

Public Service Staff
Relations Act



Before the Public Service
Staff Relations Board

BETWEEN

VERNON A. TAYLOR

Grievor

and

**TREASURY BOARD
(Solicitor General - Correctional Service Canada)**

Employer

Before: Rosemary Vondette Simpson, Board Member

For the Grievor: Cindy A. Bourgeois, Counsel

For the Employer: Ronald Snyder, Counsel

Heard at Amherst, Nova Scotia,
September 26 to 29 and
October 31 to November 3, 1995.

DECISION

Mr. Vernon Taylor has grieved his indefinite suspension without pay imposed July 29, 1994 and the subsequent termination of his employment as a correctional officer at the Springhill Institution in Nova Scotia as of September 8, 1994

The letter of termination signed by Mr. Claude E. Dumaine, Warden, reads in full as follows:

Re: Termination of Employment with Correctional Service of Canada

I have now completed a full review of the two investigations, their findings and their conclusions relative to your involvement in an alleged sexual assault on May 29, 1994 on the person of Diane Bucklow, a Correctional Officer, at Springhill Institution. The above referred to documents have been given, in copy, to yourself. We have also held a meeting with yourself and your lawyer on August 31, 1994. You have been given a copy of my notes containing my responses to each one of the nine representations you or your lawyer have made; these matters have been taken into account in arriving at my decision.

Throughout the said investigation and including the meeting with myself, you have consistently denied any involvement in the said assault on Ms. Bucklow; you presented no mitigating circumstances.

I now find that you are guilty of sexually assaulting Ms. Bucklow on May 29, 1994 inside the penitentiary. This serious misconduct constitutes a major breach of CSC Code of Discipline.

Your culpability is aggravated by the fact that:

- a) you are a Correctional Supervisor in line authority over some 18 Correctional Officers and you are in charge of the operations of Springhill Institution during certain off-hour shifts;*
- b) you are a peace officer and have sworn to uphold the laws;*

- c) *staff can expect your guidance and support;*
- d) *your actions in the instance constitute an affront to the Standards of Professional Conduct and the values of the Mission of CSC.*

I have taken into account your past performance and your dedication in carrying out your security duties in CSC. Unfortunately, because of this assault, you have rendered yourself incapable of performing your duties because your credibility has been so tarnished and your effectiveness so diminished that you would be unable to carry out your duties with any degree of effectiveness.

Based on the foregoing, I have no alternative but to terminate your employment in CSC as of this day, September 8 1994. Also, you are not to expect any back pay from the date of your suspension without pay, which took effect on July 29, 1994 at the end of the business day.

You have the right, as per your Collective Agreement, to submit a grievance relating to this action to the final level of the procedure.

There was an order excluding witnesses.

The employer called as its first witness Mr. Calixte Losier who has been the Director of Labour Relations, University of Moncton, since November, 1985. He chaired a three-member committee which investigated alleged harassment at the Springhill Institution. The committee commenced its work in January, 1994 and reported on May 18, 1994. The committee interviewed 72 employees randomly selected at Springhill. In addition, all others who had any information to add were invited to come forward. Although the committee did not confine its investigation to sexual harassment, the committee found a very high degree of sexual harassment of female employees by male employees in the Institution.

A number of employees at Springhill Institution have experienced and continue to experience harassment and other forms of discrimination in the workplace. The great majority of the respondents reported that the workplace was not free of

harassment and discrimination and they also indicated they believed that very little is done to remedy the situation. The respondents showed resignation and tacit acceptance of the harassment and discrimination as part of the culture of the Institution. There was an indication that most victims were reluctant to report harassment and discrimination and reluctant to provide a written record of the incidents. Behaviour engaged in consisted of derogatory remarks, offensive jokes, abuse of authority, threats, intimidation, gestures, innuendoes and slurs. The respondents to the investigation expressed a "cry for help" both by those who had experienced harassment and those who observed or overheard it. Most of the respondents were "sick and tired" of the vulgar and disgusting language and put-downs. Some of the males involved were supervisors.

In addition to the inappropriate language, threats and abuse of authority in demeaning, embarrassing and threatening employees regarding their employment and career opportunities, mention was also made of inappropriate physical contact being observed.

The complainant, Diane Bucklow, a correctional officer (CX-1) at Springhill Institution since April, 1994, testified. Her regular supervisor was Judy Amos with whom she had an excellent relationship. Because of the various shifts to which she could be assigned, it was necessary for her to work under other supervisors as well. From the start of her employment in April until May 29, 1994, she reported to the grievor as her supervisor on probably two different shifts, both seven-day stretches.

Ms. Bucklow described a good working relationship with Vernon Taylor. She described him as firm and fair. If she had a problem, he would be the one that she would think of going to. They had participated in social bantering and bantering of a sexual nature. When asked if she considered that Mr. Taylor could be loud or crude, she indicated that he could but that was just his way. A lot of officers participated in bantering of a sexual nature and she herself voluntarily did so also. She described a trip to Kingston, Ontario, with Mr. Taylor and another officer, the purpose of which was to transport a number of prisoners to Kingston, including a female prisoner to the

Prison for Women. Before May 29, 1994, the grievor had never disciplined her, had never voiced his displeasure with her, had never mentioned a failure to adhere to institutional policies and had never abused his authority. She had a high level of respect for him. Ms. Bucklow stated that she was in a common-law relationship with Mr. Jeff Morice, a correctional officer (CX-1) at the Springhill Institution. She also has three children.

Ms. Bucklow described an incident which took place on May 28, 1994 which she found unusual. She was in the Keeper's office with Mr. Taylor. He was sitting down at the Keeper's desk. He commented, "How come you let your hair down". She told him why and asked if there was a problem. He said "no". This was followed by dead silence. Mr. Taylor kept looking at Ms. Bucklow. She felt uncomfortable and decided to head out to the unit. Later that evening when she discussed this incident with her spouse, Jeff Morice, he suggested that maybe she should stop joking around with him. It struck them both that there was something not normal about this incident and they stated that to each other.

On May 29, 1994, Diane Bucklow was working the evening shift (3:00 p.m. to 11:00 p.m.) and she was assigned to motorized patrol. Her post included also on that shift the unit that has recreation, #8 Building, and the inner yard. At 6:30 p.m. she went to #8 Building, proceeding through the inner yard and arriving there at approximately 6:35 p.m. There were no correctional officers in sight in the inner yard and there were approximately 25 inmates in the yard. Normally no officer stays alone in the yard without another officer present. Present in the office of #8 Unit were Darold Scott and Karen Bugley. Diane Bucklow stated that between her time of arrival and 7:00 p.m., she spent most of her time looking out the window at the inner yard. She was attempting to see if the number of inmates had increased or decreased. There did not seem to be any increase in the number of inmates. While looking out the window, her body was leaning towards it, her hands were by her sides and her knees were against the front of the couch which is stationed in front of the window. She spent most of her time standing there but occasionally turned and spoke to Darold Scott and Karen Bugley. The grievor, Vernon Taylor, arrived around 7:00 p.m.

when she was looking out the window. Mr. Scott was sitting at the desk and Ms. Bugley was sitting behind Ms. Bucklow, to the right of the doorway, on another couch. Everyone acknowledged Mr. Taylor. Ms. Bucklow acknowledged Mr. Taylor and turned back to the window, standing with her legs against the couch. Mr. Taylor came up to her from behind and pushed the front of his body, from the waist down, up against her back. Feeling the pressure on her back, Diane Bucklow said: "My legs are going to give out on me". Mr. Taylor then "helpfully" put his right arm around her abdomen to pull her back. He gave several little pulls and each time his hand went higher until finally he pulled her back with his hand on her breast. All this happened within seconds. Ms. Bucklow said nothing but she was shocked, confused and very uncomfortable. The grievor stepped back and Ms. Bucklow turned and sat on the couch. At that point Mr. Taylor was standing in front of her. He then sat down beside her. Darold Scott continued doing his paperwork at the desk but Karen Bugley looked up and made eye contact with Diane Bucklow. Ms. Bugley kept a blank expression on her face but Diane Bucklow felt that she had seen what had happened. Mr. Taylor made small talk with the other officers. Ms. Bucklow testified that she was very reserved and at that stage was not too sure whether the contact with her breast had been deliberate or not. She felt very uncomfortable and wanted to leave the office. She departed for the inner yard about 7:15 p.m. and Mr. Taylor remained sitting on the couch. When questioned, Ms. Bucklow denied absolutely that Mr. Taylor made a statement to her to the effect that there were 100 to 150 inmates in the yard, with a lone officer, and that if anything happened she would be in trouble, the officer in the yard would be in trouble and Mr. Taylor would be in trouble. Ms. Bucklow testified that Mr. Taylor did not at any time direct her to go to the inner yard. He made no comment about the number of inmates in the inner yard, and no comment about her not being in the inner yard at that time. He did not make any statement about another officer sitting alone in the yard. She was not drinking anything and she certainly was not holding a cup of tea in her hand since she does not drink tea. She was holding her radio in her right hand. Mr. Taylor made no comment to her about not carrying out any of her procedures.

