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PROTECTIVE CUSTODY:
THE EMERGING CRISIS
WITHIN THE PRISON SYSTEM

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ABSTRACT

This paper provides a detailed review of the literature pertaining to protective custody. Current protective custody policies and procedures from two jurisdictions, the Correctional Service of Canada and the Ontario Ministry of Correctional Service, are reviewed. A descriptive profile of the protective custody inmate is presented.

Other issues discussed include the means by which protective custody inmates live in protection, the quality of the environment, human rights, and staff attitudes. Finally, the paper reflects on means by which the protective custody population might be managed and reduced in number.

PENAL POLICIES

Society at large has segregated individuals for not conforming to its legal norms in order to punish, rehabilitate and dissuade marginal criminals. By isolating these individuals, the larger community forces the inmate to develop his own social order, the inmate code (Clemmer, 1966). Baratta (1983) has even drawn a parallel between socialization patterns within society and prisons. He suggests that prison life reflects society's negative characteristics, that of social interactions based on selfishness and the acquisition of power by suppression of the "weak". As a result of this code, certain criminals are submitted to emotional and physical abuse. The pressure can become so intense that it may eventually lead the inmates to seek isolation for protection within the prison. These inmates are placed in what is known as protective custody (PC).

Specifically, PC refers to the removal of an inmate from the general population of a penal institution for his own safety and/or for the maintenance and good order of the specific institution. In Canada, this removal of an inmate is an administrative action taken in accordance with either federal or provincial guidelines.

It should be noted that the current review is limited to the assignment of inmates to protective custody status per se, and does not address the other forms of segregation or classification

that include Administrative Segregation for the maintenance and good order and discipline of the institution (Penitentiary Service Regulation 2.30(1)(a)), Punitive Dissociation (P.S.R., 2.29), and referral to a Special Handling Unit (SHU) because of past or potential capacity for violence.

Federal Regulations

The Canadian Penitentiary Service Regulations (P.S.R. 2.30(1)(b)) provide for such removal by the Warden or his representative:

"2.30 (1) Where the institution head is satisfied that:

- (b) in the best interests of an inmate ... it is necessary or desirable that the inmate should be kept from associating with other inmates. He may order the inmate to be dissociated accordingly, but the case of every inmate so dissociated shall be considered, not less than once each month, by the classification board for the purpose of recommending to the institutional head whether or not the inmate should return to associate with other inmates."

A federal policy effected in 1983 makes necessary admissions and transfers to a designated PC institution by interim measures in order to exercise effective control over the growing PC population. The Commissioner's Directives state that all alternatives have to be investigated with the institution prior to granting a protective custody status.

"So if a threat is identified but the full extent of that threat is unknown, it is the responsibility of the warden to ensure full protection, via segregation until the extent of the problem is identified. Notwithstanding the foregoing, the warden shall investigate all alternatives within his/her institution to ensure that the inmate is not segregated unless necessary."

(CSC, 1983a)

Consequently, the Warden shall issue standing orders which outline the steps to be taken by staff in terms of assessing the situation and alternative action plans to deal with the problem.

For example, the following alternatives can be taken:

- a) counselling the offender;
- b) changing the cell location of the aggressor;
- c) changing the cell location of the victim;
- d) adopting various confrontation techniques;
- e) segregating the aggressor;
- f) locking up the victim in a living unit.

If these alternatives are not successful, action must be taken. This may consist of:

- a) intra-regional transfer;
- b) inter-regional transfer;
- c) admission to a protective custody institution;
- d) federal/provincial transfer;
- e) direct penitentiary placement to a protective custody institution.

When documentating the case of an inmate who has requested protective custody, the officer shall abide by the following guidelines:

- a) inform the inmate of the consequences of becoming a protective custody case;
- b) have the inmate sign a protective custody request form stating his reasons for requesting protection;
- c) inform the inmate that it is essential he provides full information concerning circumstances of his request, including names, dates and locations, where applicable;
- d) list the alternatives tried within the institution and why they failed;
- e) outline and analyze previous protection related problems and how they were solved, if they were, either at the provincial or federal level.

Upon completion, the documentation for penitentiary placement shall be forwarded to the regional transfer Coordinator, or equivalent, for review.

The decision made regarding the initial placement of an inmate shall be forwarded every month to the Director of Operations and quality control for record keeping purposes. The documentation should be forwarded for the following reasons:

- a) inform the inmate of the denial of protective custody;
- b) inter-regional transfers;
- c) approval and transfer to a designated protective custody institution.

A recently revised federal policy (CSC, 1983b), discussing requests for protection, also addresses the integration of inmates from PC into the general population. The ever increasing number of requests for protection compounds the accommodation problem that penal institutions are facing. It is therefore necessary to create an outflow from PC to accommodate the inflow of admissions. Within 90 days of admission to a PC institution, the case management team shall complete a revised "needs analysis" and "individual program plan". While addressing the standards outlined in the case management manual, these reports should also clearly address factors pertaining to the reintegration of PC inmates to regular population. Unfortunately, suggestions for reintegration are not listed in the policy paper.

Regulations in the Ministry of Correctional Services of Ontario

At the provincial level, the issue of PC is addressed in an Ontario policy paper on close confinement and segregation (Ministry of Correctional Services of Ontario (MCS), 1983). According to the Ontario guidelines, segregation means an administrative separation under section 33 of the Revised Regulation of Ontario (R.R.O) 649/80:

"separation from the general prison population for any reason other than punitive and includes, protective custody, which is separation under section 33(a) or (d) of the R.R.O. 649/80, from the general population where the continued presence of an inmate in the general population poses a threat to his life or may result in physical harm to the inmate."

As is the case of the federal policy, when an inmate requests protective status; pursuant to s.33(1)(d) of the regulations, he is required to complete and sign an inmate request form. The inmate shall acknowledge the fact that certain benefits or privileges may not be available to him by signing a printed waiver form at the time of his interview with the officer in charge. The regulations (s.33(4)) require that all inmates who are placed in segregation retain, as far as is practical, the same benefits and privileges as the general population. Therefore, where institutional facilities permit, reading, radio and television privileges shall be provided.

The next section provides an overview of the protective custody growth rate, where the data exist, in various penal institutions.

PROTECTIVE CUSTODY GROWTH RATE

In recent years, there has been a marked increase in the number of PC inmates in Canadian, American and in English penal institutions. It has only been since the early 60s that the need for protection facilities even existed in penal institutions and no reliable Canadian federal data pertaining to the number of inmates incarcerated in PC units can be found prior to 1972. There are no published data, even yet, on the Ontario provincial system, nor are we aware of any such information for other provincial jurisdictions.

According to Vantour (CPS, 1975), 210 Canadian inmates (2.5% of the inmate population) were confined to PC facilities in 1972. In October, 1978, the number of protection cases had increased to 662 or 6.8% of the total inmate population, (Vantour, 1979). More recent statistics (September, 1984) prepared by the Inmate Management Division of the Security Reference Branch of CSC, show that 1140 inmates require protection, 9.5% of the total inmate population, require protection (CSC, 1984a).

An increase within our provincial penal institutions has also been reported for the Province of Ontario. For instance, according to an Ontario provincial survey of 46 institutions (jails, detention centers, correctional centers), from a total inmate population of 6430, 947 or 14.7% were in PC. More specifically,

the PC percentage ranges from 9% in the Northern region to 21% in the Eastern region (MCS, 1983).

