

Public Service Staff
Relations Act



Before the Public Service
Staff Relations Board

BETWEEN

FRANÇOIS COTTENOIR

Grievor

and

TREASURY BOARD
(Solicitor General - Correctional Service of Canada)

Employer

Before: Muriel Korngold Wexler, Deputy Chairperson

For the Grievor: Georges Nadeau, Public Service Alliance of Canada

For the Employer: Raymond Piché, Attorney

Heard at Montréal, Quebec,
from September 4 to 6 and December 2 to 5, 1996 and on March 10 and 11, 1997.

DECISION

On April 5, 1995 the employer dismissed François Cottenoir, a correctional officer, CX-COF-2 (or AC-2) acting, at Leclerc Institution. The letter of dismissal (Exhibit 1), dated April 5, 1995, gives two reasons in justification:

[TRANSLATION]

The disciplinary hearing held regarding your involvement in the incident of the discovery on December 23, 1994 of a 22-calibre firearm loaded with nine bullets in Leclerc Institution showed beyond any doubt that you were involved in this incident. You thus threatened the safety of the institution and of those in it. You acted contrary to the values and principles described in the document on the mission of the Correctional Service of Canada and the policies and procedures laid down in legislation, directives, manuals and other official documents of the CSC.

By your actions you have occasioned a breach of the essential relationship of trust between employer and employee. Among other things, the abuse of trust which you demonstrated towards an external individual and your failure to intervene at your meeting with an inmate in possession of a loaded weapon are extremely serious instances of misconduct. You therefore acted in a way which was unworthy and unacceptable for an employee of the Correctional Service of Canada.

Accordingly, your employment is terminated as of 3:00 p.m. on April 5, 1995 pursuant to s. 11 of the Financial Administration Act and the powers delegated to me.

If you wish to challenge this decision you may file a grievance at the last level of the grievance procedure.

Mr. Cottenoir filed a grievance challenging his dismissal: it was duly referred to adjudication and is the subject of this decision. The hearing of this grievance took place on September 4, 5 and 6 and December 2, 3, 4 and 5, 1996 and on March 10 and 11, 1997.

Evidence

The employer called 12 witnesses: Diane Renaud, Sylvie Dion, Claude Véronneau, Daniel Denis, Yvon Laporte, Pierre Goyer, Louis DelaDurantaye, Claude Champagne, Robert Massie, Serge Jutras, Ghislain Proteau and Pierre Viau. Mr. Cottenoir testified for himself and called no other witnesses. The parties also filed 31 documents, and I allowed witnesses to be excluded.

The primary question I have to decide is one of credibility. At the start of the hearing in this case the employer gave two reasons to justify the dismissal and Mr. Cottenoir alleged that these two reasons did not take place and that even if there were problems with his conduct they did not justify his dismissal. The credibility of several of the 13 witnesses left much to be desired. Messrs. Cottenoir and Véronneau gave several versions of the incidents leading to the dismissal. Mr. Goyer's testimony was also ambiguous and contradictory on certain aspects of the evidence presented. This decision is thus difficult as I have to decide which of the witnesses is most credible and which of the versions I should accept. It is entirely a question of evidence and credibility.

The different versions

Diane Renaud is Claude Véronneau's girlfriend (wife): he was an inmate at Leclerc Institution at the time of the events leading to Mr. Cottenoir's dismissal. The persons directly involved in those events are Ms. Renaud, inmate Véronneau, Serge Jutras, Louis DelaDurantaye, Pierre Goyer and François Cottenoir.

Ms. Renaud testified that she had several telephone conversations with inmate Véronneau and visited him regularly, two or three times a week. They had sexual relations. She had known Mr. Véronneau for 11 years. She met him in the bar where she was working as a dancer and waitress and, three months later, they were living together. Mr. Véronneau was arrested and convicted more than once, and on several counts, but was never involved in any violence. He began serving his last sentence at Leclerc Institution in summer 1994. Mr. Véronneau had already spent time at that institution some years earlier for similar crimes and had made the acquaintance of correctional officer Pierre Goyer. Ms. Renaud knew Mr. Goyer as she visited Mr. Véronneau two or three times a week. She met with Mr. Véronneau in the visits room and trailer. Mr. Goyer worked in the visits room. Ms. Renaud stated, however, that she had never met Mr. Cottenoir in the visits room. Mr. Cottenoir was the correctional officer responsible for Mr. Véronneau's case in the ECHO program. Mr. Véronneau participated in that program: it involves detoxication and therapy for addicts not involved in drug trafficking.

In mid-October 1994 Mr. Véronneau told Ms. Renaud that Mr. Cottenoir wanted to go into business with her. Mr. Véronneau knew Ms. Renaud intended to start a

business. Mr. Véronneau told her that Mr. Cottenoir would telephone her about it. Accordingly, when Mr. Cottenoir telephoned her at her father's place she was expecting the call. However, she was still surprised at the speed with which Mr. Cottenoir telephoned her. Mr. Cottenoir told her that they should meet to discuss Mr. Véronneau's progress at Leclerc Institution. Mr. Cottenoir also talked to her about business. Ms. Renaud agreed to meet with him and Mr. Cottenoir invited her to his apartment in Laval the following Thursday. Ms. Renaud went as agreed and they had supper together. Mr. Cottenoir prepared supper and served wine. They talked about Mr. Véronneau and Ms. Renaud's mother, who had recently died. Mr. Cottenoir talked to her about his personal life and a death in his family. Mr. Cottenoir also showed her psychological tests he was going to give Mr. Véronneau.

After supper that same evening Mr. Cottenoir and Ms. Renaud went together to a discotheque where they continued consuming alcohol. When they went to the discotheque Mr. Cottenoir told her she should leave Mr. Véronneau, he was no good for her since she was a nice girl. He added she should leave him peacefully because Mr. Véronneau might make trouble. (Mr. Véronneau was a member of the "Rock Machines", one of the criminal gangs operating in Quebec.)

They then went back to Mr. Cottenoir's place, where Ms. Renaud intended to pick up her car. When they got back to the apartment Mr. Cottenoir told her the story of his broken heart. His wife had left with someone else and Mr. Cottenoir could not accept it. Ms. Renaud even telephoned one of her chums, Line Meunier, with the intention of introducing her to Mr. Cottenoir and they talked on the telephone. Mr. Cottenoir then invited Ms. Renaud to sleep at his place because she was inebriated. Ms. Renaud agreed and lay down on his bed. The apartment had been rented by Mr. Goyer and Mr. Cottenoir sublet a bedroom. At some point in October 1994 Mr. Goyer sold Mr. Cottenoir his boat and furniture for \$6,500 and Mr. Cottenoir took over the rental of the apartment. Ms. Renaud described the apartment in question in detail. At the hearing of this adjudication the parties admitted that she had in fact been in the apartment and that Mr. Cottenoir lived there.

Ms. Renaud stated she did not have sexual relations with Mr. Cottenoir, but lay down on his bed. In answer to a question from Georges Nadeau, Mr. Cottenoir's representative, she stated she had not flirted with Mr. Cottenoir when she went to see

Mr. Véronneau and had not made any approaches to him on the evening in question. During the night, while Mr. Cottenoir was sleeping, Ms. Renaud got up and went to sleep in the "spare room". She did not recall when and how she changed rooms. Ms. Renaud stated that the following morning Mr. Cottenoir showed her photos he took out of a drawer. These photos showed an inmate with his throat cut. Ms. Renaud did not like this: she interpreted it as a threat and left the apartment. Ms. Renaud stated she had not mentioned she was in Mr. Cottenoir's bed before the hearing of the adjudication of this grievance because she was afraid Mr. Véronneau would be even angrier than he was when she told him of her evening with Mr. Cottenoir. Mr. Cottenoir telephoned him the same day and told him that nothing had happened. Following that evening Ms. Renaud told Mr. Véronneau she had met Mr. Cottenoir but did not tell him everything because Mr. Véronneau was not pleased with Mr. Cottenoir when he found they had gone out together. Ms. Renaud never saw Mr. Cottenoir again.

In November 1994, Mr. Véronneau told Ms. Renaud something about a weapon. He told her that he would get out of Leclerc Institution quicker [early release] if he found a weapon inside the institution. Ms. Renaud did not recall whether Mr. Véronneau told her that he had discussed this with the correctional officers. Then, in December 1994, Mr. Véronneau was transferred to the Ste-Anne-des-Plaines Institution (high-maximum level). Mr. Véronneau was unhappy with this transfer and angry that he had not been released. However, he never told her he was angry with the correctional officers.

On January 30 and February 3 and 7, 1995, Ms. Renaud was questioned by Preventive Security, Correctional Service of Canada, and the Sûreté du Québec (police) about her meeting with Mr. Cottenoir and the discovery of the firearm. On January 30, 1995, Normand Morin and David Lévesque of Preventive Security questioned Ms. Renaud and she signed a three-page statement (Exhibit 2). On February 3 and 7, 1995, a police officer, Ghislain Proteau, questioned her on the same matter and she signed two statements (Exhibits 3 and 4). Ms. Renaud maintained throughout the version she gave at the hearing of this matter. She also recognized her voice in a conversation she had with Mr. Véronneau which was recorded by a wiretap (Exhibits 6 and 7).