Ms. Bucklow testified that when she arrived in the inner yard, she saw two officers, Hallie Jewkes and Floyd Rushton, sitting on a bench. There were 35 to 40 inmates in the yard at that time. Ms. Bucklow sat down with the officers. Officer Rushton soon left and she remained sitting next to Officer Jewkes. She was feeling confused, shocked and also angry. She did not discuss the events with the others; she did not feel comfortable in setting up that kind of conversation with either Mr. Jewkes or Mr. Rushton. She was new to the Institution and at that time she trusted Mr. Taylor more than she did them. About 7:30 p.m., Vernon Taylor came out and sat down beside them on the bench. He sat on Ms. Bucklow's right while Mr. Jewkes remained sitting on her left. At one point Mr. Taylor leaned over to Ms. Bucklow and whispered to her: "You enjoyed it, didn't you". He repeated the remark and added: "Don't blush, don't be embarrassed". She replied sarcastically in a low voice: "It must be all the sun I'm getting". She believed that Mr. Jewkes did not hear this exchange. As a result of these remarks, Ms. Bucklow realized that when Mr. Taylor placed his hand on her breast in #8 Unit it had been intentional. Two other officers came by while they were sitting there. One was Gord Milner and the other was Brenda McLelland. Both made remarks to the effect that it was unusual for Vernon Taylor to be sitting there and both suggested that it had something to do with the female companionship of Ms. Bucklow. Mr. Milner and Ms. McLelland came by separately, Ms. McLelland coming about 10 minutes after Mr. Milner left. Although Ms. Bucklow felt very uncomfortable, angry and pressured by Mr. Taylor's presence next to her on the bench, it was not within her authority to leave her post. Her post that evening was #8 Unit and the inside yard. She reported to Mr. Taylor as her supervisor. He was in fact the Keeper that night in charge of the Institution. Ms. McLelland spent a few minutes talking to them on the bench and then both she and Mr. Taylor left. Ms. Bucklow planned to go back to her other duties on motorized patrol around 8:30 p.m. At approximately 8:25 p.m., she was in Central Control to drop off a rain jacket to the officer posted there, Carmen Noiles. While she was in this glassed-in area, she observed Vernon Taylor come by. He came out of #3 Building where the Keeper's office was located around 8:30 p.m. She observed him looking down the breezeway before he proceeded to the staff lounge. He was in the lounge for only a few seconds and then he came out holding nothing. Mr. Noiles, the officer stationed in Central

Control, made the observation, as Mr. Taylor came out, "What the hell did he go in there for, he didn't buy anything". Mr. Taylor continued walking from the lounge towards #3 Building. As Mr. Taylor was walking along the walkway towards his office, he looked into Central Control and pointed his finger to Ms. Bucklow making a gesture ordering her into his office. When he made this gesture, he was behind Mr. Noiles' back. Ms. Bucklow testified that because of the previous events, she was frightened to go into the office with Mr. Taylor. She decided to ignore his signal and go directly to the mobile unit. At that point, the telephone rang and Mr. Noiles picked it up. Mr. Noiles then asked her if her name was "Bucklow" and when she replied in the affirmative, he said: "Vern Taylor wants you in his office". She was concerned and wanted to let her spouse know where she was going. She placed a telephone call to him immediately from Central Control informing him that she was going into the Keeper's office. She added: "I guess I'm in trouble". She hoped that this call would alert Jeff Morice to her concerns because it was only the previous night that she had discussed with him some concerns about what she considered to be Mr. Taylor's strange behaviour with her the evening before.

Ms. Bucklow entered the Keeper's office at approximately 8:30 p.m. There was no one in the hallway and the level of activity was very low. Since it was a Sunday evening, none of the administrative staff were there. No one appeared to be around but the Keeper, Mr. Vernon Taylor. She testified that Mr. Taylor was sitting in his chair doing nothing. He then asked her if she had received her meal claim for her trip to Kingston and suggested she go to Finance to arrange it. Ms. Bucklow went into the bathroom in the office to blow her nose. She did not shut the door. When she came out, Mr. Taylor was standing in the entranceway to the office blocking the doorway. She felt very uncomfortable. She did not want to address the subject of what had happened in #8 Unit, not alone and not in that office. She tried to find another topic to make some small talk. She occupied herself by going to the pay box where she looked for a friend's pay cheque. Then she said to Mr. Taylor: "I hear you're taking sick leave. Is it stress related?" Mr. Taylor replied by saying: "You're stressing me out". This comment was followed by silence. Ms. Bucklow then said: "I'm going out to relieve the mobile" and headed towards the door. Mr. Taylor did not move. As she

approached the door, he came forward and embraced her. Ms. Bucklow testified that she was leaning back, away from him. He brought his hand around behind her head and pulled her face to his and kissed her. She protested, "It's not right Vern, don't". One of his hands was behind her back and the other was behind her head. She was holding her radio. She froze. She felt as if she was in a state of shock. She repeated, "Don't Vern". He backed off and that was the end of that incident. It all happened in under a minute. Ms. Bucklow headed off to relieve the mobile. She was at the corner heading out of the building when Mr. Taylor said: "Come here for a minute". He was outside of the Keeper's office. Ms. Bucklow replied: "I'm not going over there Vern". Mr. Taylor repeated: "Come here for a minute". He repeated this three times and each time he said it his voice was harsher and louder. The last time he said it it appeared to her that she was being given an order. There was no one else around. Although she was holding her radio, she simply froze, she did not use it. The thought crossed her mind that perhaps he wanted to apologize. She went towards him. Mr. Taylor stepped into the coffee-room and Ms. Bucklow said to him: "Vern, you'd better be nice". There was no response. He then grabbed Ms. Bucklow by her pants, around her hips, and pulled her into the room and placed her against the wall. There he started kissing her, rubbing her breasts, her buttocks, and being very rough. She froze but repeated: "Don't Vern, it's not right, no". This had no effect on him. At this point the telephone rang five or six times in the Keeper's office. Mr. Taylor backed off and went to answer the telephone. She was right behind him and as she passed directly behind him, his right hand patted her on the buttocks. Ms. Bucklow testified that she was very upset and said to him sarcastically "Have a nice day". After this she went directly to the mobile unit. She was very confused, shocked and angry. She did not speak to anyone about the incidents at this time. She did not know Carmen Noiles well enough or anyone else on duty that night well enough to talk about the incident. She just wanted to get out on mobile as quickly as possible. As soon as she had an opportunity, she stopped at her own vehicle, took some papers and started to jot down some notes of the incidents. At this point, she received a radio message from the main communications control post to the effect that Mr. Taylor, the Keeper, had ordered an extra alert. Since this meant that she would have to keep her vehicle constantly moving and patrolling the parameter, she would not have an opportunity

to stop and talk to anyone. She had suspicions that Mr. Taylor had given the alert not out of concern for the Institution but in order to keep her and the other officer on motorized patrol continuously occupied.