In the United States, according to a 1978 national survey of every state and federal prison in America (Greenfield, 1980), 2.3% of the nation's incarcerated population was classified as being in PC. In another American survey of 31 penal institutions (American Corrections Association (ACA), 1983), the estimated overall PC rate was 6.2% or 22,792 PC inmates from a total inmate population of 367,614 in March, 1982.

In England, statistics are unavailable on the growth of protective custody. However, in 1965 the Prison department of England managed those inmates by concentrating a number of "Rule 43" men (i.e. PC) in one wing at Strangeway Prison located in Manchester. More recently, with protective custody rising, a complete establishment was set aside for Rule 43 prisoners (Priestly, 1980).

Protective Custody Growth in CSC:

The increase in the PC population can be better understood when we relate it to the number of officially designated cells within Canada's federal institutions. By 1982 CSC has assigned 902 cells for PC purposes, (CSC, 1982). The actual number of PC inmates, referring to Figure 1, is now well above the accommodation capacity.

PROTECTIVE CUSTODY POPULATION TRENDS

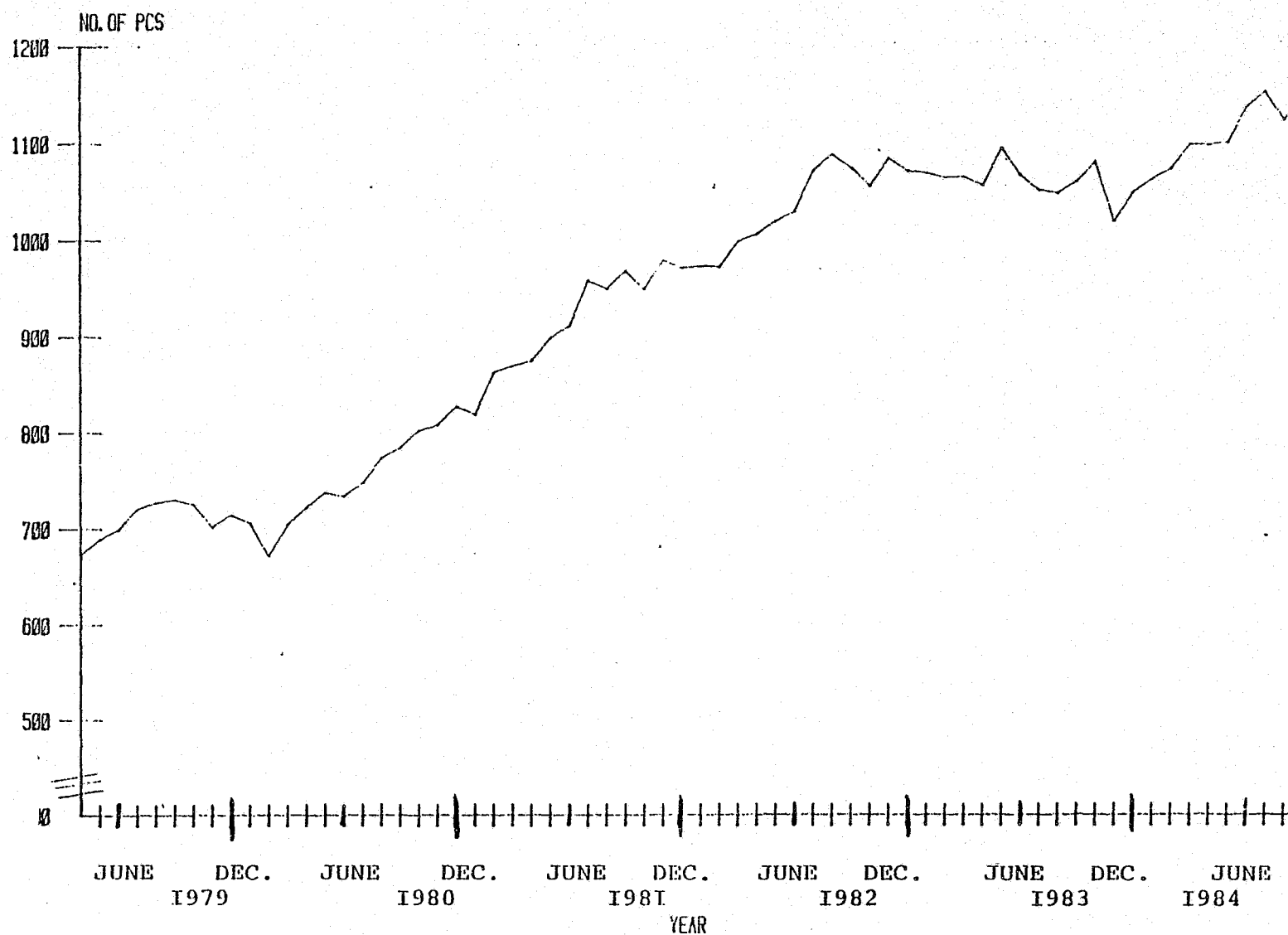


Figure 1 presents the number of PC inmates in our Canadian penitentiaries (excluding Newfoundland) from April 1979 to April 1984. The total PC population includes inmates in PC, administrative segregation and punitive units. Without question, the overall population has increased in this time period. However, the growth has not been a simple linear trend. Much of the apparent increase occurred from June 1980 to September 1982. Possible explanations of this overall growth rate are discussed in the following section. While peculiarities will now be addressed, reasons for this apparent quasi-stability in protective custody numbers will also be briefly discussed.