Ms. Renaud admitted that Mr. Véronneau is a manipulator. She was never accused of fraud or lying. She said she did not lie and her testimony was the truth. Further, Mr. Véronneau had not asked her to lie.

Claude Véronneau, on the other hand, gave several versions of the discovery and handing over of a firearm on December 23, 1994. Mr. Véronneau added that Ms. Renaud advised him to tell the truth when he was called to testify in this matter. He said he had been convicted of breaking and entering for the second time. He had already been convicted of this crime and of fraud and three times of perjury. Inmate Véronneau testified he had never told Ms. Renaud he was a thief and that he had wrongly involved Mr. Cottenoir in the firearm recovery incident of December 23, 1994.

On his last conviction he was sentenced to five years in the Federal Training Centre. In summer 1994 he went to Leclerc Institution, which is under the control of the Hell's Angels gang. Leclerc Institution is a repeat offender, high medium security institution. When Mr. Véronneau entered Leclerc Institution he was placed in KJH sector. He had already made the acquaintance of correctional officer, Pierre Goyer, at the time of his first conviction and had worked for him as a visits room cleaner. Mr. Véronneau described his relationship with Mr. Goyer as that of "father and son". Mr. Véronneau thus went again to work as a visits room cleaner with correctional officers Goyer, DelaDurantaye and a third one named Michel (Mr. Véronneau did not give his surname). This work enabled Mr. Véronneau to go through the "first gate" and he could go out to the parking area to perform his duties. According to Mr. Véronneau, the Correctional Service of Canada trusted him more than other inmates. It was Mr. Jutras who endorsed or assigned him to visits room cleaner duties.

In June or July 1994 Mr. Véronneau joined the ECHO program, sector 2KL. This program is a therapy program for inmates. Mr. Véronneau asked to participate. He said he asked to participate in the ECHO program so he could "get good grades" and get out of the institution sooner. He testified that he had never taken drugs and had no problems with addiction. The program was very special. The inmates were asked to share their feelings and emotions with correctional officers. Discussions were in groups and one-on-one. Mr. Véronneau added that he had to talk about his feelings and explain them, but he had difficulty with this therapy. In this program inmates met with correctional officers more frequently and their relations were quite close.

According to Mr. Véronneau, Mr. Cottenoir had no reason to be afraid of him because he had never been violent and had never been accused of violence. When he entered the ECHO program, Mr. Véronneau was first put under the supervision of Jean-Yves Lebel (a correctional officer and caseworker). Mr. Cottenoir was then made responsible for his case.

Mr. Véronneau explained that he applied for the ECHO program after discussing it with Mr. Goyer and that at some point Mr. Cottenoir took over his case. Mr. Véronneau and Mr. Cottenoir met for therapy several times. They discussed "the outside", business and several other matters. Mr. Cottenoir told him of his interest in starting a bingo business and Mr. Véronneau had friends who owned such a business. When Mr. Véronneau had his discussions with Mr. Cottenoir they were both alone in the control office. These conversations might last one or two hours. Fifty percent of the discussions concerned his ECHO file and the rest dealt with other matters. They talked about personal things. Mr. Cottenoir even told him he had a daughter and introduced him to his girlfriend.

In December 1994 one of the matters they discussed was the handing over of a firearm. According to Mr. Véronneau, it was Mr. Cottenoir who spoke to him of a plan for the handing over of a firearm. Mr. Véronneau also said it was Ms. Renaud who told him of her evening with Mr. Cottenoir. As the ECHO program correctional officer responsible for his case Mr. Cottenoir was entitled to speak to his wife. However, Mr. Véronneau never thought Mr. Cottenoir wanted to go out with her. Mr. Véronneau became so frustrated and angry at Mr. Cottenoir's conduct that he met with the chaplain and discussed the situation with him. Mr. Véronneau told him that a correctional officer had met with his wife. Mr. Véronneau trusted the chaplain and asked him what he should do about this situation. Mr. Véronneau was angry with Mr. Cottenoir. Ms. Renaud also did not tell him that she had gone to Mr. Cottenoir's place: he was told of this by the Sûreté du Québec. The chaplain advised him to do nothing and referred him to the psychologist.

Mr. Véronneau added that he asked for a meeting with Mr. Cottenoir to discuss the evening with Ms. Renaud. Mr. Cottenoir told him he had met with Ms. Renaud to give her tests. Mr. Véronneau replied he was angry and told him that "it was not right to see his wife" and Mr. Cottenoir apologized. Later, at group therapy (discussion),

Mr. Véronneau explained to Mr. Cottenoir he should have given Ms. Renaud the tests at Leclerc Institution (and not at his home, at his apartment).

Mr. Véronneau was not a reliable witness and his credibility left much to be desired. Following the incident resulting in the grievance which is the subject of this decision, and which occurred on December 23, 1994, Mr. Véronneau gave several versions of the way he came into possession of the firearm and of Mr. Cottenoir's involvement in the handing over of the firearm to Mr. Jutras.

On September 4, 1996, Mr. Véronneau was called to testify before me in this matter and made the following statements. Mr. Véronneau testified that the first time he saw and had in his hands a sawed-off 22-calibre handgun loaded with nine bullets was on December 23, 1994. He added that he got it from an individual he had never met before that date. Following the incident on December 23, 1994, another inmate was accused of bringing in the firearm and was transferred to the Donnacona Institution.

Mr. Véronneau explained that one day, when he was cleaning the visits room, he mentioned to Serge Jutras, Pierre Goyer and Louis DelaDurantaye that he had learned that a firearm was circulating in Leclerc Institution and that he could buy it while he was in prison. Mr. Jutras, the acting Preventive Security officer, asked him to try and recover the weapon. They decided Mr. Véronneau would buy the firearm and hand it over to Mr. Jutras in the presence of Messrs. Goyer and Cottenoir. It was Mr. Jutras who asked him to recover the firearm and in return promised him "a phantom transfer". Mr. Véronneau met with Mr. Jutras after having a number of discussions with Messrs. Goyer and Cottenoir about the firearm circulating inside Leclerc Institution. Mr. Véronneau stated that he trusted Messrs. Cottenoir and Goyer. He was told that if he recovered the firearm he "would walk". Mr. Véronneau trusted Mr. Goyer, who told him not to worry "because they would keep their promise". According to Mr. Véronneau, he was doing nothing illegal in recovering the firearm.

Mr. Véronneau thus undertook to recover the firearm. He persuaded "someone" to sell him the firearm on the pretext that he wanted to escape. Mr. Véronneau then persuaded his former employer, Claude Champagne, on a visit to Leclerc Institution, in the presence of a correctional officer, that he needed \$3,000 to buy the firearm. Mr. Véronneau noticed that Mr. Champagne was surprised and dubious at this request

but Mr. Goyer explained to him that if Mr. Véronneau was able to recover the firearm he would get out sooner. Mr. Champagne then gave \$3,000 to Mr. Véronneau's sister, and he gave it to "someone". A few days later Mr. Véronneau obtained the firearm.

Mr. Véronneau explained that, at about 11:30 a.m. or noon on December 23, 1994, when he was in the inner yard of Leclerc Institution, he passed an individual who gave him the firearm. He had been trying to recover the firearm for several weeks. Mr. Véronneau added that he did not want to tell the authorities that an individual had given him the firearm because he did not want to give them the person's name. He said he had found it in the garbage. Mr. Véronneau hid the firearm under his jacket and went back to 2KL sector. He went to the control room and asked the correctional officer to contact Messrs. Goyer and Cottenoir. Mr. Véronneau asked Mr. Cottenoir, who was home on leave, to come to Leclerc Institution as quickly as possible. When Mr. Cottenoir arrived at 2KL sector they went into a classroom beside the control room and Mr. Véronneau showed him the weapon. Mr. Cottenoir seemed surprised by the call. However, according to Mr. Véronneau, Mr. Cottenoir must have known when he telephoned that he had finally recovered the firearm. Mr. Véronneau stated he wanted Mr. Cottenoir to be present when the firearm was handed over as "his witness" because he was "the correctional officer responsible for his case and he did not trust the Correctional Service".

The classroom in question has windows and Mr. Véronneau did not want to be seen by the other inmates. He therefore chose a place inside so as not to be seen by the inmates, although the correctional officer in the control room could observe them. Mr. Véronneau had the firearm hidden in his belt. He took it out and showed it to Mr. Cottenoir. Mr. Véronneau was nervous at finding himself in a penitentiary with a firearm and feared the inmates would learn that he had it on him. Mr. Cottenoir told him to follow him and they went up to 2KL sector; Mr. Véronneau sat down in the control room. However, he said nothing about the firearm to the correctional officer present (Daniel Denis). Mr. Cottenoir asked him to go back to 2KL sector and wait in the control room. Accordingly, Mr. Véronneau, with the loaded weapon on him, stayed by himself in the control room with Mr. Denis while he waited for instructions.