After the completion of her shift, she met her spouse, Jeff Morice, and drove home with him. On the drive home she was in shock; she could not say anything. She remained silent; she did not want to talk about the incidents. Her spouse was concerned and kept asking her what was wrong. Eventually she told him that she was very upset and confused and related to him the incidents. Mr. Morice was very upset and wanted to turn around and go back to the Institution and confront Mr. Taylor. Ms. Bucklow, however, refused to allow him to do so. They sat in the car together, under an overpass, while they discussed what to do. She could not think of who she could trust to talk to. She was on days off the next three days. It was necessary to make an appointment to see a counsellor through the Employee Assistance Program. On Friday, her second day back at work, she was able to see a counsellor, a Ms. Dickson. Ms. Bucklow told her what had happened, about her feelings of guilt and the fact that she had "froze" and about her anger with herself for her inability to control the situation. The witness stated: "I'm a big girl, I could have used my hands, my radio". She was then referred to Ross Monk, Head of the Employee Assistance Program, who referred her to Lorraine Casey, who is employed by Corrections Canada in Moncton. She met with Ms. Casey on the same day. She and her spouse, Jeff Morice, met with Ms. Casey and gave her details of the incidents of May 29. Ms. Casey informed them that on the facts that she had been given, there was enough for a complaint to be lodged and advised them to let the Warden know about it. Ms. Bucklow did so. She decided not to proceed with criminal charges however. Within a couple of days, Ms. Bucklow testified that she was "pulled off" her post by her supervisor, Ms. Amos, who gave her some time to do a written report upon which a complaint could be laid. Ms. Bucklow had some difficulty in organizing her thoughts and actually took more than the one hour that she was given.

At the time of the incident in #8 Unit, the witness testified that she had made direct eye contact with Karen Bugley who was present in the office. She felt at that

time that Ms. Bugley had witnessed the incident and knew what had happened. Subsequent to the laying of her complaint, Ms. Bucklow ran into Ms. Bugley during a shift change. They met in the breezeway between Central Control and the units. The witness testified that Karen Bugley brought her into the staff lounge and at that time indicated that she would be supportive to her and indicated that as women "we didn't need to put up with these things". She indicated that she was in a similar situation with one of her supervisors but that she was not ready to come forward. Ms. Bugley told her that when Vernon Taylor left the unit that night she had said to Darold Scott: "Did you see what that bastard did to her" and Mr. Scott had replied: "Yes, and I didn't like it".

Within approximately two weeks after the incidents of May 29, 1994, Ms. Bucklow and her spouse, Jeff Morice, and Laurie Hicks and his wife visited Karen Bugley and her spouse, Gord Milner, at the latter's home. During this social visit, the subject of the alleged sexual harassment arose. It was alluded to only briefly but Karen Bugley indicated that she was concerned and that she was 100% supportive of Diane Bucklow's complaint. She again repeated the comment that she had previously stated she had made on the night in question after Vernon Taylor left the room in #8 Building - "Did you see what that bastard did to her". Witnesses were present at Mr. Milner's home and heard her make the statement.

As a consequence of filing the complaint, Ms. Bucklow testified that she and her spouse, Jeff Morice, were punished by their colleagues at work. In her view, everyone basically came out in support of the grievor. She and her spouse were placed "on the dummy". Being placed "on the dummy" meant isolation from fellow workers. Their fellow workers refused to speak to them; whenever they approached they would turn their backs on them. A number of incidents occurred which caused them concerns for their safety. On one occasion they had to ask for keys as they were locked off the post. The witness stated: "Things are very tough at work".

Mr. Jeff Morice testified on behalf of the employer. Mr. Morice is a correctional officer at the Springhill Institution and is the common-law spouse of Diane Bucklow.

Prior to May 28, 1994, Diane Bucklow had not expressed any concerns regarding Vernon Taylor. Mr. Morice had also worked with Mr. Taylor and found him to be a good supervisor. Mr. Morice had a good, professional relationship with Mr. Taylor. There was a lot of social bantering and bantering of a sexual nature. On the evening of May 28, 1994, his spouse, Diane Bucklow, spoke to him regarding Mr. Taylor. She had some concerns about the nature of this bantering. She was also concerned about a certain strangeness that was developing in Mr. Taylor's behaviour towards her. She mentioned in particular a remark that he had made to her about changing the style of her hair by letting it down. Mr. Morice thought the remark quite personal and suggested to his wife that she watch herself and that the joking cease. On the evening of May 29, while he was at work, he received a telephone call from his wife informing him that she had been summoned to the Keeper's office. After their shift, they met to travel home together. In the car, Ms. Bucklow was completely silent and stared straight ahead. He asked her how her evening was but she did not respond except to say: "Let's get out of here". Something seemed to be bothering her deeply. As they were driving towards Amherst, he stated that he knew something serious had to have happened.

After hearing his spouse's narration of the events of the evening, he could only console her and attempt to calm her. After she made her complaint to prison authorities, he, as well as his spouse, were "put on the dummy". He recounted some events and the concerns he had for his own and his spouse's safety.

Mr. Darold Scott, a correctional officer (CX-2) at Springhill Institution, testified that he was working at the desk of #8 Living Unit on the evening shift on May 29 only a few feet away from Diane Bucklow who was standing at the window. He described Mr. Taylor's demeanour as "gruff as usual" on the night in question. He noted that when Mr. Taylor entered the office he was carrying a radio in one hand and a President's Choice bag in the other. He did not know whether the bag was empty or not. He saw Vernon Taylor come up to within a few inches of Diane Bucklow's back and saw her put out her hand for balance on the window sill. He could not be sure that he watched them the whole time and did not know if Mr. Taylor touched her.

When asked about unwritten rules of the Institution, he stated that if an officer were to file a complaint of alleged misconduct against another officer or if a witness were to assist in the investigation, there could be repercussions; both could be ostracized by the prison community. He denied hearing a remark by Ms. Bugley to the effect of "Did you see what that bastard did to her". He denied seeing or hearing any impropriety. Neither did he hear Mr. Taylor say anything to Ms. Bucklow about beatings or there being 100 to 150 inmates in the inner yard with a lone officer and that if anything happened she would be in trouble and he (Mr. Taylor) would also be in trouble. The witness stated that he knew that if he had heard such a statement he would have remembered it but he did not. He agreed that Mr. Taylor was usually quite loud. Mr. Scott also stated that in his opinion Correctional Service Canada was giving too much significance to sexual harassment.

Ms. Karen Bugley, a correctional officer (CX-1) at Springhill Institution, testified. On the evening in question, she was in #8 Unit when Vernon Taylor entered. She did not hear him reprimand Ms. Bucklow about leaving another officer alone in the yard with a large number of inmates. However, Mr. Taylor may have asked jokingly why Diane Bucklow was not in the yard but she herself was doing paperwork and not paying full attention. When the witness denied statements made in an earlier signed statement, I allowed counsel for the employer to cross-examine her under subsection 9(2) of the *Canada Evidence Act*. Basically, her evidence was that she saw no impropriety. She explained that Mr. Taylor was directly behind Ms. Bucklow and, as he is a very big man and Ms. Bucklow is much smaller, he obstructed her view. She really did not know what was said in the room that evening. She denied discussing the events of May 29 with Mr. Taylor. She declared that she did not feel pressured by him and that when he called her at her home in June it was about a personal matter. This was the first time he had ever called her about a personal matter at her home.

When asked if she had told Mr. Babineau about a previous bad experience with being placed "on the dummy", she hesitated for a moment and then said "no". She also denied making the statement "Did you see what that bastard did to her". Ms. Bugley appeared to be very tense, upset and evasive while giving her evidence.

Mr. Gord Milner is a correctional officer (CX-2) at Springhill Institution. He resides with Karen Bugley as her common-law spouse. Mr. Milner was also cross-examined under subsection 9(2) of the *Canada Evidence Act*. When he took the stand, the witness' demeanour was very belligerent and angry. He verbally attacked counsel for the employer. He had to be reminded that he was under oath and obliged to answer the questions put to him.