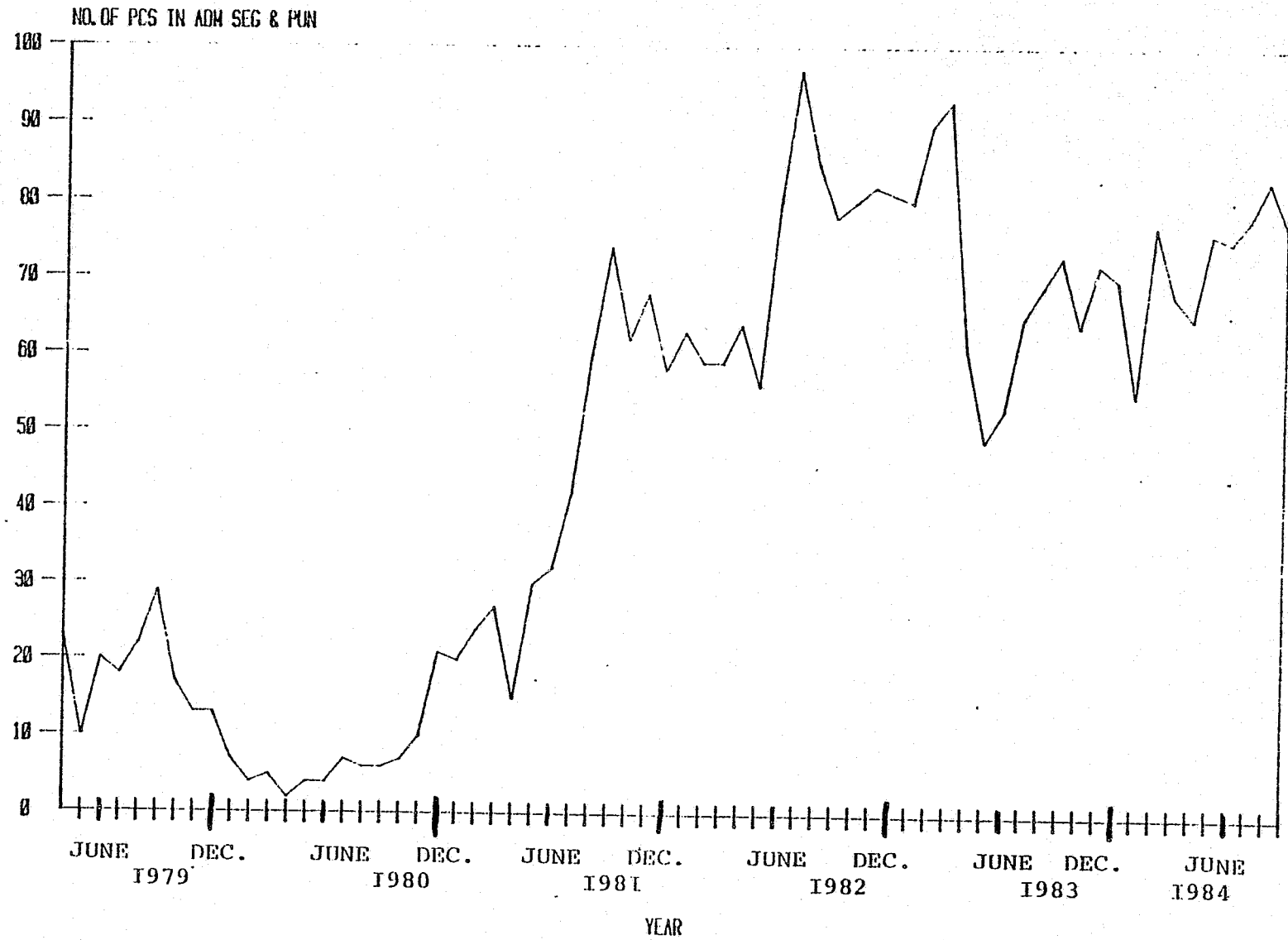
Confounding Factors:

Figure 2 presents the utilization frequency of administrative and punitive segregation for housing PC inmates. Its use increased in June of 1981 and continued to do so one year later, although there is considerable variability in the monthly rates. Likely what has occurred is that the use of this type of housing increases, depending on whether saturation level has been reached within those units strictly designated as PC.

Another relevant factor that may have contributed to the stabilizing of PCs by November of 1982, were the policy guidelines noted earlier (p. 2). More detailed screening processes may have somewhat reduced the creation rate of new PCs. Moreover, the policy of inter-regional transfers may have also had an ameliorating effect.

UTILIZATION OF ADM. SEGREGATION+

PUNITIVE FOR HOUSING PC INMATES



A total of 189 inmates, according to the accommodation report (CSC, 1983c) were approved for transfers inter-regionally over the previous year. At this point, only 10 have required a further transfer to PC units. However, this figure may be misleading in that some of the 189 inmates have only recently been transferred and others probably have received subsequent intra or inter-regional transfers to avoid protection. In any event, it may be assumed that the "transfer strategy," as prescribed in the directive, has been moderately successful (Blackie, 1983).

The victimization of inmates is obviously a very complex topic. The current chapter illustrated the growth of PC with reference to federal practice. Nevertheless as Porporino and Martin (1984) have warned:

"The problem cannot be solved with directives and procedures which make it more difficult for an inmate to be assigned to PC. The factors which have contributed to an increase in inmate victimization must be studied and counteracted."

EXPLANATIONS OF THE INCREASE

No single explanation is sufficient to support the increased utilization of PC. Instead, several reasons attempting to account for the increasing need for protection among inmates have been employed. It is also noted that these explanations are not necessarily associated with a drastic change, but rather with a gradual metamorphosis in penal institutions.

Prison changes

Over the years, increased freedom of movement has been allowed within our penal institutions. At one time, inmates' freedom was severely restricted. For example, at the Kingston Penitentiary rules of strict silence and complete inactivity during the non-working hours prevailed until the early 1900s. The system of silence ensured order when inmates were not confined to their cells. This lack of opportunity for inmates to interact with one another certainly minimized the threat to any inmates who had been perceived as "undesirable" and who would be candidates for PC in today's institutions. Such conditions also were found in Ontario provincial settings well after the Second World War.

It was not until quite recently that inmates had sufficient freedom within the institution to allow considerable access to one another. In this respect, it is interesting to note that as recently as the 1950s there was still no need for PC facilities

(Vantour, 1979). By the early 1960's, Kingston Penitentiary with a count at times close to 1000, had less than 30 inmates in a PC-like unit, although it was not formally designated as such. Therefore, the increase in freedom of movement may be one of the variables explaining the increase of PC inmates, but it is definitely not the unique causal factor.

The absence of a protection problem in the earlier days may be explained by the warden's role and his control over the administration of the institution. It has been suggested (Vantour, 1979) that the changing nature of the institutional discipline, specifically the severity of punishment for offences (the strap was still in use in the 1950s) less serious than assaulting another inmate, possibly acted as a deterrent to rule-breaking behaviour (Duffee, 1980). The warden held ultimate authority in instances where altercations occurred between inmates. Because of the warden's power, inmates trying to avoid punishment may have often protected themselves from administrative action by ensuring that no assaults occurred on their adversaries. Today, the changing nature of institutional discipline has seemingly lessened the consequences of rule-breaking (Vantour, 1979). Clements (1980), Anderson (1980), and Gettinger (1979) state that the rising demand for PC is evidence that the prison is failing to discharge its function effectively.

Correctional systems have greatly increased their practice of granting furloughs, day passes and temporary leaves. Sometimes pressures are put on inmates to do "favours" for other inmates, such as smuggling drugs into the institution upon return from the "outside world." Failure or refusal to cooperate with their peers is likely to place them in some jeopardy (Vantour, 1979).

Another viewpoint (Anderson, 1980; Vantour, 1979) is that inmates are much more media conscious and have more access to it. They are very much aware of those sentenced by the courts. The presence of "undesirables" arriving at the institution becomes known and the new inmates cannot hide the nature of their offence as they once might have been able to do. Once stigmatized, they request protection immediately upon admission.

Offender Profile Changes

At first, there appear to be a number of very relevant hypotheses regarding offender profile changes that can account for the increase in PC. Many of the notions, however, rest on rather tenuous evidence.

Vantour (1979) stated that from January 1968 to December 1974, a substantial increase in violent and drug related offences along with a corresponding decrease in offences against property accounted for custodial management problems. On the other hand, the statistics provided by the CSC population profile reports from April 1978 to September 1983 contradict Vantour's explanation. In April 1978 violent related offences represented 58% of

the total inmate population (9,379), 24% were property related, whereas 11% reflected drug related crimes. As of December 1983, the percentage of violent crimes was 59%, property crimes remained at 24% and drug related offences showed a slight decrease to 6% of the total inmate population (11,500). Thus, the explanation that a sudden increase in protective custody numbers could be supported by an increase in violent and drug related offences for the period 1968 to 1974, cannot be used for the period 1978 to the present date as the federal statistics reflect no change in such offence profiles (CSC, 1978b, CSC, 1984b).