In the meantime Mr. Cottenoir went to tell Mr. Jutras. Then, through Mr. Denis, Mr. Véronneau was asked to go to the hospital, which meant going all the way across

Leclerc Institution. Mr. Véronneau obeyed and went through the institution with the firearm concealed on his person. Mr. Véronneau was anxious to get rid of the firearm. Mr. Cottenoir met him at the bottom of the stairway going up to the hospital. The distance between 2KL sector and the hospital is about four or five miles [sic]. Mr. Véronneau passed inmates and correctional officers all along the way. Mr. Véronneau stated that he did not recall why he had not given the firearm to Mr. Cottenoir when they were alone in the classroom. At the hospital, Mr. Véronneau gave Mr. Jutras the weapon as promised. Mr. Véronneau asked if the handgun was real and was surprised when he was told that the firearm was loaded. Mr. Véronneau said he did not know how to handle this type of firearm, though he had previously handled a 357 magnum.

After the weapon was handed over Mr. Véronneau was transferred to the Special Handling Unit (S.H.U.), a high maximum security unit. He was stunned by this transfer. When Mr. Véronneau was at the S.H.U., Pierre Viau was responsible for the visits room. Mr. Viau came to see him two or three times and one day told him he was the only person who could help him get released. Since the Sûreté du Québec and Correctional Service of Canada had not believed him when he told them that he had bought the firearm inside Leclerc Institution and had charged him with possession of a firearm, Mr. Véronneau asked Mr. Viau "what he would say if it was a correctional officer who had given him the firearm". That was how Mr. Véronneau implicated Mr. Cottenoir. He did not want to give them the name of the person who had given him the firearm but, at the same time, he wanted to get out of the S.H.U. He made the statement implicating Mr. Cottenoir on January 30, 1995 (Exhibits 9 and 12) and four months later he left the S.H.U. and was transferred to Cowansville Institution.

Mr. Véronneau was angry at this transfer to the S.H.U. He felt he had been let down by Messrs. Goyer and Cottenoir (and Mr. Jutras), and in particular by Mr. Cottenoir, who was the correctional officer responsible for his case and who had gone out with his wife. Mr. Véronneau stated that he had worked with Messrs. Cottenoir and Goyer for a month to recover the firearm and had trusted Mr. Cottenoir. Mr. Véronneau implicated Mr. Cottenoir "because he was dragged into this firearms incident". Correctional Service of Canada "made promises to him when correctional officers could not make such promises and his life has been in danger since then ". Mr. Véronneau added that when he was in Cowansville Institution, he

asked for a public hearing on the matter and "correctional officers came to his cell and threatened him".

On January 6, 1995, Mr. Véronneau met for the first time with officers Proteau and Dicaire of the Sûreté du Québec about the possession and handing over of the firearm on December 23, 1994 when he was imprisoned at Leclerc Institution (Exhibits 11 and 12). Then, on January 30, 1995, Mr. Véronneau was questioned by Normand Morin and David Lévesque, Preventive Security officers at Leclerc Institution, and gave a second version of the way in which he obtained possession of the firearm on December 23, 1994 (Exhibits 9 and 12). Mr. Véronneau said that Mr. Cottenoir gave him the firearm at the foot of the 2KL sector stairway in the area beside the control room and that Mr. Cottenoir had brought the firearm into Leclerc Institution to help with his release. According to that statement, it was in Mr. Cottenoir's interests to help him because he wanted to go into business with Mr. Véronneau after his release (Exhibits 9 and 12). Mr. Véronneau showed Ms. Renaud a copy of this statement.

On February 8, 1995, Mr. Véronneau was questioned by officers André Lapointe and J.P. Grondin of Preventive Security at the Regional Reception Centre (R.R.C.), S.H.U. sector, Ste-Anne-des-Plaines, about the same incident. At that meeting Mr. Véronneau repeated the story that it was Mr. Cottenoir who had given him the firearm (Exhibits 10 and 12). However, in his testimony before me on September 4, 1996, Mr. Véronneau testified that his first statement to the Sûreté du Québec which he had signed on January 6, 1995 was the truth (Exhibits 11 and 12).

On January 6, 1995, Mr. Véronneau stated that he spoke to correctional officers Goyette, Cottenoir and DelaDurantaye for "humanitarian reasons and on account of his safety and that of the correctional officers". Mr. Véronneau added that Serge Jutras, the Preventive Security officer, told him some time in late November 1994 that he "would walk". Mr. Véronneau knew he could obtain the firearm by paying "ponytail Vallière" \$3,000. Mr. Véronneau accordingly asked Claude Champagne to give his sister \$3,000. Mr. Champagne was his former employer. According to that version, "ponytail" showed Mr. Véronneau the weapon two days before the payment. On December 23, 1994, Mr. Véronneau met "someone" in the hall leading to 2KL sector who allegedly told him "it is in the garbage can beside the elevator".

Mr. Véronneau went there and found the firearm under a bag of garbage. Mr. Véronneau took the firearm and went to see correctional officer Denis who was in the control room at that time. He asked him to contact Messrs. Cottenoir, Goyer and Jutras. About 10 to 15 minutes later Mr. Jutras, through a correctional officer, told him to come up to the hospital with the firearm. Mr. Cottenoir then went to get Mr. Véronneau and the latter gave Mr. Jutras the firearm (Exhibits 11 and 12).

It is worth noting that, in his second statement dated February 8, 1995, Mr. Véronneau said the following (Exhibit 10):

[TRANSLATION]

Some time in October 1994 I was transferred to Leclerc Institution for the ECHO program and I had Mr. Lebel as my officer in 2KL; I then changed to Mr. Cottenoir. Mr. Cottenoir later changed certain discussions. Mr. Cottenoir said to me "You must have some money left from the things you did" and I replied "Perhaps". We later talked about going into business together afterwards. Mr. Cottenoir then contacted my wife Diane without my knowledge and asked to see her, "to meet her". Mr. Cottenoir took the precaution of making up a report about me alleging I had offered him a bribe.

Mr. Cottenoir met my wife and tried to go to bed with her and advised her to drop me, and so on. See the statement made by my wife to the Correctional Service of Canada, to Messrs. Morin and Lévesque, on January 2, 1995.

After the meeting with my wife she came to see me in the visits room and talked about this incident to me and I did not like it. Mr. Cottenoir called my wife and she told him what she had said, that I knew he had met with her. On Saturday Mr. Cottenoir came to the institution with a girl to introduce her to me as his girlfriend and they then left together. In the evening a female guard noticed I was not my usual self and I asked her to call the chaplain so I could meet with him as soon as possible. I met with the chaplain and asked him to maintain professional secrecy, and explained what had happened. He told me he would talk to some contact.

Two or three days later guard Cottenoir came in at night. As soon as he saw me, he told me we would be meeting. I was very nervous and angry. He asked me to sit down, he told me — I will explain what happened — he first said these words to me: "I made a report which I have in my file saying that you offered me a bribe", if I talked, it would be my wife who would

be seen to have made the moves and he told me not to make any threats to him and he would help me get out.

On Thursday the chaplain called me back to his office and told me that the authorities would be helping the guard: I told him at that time that I had seen the guard and it was okay, he was going to help me and would not harm me.

On Thursday evening I saw Mr. Cottenoir again and we talked together the entire evening. First, as to my removal from 2KL, he told me he would do everything to ensure I was not removed and that was done. He gave me tests on that evening which he had given my wife when they saw each other.

On Friday I again spent my evening with Mr. Cottenoir and he asked me if I needed anything. I replied "shrimps". I was not popular with the inmates as I had been with Mr. Cottenoir in the little office for three days. We talked about how we could arrange it so I would get day parole in September 95. He answered, "It is not easy", but he was going to help me. After that he told me that to get out of Leclerc I would have to sell something big, such as weapons or drugs. I told him "No", and he suggested I pretend to buy a weapon and, for example, contact Orthibise, Vallière, Ferland and so on, giving the impression I would buy the weapon from the inmates mentioned but it would actually be Mr. Cottenoir who would be giving it to me. He told me that if I talked I would be charged and I would be in shit. He told me that, if I talked, he knew everything about me, my wife and my family. He also told me that if I talked about the meeting with my wife, he would deny everything and that Pierre Goyer would also have problems.

François asked me if I knew where I could get a firearm and I told him "I am in prison"; I gave him a telephone number where it would be possible to get one. François told me I had to pay someone on the outside through my sister. When it came time to pay, François gave me the telephone to contact my sister so she could go to the corner of Jean-Talon and Pie IX and make the payment of \$3,000 and he would give me \$500 in return. The description was \$500 for the weapon and \$2,000 for him, and this was done.

Mr. Vallière was then sent to segregation, which changed the plans. He then told me how to proceed so he could give me the weapon: I was to inform the keeper Labée who would contact Mr. Cottenoir before everything else.

