in order to make effective the ruling that the evidence be taken in camera, it was essential that counsel for the three inmates be excluded. He further submitted that the Commission had a discretion in this respect and that under the circumstances the discretion should be exercised in favour of the exclusion of counsel. Mr. Robertson and Mr. Hogan submitted that the Commission had no discretion in the matter and referred to s. 12 of the Inquiries Act which reads as follows:

"12. The commissioners may allow any person whose conduct is being investigated under this Act, and shall allow any person against whom any charge is made in the course of such investigation, to be represented by counsel."

It was their submission that this section applied to these proceedings. I do not agree.

This Commission is appointed by direction of the Commissioner of Penitentiaries (see Ex. 1), and the appointment is expressly stated to be "pursuant to s.12 of the Penitentiary Act". S.12 of the Penitentiary Act provides:

The Commissioner may, from time to time, appoint a person to investigate and report upon any matter affecting the operation of the service and for that purpose the person so appointed has all of the powers of a Commissioner appointed under Part 2 of the Inquiries Act and s. 10 of that Act mutatis mutandis in respect of investigations carried on under the authority of this section."

Part 2 of the Inquiries Act gives, inter alia, the power to subpoena witnesses.

In my view, the only portion of the Inquiries Act that is applicable to these proceedings are the provisions of Part 2. Part 3 of the Inquiries Act under which s. 12 is found, only applies to commissions of inquiry appointed under that Act. S.11, ss.1 under Part 3 says in part.

"The commissioners, whether appointed under Part 1 or Part 2 . . . may engage the services of accountants, . . . or other experts . . ."

S. 12 says the commissioners may allow any persons whose conduct is being investigated "under this Act".

As pointed out above, this Commission is appointed under the Penitentiary Act and not under the Inquiries Act. As far as s.12 is concerned, there is no person whose conduct is being investigated under the Inquiries Act and therefore, that section has no application to these proceedings.

It follows, therefore, that this Commission has an unfettered discretion to exclude counsel for the inmates. In order to make fully effective the previous ruling that these proceedings be in camera, in the exercise of our discretion we direct that counsel for the inmates be excluded during the course of the in camera proceedings.

(5) The ruling that no evidence be taken from inmate Bruce

During the hearings the Commission asked counsel for the three inmates if the inmates wished to give evidence. They replied that they would have to take instructions. After the in-camera evidence had been taken, counsel were again asked if their clients wished to give evidence. Mr. Hogan, on behalf of the inmates Lucas and Wilson, said as a prerequisite to their giving evidence, it would be necessary to have a transcript of the in-camera proceedings. He said this would be essential for the preparation of the evidence of his clients.

The Chairman of the Commission did not regard this argument as being made in good faith. Even if such a transcript had been made available, there was no reason to believe that Lucas and Wilson would give evidence except on those matters that they wished to. It challenged credibility to think that they would testify as to the persons giving them the knives, or from whom they received the forged passes. Accordingly, the request for the transcripts was refused. Counsel asked for permission to withdraw from the hearings, which permission was granted.

Counsel for Bruce indicated that there was a possibility that Bruce would wish to give evidence. Accordingly, Commission counsel, Mr. Rowan, was instructed to interview Bruce and to find out the areas in which he was prepared to testify. Mr. Rowan supplied the Chairman of the Commission with the minutes of his interview with Bruce. In this interview, Bruce refused to give evidence as to how they obtained the knives or how they obtained the forged passes.

The Commission had the following considerations in mind:

- (a) Bruce is a heroin addict, and a killer for hire. It is inconceivable that he would give voluntarily any evidence that would be of assistance to the Commission. If he did, his life would not be worth a penny.

- (b) He was in no position to give any helpful evidence in respect to the shooting of one of the hostages. At the time that the fatal shot was fired, Bruce was reeling from a bullet shot in the jaw. There was no way that he could tell who shot the hostage.

- (c) There is substantially nothing in the minutes of his evidence in respect of the shooting at the time of the breakout that was new, or that the Commission did not already have. The Commission had evidence that three men had shot at Bruce, practically simultaneously. Two of them were standing less than a foot apart. It would be impossible for Bruce, even if he was uninjured himself, to tell which bullet struck and killed the hostage.

Under these circumstances, and having in mind the function of the Commission, it was decided that no useful purpose would be served in calling him as a witness.

This Commission was not a judicial tribunal. It did not have the judicial powers and it did not exercise a judicial function. It was a fact-finding body that was instructed to "investigate and report." Its responsibility was to hear witnesses who would be of assistance in finding the facts. Bruce was not such a person.