However, it is clear that the inmate population has increased and according to some (Clements, 1980) overcrowding may have contributed to the increase in PC cases. Overcrowding often means that inmates are assigned to living units and programs on a space-available basis rather than according to rational criteria or needs assessment. In crowded conditions, particularly when program resources are scarce, the chances of friction between inmates increases. Presumably a threshold exists which, if crossed over, may lead to actual altercations between inmates. This hypothesis is no doubt appealing but a review of the prison crowding literature (Bonta, 1984), clearly demonstrates that a simple relationship between crowding and prison disturbances does not exist. It appears, (Bonta, 1984; Porporino & Dudley, 1984), that several other factors have to be in existence in crowded situations to produce stressful behaviour which then may subsequently be related to requests for PC.

A corollary to the overcrowding hypothesis is derived from the tendency in criminal justice systems to use ineffective or outmoded classification systems that inadvertently crowd institutions (Bonta & Motiuk, in press; Clements, 1982). Most correctional classification schemes are based on historical risk factors. When classification is carried out in this manner inmates tend to be overclassified for maximum security environments which are already overcrowded. Ironically, many medium or minimum security correctional environments are left begging for inmates because of this tendency to overclassify. In any case, the overcrowded maximum units consist of many younger inmates, who tend to produce the most misconducts in the first place, and may resort to inmate-to-inmate violence to resolve any socialization problems they may have in prison. Warner (Anderson, 1980) argues that the increased demand for PC has more to do with the increasing violence of the population which is a particularly germane observation given the overclassification hypothesis.

It has been considered that the increased number of federal offenders with no previous prison or penitentiary experience may also be contributing to the greater use of PC. One of the endearing myths in corrections is that the inmate population of earlier years was more "professional" and more capable of doing his "own time". It also seems that with the harsher conditions of bygone eras, there may have been more solidarity among inmates, thus providing strength in numbers against an oppressive regime.

This contention is supported by Seunath (CSC, 1978a) in a study of federal PC inmates in Saskatchewan. In a sample of PC sex offenders, 60% had never served a penitentiary term and 30% had served no previous time. Among non-sex offender PC inmates, 70% had never served a penitentiary term and 34% had served no previous time. Although their offence may have been serious enough to warrant placement in a maximum security prison, they may be unable to cope with the environment.

Statistics prepared by CSC for 1978 and 1983 pertaining to inmate population profiles also support the above notion. The April 1978 statistics indicate that on a total inmate population of 9,379, 66% of the inmates were incarcerated in a federal institution for the first time. December 1983 statistics show that first time federal incarcerates represent 62% of 11,500 inmates. The above percentages must be interpreted cautiously. The absolute frequency of first time offenders has actually increased from 1978 to 1983 by 940 inmates. Thus, this would suggest that, although the number of first time offenders has decreased proportionately to the total inmate population, an increase of first time still remains. Consequently, this supports the assumption that first time offenders may be potential candidates for protective custody.

Recent developments in the field of mental health have become a concern to judicial and correctional administrators since changing policies and treatment strategies has reduced the hospitalized psychiatric population. (Bassuk & Gerson, 1978; Gendreau

& Ross, 1979). Deinstitutionalization has led to a strong community mental health movement, and the emptying of psychiatric hospitals. The incidence of hospital beds per thousand of population fell from 3.4 in 1960 to 1.5 in 1972 (Allodi, Kedward and Robertson, 1977). Recently, Teplin (1983) has provided the most definitive review on the topic and states that, while the quality of the data supporting this hypothesis is weak, there at least appears to be a modest support for mental health deinstitutionalization adversely affecting corrections agencies. At least three Canadian Studies, two using objective psychological scales (Gendreau, Grant, Leipziger & Collins, 1979; Wormith, Borzecki & Black, 1984) and one based on psychiatric history (Allodi, Kedward & Robertson, 1977), have found that personality profiles of offenders have changed in the last decade so as to more closely resemble those of psychiatric samples. However, it should be noted that no data directly demonstrate that the increase in PC is partly due to such types being incarcerated, although once such persons are institutionalized, the odds are high that they would be stigmatized as undesirables and become likely candidates for PC.

An historical review of federal Prairie inmates revealed that the percentage of sexual offenders has increased substantially over previous years (Wormith, 1983). A search of federal inmate files in the Prairie Region of the Correctional Service of Canada generated 136 sexual offenders or 7.9% of the inmate population in 1977. Five years later a repeated analysis of an updated data

base was carried out in an identical fashion, yielding 239 cases, or 11.7% of the regional population. Stated differently, in a geographic area where the total inmate population increased 18% in five years, those whose major current offence was clearly of a sexual nature increased 76%. We can therefore draw a tentative parallel between the increased numbers of sexually and psychologically disordered offenders within our penal institutions and the increasing number of requests for PC.

The relative solitude of most PC units may make these units particularly attractive. This hypothesis was suggested years ago (Scott & Gendreau, 1968) as a result of research on solitary confinement in Kingston Penitentiary. Requests for solitary were not uncommon then. Similarly, in the Illinois Department of Corrections, Lane has suggested that a real problem with PC is that it becomes a "hide-out", either to avoid problems or to plan some activity (Anderson, 1980). However, PC may be good in the sense that the inmate may feel free from the potential violence he perceives in the general population. Seunath (CSC, 1978a) refers to statements from inmates at the Saskatchewan Penitentiary who chose to stay in PC because of their preference for individual cells and the privacy it affords.

Finally, the growth of inmate gangs and cliques have a tendency of putting pressure on certain individuals more than others (Conrad, 1977a). Street gangs often continue their gang activities within the prison:

"To an extent that I still find hard to believe, these gangs control jobs, housing, and protective custody. A gang leader can order another convict into protective custody, an order that neither the warden nor the convict himself can safely defy. Several California prisons, Folsom, San Quentin, Tracy, and Soledad; a substantial share of power has been seized and kept by gangsters. Prisoners at these facilities literally have little to fear from the staff but everything to fear from each other."

(Anderson, 1980)

Judicial and Court-Related Changes

The frequent practice of the police and the judicial system in handling investigations and trials may be another causal factor for the increase of protective custody cases. In the United States recent court decisions and new laws increase the due process required to place inmates in PC (ACA, 1983). The practice of the police and the courts is to encourage accomplices to testify against each other. At the same time, the police and detention centers often have the habit of segregating certain offenders and thus labelling them protective custody cases. For example, some of the large buses which are used for transporting inmates from jails to detention centers or to other institutions have special screened areas for individuals who the RCMP feel might need protection (CSC, 1978a). Even before entering the institution, the inmate may already suffer from the PC stigma.

Staff attitudes at reception may be instrumental in directing some inmates to seek protection, to become "Rule 43 men", as PC cases are called in England (Priestly, 1980).

Another reason for the increase may be the inmates increasing willingness and ability to sue for damages, and the likelihood that prison officials may be held personally liable for injuries by inmates in their care (Anderson, 1980). Legal consequences could be drastic if an inmate were hurt or killed by other inmates, especially if he had been refused PC. Conrad (1977b) stated that too often the classification staff found itself making conservative decisions about custody because they feared the consequences of the alternatives.