On December 20, 1994, before leaving his evening shift Mr. Cottenoir told me there would soon be developments.

On December 23, 1994, Mr. Jutras told me to move quickly as Mr. Ferland was going to be placed in segregation. I then went to see Mr. Ladurantay [sic] for him to call Mr. Goyer so he could come, and I asked the guard Denis at 2KL to call Mr. Cottenoir, saying it was urgent. Mr. Cottenoir called me and I told him "It's done", and he told me "I am coming, I will see you in the hall", and asked me to go with him to the area which had been opened by an officer and he gave me the weapon, a black weapon, and he subsequently went to see the warden.

I was called to go and take the weapon to the infirmary, which I did, and Messrs. Goyer, Jutras and Cottenoir were there. I gave the weapon to Mr. Jutras. Mr. Jutras opened the weapon and there were bullets in the clip located in the handle of the weapon. They put the weapon in a bag.

On February 7, 1995, when the police came to question me at the S.H.U., they asked me whether Mr. Cottenoir had touched the weapon in the presence of the other guards and I answered "No".

However, in his testimony before me on September 4, 1996, Mr. Véronneau said it was untrue that Mr. Cottenoir had told him that he had written a report alleging that Mr. Véronneau had offered him a bribe and that if Mr. Véronneau talked about his meeting with Ms. Renaud he would accuse her of putting the moves on him and Mr. Goyer would have problems. The paragraph concerning the statement that Mr. Cottenoir had told him that he should not make threats and he would help him get released was also untrue. Similarly, it was also untrue when he implicated Mr. Cottenoir in obtaining the firearm. It was not Mr. Cottenoir who told him he should pay through his sister to buy the firearm and that the firearm would cost \$500 and that \$2,000 was for Mr. Cottenoir. Further, it was not Mr. Cottenoir but Mr. Véronneau who said on December 20, 1994 that the delivery would take place shortly. Nor was it Mr. Cottenoir who gave him the firearm on December 23, 1994.

Mr. Véronneau testified that he changed his story after telling the truth on January 6, 1995 because he was not believed and he was threatened. He added that his testimony before me on September 4, 1996 was the truth and that he was not lying to me. Mr. Véronneau commented that he had given false names on January 6, 1995 (Messrs. Ferland, Vallières and Urthubise). Mr. Véronneau said these three inmates were members of the Hell's Angels, and that he was not concerned about incriminating them because he had explained the situation to them. Mr. Véronneau

added that the Sûreté du Québec officers asked him whether these three inmates were involved in the handing over of the firearm and he said he told them "to write down the three names if that's what they wanted". So, according to Mr. Véronneau, it was the Sûreté du Québec officers who presumed that these three persons were involved in the matter.

Mr. Véronneau later learned from the Parole Board that correctional officers have no right to make promises of release in exchange for handing over a firearm. Mr. Véronneau said he had been tricked. Mr. Véronneau could not remember having told anyone he had changed his version of the incident involving the firearm to accord with Mr. Cottenoir's versions. Mr. Véronneau also testified that he never told Ms. Renaud the truth about the person who had given him the firearm; he did not want to make her still more nervous by telling her that it was an inmate who had given it to him. He let her believe that it was Mr. Cottenoir who had given him the firearm and that he was a liar. Mr. Véronneau wanted to reassure his wife by lying to her and accusing Mr. Cottenoir. In his testimony Mr. Véronneau emphasized that Mr. Cottenoir had not brought the firearm in question into Leclerc Institution and that he had implicated him only in order to get out of the S.H.U.

Mr. Véronneau added that "promises had been made to his lawyer and Ms. Renaud" so that he would sign the statement implicating Mr. Cottenoir (Exhibits 10 and 12). Mr. Véronneau also told a police officer that it might be better if it were a correctional officer who had given him the firearm. Mr. Véronneau was angry because the police officers did not believe his first story, but believed him when he implicated Mr. Cottenoir.

Mr. Véronneau and Ms. Renaud recognized their voices on a tape (Exhibits 6 and 7). This concerned a conversation which they had on February 21, 1995 and which was recorded at about 6:25 p.m. Yvon Laporte, a Preventive Security officer at Archambault Institution since 1969 who has been employed by the Correctional Service of Canada since 1967, testified about this tape. On February 17, 1995, Robert Massie, Unit Manager, E Block, at Archambault Institution, sought a warrant (Exhibit 13) permitting the interception of Mr. Véronneau's telephone conversations. Inmates are informed by a notice placed above the telephones that their conversations may be recorded.

When Mr. Véronneau completed his testimony and was leaving the hearing room on the evening of September 4, 1996, he escaped and has not been seen since.

Sylvie Dion has been employed by the Correctional Service of Canada as regional head of labour relations for the Quebec Region since 1990. She testified that she discussed the content of Mr. Véronneau's testimony with him. She met with Mr. Véronneau at the Regional Training Centre in the last week of July 1996, when he was imprisoned there, to discuss his testimony. Mr. Véronneau told her he had altered what he said to correspond to the stories given by Mr. Cottenoir. Mr. Véronneau accordingly adjusted his version of the incident to correspond with that of Mr. Cottenoir and the correct version was that Mr. Cottenoir had given him the firearm: Mr. Véronneau was quite categorical about this.

Daniel Denis testified that he had been employed by the Correctional Service of Canada since September 10, 1979. On December 23, 1994, he was working at Leclerc Institution as an ECHO addiction program caseworker on the day shift in 2KL range or sector. Mr. Denis had been working in this program since 1992 as an acting CX-COF-2. The ECHO program was for inmates who had serious drug problems, who were high or very high level addicts and whose criminal activity was directly related to drug use. The program selected inmate addicts ready to be released so as to help them on their release. The program has been in place since 1989. Inmates participated intensively in it for nine months. There were six caseworkers. There were usually two caseworkers on site on each shift (two caseworkers on the day shift; two caseworkers in the evenings; and two on leave). In 1994 there were 36 inmates participating in this program. At noon on December 23, 1994, Mr. Denis was working alone in the 2KL range because his colleague was on leave. Mr. Denis could see the common room from his office.

Mr. Denis explained that, in the penitentiary, an inmate who talks to a correctional officer is a "stooge", but in the ECHO program the correctional officers (caseworkers) are seen as positive figures and the inmates are ready to talk to them. However, the program is not fully accepted or well thought of by some correctional officers. The ECHO program had a psychologist attached to the program, six caseworkers, a coordinator and a classification officer. For an inmate to be accepted into the program there had to be a pre-assessment and analysis of his file by the

Offender Management System (OMS) to determine the strength of the inmate's commitment and ensure that he was not a drug or narcotics trafficker. Urine samples were regularly taken because drugs are available in prisons. If an inmate was found to have taken drugs he was automatically barred from the program. The caseworker keeps an ongoing assessment of the inmate and a report is drawn up at the end of nine months. The process can lead to release or a transfer to another lower security institution. Inmates see participation in this program as a way of reducing their sentences. According to Mr. Denis, the reason Mr. Véronneau was accepted in the ECHO program was that it met one of his needs.

At about 11:20 a.m. on December 23, 1994, Mr. Denis noticed Mr. Véronneau in the range. Mr. Denis was counting the inmates and Mr. Véronneau came to see him in his office. Mr. Véronneau asked him if he had included him in the count, to which Mr. Denis replied that he had. Mr. Véronneau then asked him to take off his name because he had to go to the garbage dump. Mr. Denis accepted this explanation because it was the time for cleaning the visits room, which began at 1:30 p.m. As Mr. Véronneau was the visits room cleaner, it was logical that he had to do the cleaning: it was his job. To get to the visits room, it was necessary to cross the inner yard which separated 2KL range, located on the second floor above segregation, and the administrative offices located near the main entrance. Mr. Véronneau left 2KL range and Mr. Denis saw him come back two minutes later. Mr. Véronneau asked him to telephone Mr. Cottenoir, saying he had to talk to him and that "it would save the lives of many officers who were on leave". Mr. Véronneau was very nervous. He walked up and down and kept very close to Mr. Denis. Mr. Véronneau insisted that he had to talk to Mr. Cottenoir and that the only thing he could tell Mr. Denis was that "it could save the lives of many officers"; he made a gesture by raising a finger. Mr. Denis tried unsuccessfully to get hold of Mr. Cottenoir and had to leave a message for him. When Mr. Cottenoir called back, he spoke to Mr. Véronneau and they arranged to meet in the office of Martin Paquette, Program Coordinator, on the ground floor at the foot of the stairway. In this conversation Mr. Véronneau never mentioned that he was in possession of a firearm.

After this telephone conversation with Mr. Cottenoir, Mr. Véronneau remained alone with Mr. Denis and spoke to him of the agreement to recover a firearm. Mr. Véronneau walked up and down while he was telling Mr. Denis that

Messrs. Cottenoir and Goyer were acting as witnesses "between him and management" in the recovery of a firearm. Messrs. Cottenoir and Goyer were necessary so that the agreement would be carried out because Mr. Véronneau did not trust "management". Mr. Denis noted that Mr. Véronneau became increasingly nervous. Mr. Véronneau even talked to him about "a simulated hostage-taking, if it went wrong, but the preventive security officer had advised him against it because it might turn out badly for him" and Mr. Véronneau made the sign of a gun with his hand. As Mr. Véronneau was talking to him, Mr. Denis was making a visual count of the inmates. Mr. Véronneau approached Mr. Denis three times and Mr. Denis told him to sit down, but each time he got up.