Mr. Milner had seen Mr. Taylor and Ms. Bucklow sitting on a bench in the inner yard. He testified that although he had previously stated during the investigation that the bench sitting incident had occurred on May 29, he was now re-thinking the situation. He believed that it could have been either on May 28 as Mr. Taylor claims or May 29. It was in May, 1995, approximately a year later, that he first realized that he might have got the date wrong. When he saw the posting sheet he realized that on Sunday he "wouldn't have come out of the unit which was my posting, #9 Building". It must have been Saturday night because on that night he recalls leaving Hallie Jewkes in #9 while he cleared some inmates out of the chapel area. Hallie Jewkes was really supposed to do it but since Mr. Jewkes was "kind of a senior citizen", he did it for him. This meant that he went through the inner yard around 6:45 p.m. - 7:30 p.m.. Mr. Jewkes was in #9 when he left and also when he returned to #9. There were 30 to 40 inmates in the yard.

The witness at first stated that although he did not remember, it was possible he told Ms. Casey and Mr. Stewart that they were not going to get the whole truth because Mr. Taylor had spoken to everyone. Later in his evidence he denied this absolutely. Overall, in his evidence I found Mr. Milner to be evasive and inconsistent.

Ms. Brenda McLelland was called to testify by the employer. She is a correctional officer (CX-2) at Springhill Institution. She was interviewed by Ms. Lorraine Casey and Mr. David Stewart and later was interviewed by Mr. Robert Babineau, the Deputy Warden, on August 6 and 8, 1994 (Exhibits E-14 and E-15). Her evidence was that on Sunday, May 29, 1994 she was working the evening shift. Between 7:00 p.m. and 8:00 p.m. she was in the yard outside #8 Unit and saw

Diane Bucklow, Vernon Taylor and another person sitting on a bench in the inside yard. Ms. McLelland made a comment to Vernon Taylor because she thought it was unusual for him as the Keeper to be sitting in the yard. Having noted Ms. Bucklow on the bench beside him, she commented that he must be there because of the pretty women. Ms. McLelland approached the three officers, Diane Bucklow, Vernon Taylor and Hallie Jewkes, sitting on the bench. She approached to within a foot of them. When she made her comment, Hallie Jewkes replied: "must be that". Diane Bucklow said nothing. When she returned to her post in reception, Mr. Taylor accompanied her. Ms. McLelland testified and confirmed the accuracy of her earlier statements to Mr. Babineau in which she indicated that in her interactions with Mr. Taylor there had been inappropriate jokes. She gave some examples. A situation which occurred regularly for a while when Mr. Taylor was the Correctional Supervisor on duty was that Mr. Taylor would slap his leg with the unspoken gesture of inviting her to sit on his knee. People were usually amused by this situation. This situation kept occurring until the day that Ms. McLelland responded by saying something to the effect, "Vern, I would but there is no room left for me to sit on", referring to the fact he had no lap because his stomach covered it out to his knees. There was a second more serious occurrence on one evening shift (3:00 p.m. to 11:00 p.m.). Mr. Taylor informed Ms. McLelland in the presence of others that another male officer had asked if there would be a pretty woman on the morning shift from whom he could get a "blow job". Mr. Taylor indicated to Ms. McLelland that he had supplied her name to the other officer. She asked him if he had used, in the same sentence, the words "Brenda" and "blow job". Mr. Taylor's response was "yes". Although this matter bothered her a great deal, Ms. McLelland decided not to talk to Mr. Taylor about it in front of the other staff; she decided to wait to see him later on that night. Later on she confronted the grievor and told him there was a limit to the jokes and how far they could go and that he had taken it beyond that point. She felt that Mr. Taylor gave her a token apology but she still had a great sense of frustration because Mr. Taylor did not tell the other officer of her concerns about the remarks being made.

Under cross-examination, Ms. McLelland indicated that she was quite certain that the events that she had described took place on Sunday evening, May 29, 1994.

She was asked how she recalled the day. She could not remember but stated that she had made sure of the date when she was asked during the investigation which took place more than a year before this hearing. She was then asked if she recalled who she worked with that night. The witness stated that she recalled working with Mr. Tommy Henwood on the night that she took her walk through the inner yard and saw Vernon Taylor and the complainant sitting on the bench. When shown a copy of Exhibit G-2, Ms. McLelland could not account for the fact that Mr. Henwood's name appeared as working the evening shift on the daily roll call for May 28 and not for May 29. She could only repeat that she had made sure of the date during the original investigation.

Mr. Carmen Noiles is a correctional officer (CX-1) and has held that position since September, 1967. He testified on behalf of the employer. On the evening of Sunday, May 29, 1994, Mr. Noiles was working the evening shift and his post was that of Central Control. He saw Ms. Bucklow at about 8:15 p.m. on her way out to work on motorized patrol. He asked her to return a raincoat that she had previously borrowed.

While Ms. Bucklow was with him at Central Control, he saw the grievor come out of #3 Unit and proceed to the lounge. Mr. Taylor was in the lounge for only a few seconds and when he came out Mr. Noiles did not see him carrying anything. The witness stated that he had wondered why Mr. Taylor had gone into the lounge in the first place. He was not able to see Mr. Taylor the whole time that he was proceeding towards the lounge because the witness had his back to the walkway. Ms. Bucklow was facing Mr. Noiles and so Mr. Taylor would have been visible to her the whole time. In the opinion of the witness, both he and Ms. Bucklow would have been completely visible to the grievor. The witness stated that he did not see any signal by Mr. Taylor to Ms. Bucklow but that he was not in a position to see such a signal by the way he was facing at the time that Mr. Taylor passed Central Control.

After Mr. Taylor went back to the Keeper's office, Mr. Noiles received a telephone call from him in which he requested that Ms. Bucklow come to see him in his office, a message which he relayed to Ms. Bucklow after inquiring as to whether or

not that was her name. The witness also testified that the level of traffic around the Keeper's office that evening was very minimal. He stated that he and Ms. Bucklow "did not talk much" while they were together in Central Control. He did not know Ms. Bucklow very well and he noticed nothing unusual about her appearance that night.

Mr. Wayne Croft, a correctional officer (CX-2) since 1974, was called by the employer to testify. In 1994, he served as Chief Shop Steward for the union and since April, 1995, he has served as Second Vice-president for the Union of Solicitor General Employees (USGE). On June 15, 1994, he received a telephone call at work during his shift from Ms. Karen Bugley. She called him about a personal matter and while they were speaking on the telephone she was interrupted by a call on her other line. Ms. Bugley answered the other call and then came back on the line with him. She told him that it was Vernon Taylor on the other line and he wanted to speak to her. Mr. Croft stated that he advised her not to speak to Mr. Taylor. He did so because he felt that it might appear that there was some collusion between them if it became known that they were speaking together and not because he believed that Ms. Bugley was threatened by Mr. Taylor. The witness stated that Ms. Bugley had been upset about the personal matter that she called him about and that she was not upset at being called by the grievor. He stated that he had asked her if she felt pressured by Vernon Taylor and her reply was "no".

Mr. Croft stated that he took Ms. Bugley's call at work in an area where there was very little privacy; others were present, including Mike Cormier and Bruce Megeney. He felt that these witnesses might have misunderstood his side of the telephone conversation. They might not have realized that his reassurances of her were directed towards her concerns about the personal matter that she had originally called him on. They might have felt that she was concerned about the call from Mr. Taylor but this was not so. The witness stated that he sat in on the interview of Karen Bugley by the Casey and Stewart Committee. He did not think he had heard the word "inappropriate" used by Ms. Bugley in relation to Mr. Taylor's contact with Ms. Bucklow. He had heard that some kind of contact had taken place but he

interpreted it as being a casual and inadvertent contact. He did not hear Ms. Bugley state that she felt "uncomfortable about it".