System Change Review

The increasing humanitarian concerns on the part of the public and, more specifically, special interest groups and the media, about what takes place in institutions is yet another factor (Vantour, 1979). Persons in the community are taking notice about what goes on "inside" and are concerned with the human rights of inmates. This interest results in considerable pressure on the institutional administration to avoid placing inmates in high risk situations. As a result, the administration tries to play safe by granting protection to any inmate who requests it or is considered to require it.

It may be difficult to do anything at all about the expanding numbers of PC cases without fundamental changes in the nature of imprisonment. These changes are very unlikely without profound development in the nature of society itself, for which prisons and penitentiaries in their present form serve such a useful and continuing function. Wilson's (1983) perceptions are similar. She states that the number of protective custody inmates may be a reflection of societal conditions where people are no longer being adequately prepared for self-sufficiency and abiding by social and legal laws. In one sense the system, by creating PC, has helped create its own albatross:

"the increase in vigilance on the growing liberalisation of the regime and the introduction of dissocialisation, had according to them allowed the prison gang and the prison bully the freedom to flourish as never before." (Anderson, 1980)

Attempts to gain greater insight into the protective custody phenomenon will be made by examining, in greater detail, reasons for protective custody requests and by discussing the characteristics of protective custody inmates.

PROTECTIVE CUSTODY PROFILE

Reasons for Seeking PC

Many of the hypotheses put forth regarding why inmates seek PC overlap with the "theories" noted previously in this document regarding the ontogeny of the problem. In order to give the reader an idea of how much progress or lack thereof has been made regarding what we know of the reasons for inmates seeking PC, we will review the reasons in order of appearance in the corrections literature.

In 1975, Vantour (CPS, 1975) stated there were four factors motivating inmates' fears that can account for their desiring PC. These were the nature of the present or previous offences, the nature of the inmate (i.e., lacking social skills or suffering from generic fears or phobias), problems experienced within the institution such as personal conflicts, and previous street activities.

Toch (1977) claimed that predispositional factors of inmates were the main reasons for PC. He provided a typology of PCs as either targets of sexual aggression, perceived informers, avoiders of retaliation, and individuals particularly vulnerable because of age and inexperience of prison life.

On the basis of a study of solitary confinement at Washington State Prison, Barak (1978) claimed that the rising rate of prison violence attested to the fact that prisons were not only incapable of neutralizing violent inmates, but they were unable to

provide adequate protection for potential victims. Thus, the increased use of isolation in all its forms. He distinguished between four types of inmates in PC: informers (actual or perceived), debtors (due to gambling or drugs), inmates who were targets of sexual aggression, and those suffering from "generic fears or phobias".

Gettinger (1979) focused on a specific type of PC case, that of the informer and how he acquired his stigma. An inmate would not become a "snitch" if they provided information about a particularly violent inmate or the information was intended to preserve order in the institution. These practices would be in the inmates' eyes "noble motives". On the other hand, an inmate who provided information to the authorities solely for some sort of personal benefit vis-a-vis another inmate (especially a solid con), would be soon bound for PC. Furthermore, Gettinger stated that correctional officers also distinguish between those inmates who are concerned about the general welfare of the institution and those who are trying to get others in trouble for vicarious reasons. In a subsequent paper Vantour (1979) stated he found a much larger increase of inmates in PC who did not fit any of the convenient categories.

Two important reports were prepared in 1983, one by the Correctional Service of Canada (CSC, 1983d) and the other by the American Correctional Association (ACA, 1983). The former provided a breakdown reflecting the reasons for PC requests for 600 cases in five Canadian regions. The data were as follows:

- 1) 37% conflicts in population,
- 2) 35% offence related,
- 3) 20% because the individual is an informer,
- 4) 6% personality problems,
- 5) 2% psychological or sexual problems.

The ACA survey of a total PC population of 22,792 reported the following:

- 1) 15% gambling or other debts,
- 2) 12% informants,
- 3) 12% fear of gangs,
- 4) 9% unfounded fears or fears of population,
- 5) 8% holdovers,
- 6) 44% requests unspecified.

The above data are striking for their lack of congruence between the two jurisdictions, although part of this difference may be due to the manner in which the questions were asked and the quality of information available. However, the 44% in the unspecified category for the ACA survey supports Vantour's (1979) statement that more inmates are coming into PC for vague reasons.

It is worth speculating that PC may have become such an accepted part of prison life lately, that it is more a matter of an attitude problem on the part of the inmate and the staff, rather than an actual question of physical safety for some specific wrong committed either on the street or within the institution. The following quote illustrates the problem: "For me going into protective custody wasn't dealing with the situation," an inmate from Stillwater Institution says, "it was avoiding the situation." (Anderson, 1980). Finally, a 1984 CSC committee on special inmate categories has predicted that the majority of PC inmates will be of a non-traditional nature who "cannot do time".

Consequently, they will want to escape the crowded and possibly violent atmosphere of certain security institutions (CSC, 1984b). This commentary leads to the next issue, characteristics of the PC clientele.

Characteristics of PC Inmates

With the exception of research by Wilson (1983) and Brodsky (1984), the personal characteristics of the PC inmate have been ignored. Wilson compared PC to nonprotective custody inmates on five types of variables: personal factors; criminal history; psychiatric status; psychological and sociological assessment; and institution behaviour. The data were gathered from institutional files.

The PC inmate was more likely to be a sex offender. A large proportion, 48% of the PC inmates versus 4% of the general population, were incarcerated for a sexual offence. The 4% may suggest that a highly developed ability to manipulate the environment can counteract the "handicap" of one's offence type.

The PC clientele is more likely to come from a psychopathological and criminogenic family, suggesting that these inmates are less able to adapt or successfully manipulate the environment than the more enterprising group of normal prison inmates who go around exploiting the liberalization of the penitentiary service.

The PC inmate received psychiatric attention earlier in life and in greater frequency at all surveyed stages. Protective custody men are seen as having a 50% chance of being defined as

having either inadequate or antisocial personality disorders. As well, 43% have been diagnosed as having alcohol or drug dependency problems.

Wilson (1983) concluded that the PC group and the nonprotective custody group can be differentiated from one another, particularly in regard to psychological attributes. Consequently, with a significantly high incidence of both sexual offenders and self-destructive behaviours established for the PC inmates, a poor self-image and lack of social skills are to be expected for this group.

While all of the above sounds convincing, Wilson's (1983) control group is really a comparison group of a very approximate nature. In addition, relying on file data alone leaves a study open to the inherent biases in the referral system which can lead to an overdiagnosis of psychopathology. At Kingston Penitentiary, where the study was conducted, many of the PC inmates were incarcerated for controversial offences and not surprisingly were the subject of intensive psychiatric and psychological diagnoses. One result of such diagnoses is to uncover a substantial amount of psychopathology. It is worth speculating that if the comparison group, many of whom are convicted of the more common garden variety of offences (and not the subject of extensive psychiatric and psychological scrutiny), were assessed with the same degree of detail it is possible a good deal of psychopathology could have been uncovered for that group also indicating such things as lack of social skills, poor self-image, etc.

Therefore, until psychometric data at the time of incarceration are gathered, the hypothesis that PCs are psychologically inadequate remains strictly conjecture.