At about 12:15 p.m. Mr. Denis was relieved of his duties by André Sylvain, who also remained alone with Mr. Véronneau. When Mr. Sylvain entered the office, Mr. Véronneau drew back towards the corner. Mr. Denis left and Mr. Véronneau remained with Mr. Sylvain. Mr. Denis did not think of calling Preventive Security because Mr. Véronneau had spoken to Mr. Cottenoir. Similarly, when he was relieved by Mr. Sylvain, he told him nothing about his conversation with Mr. Véronneau. Mr. Sylvain accordingly remained alone with Mr. Véronneau, who had the loaded pistol on him. When Mr. Denis left, he tried to find Mr. Cottenoir but was unable to do so. He then left a message with Mr. Paquette that if he saw Mr. Cottenoir he should tell him to meet him in the officers' dining room or refectory. Mr. Denis then saw Messrs. Cottenoir and Véronneau, who were walking towards the administrative offices with Mr. Jutras. When Mr. Cottenoir caught sight of Mr. Denis, he told him he did not have time to talk to him.

Before leaving for his lunch break, Mr. Véronneau had given Mr. Denis an envelope "which he wanted him to give to Mr. Cottenoir in case something happened to him". Mr. Denis returned to 2KL range at about 1:00 p.m. and did not see Mr. Véronneau again for the rest of the day. However, at about 2:30 p.m. Mr. Cottenoir came back to see Mr. Denis and get the envelope left by Mr. Véronneau. At that time Mr. Cottenoir told Mr. Denis that a weapon had been seized and that Mr. Véronneau had had a firearm on him throughout the time that he had been alone with Mr. Denis in the office. Mr. Denis said that, if he had known that earlier when Mr. Véronneau was with him, he would have asked him to put the firearm in a bag or would have done so himself and would have placed it in safekeeping; he would not have left the

firearm on him. If Mr. Véronneau had refused, Mr. Denis would have left him in the office and would have sealed off the area. Mr. Denis also mentioned that he could have called the Emergency Response Team (E.R.T.), a special group of correctional officers who handled such situations, because that kind of situation is dangerous for correctional officers, inmates and visitors.

At about 4:00 p.m. on the same day, December 23, 1994, Mr. Jutras and Normand Morin (both members of Preventive Security) held a meeting of the entire staff. They informed about 50 correctional officers that a firearm had been seized that day. They reported that the officers had been working on this seizure since October 1994. Mr. Denis reacted angrily when he learned this. He had a feeling that the employer had been playing with his life and the safety of the staff because he had not been told of the situation, although several correctional officers knew of it. Mr. Denis explained that the correctional officers were supposed to be "a family" and that if there were risks and dangers on the job they expected to be told of them. However, Mr. Denis did not expect to receive this kind of information from Mr. Cottenoir because it was really the responsibility of the preventive security officers and the management of the institution, who should have warned him to be more cautious since something could happen in his area.

Following this development, Mr. Jutras accused Mr. Denis of "leaking information" and swore at him. Mr. Denis was also physically attacked by his "associate". This affected Mr. Denis so badly that he locked himself in his office and would not speak to the inmates. Mr. Denis added that he was still having "emotional reactions".

Pierre Goyer testified twice - on September 5 and December 2, 1996. He stated he had been employed at Leclerc Institution for 20 years. Between 1991 and 1994 Messrs. Goyer and Cottenoir lived together. Mr. Goyer rented an apartment at 1190 Belleville in St-Vincent de Paul, Laval, where Mr. Cottenoir sublet a bedroom. Mr. Goyer then left the apartment and Mr. Cottenoir stayed on. Mr. Cottenoir also bought his car, his furniture and his boat for \$6,500. Mr. Cottenoir obtained a loan from the bank to do this and Mr. Goyer acted as guarantor. In fall 1994 Mr. Goyer was in charge of the visits and correspondence area and Mr. Véronneau often came to see him. Mr. Véronneau, who had worked there at the time of his first conviction, asked if

he could come back. Mr. Goyer had no objection since he was clean and reliable and the position was vacant. Since Mr. Véronneau was serving his second term at Leclerc Institution he was known to the correctional officers.

In 1993 and 1994, and for a period of two and a half years, Mr. Goyer was the president and Mr. Cottenoir the vice-president of the same local of the Public Service Alliance of Canada.

Before starting work in the visits room, Mr. Véronneau came to see Mr. Goyer and, in the presence of Mr. DelaDurantaye, asked him "what would happen if he found a revolver inside the institution and recovered it". In 26 years of service it was the first time that such a question had been put to Mr. Goyer. It is not usual to find firearms inside a penitentiary. However, a few months earlier, Mr. Morin of Preventive Security had mentioned that there were firearms circulating inside Leclerc Institution. Mr. Goyer therefore told Mr. Véronneau that he had no idea, but he would get the advice of Paul Viau, the warden. Mr. Viau told him that rumours were in fact going around about firearms circulating at Leclerc. However, Mr. Viau added that he would remain sceptical until the firearm was on his desk and he would take into account the effort of the inmate who found the weapon in question. Mr. Viau then referred Mr. Goyer to Preventive Security. Mr. Goyer went to see Preventive Security, where he found Messrs. Morin and Jutras. Mr. Goyer repeated Mr. Véronneau's question to them. As Mr. Morin was going hunting, Mr. Jutras replied that he would look after this matter as it interested him. Messrs. Jutras and Goyer then returned to the visits room, where they met Messrs. Cottenoir, DelaDurantaye and Véronneau. Mr. Véronneau repeated his question and Mr. Jutras replied that "if he recovered a firearm from inside, he would be released after serving a sixth of his sentence". Mr. Véronneau then promised him that he "would be bringing him a firearm, except that he would only hand it over in the presence of Messrs. Jutras, Goyer and Cottenoir". As Mr. Véronneau had no confidence "in management" (Mr. Jutras), he wanted Mr. Goyer and Mr. Cottenoir to be present when the firearm was handed over and Mr. Jutras agreed to this. According to Mr. Goyer, everything was decided on the spot. Additionally, Mr. Véronneau was to keep at least one of the four correctional agents present (Messrs. Jutras, Goyer, Cottenoir and DelaDurantaye) informed.

Mr. Goyer said that the handing over of the firearm added to his work because Messrs. Jutras, Cottenoir, DelaDurantaye and he had a great many discussions about it during the period from October to December 1994. The four correctional officers in question talked about the matter constantly and, according to Mr. Goyer, there was very good communication between them. Mr. Véronneau several times told Mr. Goyer that "it was going down and he was going to get it". Mr. Véronneau added that he had contacted inmates François Vallières and Daniel Urthubise and that he felt threatened. Mr. Goyer then told Mr. Jutras about this. Mr. Véronneau told Mr. Goyer several things and the latter remained sceptical until the time at which he was given the firearm. Mr. Goyer said that Mr. Véronneau talked a lot but he never described the firearm in question. Mr. Véronneau gave information to the three correctional officers, Messrs. Goyer, Cottenoir and DelaDurantaye, and it was Mr. Goyer who reported the information to Mr. Jutras.

On September 5, 1996, Mr. Goyer testified that on December 8, 1994, Mr. Véronneau had a visit from his sister, but Mr. Goyer could not hear their conversation. Then one evening —Mr. Goyer did not recall the date — he had a visit from Claude Champagne, his former employer, who came to see him two or three times. As Mr. Goyer wanted to hear their conversation and, because Mr. Véronneau was misbehaving on the evening in question, he sent him to the control office, but he was still not able to listen to them.

On December 2, 1996, Mr. Goyer was recalled to the witness stand and stated that he did not recall Mr. Champagne's visit on December 8, 1994. He also had no recollection of being introduced to Mr. Champagne. This visit was not so different for Mr. Goyer because Mr. Véronneau told him so many things and Mr. Goyer did not believe him. Mr. Goyer added that he no longer even listened to him. At the visits Mr. Véronneau sat at a table where there was no wiretap. Mr. Goyer did not recall having told Mr. Jutras that Mr. Champagne had come to visit Mr. Véronneau to lend him \$3,000. However, if Mr. Jutras remembered that then Mr. Goyer must have reported it to him. Mr. Goyer told Mr. Jutras everything that Mr. Véronneau reported to him. On January 5, 1995, Mr. Goyer wrote the following statement (Exhibit 21):

[TRANSLATION]

On December 8, 1994, at about 8:20 p.m., Véronneau received his visitor C. Champagne and explained why he wanted \$3,000. It was to buy a weapon inside and give it to the penitentiary authorities so as to shorten his prison term. He told him that Jutras of preventive security had told him he would get off with one-sixth of his sentence. Conversation listened to on wiretap.