The witness stated that after Ms. Bugley had been interviewed, she came to him and appealed to him about the record of her interview. She told him that she did not make the statement about being uncomfortable and that the actions were inappropriate that had been attributed to her. She told him that she was upset that things were taken out of context. She was very upset about having these statements attributed to her. The witness stated that when the employer wished to speak with Ms. Bugley in preparation for this hearing, she asked him to go in and sit with her while she was being interviewed. She was crying and very, very upset.

Also called by the employer to testify was Laurie Hicks, an acting CX-02 since October 28, 1994. He worked under Mr. Taylor's supervision for approximately one year and enjoyed a good working relationship with him. He is a close personal friend of Jeff Morice, Diane Bucklow's spouse. He described an occasion in June or early July of 1994 when he and his wife, and Jeff Morice and Diane Bucklow visited Karen Bugley and her spouse, Gord Milner, in Tidnish. On that occasion he overheard a conversation which took place between Ms. Bucklow and Ms. Bugley. Karen Bugley asked Diane Bucklow how she was feeling and how she was "dealing with the incident". He understood that the two women were referring to the alleged sexual harassment incident with Mr. Taylor. He clearly remembered in particular two statements made by Karen Bugley to Diane Bucklow. One statement was to the effect: "Did you see what that bastard did to you". The second statement was: "No one has the right to touch a woman there". He recollects clearly that those two statements were along those lines. Karen Bugley appeared sympathetic to Diane Bucklow and also appeared "very worked up". He contacted Ms. Bugley prior to this hearing to let her know that he did not wish to go behind anyone's back but that he would be giving this evidence. Her response was: "I don't recall saying that".

Mr. David Stewart was called to testify by the employer. He is the Director of Human Resources at Mount Allison University. He is a lawyer and a member of the

New Brunswick bar. He was asked by Correctional Service to be part of an investigative committee composed of himself and Lorraine Casey as chairperson to investigate the alleged incidents of harassment.

Mr. Stewart testified regarding his interviews with certain witnesses. He testified that when Darold Scott was interviewed, Mr. Scott stated that on May 29 after Vernon Taylor entered the office he had put his head down in order to continue his writing, but he also stated that he wanted to mind his own business and "was going through a divorce himself and did not want to get involved". Later, Mr. Scott denied that he had made this statement. Mr. Stewart recalls him doing so. Mr. Stewart stated that when Mr. Scott was being questioned about the alleged incident he acted very nervous and hesitant. He seemed to be struggling in dealing with their questions. However, his demeanour changed when the subject changed; the nervousness and hesitance disappeared and he was much more relaxed.

Mr. Stewart spoke also of his interview with Karen Bugley. He described her as a reluctant interviewee who did not appear to be candid. She was defiant and uncooperative. Her demeanour indicated that she was not letting them know all that she knew. There is no question that she made the statements that were attributed to her in the interview statement which she signed.

Mr. Stewart testified that he interviewed Gord Milner on June 27, at 3:00 p.m. Mr. Milner had indicated in his interview that he was certain that the bench incident took place on May 29. He was not certain whether it was May 28 or 29 that he took someone by the name of "Abbott" to the hole. His demeanour was that of a very honest person; he stated precisely what he knew and he was very clear. At the end of the interview, Mr. Milner stated: "Vernon has spoken to everyone and we are not getting the story".

Of his interview with the grievor, Mr. Stewart stated that Mr. Taylor used his physical presence, which is quite large, in a kind of bullying manner with the interviewers. There was a great deal of detail in the accounts that Mr. Taylor gave of

the evening in question. The times that he gave did not add up and Mr. Taylor himself was not able to make them add up. Mr. Taylor denied ever bantering about sex with Ms. Bucklow or with others.

Ms. Lorraine Casey, Regional Administrator, Planning and Administration Services, Correctional Service Canada, Atlantic Region, testified that she was one of a two-person team appointed to investigate Ms. Bucklow's allegations. Prior to that, she had met with Ms. Bucklow and her spouse on June 7, 1994 when she did a complaint assessment. Based on the facts she was given, she told Ms. Bucklow of the various options available to her, both internal and external. She also told Ms. Bucklow that if she decided to proceed, she could expect repercussions, such as being placed "on the dummy", and perhaps other personal harassment. Potential witnesses would choose not to remember "bits and pieces". In addition, she told her that since she was a new employee at Springhill Institution and not well known to her co-workers she might be vulnerable to being pre-judged by them. In her personal experience in prior investigations, the lodging of a sexual harassment or assault complaint has taken a heavy personal toll on people and she warned Ms. Bucklow of this.

Ms. Casey testified as to the investigative procedures she and Mr. Stewart had used.

Of Mr. Taylor, Ms. Casey stated that he categorically denied making comments of a sexual nature or engaging in sexual banter with Diane Bucklow or anyone else. In her contacts with Mr. Taylor, the latter addressed both her and Mr. Stewart in a bullying, gruff and loud manner.

Mr. Bruce Megeney, A/Unit Manager #10 at Springhill Institution, described being called by Wayne Croft, a union representative, into an adjoining room on June 15, 1994. Mr. Croft shut the door for privacy and described a disturbing phone call he had received from Karen Bugley. The next day, Mr. Megeney submitted the following memorandum (Exhibit E-36):

Harassment Inquiry - Witness Involvement

1. On Wednesday June 15th at approximately 1740 HRs. I arrived at #10 Housing Unit after attending the meal line at the kitchen. I was 1 to 9 duty officer. Upon arriving at the unit I noted CO II W. Croft was in the next office conducting a confidential phone call.
2. Once Officer Croft was completed he asked for a private conversation at which he indicated he had been made aware of the harassment inquiry involving CO 1 D. Bucklow and C.S. Taylor. As part of this inquiry he informed me that CO 1 K. Bugley was a witness and that was who he had been talking to on the phone.
3. Through Officer Croft I was informed that C.S. Taylor had contacted Officer Bugley by telephone stating that he wished to speak to her about the inquiry and that he wanted to come to her house to see her. Officer Croft indicated that during his conversation with her that Ms. Bugley was very upset, that she was home with her children, her husband was out and she didn't know what to do. She indicated Officer Taylor said he was coming to her home and had hung up. She also indicated to Officer Croft that Officer Taylor's tone of speech was aggressive.
4. Officer Croft had, at this point, instructed Officer Bugley to call Officer Taylor and tell him she did not want him to come to the house and for her to call him (Croft) back once she had done this.
5. While Officer Croft was giving me the above information Officer Bugley called and stated to Officer Croft that she had phoned Officer Taylor and instructed him not to come to her home. She was extremely upset and was crying. Officer Croft attempted to calm her down, suggested counselling which she declined, and instructed her to lock the doors and not let Officer Taylor in if he showed up. She agreed to do what was suggested. Officer Croft told her to phone him if she needed any further assistance and that ended the conversation.
6. It should be noted that I did not speak directly to Officer Bugley and that all of the above information was received by Officer Croft.

Mr. Greg Brown, Unit Manager at Springhill Institution, testified that he had been present on several occasions when Mr. Taylor had engaged in social bantering of a sexual nature. He also observed one incident that was particularly shocking to him which occurred about 10 years ago. Mr. Taylor and Sister Teresa Curry, R.C. Chaplain, had been laughing and joking. Sister Teresa was looking for a chair. Mr. Taylor indicated that he would find her a place to sit. Sister Teresa turned her back towards him and then Mr. Taylor pulled her onto his lap placing under her an upheld finger in the middle of her "derriere". The Sister exclaimed and jumped up immediately. Both were laughing.

Mr. Brown also testified that if a Keeper looked into the inner yard and found 100 to 150 inmates there with only one officer, this would have been a very dangerous situation causing the Keeper to call for help immediately on his radio and to remain there with the sole officer until help arrived.