Brodsky's (1984) research was designed to assess the physical and psychological effects of living in PC and was not a study of the inherent attributes of PC clientele. In two rather oppressive facilities with 23 hour lockup, inmates expressed irrational anger (71% and 86%), complained of sleep disturbances (42% and 64%) were nervous or anxious (84% and 45%), exhibited physical symptoms such as headaches (79% and 61%). Hallucinations and delusions (42%), general psychopathology (36%), and depression (29%) were also in evidence. About one third of the PC sample were seen as psychologically "well-armoured" in that no adverse effects could be detected. At a third PC facility, which allowed access to prison programs and was spaciouly designed, none of the 24 randomly interviewed inmates expressed any complaints or showed disturbing symptoms. Therefore, as a cross-sectional analysis of inmates in three types of PC facility, the research implies that physical and programmatic elements may be more important to the physical and mental health of PC inmates than their personal characteristics upon admission.

Next, we will discuss a typical path of entry into protective custody and briefly reflect on the consequences of acquiring the PC stigma.

DECIDING PROTECTIVE CUSTODY

Path of Entry

An inmate's point of entry into protection may occur at initial reception, on the bus trip transferring him from one institution to another, or from within the regular population. Very often the decision to dissociate an inmate for PC reasons is mutually arrived at following concrete evidence that the inmate may be in danger. About 50% of the PC cases interviewed by Vantour (CPS, 1975) had been placed in protection immediately upon their admission to the institution, mainly because of the nature of their offence.

Seunath's (CSC, 1978a) survey revealed that PC was granted immediately upon request to all the sex offenders in his study, whereas 14.3% of the non-sex offences experienced some delays. The fact that such a large percent of the non-sex offenders were granted PC immediately upon request suggests that either the cases were judged to be very urgent or, alternatively, it was relatively easy to be admitted into PC.

Seunath also reported that 45.7% of the sex offenders were stigmatized "PC" immediately at the remand centre or at a previous institution. For the non-sex offender's group, only 24% were labelled PC at a prior institution. In the sex-offender's group, 66.7% came directly to PC and 19% had been to one previous institution. Within the non-sex offender's group, 45% came directly to PC and 28.3% tried one previous institution, which in

almost every case was the Saskatchewan Penitentiary general population. These results, therefore, suggest that during the late 1970's attempts to prevent the PC classifications were less than exhaustive.

It is difficult to remove an inmate from a PC unit once he has been admitted. Occasionally, prison officials will try to persuade an inmate in PC to return to the general population if the inmate with whom he has had an altercation has departed. However, inmates are reluctant to do so. Hence, the decision that an inmate makes in a moment of extreme fear may severely restrict his life for years to come! While procedures in most prisons permit officials to force an inmate out of PC against his will if they decide his fears are groundless, this tack is rarely taken. The consequences are such that not only does the inmate suffer the abuse from the general population and staff members, but he is also affected by certain negative consequences associated with his placement in PC.

The following section describes some of the PC facilities and programs offered therein. The consequences of being labelled protective custody and the impact it has on neglected legal rights will also be discussed.

LIVING IN PC

Physical Description

In Canada, two federal institutions are populated with PC inmates: Kingston and Saskatchewan penitentiaries. Francophone inmates requiring protection are confined in separate ranges from the general inmate population in Laval institution pending construction of a new PC institution in Drummondville, Québec. A third PC institution for anglophones is planned for Renous, New Brunswick. Elsewhere, when PC is requested, administrators may try to accommodate the inmate within the institution or transfer him to another institution where PC facilities are available. The housing situation in provincial jurisdictions is not clear. For instance, at best it appears each setting tries to cope with its own PC population, although some institutions will take PCs on referral from other settings.

PC accommodation facilities were examined in a recent U.S. study. Of 31 institutions surveyed (ACA, 1983), a total of 2,222 PC cells were designed to house 2,558 inmates. The PC units were found in the following locations:

- a) nine institutions had a PC unit separate from all other kinds of segregation;
- b) two institutions included their PC unit within their disciplinary detention unit;
- c) four institutions included PC within the administration segregation unit;
- d) 15 institutions had all three types of segregation, PC, administrative segregation and disciplinary detention, in a common area or spread throughout the institution;
- e) one institution claimed no PC unit whatsoever.

The physical layout was as such:

a) single bunks only	62%
b) double bunks only	14%
c) single and multiple bunks	24%
d) occupant-controlled lighting	63%
e) occupant-controlled toilet	97%
f) outside window	50%
g) 24-hour supervision	100%

Obviously there is no universal agreement as to where the PC unit should be located and with what kind of facilities it should be equipped.

Legal Rights

Concerns have been expressed regarding the legal rights of PC inmates.

"Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

(Article 7, The Charter of Rights and Freedoms, 1982)

Legal activity in the PC area has centered on three basic questions: negligence, the question of due process, and the legal requirements (ACA, 1983).

1) Negligence:

It is obvious that a request for protection cannot be simply ignored. On the other hand, immediate PC placement is not required simply because an inmate expresses fear. Two important points are raised by the case of Parker versus State, ACA (1983). Firstly, prison officials are not negligent if they take steps that are reasonable under the circumstances in response to a prisoner's fear. Secondly, such steps do not necessarily include isolation of the prisoner requesting protection.

2) The question of due process:

It is critical to distinguish between the reasons for which an inmate is placed in segregation because it is common for prisoners subjected to segregation or solitary confinement to lose many privileges and rights accorded to the general inmate population. In Sweet versus South Carolina Department of Corrections, (Sitterson, 1977), an inmate who had been held in administrative segregation for five years for protection from other inmates, claimed denial of equal protection of the law and imposition of cruel and unusual punishment in that living conditions were not comparable to those of the general inmate population. Similar provision is now made in Canada (1982) in The Charter of Rights and Freedoms.

"Everyone has the right not to be subjected to any cruel and unusual treatment or punishment."
(Article 12)

"Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability".
(Article 15(1))

Back in the U.S., however, the Court of Appeals for the Fourth Circuit (Sitterson, 1977) ruled that the lack of ordinary privileges, particularly full exercise and shower opportunities, would implicate constitutional rights only if

the plaintiff's health had been impaired as a consequence of such deprivation or if the deprivation were not necessitated by prison security and order. Plaintiff Sweet filed suit in federal district court against the Department of Corrections of South Carolina and its director requesting injunctive and monetary relief for unconstitutional imposition of cruel and unusual punishment and for denial of equal protection. He claimed he was given insufficient food, exercise and shower time, opportunity to work, medical attention, reading and writing materials, and opportunity to converse with other inmates. He also claimed that he was denied freedom to exercise his religion and to confer with counsel, and that prison officials failed to investigate his complaints. After an evidentiary hearing, the district court dismissed the complaint. The court noted, however, that the district had not considered evidence of the effect on Sweet's health of only two showers and two one-hour exercise periods per week for an indefinite period of time. The court of appeals affirmed the dismissal of the monetary claims and remanded to the district court for consideration of the health issue and the practicality of injunctive relief. Three appellate judges concurred, adding that inmates in protective segregation should, so far as possible, be treated like the general inmate population without regard to the expense involved. The concurring judges further stated that the warden should be required to submit a plan for protecting

Sweet without imposing deprivations and that if he were unable to do so, an independent consultant should be retained to report feasible changes in Sweet's treatment to the district court.