Therefore, on December 2, 1996, Mr. Goyer contradicted his statement of September 5, 1996 and admitted that, at the time of Mr. Champagne's visit on December 8, 1994, he had heard the conversation between the latter and Mr. Véronneau. Mr. DelaDurantaye was also listening in. Mr. Goyer changed his statement about Mr. Champagne after the latter's testimony on September 6, 1996 and the submission on December 2, 1996 of his written statement of January 5, 1995 (Exhibit 21), in which he noted that Mr. Véronneau had had a visit from Mr. Champagne at about 8:20 p.m. on December 8, 1994. In that visit Mr. Véronneau explained to Mr. Champagne that he needed \$3,000 to buy a firearm that was circulating inside the institution and he wanted to give it to the authorities so as to shorten his sentence, because Mr. Jutras had told him he would get off "with one-sixth of his sentence".

On September 5, 1996, Mr. Goyer testified that between October and December 1994 the four correctional officers in question discussed the matter but had no plan or specific scenario for the delivery of the firearm. Mr. Goyer also reported that Mr. Jutras had given his cellular telephone number to Mr. Véronneau and one evening Ms. Renaud arrived with \$50 for Mr. Véronneau. Mr. Véronneau wanted Mr. Goyer to keep it to bring in some seafood. Mr. Goyer told him that this was not allowed between correctional officers and inmates. Mr. Véronneau insisted that Mr. Goyer keep the \$50, but he finally put the money in the cash register ["la caisse"]. Mr. Véronneau was upset by this: he wanted Mr. Goyer to keep the \$50.

As regards the incident of December 23, 1994, Mr. Goyer stated that on that day he was off. At about 12:20 p.m. he found two messages on his answering machine. The first call was from Mr. DelaDurantaye, who told him to come back to the institution at once, that Mr. Véronneau had indicated that he had the firearm and was ready to hand it over. The second call was from Mr. Cottenoir with the same message. So at about 12:35 or 12:40 p.m. Mr. Goyer went to Leclerc Institution. He went to the Mr. Jutras's office where he also met Mr. Cottenoir. Mr. Jutras told him that

Mr. Véronneau was ready to hand over the firearm and the delivery would be in an empty room at the hospital. Mr. Cottenoir was also to meet Mr. Véronneau at control 30. Accordingly, all three left the preventive security office and went over to the hospital. Mr. Jutras went up first and Mr. Cottenoir followed him. As they went up the staircase Mr. Cottenoir was nervous and told Mr. Jutras that he had already seen the firearm. Mr. Jutras replied "No, you haven't seen it. You musn't say that. You must say you saw it here so as not to upset the staff". At the time, this reply did not register with Mr. Goyer. The three then went into the room in question. Mr. Jutras telephoned Mr. Véronneau to come to them at once. Mr. Cottenoir then left them to go and get Mr. Véronneau. Messrs. Goyer, Jutras and Cottenoir were tense and keyed up.

Two minutes later, Mr. Véronneau entered the room followed by Mr. Cottenoir. Mr. Jutras asked him to hand over the weapon. He then took out a black handgun from the right rear side of his belt. Mr. Véronneau was pale and nervous; he did not speak. Mr. Jutras took the revolver by the barrel, pushed it aside and quickly removed the clip. Mr. Jutras was familiar with weapons. Mr. Goyer saw that the clip had bullets in it and Mr. Jutras put the weapon in a paper bag. Mr. Véronneau was taken to the visits office and the three correctional officers went to Mr. Viau's office. Mr. Goyer had the bag with the weapon. Mr. Viau was talking to two inmates and sent them out. When the office door was closed Mr. Goyer put the bag with the firearm on the desk. Mr. Viau took the weapon out of the bag and put it into the right drawer of the desk and, according to Mr. Goyer, did not even thank them. Mr. Viau then told them to wait outside and called in the two inmates who were waiting on him. Ten minutes later, when Mr. Viau had finished talking to the two inmates, he called back Messrs. Jutras, Goyer and Cottenoir and they examined the firearm together. In the meantime Mr. Véronneau was waiting in the visits office with Mr. DelaDurantaye.

Mr. Goyer stated that Mr. Cottenoir told him he had seen the firearm in control 73 and had prepared two reports about it. One of the two reports concerned Ms. Renaud. Mr. Cottenoir told him he had met with Ms. Renaud to set up something together. He told him this as union representative. Mr. Cottenoir had not yet given this report to the authorities. Mr. Goyer was not pleased at his reporting this. They were working on recovery of the firearm together and this dealing with Ms. Renaud could interfere with their work. Mr. Goyer advised him not to talk to anyone about it so as not to affect the chances of recovering the handgun. Mr. Cottenoir wanted to go

and see the warden with the report. Mr. Goyer had no idea why Mr. Cottenoir wanted to have dealings with a prisoner's girlfriend. Mr. Goyer said that in 26 years he had never seen a correctional officer who wanted to have dealings with a prisoner's girlfriend. Mr. Cottenoir told him that it was just for one night and because Mr. Goyer considered recovering the weapon more important he advised him not to go and see the warden with the written report. According to Mr. Goyer, Mr. Cottenoir destroyed the report. Mr. Goyer was afraid that the authorities would transfer Mr. Véronneau to another institution or put him in segregation and he would not be able to obtain the firearm, which would place the institution in danger. Mr. Cottenoir felt guilty. Mr. Goyer did not read the report: it was Mr. Cottenoir who told him he had just been with her for one evening. Mr. Goyer added that Ms. Renaud visited Mr. Véronneau regularly (eight or nine visits a month) and Mr. Cottenoir often came to see Mr. Goyer in the visits room. They thus had the opportunity to see each other, but Mr. Goyer never saw them speak to or even greet each other.

Mr. Goyer testified that Mr. Cottenoir's second report concerned the firearm. On December 23, 1994, Mr. Jutras asked them to file a report. Mr. Goyer added that the whole prison was talking about the handgun incident and he and Mr. Cottenoir, in particular, discussed the fact that the latter had seen it in an "unarmed control room". Mr. Goyer noted that Mr. Jutras told Mr. Cottenoir to say nothing about it so as not to upset the staff and at the same time asked Mr. Véronneau to walk across the institution with the firearm on him. Additionally, at 4:00 p.m. on the same day, Mr. Jutras told the staff that the authorities had been working on the case for two months. Mr. Goyer had not had an opportunity to speak about the incident of December 23, 1994 before the investigation in January 1995. During the investigation Mr. Goyer telephoned Mr. Jutras at home and told him to tell the truth. Mr. Jutras claimed that he was not told that a firearm would be handed over until December 17, 1994, whereas he was informed of the matter in October 1994 and admitted this at the meeting at 4:00 p.m. on December 23, 1994. Mr. Goyer was questioned three times by investigators of the Correctional Service of Canada about this incident and three times by the Sûreté du Québec. Mr. Goyer stated that he had no knowledge of the story that someone was lending Mr. Véronneau money to buy a firearm.

In cross-examination by Georges Nadeau, Mr. Cottenoir's representative, Mr. Goyer referred to an incident at an employer-union meeting. It appeared that Jean-Claude Perron had been grossly insulted when Mr. Cottenoir accidentally almost spilled coffee on him, and Mr. Goyer had made a statement to the press that Mr. Viau had lost control of his institution.

Louis DelaDurantaye retired on April 27, 1996 after over 30 years' service with the Correctional Service of Canada. He testified that on or about October 17, 1994, Mr. Véronneau came to see him and Mr. Goyer when they were in the visits room. He mentioned to them that there was a firearm inside Leclerc Institution and the fact that he wanted to work for them in the visits room and to enrol in the ECHO program. He wanted to be away from the prison population so he could be safe. He said he was having problems and he was afraid. Mr. DelaDurantaye knew him from his first conviction. Mr. Véronneau accordingly spoke to them about the firearm in the institution and asked them what might happen to him if he helped to recover it. Mr. Véronneau told them that he would try to get it, but at first he was not taken seriously by the officers involved in the matter. However, Mr. Goyer listened to him out of caution because it was important to the security of the institution. Mr. Goyer undertook to inform the authorities of the conversation and gave Mr. DelaDurantaye no particular instructions, except that he should let him know if Mr. Véronneau found the firearm. Mr. Véronneau gave Mr. DelaDurantaye no information: all the information came from Mr. Goyer. Messrs. Goyer and Cottenoir saw each other quite frequently. According to Mr. DelaDurantaye, he was not involved in the incident. His only involvement was on December 23, 1994.