Ms. Frona Allen worked at Springhill Institution from 1980 to 1992 as a Case Management Officer and then as Chief of Case Management. She had worked with Mr. Taylor and knew him as a good supervisor. Sometimes Mr. Taylor's idea of sexual joking got out of hand. On two or three occasions, he "grabbed his crotch" and said: "Oh, what I'd like to do to you". She had always handled these situations herself by telling Mr. Taylor to "f--- off". She was embarrassed because other staff could hear. On another occasion in #11 Unit, he came towards her with his arms outstretched. She backed into a corner. He invaded her space and attempted to grab her. She testified that she did not report this conduct because staff do not respect others who report incidents. She was conscious of the fact that she was a woman working in an all-male environment. When asked as to whether or not these kinds of incidents had affected her work, she replied: "No, but it affected how I felt about my relationships with other staff".

In cross-examination, she was asked about her personal habits and whether or not she had ever attended an all-male stag party uninvited. She recalled the stag party and stated that it was the retirement party for a member of the staff that she had worked with. This was a member of her unit who had been very cooperative with her

and she wished to do her part in honouring him in his retirement. She knew that her presence at the stag party was unwelcome so in order not to be excluded, she came for a few minutes only and said her good-byes to him. While she was there she was most uncomfortable and made her escape as soon as possible.

Mr. Robert Babineau, Deputy Warden, testified about the way he conducted his disciplinary investigation which took place after the Stewart and Casey investigation of sexual harassment. He recalled asking both Mr. Milner and Ms. McLelland how they recalled the date of the bench-sitting incident. Mr. Milner's point of recollection was having to relieve Mr. Harroun in #9 Unit. The #9 Unit logbook (Exhibit E-45) for May 29 reveals that Mr. Harroun took a half-day of annual leave and was relieved by Mr. Milner.

Ms. McLelland had indicated that her point of recollection was that she was on the last shift of a seven-day cycle. Having checked the schedules, he noted that this took place on May 29.

Mr. Claude Dumaine, the Warden at Springhill Institution since January, 1994, testified. He was concerned about the findings in the Losier Report (Exhibit E-1) that sexual harassment was rampant at Springhill Institution and that staff felt they could not speak freely or complain of being abused. He referred to this as the "omerta" of Springhill. He had taken steps to ensure that supervisors and staff were educated in sexual harassment policies and informed them that the policy in the Institution would be that of "zero tolerance". He ordered the disciplinary investigation by Mr. Babineau. He spoke to one of the potential witnesses himself, Sister Teresa Curry, the R.C. Chaplain. When he asked her about a certain lap-sitting incident involving Mr. Taylor, Sister Teresa said to him that she was very embarrassed and denied the incident. He was concerned about the nervousness she displayed and expressed.

He referred to his letter of termination to Mr. Taylor (Exhibit E-51) and the reasons for his decision.

Mr. Weldon Rideout, former Deputy Warden at Springhill Institution and now retired from the service as of July, 1993, testified on behalf of the grievor. He stated that he had also followed a policy of "zero tolerance" for sexual harassment. He used to meet with the female officers twice a year and told them that if they had any problems they were to come to him. In fact, none of them ever brought a complaint to him. He was not aware that female guards felt harassed nor was he aware that they might be reluctant to file complaints because of a perceived lack of support from management. He has never read the Losier Report but having been made aware of its findings, he does not agree with it. In the circumstances of Ms. Bucklow's complaint against Mr. Taylor, he stated that if the allegations were founded no more than a 30-day suspension should be imposed in light of Mr. Taylor's otherwise solid record.

Sister Teresa Curry, R.C. Chaplain at Springhill Institution, was also called to testify on behalf of the grievor. When asked if there had been any inappropriate physical contact between her and Vernon Taylor some years ago, she replied, "Absolutely not!". When asked if she had noted other inappropriate physical contact between other staff, she stated: "I am a personable person and I hug them". She testified that she had never seen any inappropriate interaction between Vernon Taylor and the other staff. In addition she did not feel any pressure from Vernon Taylor. In cross-examination she was asked about a meeting with Reverend Tonks, the Protestant Chaplain, and Mr. Allen Alexander which took place in September, 1994 at which the incident between Vernon Taylor and Diane Bucklow was discussed. She replied that the topic arose. She was asked if she ever stated her view that Mr. Taylor was being railroaded. She stated that she had made the remark that Mr. Taylor was being used "as a guinea pig" because "the allegations against me were not true" (emphasis added). She then denied that the conversation in question had been about the Bucklow-Taylor incident and stated that the conversation had been about the alleged incident between herself and Mr. Taylor. When asked if Mr. Alexander had not put it to her at that meeting that perhaps she should not prejudge until she heard Ms. Bucklow's version, she denied this was discussed. She testified, however, that Mr. Alexander had questioned her point of view. She stated that "he was very sensitive to the issue of sexual harassment". She stated that they had spoken for

several minutes during which "he let me explain my point of view" and he gave his views. She testified that if Mr. Alexander and Reverend Tonks thought she was talking about the Bucklow-Taylor incident, they are wrong. She was talking about herself. Sister Teresa also stated that when "all of this is over" her congregation, the Sisters of St. Martha, of Prince Edward Island, will be seeking a written apology from Greg Brown and the Warden, Mr. Dumaine.

Ms. Kathy Henniger-Bourgeois testified on behalf of the grievor. As a Living Unit Officer in #11 Unit, she had worked with Mr. Taylor. During the time she worked with him, she never saw him do or say anything inappropriate nor did she see any improper interaction between him and other females. She had not been pressured by him.

A number of women employees at Springhill Institution testified on behalf of the grievor. These were Heather Ross, Lois Anningson, Michelle Osmond and Patricia Hannah. All testified that they had not been pressured by Mr. Taylor and all testified that they were unaware of sexually inappropriate words or conduct by Mr. Taylor.

Mr. Daniel Gallagher, a correctional officer (CX-2), testified on behalf of the grievor. He was a Union of Solicitor General Employees (USGE) union steward and testified about the National Union's reluctance to fully support Mr. Taylor's representation.

Mr. Dennis Wood, a correctional officer (CX-1), was on motorized patrol on the evening of May 29. He also was asked to testify on behalf of the grievor. Diane Bucklow met him face-to-face to relieve him at his post that evening. He testified that she did not tell him about the alleged assault. There was nothing unusual about her that he noted.

Mr. Arlington Fraser, a correctional officer at Springhill Institution, testified that on one occasion he was working with Ms. Bucklow when she showed him a tattoo

on her breast; it was a rose. (The complainant showed me the tattoo in chambers, with both counsel present. It was just below the right collar and not on her breast.)

Mr. David Coon, Correctional Supervisor, the Keeper for five years testified. He described the duties of the Keeper and the dangers of a lone officer in the inner yard with 100 to 150 inmates. He stated that although there were options available to a Keeper who found himself in the situation that Mr. Taylor described that evening, 99 times out of 100 he would use his radio to summon the missing officer.

Mr. Irvine McCormick, a retired correctional officer, also testified about the duties of the Keeper. Given the scenario of the situation in the yard that Mr. Taylor described, he would judge it to be a precarious situation. He would stay with the lone officer himself until help arrived and the quickest way to rectify the situation would be by using the missing officer's call sign on the radio. It would be unusual for the Keeper not to know the officer's call sign.

The grievor, Mr. Vernon Taylor, testified. He was the Correctional Supervisor, the "Keeper", on the evening shifts of May 27, 28 and 29, 1994. He described the events of May 29 as follows.