3) Legal requirement:

What are the legal requirements for programming and accommodations within protective custody? It appears that protective custody areas are often ordered by courts to be roughly equivalent in terms of programs and activities to those available to the institutions.

"The inmates are demanding a number of improvements in protective custody conditions: more recreation time out of their cells; the right to eat meals together in a dining area rather than individually in their cells; religious services; more showers; movies and better access to medical care; documents from the law library; and education and employment programs." (Anderson, 1980, p.13)

Anderson also mentions that if a State is large enough and has an elaborate prison system, it should devote an entire institution to housing PC inmates. Therefore, it should not have problems implementing programs in PC like those offered to the general inmate population. Although this strategy has been successfully undertaken in at least two Canadian institutions, it is sometimes more difficult to implement than it would appear at first glance.

Quality of Life

Seunath (CSC, 1978a), in his study of four penitentiaries, concluded that most inmates spent a reasonable part of their day outside their cells, although much of this time was largely unproductive. He expressed concern that PC inmates in the cell block must "demonstrate good behaviour" in order to increase their time out of the cell. PC inmates should not be punished simply by virtue of their status. Seunath considers this type of policy to be contrary to the Federal penitentiary regulations. That is, the Correctional Services of Canada policy states that PC inmates are to be confined in separate institutions, or in a different part of the institution, with the same range of facilities and programmes available to population inmates. Recently, CSC has devoted considerable energy and expense to the realization of this policy.

Ironically, PC inmates require maximum security protection, regardless of their own security rating. Consequently, being incarcerated at a maximum level institution, they may not be considered for parole or other release programs in accordance with their "true" security status, but in accordance with the acquired label of a maximum risk inmate.

An article in the Toronto Star (Blatchford, 1979), portrayed what kind of privileges were offered in PC at Millhaven, a maximum security institution and provides an idea of the prevailing attitudes vis-a-vis PC programs. The report

elaborated on 13 prisoners who had requested PC for their own personal reasons. Their reasons included everything from not wanting to work to an inability to get along with certain population inmates as a result of gambling debts, quarrels, etc. In segregation, they were denied such privileges as television sets in their cells, regular phone calls home, access to recreation areas and the gymnasium, participation in work and craft programs, and visits to the prison chapel. In addition, they were allowed out only to go to a small exercise yard or a common room in the segregation area.

However their next-door neighbours, inmates segregated involuntarily in the Special Handling Unit, under P.S.R. 2:30(1)(a), benefitted from more privileges. Since they were serving longer term sentences, they had been granted a few amenities such as T.V. sets and more privileges in their cells to assist them in passing time. The 23 violent SHU prisoners incarcerated at Millhaven are confined to their cells only 16½ hours a day, compared with 18 hours for the 15 PC inmates. As one PC inmate sentenced to 15 years for manslaughter says:

"If I were violent, and tomorrow went out and took a guard hostage, the system would put a television set in my cell, and give me a phone call home once a month."

(Blatchford, 1979)

At the time, there was no plan to extend these "privileges" to the PC area, since this action would encourage more inmates to isolate themselves from the general population. However, those

inmates who required genuine protection were encouraged to apply for transfer to the PC unit at the Ontario Regional Reception Center.

Interestingly, inmates interviewed for the studies by Toch (1977), Vantour (CPS, 1975), and ACA (1983), were not overly critical of their situation. In each of these studies, it was clear that the inmates felt they could not complain too much since they asked for protection. It appeared that the inmates were prepared to do without certain amenities if their safety could be guaranteed.

Safety, most frequently was mentioned as a positive attribute while living in protection in the 1983 ACA survey. Nevertheless, it was also suggested that PC was not safe enough. Each inmate was asked to rate how safe they felt in PC on a five-point scale, ranging from totally safe to constant fear of life. The average rating of 4.13 suggests that even in PC, justifiably or not, inmates experience a high level of fear.

Inmates listed the privacy of their accommodation facilities as a positive attribute. However, they were not content to pass time aimlessly in their cells. The only desired activities that PC inmates in the ACA survey (1983) tended not to participate in were non-orderly work opportunities and outdoor recreation activities.

Staff Attitudes

By no means are protective custody inmates popular with correctional staff. In the ACA (1983), 45% of the staff had an unfavourable attitude toward PC. The staff who had a length of

service working in institutions, ranging between one month to 28.5 years, were asked to enumerate the best and worst things about working in the PC unit. The best things listed were:

- 1) a good staff inmate ratio, therefore accounting for a more controlled environment;
- 2) a smaller, non-violent group of inmates;
- 3) assigned duty is only for a limited period of time.

The reasons why the correctional staff found PC duty a largely unpleasant task were:

- 1) inmates are too complaining and demanding;
- 2) protecting them from other inmates requires too much time;
- 3) excessive verbal abuse from inmates;
- 4) lower quality of inmates;
- 5) staff is confined to a single working area.

Most experts agree that penitentiary living conditions are influenced by staff attitudes towards inmates. Since it is quite evident that staff attitudes towards PC inmates are particularly negative, one can easily conclude that the quality of life in PC is less than optimal.

RECOMMENDATIONS TO REDUCE AND MANAGE PROTECTIVE CUSTODY INMATES

PROGRAMS

United States:

What is being done to limit the growth of PC custody? In the 31 penal institutions surveyed ACA (1983) lists that attempts were made to deter inmates from requesting PC mostly by counselling, crisis intervention, screening and investigation of individual cases and transfers. Once an inmate had been admitted to protective custody, some institutions tried to encourage him to return to the general population.

The staff interviewed in the survey were also generally enthusiastic about the idea of having a more comprehensive interstate or state-federal exchange program that allowed greater ability to transfer PC inmates to other facilities. Staff listed the following benefits to inmates:

- a) greater availability to programs and activities;
- b) chance to start over; and
- c) chance of changing their security level.

The anticipated benefits to the institution included the following:

- a) reduce the number of PC inmates;
- b) reduce the institutions demands to provide for PC inmates; and
- c) temporarily reduce problems with individual inmates.

Staff gave their opinion as to how PC could be improved.

Their suggestions included:

- a) separate protective custody units from other segregation areas;
- b) develop a better system for discharging inmates from protective custody, to therefore keep the absolute numbers of protective custody inmates to a minimum;
- c) develop a better system for allowing inmates into protective custody;
- d) provide more recreational facilities for protective custody inmates.

Inmates were also interviewed and their suggestions for improvement were:

- a) provide more and better recreation;
- b) provide more and better jobs;
- c) provide more and better education;
- d) provide better food; and
- e) improve inmate-staff relations.

In some prisons it is felt that the reason inmates are in PC is not because of a real danger, but because they are weak and easily intimidated (Anderson, 1980). Shelton Prison in Washington aims at trying to reintroduce inmates into the general population. Since the summer of 1976, about 20% of the PC inmates have gone back into the general population of Sheldon prison. Unfortunately, there are no apparent follow-up studies of these former PC inmates to examine the success of this practice.

Elsewhere, Stillwater penitentiary in Minnesota has attempted a similar program through assertiveness training of PC inmates. The assertiveness programs encourage inmates to return to the general population. However, only a few have been successfully returned to the general prison population (Anderson, 1980).