At about 11:00 a.m. on December 23, 1994 Mr. DelaDurantaye returned to his office, where he found Mr. Véronneau, who had finished his duties. Mr. Véronneau mentioned to him that he was going to get "the piece (the firearm) in the yard at 1:00 p.m." and Mr. DelaDurantaye told him to go back to his level. Mr. Véronneau then left. Mr. DelaDurantaye then informed Mr. Jutras of this development. Mr. DelaDurantaye next went to the keeper's office, where Donald Merette received a call and asked Mr. DelaDurantaye if he needed Mr. Véronneau. Mr. DelaDurantaye told him that he did and Mr. Véronneau came to meet him at about 11:20 a.m. Mr. Véronneau then told him to telephone Messrs. Goyer and Cottenoir since he had the firearm. Mr. DelaDurantaye noted that Mr. Véronneau was more nervous than

usual. Mr. DelaDurantaye sent him back to his level before telephoning Messrs. Goyer and Cottenoir. Mr. DelaDurantaye did not tell Mr. Merette the reason he needed Mr. Véronneau because that was the responsibility of management or Preventive Security.

When Mr. Cottenoir arrived at about 11:30 or 11:35 a.m., and Mr. Goyer arrived 10 minutes later, Mr. DelaDurantaye went back into his visits office. Mr. DelaDurantaye added that at one point someone made a sign to him and he understood that Mr. Véronneau had the firearm.

Mr. Véronneau then went into the office and Mr. DelaDurantaye went to pick up the mail. However, Mr. DelaDurantaye did not speak to him. When Messrs. Cottenoir and Goyer returned Mr. DelaDurantaye asked the latter to take Mr. Véronneau somewhere else because he "was fed up with it". Mr. Goyer then took him to the keeper's office. Mr. Cottenoir did not mention to Mr. DelaDurantaye that he had seen the firearm before going to see Mr. Jutras. Mr. Cottenoir never spoke to him about the incident and no one thanked him for his participation, though he and Mr. Goyer were satisfied that they had done good work: they were proud of it.

Mr. DelaDurantaye said he saw the firearm on the evening of December 23, 1994 when Mr. Jutras showed it at the meeting with the whole staff. Mr. DelaDurantaye confirmed Mr. Goyer's statement that Mr. Jutras had learned well before December 17, 1994 that Mr. Véronneau wanted to recover the firearm and he often came in the evenings trying to get information about recovering the firearm. Mr. Jutras also told all the correctional officers at the meeting at 4:00 p.m. on December 23, 1994 that they had been working on the case for two months. Mr. DelaDurantaye did not know Claude Champagne and "neither Mr. Goyer nor Mr. Cottenoir ever mentioned the purchase of a firearm with a loan from outside".

Mr. Champagne is an auctioneer and dealer in jewellery, diamonds, currency and stamps. He had known Mr. Véronneau since 1990 when he was an auctioneer and had come to see him regularly. He had also visited him three or four times in prison. Mr. Champagne said that on December 8, 1994, Mr. Véronneau telephoned him, claiming that he was his lawyer and told him to come to Leclerc Institution, that it was important. Mr. Champagne therefore went to the Institution at about 6:30 or 7:00 p.m. When he arrived a correctional officer was waiting for him and placed him in a small

glassed-in room on the right before entering the common room. It was the first time Mr. Champagne had been in this small room. Mr. Véronneau then arrived. The correctional officer remained in the room throughout the visit, which lasted 30 to 45 minutes. Mr. Champagne did not recall the correctional officer's name.

Mr. Véronneau told him he needed him. The correctional officer explained that there were weapons inside Leclerc Institution. Mr. Champagne asked them what that had to do with him. The correctional officer replied that they wanted to recover one or more of the weapons because the situation placed their lives in danger. Once again, Mr. Champagne asked what the connection was and the correctional officer explained that \$2,000 to \$3,000 was needed to recover the weapon. Mr. Champagne asked why he should give them this amount to help them and whether they did not have a budget for this purpose. Mr. Champagne did not understand such a request. The correctional officer added that the senior warden was aware of the situation. Mr. Champagne again asked why he should give them the money and the correctional officer replied that Mr. Véronneau would get out of prison more quickly and would be transferred immediately to a minimum security institution. Mr. Champagne explained that if he gave them the money and Mr. Véronneau remained in Leclerc Institution he would be killed, to which the correctional officer replied that he would not "because he would be placed under protection". It took them 15 to 30 minutes to persuade Mr. Champagne to give them the money. Mr. Champagne explained that he was working as an auctioneer for the federal government and this matter did not concern him. The correctional officer was continually talking to him and trying to persuade him. The whole thing was unprecedented and amazing. Mr. Champagne had never experienced anything like it and no one had ever made such a request to him. Finally, he agreed to lend Mr. Véronneau the money.

Then, one day, Mr. Véronneau telephoned him to tell him when and how he should hand over the money in question. A woman came to his store to get the money. Mr. Champagne was reluctant to lend \$3,000 to get a firearm. He did not regard it as illegal because the correctional officer told him that it was all organized and the warden was aware of it. The amount also was not large. Mr. Champagne was not repaid and he subsequently found that he had been tricked.

Serge Jutras testified that he had 20 years' service with the Correctional Service of Canada. From September to December 1994 he had been security equipment maintenance clerk at Leclerc Institution and official replacement officer in Preventive Security (Normand Morin). Mr. Jutras replaced Mr. Morin and helped him when there was a lot of work. Mr. Jutras testified that he was not involved in the firearm matter until December 8, 1994. On December 8, 1994, he was expecting a visit by someone in the visits room office where Messrs. Goyer and DelaDurantaye were working that evening. At about 7:30 p.m. Mr. Champagne came into the visits room. Messrs. Goyer and DelaDurantaye also had Mr. Véronneau in the control room.

Mr. Jutras made a sign with his head to Mr. Goyer asking him what Mr. Véronneau was doing there. Mr. Jutras recognized him as an inmate who cleaned the visits area, though he did not know his name. Mr. Goyer made a sign to Mr. Jutras not to speak and sent Mr. Véronneau out into the hallway. Messrs. Jutras and Goyer then spoke together and the latter explained to him Mr. Véronneau would have a visitor in connection with a deal to recover a firearm inside Leclerc Institution. Mr. Jutras stated that until then he had not known of the matter, although a month before Mr. Goyer had told him that he was working on something and when the time was right he would tell him about it. Mr. Jutras caught sight of Mr. Goyer, who was giving the office keys to Mr. Champagne. The office beside the visits room was reserved for the keeper and the correctional officers did not usually give the keys to the office to visitors, except sometimes to counsel so they could open the office door. Mr. Jutras explained that he had little experience of preventive security at that time. This type of arrangement was very unusual in a prison setting, but it did happen. Moreover, Mr. Jutras trusted Messrs. Goyer and DelaDurantaye.

On the following day Mr. Goyer came to see Mr. Jutras to tell him that "everything was ready, the agreement had been made and the financing was in place to buy the weapon". Mr. Jutras did not quite believe him. At that point he began compiling evidence on visitors to Leclerc Institution. Mr. Jutras then told Mr. Viau, Warden of Leclerc Institution, and Mr. Morin that the matter was beginning to look serious. Mr. Jutras still found it strange that an inmate should finance the purchase of a firearm inside the institution, but he did not ask Mr. Goyer any questions about this. In any case, at Leclerc Institution "everyone" saw firearms and there were rumours going about concerning them.

In September 1994, when Mr. Jutras was working with Mr. Morin on an escape conspiracy, there was talk of an escape by helicopter with weapons from inside Leclerc Institution. They had been told that the three inmates suspected of wanting to escape would use a 9 mm handgun. This escape plan was known to management and to Messrs. Morin and Jutras. However, Mr. Véronneau was not one of these three suspects. Further, Mr. Goyer had not precisely identified the kind of weapon when he told him that Mr. Véronneau could obtain a firearm.

According to Mr. Jutras, Mr. Goyer did not tell him at the time what the amount was or how the purchase of the weapon would be financed. It was not until after December 10, 1994 that Mr. Goyer told him that Mr. Véronneau's visitor would lend \$3,000 to purchase the weapon. Mr. Jutras also found out Mr. Champagne's name by checking the visitor list. Mr. Goyer also told him that the deal with the \$3,000 would take place in the Dunkin Donuts at the corner of Jean-Talon and Pie IX streets. Mr. Goyer did not disclose where he had obtained this information.

Mr. Jutras testified that, after December 8, Mr. Goyer telephoned him at 2:27 in the morning to tell him to change his story, that he had not learned about the affair of the handgun until December 8, 1994. According to Mr. Jutras, Mr. Morin was the first person informed that Mr. Véronneau would be obtaining the weapon in question. On December 9, 1994, Mr. Jutras spoke to Mr. Morin, who told him he was aware of the matter. Mr. Jutras insisted that the story told by Messrs. Goyer and DelaDurantaye was not the correct one. It was not until December 8, 1994 that he was told of the circumstances concerning the firearm (Exhibit 20(b)). Mr. Jutras recalled the date because his daughter had been ill on December 7, 1994. Mr. Jutras told Mr. Goyer that he would not change his story and that it was not until December 8, 1994 that he had told him of their plan to recover the firearm.