He began by following his normal office routine followed by the supper count. He then started his rounds somewhere between 6:30 p.m. and 7:30 p.m. He turned left towards the recreation area, past the main gym. He proceeded along the long walkway towards the hospital, observing as he went an inmate on the ledge. He glanced towards the yard and proceeded to segregation. He pushed the buzzer to enter as there is an electronic door. He spoke to the officers there and was told that everything was quiet. The officers on duty were Jeff Morice and Peter Kent. He was there for three or four minutes. When he left he backtracked towards the front of the hospital and proceeded to the outside yard. While in the outside yard he observed the ball field, the soccer field and the outer track and golf area to the left. Some of the inmates were playing ball. He walked towards the bleachers and watched the inmates play ball. He moved back to the paved roadway and proceeded across into the back

end of the auditorium. He proceeded by the gym towards the opening of the inside yard. Prior to getting to the gate, he saw two officers there together. He recalled that one of them was Eugene (Farmer) White. The grievor then entered the inside yard. As he entered, #9 Building was to his left; #8 Building on his far left; #10 Building was on his right; and in front of him was #11 Building. As one enters, only certain portions of the yard are visible. Mr. Taylor noticed one officer sitting alone. As he neared the front door of #10 Building, he was able to see the whole yard. There were no other officers other than the one sitting alone. He decided to look for the missing officer while making his rounds as he entered #10 Building. The only officers in there were the three officers who were supposed to be there. He was shown a McCain Juice cup by Officer Leopold which contained a liquid that gave off an odour of alcohol fumes. This was of concern to him so he asked Officer Leopold to write a report on it. He proceeded over to Mr. Hallie Jewkes who was sitting in the inner yard and asked him who his counterpart was. Mr. Jewkes did not know. Mr. Taylor then went into #11 Building. Everything was quiet and normal there and he just passed the time for a few minutes with the staff.

Mr. Taylor next proceeded to #8 Building. As he entered he saw four staff members present in the office: George Bourque, who was standing to the right of the doorway; Karen Bugley, sitting on the couch to the right of the doorway facing the window; Darold Scott, sitting at the desk and facing Diane Bucklow who was looking out the window into the inner yard. He spoke to Mr. Scott and jokingly commented that he seemed to be getting his paperwork done and this should keep his boss, Chris Howard, happy. He then spoke to Diane Bucklow asking her where she was working. She replied that she was watching the yard. He said to her: "I suggest you take up your duties in the yard". The grievor stated that Ms. Bucklow did not look directly at him. He approached her back to see what she could see out of the window. He had a portable radio in his hand. He recalled making the statement to Ms. Bucklow that there was an officer alone outside in the yard with 100 to 150 inmates and that if anything happened she would be in trouble and he would be in trouble. He did not remember selling chocolate bars that night and in any case there were none by the time he reached #8 Building. When he moved behind Ms. Bucklow, he does not recall

touching her although he may have touched her with the tip of his radio aerial. He stayed one to three feet in back of her. She was standing sideways with her arm leaning on the windowsill. She was standing two to three feet from Darold Scott at the desk. Ms. Bucklow never faced him. Initially she stated that she had entered #8 Building as she had to use the bathroom and when asked if she had done so, she stated that she had subsequently been offered a cup of tea. He stated that "there's an officer outside".

Ms. Bucklow had a cup in her hand which could have been tea. Later he stated that she had something in her hand. There was no physical contact between Ms. Bucklow and himself. He did not reach his arm around her or press his body against hers or pull her body into his several times. He was behind Ms. Bucklow for 30 seconds to one minute. He stepped back to the door and lit a cigarette. He told Ms. Bucklow that when she finished her tea she should take up her duties in the yard.

Mr. Taylor left #8 Building and proceeded up the walkway towards Central Control. Partway up the walkway, it occurred to him that Ms. Bucklow had made no effort to remove herself from the #8 Living Unit office. As he stated, "it was rolling in my mind that she had defied [him] twice". As a new officer perhaps she had not had the proper training. He decided then that he should have her come into his office in #3 Building to explain to her the proper function of her post.

The grievor returned to his office, removed his jacket and sat at his desk. He decided to get a can of pop and proceeded to the officers' lounge past Central Control. After buying the pop, he spent a few minutes there looking at the bulletin board. On his way back to his office he acknowledged the officer in Central Control with a wave. He did not see Diane Bucklow in Central Control. He stopped and looked for her down the walkway because it was then approximately the time when she would be relieving an officer on motorized patrol. He went into his office and drank about one-third of the pop, or perhaps all of it. He called Central Control to find out if Diane Bucklow had gone out to motorized patrol. When told that she was in Central Control, the grievor stated that he asked to have her sent to him in his office.

When Ms. Bucklow entered his office she said: "Vern, you want to see me". She then went to blow her nose in the bathroom. When she came out, she repeated again, "You want to see me". Mr. Taylor stated that he asked her if she understood the duties of her position because he had seen her earlier looking out the window in #8 Unit. He told her that in future she should be carrying out the duties of her position. There was no problem between them. Her demeanour remained the same. She inquired about her cheque since she was not scheduled to be on duty Monday, Tuesday and Wednesday of the following week. He told her that it should be in the pay box. She checked for it. They then parted saying, "Have a nice day" and "You too". This is all there was to it. Nothing physical happened between them at all. After she left he ordered an extra alert which meant that extra vigilance should be exercised along the fence. There had been a number of incidents in the last few days. There had been fights, suspicion of beer and a manhole cover that had been left open. On an earlier shift there had also been a motor vehicle on the property which belonged to an ex-inmate.

Mr. Taylor did not sit on the bench with Ms. Bucklow and Mr. Jewkes on May 29. He did sit with them on the previous evening, May 28.

Mr. Taylor denied all aspects of the conduct attributed to him in the allegations of sexual harassment and assault. He stated that he never at any time contacted other witnesses to discuss the matter of the allegations against him. On June 15, the day after he learned of the allegations against him, he spoke to Karen Bugley on the phone "to verify if she was in #8 Building" at the time in question. He explained the fact that he had not said in the investigation preceding this hearing that he contacted Karen Bugley on that date because he always interpreted previous questions to mean, "Did I discuss the allegations". He also denied any impropriety with Sister Teresa Curry, the prison's R.C. Chaplain.

Mr. George Bourque, a correctional officer (CX-2), testified for the grievor. He saw Mr. Taylor in the office of #8 Unit on May 29. He does not recall any interaction between Vernon Taylor and Diane Bucklow.

Mr. Allen Alexander, Acting Assistant Warden, Correctional Programs, testified on rebuttal. He manages the contractual affairs associated with the chaplaincy. He had occasion to meet with Sister Teresa Curry and Reverend Tonks in September, 1994. At that meeting the subject of the investigation of the Bucklow-Taylor incident arose and Sister Teresa stated that Mr. Taylor had been railroaded. She did not think that he had committed the alleged acts of harassment and sexual assault against Ms. Bucklow. The witness then asked her if she had discussed the matter with the alleged victim. Sister Teresa replied that she did not know Ms. Bucklow. He asked her if it would not be reasonable to get both sides and her response was that she was convinced Vernon Taylor did not do it. When asked whether or not these statements could possibly have been made in relation to the alleged lap-sitting incident involving Sister Teresa herself, Mr. Alexander testified that particular incident never arose at that meeting.

Mr. Robert Babineau, Deputy Warden, was called in rebuttal. He stated that there was no memorandum or change to the Foot Patrol Standing Order (Exhibit E-58).

Arguments

Counsel for the employer argued that on the preponderance of the evidence, the incidents of harassment and assault as alleged by Ms. Bucklow occurred. He also argued the appropriateness of the penalty for discharge. Both Diane Bucklow and Jeff Morice were made to suffer consequences for reporting the incidents and have been disenfranchised by the prison community. He referred to the Code of Silence in the Institution and the fact that anyone else who speaks up and reports seeing improper actions is subject to similar punishment by their peers. For example, Ms. Bugley obviously witnessed Mr. Taylor holding Ms. Bucklow around the waist and then touching her breast. She admitted her awareness of the impropriety that had taken place to Ms. Bucklow on more than one occasion. On one occasion, her admissions were overheard by another person. Counsel for the employer invited me

to find that Ms. Bugley had indeed committed perjury by the statements she made in her evidence.

Counsel for the grievor reviewed the evidence and commented on Mr. Taylor's credibility and the credibility of other witnesses. She also referred to the improbability of Mr. Taylor choosing such public places to sexually assault another officer. The risks he took would have been unreasonable had he assaulted her.

Counsel noted that Ms. Bucklow saw a number of other people after the alleged assaults occurred and yet she gave them no indication of distress, nor did she report to them her concerns. She also argued the harshness of the penalty.