The New Hampshire State prison has taken a different approach. At this institution, staff do not try to prevent PC cases, but deal with the PC inmates by designing programs and

making the PC environment more tolerable. For example, the metal factory of the institution has been turned over to the PC inmates. Here, these inmates work and eat at different times from the rest of the prison population (Anderson, 1980). However, the number of PC cases has increased since the program began, suggesting that the solution may be creating yet another problem. Moreover, non-PC inmates may not have the benefit of the metal factory program unless there is a costly duplication of services.

Another strategy to control the incidence of PC cases entails the use of a specially designed security classification system. Such a scheme was developed by Levinson (1980) with variables such as history of escapes, history of violence, etc. Inmates with similar characteristics were put in the same range, so that the inmates would feel less threatened by one another. The idea behind this new system was that if inmates who were similar in personality, offence(s) committed, and past records were housed together, they would feel safer. If they felt less threatened, the inmate would more likely participate in helpful programs. Of the institutions involved, the rate of protective custody inmates rose from 1.5% in January to 15.4% in December of the same year (Levinson, 1980). Obviously, this new scheme did not reduce the incidence of protective custody cases.

United Kingdom:

A different approach has been adopted in England. When a British prisoner, known to be a likely target for violence, is admitted from the outside or is transferred into a prison, staff are alerted to keep an eye on him. The inmate is supervised at work and other places where he associates with prisoners. Special care is taken when allocating him to shared cells, dormitories or working parties. Transfer schemes encourage staff to identify inmates who are likely to be attacked because of their offences or past behaviour in prison. It is noted that these strategies are primarily preventive in nature. However, no follow-up data have been provided.

Canada:

Since the PC inmate is unable to "do time" in the general population, the Vantour group (CPS, 1975) recommended that a separate institution in each region should be provided for PC cases. It is apparent from the Seunath study (CSC, 1978a) that PC inmates (sex offenders and nonsex offenders) were in favour of a separate institution for segregating protective custody inmates.

Without fully understanding the PC phenomena, one must be careful in adopting this approach because such strategy may be initiating another problem: PC within PC. This has already occurred in the federal PC institutions and at least one of the Ontario provincial institutions, Millbrook Correctional Centre, where some unfortunates are designated "super-PC".

According to Vantour, many cases can be resolved by transferring inmates to specific facilities without resorting to protective custody. Intra and inter-regional transfers can become a convenient method of handling institutional problems. However, in the long run, some institutions will then become labelled as PC institutions and the inmate coming from such a facility will suffer the consequences of being labelled as such. Thus, the use of transfers does not necessarily remove the need for PC units. However, it may reduce the frequency of PC requests or divert the problem for a period of time.

Vantour (1979) has suggested that an attempt should be made to identify the source of the problem, either through the inmates identification of the aggressor or through staff investigation of the situation. Wilson (1983) elaborated on this controversial dilemma that fearful inmates should be encouraged to name the source of their repudiation. With sufficient identification from the threatened inmates, these men would instead be segregated. But as one offender was quoted: "Here I am, a 20 years old kid. I ask for protection because some wolves are after me, so they lock me up. Why didn't they lock them up?" (Anderson, 1980).

It is indeed unfair to dissociate inmates in PC when the source of the problem remains in general population, but is it feasible or even possible to identify all potential instigators and troublemakers in the general population? One must also consider that no one is dangerous to everyone. Consequently, can

we dissociate an inmate because he poses a threat to one or a small number of inmates?

Vantour (CPS, 1975) suggests that certain facilities may represent good "receiving" institutions. However, no reliable data have been collected as to how protection cases have been successfully reintegrated into the general population, either in the original setting or another institution (CSC, 1978a).

Seunath (CSC, 1978a) commented that the methods used by Stony Mountain Institution and others were successful in integrating a large number of protective custody cases back to the general population. Interestingly, Stony Mountain Institution had 85 sex offenders in their general population at the time of the study and some had reintegrated after having been segregated in PC. Seunath suggested that the scope of further research should include the identification of those characteristics possessed by inmates who have been successfully reintegrated.

Using Correctional Service of Canada records, Taylor (1984), conducted such a study in an attempt to identify characteristics of PC inmates who had been successfully reintegrated into the general inmate population from current PC inmates. The study was undertaken with a view to establish a "potential for reintegration" index to be applied to inmates in PC. First, a sample of 31 male former PC inmates were compared to a random sample of the present PC inmates on 12 pre-selected variables. In an attempt to "quasi-validate" the results, the original sample of reintegrated inmates was compared to all known inmates

who have entered PC institutions since August, 1983 (N=113). On the original set of variable, results of the first comparison indicated that significantly more reintegrated prisoners entered PC because of general institutional conflicts and significantly fewer entered because of personality problems. Reintegrated prisoners were significantly older and tended to be bilingual, there were fewer rapists in this population, and there were more long-term sentences. It was concluded that significant differences existed between the PC and reintegrated samples. However, upon reanalysis with a larger PC sample only one significant difference, that of age, was replicated.

Seunath (CSC, 1978a) also suggested that institutions should have proper orientation/reception programs. However, staff opinion as to the utility of such strategy was equivocal if not negative. Only 38% of 45 staff who were interviewed, suggested that proper orientation/reception program would curtail the increase in PC, while 42% believed that it would be of little assistance. Obviously, staff have to be trained to deal more effectively with the PC type of inmate.

CONCLUSION

In summary, has the increase in PC become an ever growing phenomena indicating that administrative policies are no longer successful in controlling the inmate population? Or is it a transitional phase merely reflecting the changing nature of institutions? Will PC always remain as quiet and free of inmate-to-inmate conflicts. Or, will the situation of "protective custody within protective custody" become more prevalent? What is urgently required are two kinds of strategies that might be adopted to identify the numerous sources of the PC increase. First, empirical research should focus on identifiable characteristics of PC inmates, and second analyze the penal system itself, assuming that institutions play a role in creating the PC situation. The former approach assumes that PC inmates have specific characteristics differentiating them from other inmates incarcerated in the general population. The latter approach would measure the impact of penal policies and specific events which might have a negative influence on the PC increase.

The implications of the first strategy is that if PC inmates reliably differ from those not requiring PC it is possible to establish a system of predictors in identifying inmates at risk of becoming PC. With such a scheme in place, appropriate prevention programs can be implemented. Moreover, the needs of the PC inmates can be better addressed and appropriate programming established. In our opinion, this approach could be used only to manage the PC phenomenon on a short-term basis. If, on the other hand, the second strategy is relevant and certain parts

of the system are found to be contributing meaningfully to the PC problem then appropriate policies can be addressed to this issue. Obviously one cannot meaningfully study an evolving system without studying the causes of its metamorphosis. To this end, attention must be given to the broader social context and its possible role (Bergalli, 1976; Irwin, 1980). Similarly, one cannot study the inmate without considering the changes occurring in the prisons. Most likely, the problem lies in both areas; that is, one of individual differences and one of system in development.

Therefore, research should focus on prison transformations and its influence on inmates. For example, researchers should take a closer look at the levels of socialization in the inmate population, have a better comprehension of the inmate subculture and its pressures, observe the new forms of institutional disciplines, and assess their influence on the inmate. Both the individual and the system should be researched simultaneously. One must be mindful, however, that changing individuals and the system in response to such a problem will be no mean feat. Hopefully, both strategies will be addressed together in the near future. One of the more crucial problems to confront corrections management now rests in the uneasy domain of considerable conjecture and very few facts.

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