Reasons for Decision

In making my determination I give no weight to the evidence of Mr. Stewart and Ms. Casey as to the demeanour of Mr. Taylor during his appearance before them at the investigative committee.

Also, I find the evidence given by Mr. Greg Brown as to what he had observed to be very credible. However, part of that evidence related to an incident in which Mr. Taylor is alleged to have pulled the prison Chaplain onto his lap and placed his finger under her. I do not consider this incident, alleged to have occurred several years ago, to have any direct relevance to the issue before me and I make no finding thereon.

The grievor denied all of the allegations made against him.

There were two, possibly three, eye witnesses to the events that took place in the lounge of #8 Unit. Mr. Darold Scott was doing paperwork at a desk only a few feet from Ms. Bucklow and was facing her; Ms. Karen Bugley was sitting on a couch facing the desk and facing Ms. Bucklow who was standing at the window. Both came to this hearing and essentially said they saw and heard nothing; neither the events described

by Ms. Bucklow nor the words Mr. Taylor claimed he used when he confronted Ms. Bucklow.

Mr. Taylor is not a small man and he has been described as loud. If he had made the statement that there were 100 to 150 inmates in the yard with a lone officer and that if anything happened because Ms. Bucklow was not in the yard both would be in trouble, these witnesses, who were sitting only a few feet away from Mr. Taylor and Ms. Bucklow, would have heard and remembered. Indeed, Mr. Scott admitted this. He also admitted at this hearing that it was his opinion that Correctional Service Canada was giving too much significance to sexual harassment. I must conclude that it is likely that both these witnesses willfully decided not to get involved.

I accept that Karen Bugley was initially supportive of Diane Bucklow, telling her that she had seen the incident at #8 Unit on May 29, 1994 and had remarked to Darold Scott, as she herself told Diane Bucklow, "Did you see what that bastard did to her". Later, in June, 1994 at the home she shared with Gord Milner, she reiterated this statement and made the statement "No man has the right to touch a woman there", and was overheard by Laurie Hicks doing so. Clearly she did observe an impropriety.

I will not speculate as to her reasons for not telling the truth at this hearing. Although she denied that she was under any pressure, she did receive a telephone call on June 15, 1994 from the grievor. She spoke by telephone to her union representative, Mr. Wayne Croft, although Mr. Croft downplayed the incident at this hearing.

I accept the version of events recounted by Mr. Megeney and set out in his memorandum (Exhibit E-36). This presents a picture of a very frightened woman who convinced her union representative on June 15, 1994, the time in question, that she had something to fear from Vernon Taylor.

After carefully reviewing the testimony of the witnesses, I accept Diane Bucklow's version of the events that took place in #8 Unit on May 29, 1994 and find that Vernon Taylor did indeed sexually assault her as alleged.

Mr. Taylor's evidence that he sought Diane Bucklow out in #8 Living Unit because of his concern that another officer was alone in the inner yard with 100 to 150 inmates is simply not credible. From all the evidence, it would appear that this would be a highly dangerous situation; it would be imperative to get another officer there immediately. This he could have done by using his radio to summon the proper officer and covering the position himself until that person came. He did neither. Instead he went into two other buildings, where by his own testimony he was relaxed and unhurried, before he went to see Diane Bucklow in the office of #8 Living Unit. Even then he chose to joke with Darold Scott about doing his paperwork before he even spoke to Ms. Bucklow.

Similarly, Mr. Taylor's version that in these alleged dangerous circumstances he left the office first after instructing her to go out "after she finished her tea" is simply not credible. There is nothing to support Mr. Taylor's contention that there was anything like the number of inmates in the yard. In fact, the evidence is otherwise. (Mr. Milner and Ms. Bucklow stated that they saw about 40.)

I find that after Mr. Taylor pulled Ms. Bucklow from behind and touched her breast, she went out to the inner yard and Mr. Taylor followed her out later and sat down beside her. There he was observed by Brenda McLelland and Gord Milner, inviting their comments about his being there because of the female companionship. There he made his whispered comments to Diane Bucklow about her liking his physical contact with her earlier.

After carefully reviewing the evidence I find that the position of Diane Bucklow as to the events that occurred in Vernon Taylor's office is more credible than that of the grievor. I am satisfied that Vernon Taylor assaulted Diane Bucklow in his office as alleged.

Mr. Taylor lied about there being a dangerous situation in the inner yard. His claim that there were 100 to 150 inmates in the yard with a sole officer, Hallie Jewkes, sitting on a bench does not ring true. If this were so, Hallie Jewkes would surely have called for assistance. There was no evidence of Mr. Jewkes having any concerns. Also, if this were so, why would Mr. Taylor not use his radio to call for help. His actions in visiting several buildings supposedly to find the other officer are inconsistent with any sense of urgency, as is the tenor of his conversation with Darold Scott in #8 Unit office to whom he spoke first. Mr. Taylor testified that he went into the lounge, bought a can of pop and looked over the bulletin board. This contradicts the evidence of Diane Bucklow and Carmen Noiles who saw him go in and immediately come out with nothing in his hands.

Mr. Taylor fabricated the story of this dangerous situation in the inner yard in order to provide an excuse for calling Ms. Bucklow into his office on May 29. In reality, he was just continuing his pursuit of her that evening. He sought her out again using his position of authority to summon her to his office. Then he sexually assaulted her. After she left, he called her back, in fact ordered her to return, and then he assaulted her again.

According to Mr. Taylor's own testimony, he did not say anything to Diane Bucklow the evening of May 29 that would upset her. He stated that she did not appear upset by anything he said. There is no possible motive for her to have invented the account of the attacks. Her reaction to the events as recounted in the credible evidence of Jeff Morice is entirely consistent with the assaults she reported. In this regard I am not unaware that Jeff Morice is the spouse of Diane Bucklow.

The account given by Diane Bucklow of both assaults was consistent. She was a most credible witness. In giving her account of the events, she freely made admissions that might be considered contrary to her interests. She testified that both she and Mr. Taylor had engaged in bantering of a sexual nature in the days prior to May 29, 1994. She felt guilty, blamed herself, and accepted responsibility for that.

Her evidence regarding the events of the evening of May 29 is unimpeached. As indicated, I find that the events of May 29 took place as she described them.

Although it is not essential to my decision, I would like to comment on the bench sitting incident. Mr. Milner attempted at the hearing to cast doubt on whether or not the bench events occurred on May 28 or 29, saying it could be either. Other evidence belies it being May 28. Mr. Milner testified that on May 28, Mr. Jewkes was in #9 Unit both when Mr. Milner left and when he returned. He therefore could not have been sitting on the bench. Ms. McLelland was certain it was May 29 but then became unsure when shown the log which did not show Mr. Tommy Henwood as working with her. She testified that in the summer of 1994 when she was interviewed, she had made sure that the correct date was the 29th. When asked at the hearing who she remembered working with at reception that evening, she said "Mr. Henwood". In fact, Mr. Henwood's name does not appear on the duty roster. I accept her evidence that she had initially ascertained that the correct date was May 29 when she made her statements.

Mr. Vernon Taylor is a correctional supervisor in line authority over some 18 correctional officers and is in charge of the operations at Springhill Institution during certain off-hour shifts. He occupies a position of authority and is a person from whom staff would seek guidance and support.

The sexual assaults committed by him upon the person of Diane Bucklow were extremely serious acts of misconduct and warrant the imposition of discipline. In the circumstances, I am satisfied that the penalty of discharge was within the parameters of discipline available to the employer to impose despite the fact that the grievor has no disciplinary record and is a long service employee. The fact that Mr. Taylor did not admit any wrongdoing and his failure to understand the inappropriateness of his actions and to appreciate the suffering that he caused Diane Bucklow is an indication of his complete lack of remorse. In these circumstances, there can be no mitigation of penalty.

The grievance as it relates to both the suspension and discharge is dismissed.

**Rosemary Vondette Simpson,
Board Member**

OTTAWA, January 15, 1996.