Mr. Jutras added that he had never met with Messrs. Véronneau, Goyer, Cottenoir and DelaDurantaye together. Additionally, Messrs. Goyer and Cottenoir had told him that Mr. Véronneau did not want to deal with Preventive Security. However, Mr. Véronneau had never had problems with Preventive Security and he had a good security rating. Mr. Jutras explained that he thought this opinion might be due to the fact that Preventive Security did not have a good reputation among the staff. However,

Mr. Cottenoir had no reason not to trust Mr. Jutras because they had worked on union matters together.

Mr. Jutras explained he wanted to have the weapon before the holidays (Christmas): accordingly, on December 23, 1994, he put pressure on Mr. Véronneau to arrange the deal quickly. The three inmates suspected of an escape conspiracy were to be sent to segregation to prevent their escape. Mr. Jutras still thought that the weapon mentioned by Mr. Véronneau was part of the weapons concerned in the conspiracy. Mr. Jutras thought these two events were related and it was not until later that he learned they were not.

On the morning of December 23, 1994, Mr. Jutras told Mr. DelaDurantaye to send for Mr. Véronneau. At about 9:30 a.m. he told Mr. Véronneau to go and get the firearm, that time was short, and the latter replied he would do his best. Then, at about 11:00 a.m. Mr. DelaDurantaye called Mr. Jutras to tell him that Mr. Véronneau was getting the firearm. Mr. Jutras stated that he actually learned that Mr. Véronneau had it when Mr. DelaDurantaye called him to say that Mr. Véronneau had it, he had contacted Mr. Cottenoir and he was trying to reach Mr. Goyer.

Mr. Goyer then came into his office to tell him he was convinced Mr. Véronneau had the weapon. Messrs. Viau and Cottenoir arrived a few minutes later. Mr. Viau told them to go and get the weapon and Mr. Jutras decided to do it at the hospital. Messrs. Jutras, Goyer and Cottenoir then went to the hospital. Mr. Jutras told them not to touch the weapon when he checked it after Mr. Véronneau gave it to him, and it was then that Mr. Cottenoir replied that the weapon had his prints on it because he had seen and touched it. According to Mr. Jutras, it was not until after the weapon was handed over and they were leaving the hospital that he said to Mr. Cottenoir "you have never seen the weapon" so as to avoid chaos among the staff before the holidays. Mr. Jutras did not want to upset the staff. Mr. Jutras said Mr. Cottenoir did not tell him he had pushed away the barrel and it was not until after the weapon was handed over that he learned Mr. Cottenoir had already seen it before going to the hospital. Further, according to Mr. Jutras, Mr. Cottenoir was aware that he had told him not to mention having seen the weapon before it was handed over so as not to upset the staff.

Mr. Jutras explained that it was not a simple matter to go and get the weapon in 2KL sector because the inmates were there at that time. He therefore decided to do it at the hospital. It was less dangerous to get Mr. Véronneau to come there than to make the delivery in the range where there were usually only one or two correctional officers and then suddenly there would have been three to five people who were coming to get a firearm. This might have endangered the staff since Mr. Jutras could not know how the inmates would react. At that time the inmates were in the common room and Mr. Véronneau was in the habit of leaving the range before the other inmates to do his cleaning duties. Mr. Jutras trusted Mr. Véronneau, who had volunteered to hand over the firearm, and he was not afraid of a hostage-taking. Mr. Jutras insisted it was not until Mr. Véronneau gave him the weapon and he checked it to see if it was loaded and so touched it, that he told Messrs. Goyer and Cottenoir not to touch the weapon. It was not until Mr. Jutras unloaded the weapon that Mr. Cottenoir told him that he had already touched it, because he had held it when he went to see Mr. Véronneau in 2KL sector. Mr. Jutras placed the weapon in a plastic bag and then everything was put into a paper bag. Mr. Goyer, who was wearing a coat, took it to Mr. Viau. Mr. Jutras prepared two reports about this incident, on December 30, 1994 and January 3, 1995, and a statement to the Sûreté du Québec dated March 3, 1995 (Exhibits 20(a), (b) and (c)).

Mr. Jutras stated that he was questioned by the Department's regional investigators, Messrs. Lauzon and Tremblay, on two occasions and the second time he was called a liar. Mr. Jutras was accused of telling Mr. Cottenoir to change his story about the fact that he had seen the weapon before it was handed over to Mr. Jutras. Mr. Jutras asked to confront Mr. Cottenoir about this and, at that meeting, Mr. Cottenoir said that it was Mr. Goyer who had asked Mr. Jutras to change his story (and not Mr. Jutras who asked Mr. Cottenoir).

Ghislain Proteau has been a police officer with the Sûreté du Québec since November 29, 1971. He was asked to investigate the incident of December 23, 1994. On December 28, 1994, Mr. Proteau went to Leclerc Institution where he met with Mr. Jutras. The latter described the circumstances in which a firearm was handed over to the authorities by Mr. Véronneau. Mr. Jutras gave him an MAB 22-calibre model F handgun, serial No. 2595. In the following weeks he met with all the people involved in the case. Mr. Proteau transcribed the statements of Ms. Renaud (Exhibits 3 and 4)

and Messrs. Véronneau (Exhibits 5, 11 and 12), Champagne (Exhibit 14), Jutras (Exhibit 20(c)) and Cottenoir (Exhibits 19 and 22) entered in evidence in this case. Mr. Proteau stated that each time he met with Mr. Véronneau the latter was very nervous and told him that "if he told him the truth he would be charged with possession of a weapon inside the institution". However, according to Mr. Proteau, finding a weapon and handing it over to the authorities is not a criminal offence and Mr. Véronneau did not elaborate on the point. Mr. Véronneau gave the impression of being very afraid when Mr. Proteau met with Mr. Champagne. The latter did not know the name of the correctional officer with whom he had discussed the \$3,000 loan for the purchase of the handgun. Mr. Proteau subsequently learned that it was Mr. Goyer. Mr. Champagne was ill at ease when he was questioned by Mr. Proteau: he thought he had taken part in an unlawful transaction.

Prior to this incident Mr. Proteau had never seen a situation like this in which someone loaned money to an inmate to buy a weapon. Mr. Proteau met with Mr. Cottenoir twice. Mr. Proteau also asked him to take a lie detector test, but he refused and he had no obligation to do so. Mr. Proteau also met with Mr. Goyer, who admitted he was the correctional officer present at Mr. Champagne's visit. As a consequence of his investigation Mr. Proteau made a report to the Attorney General recommending that several charges be laid against Messrs. Véronneau and Cottenoir (conspiracy and introduction of a firearm into a penal institution, and others). The Attorney General did not accept these recommendations: no reliance could be placed on Mr. Véronneau's statements and he had an agreement with the prison authorities about the handgun. Mr. Proteau added that Ms. Renaud was a very credible witness. Mr. Proteau stated that the meeting between Ms. Renaud and Mr. Cottenoir really upset Mr. Véronneau. Mr. Cottenoir, on the other hand, did not feel bothered or upset by the incident. Mr. Proteau stated that no promise had been made to Mr. Véronneau that he would get out of the Special Handling Unit if he implicated Mr. Cottenoir.

Robert Massie was Acting Deputy Warden of the Regional Reception Centre. Pierre Viau, Warden of Leclerc Institution, instructed him and Élise Jacques to conduct a disciplinary hearing into the actions of Mr. Cottenoir in this matter. Mr. Massie stated that it is unusual to find a firearm in a penitentiary. Homemade weapons are found, but a firearm has to be brought in from outside and this is very difficult because of searches and metal detectors. Mr. Massie noted that staff do not go

through the metal detectors. It is thus easier for staff to bring in a weapon. Mr. Massie added that a firearm circulating in a penitentiary is extremely dangerous.

The disciplinary hearing began on February 21, 1995. Mr. Massie and Ms. Jacques met with the people involved in this incident and they filed a report (Exhibit 15) recommending Mr. Cottenoir's dismissal. Mr. Massie and Ms. Jacques confronted Mr. Cottenoir with Ms. Renaud's story that he wanted sexual relations with her. Mr. Cottenoir denied Ms. Renaud's story. He told the disciplinary hearing board that he had had no contact with Ms. Renaud apart from meeting her a few times in the visits room. Mr. Cottenoir explained to them that Ms. Renaud had undoubtedly learned the description of Mr. Goyer's apartment and furniture from Mr. Véronneau. Mr. Cottenoir told them that he had had many discussions with Mr. Véronneau about his furniture and that he had described it. At the hearing, Mr. Cottenoir was calm. Mr. Massie was thus confronted with two contradictory stories. Additionally, Mr. Véronneau had asked the chaplain for advice about the meeting between Mr. Cottenoir and Ms. Renaud. Mr. Véronneau was not happy. Mr. Massie found Ms. Renaud more credible and the hearing board accepted her story over that of Mr. Cottenoir.

As regards the incident of December 23, 1994, Mr. Cottenoir told them that, when he was called by Mr. DelaDurantaye, he went directly to 2KL sector where Mr. Véronneau showed him the handgun in an office. Mr. Cottenoir then left 2KL sector office to tell the warden that Mr. Véronneau was in possession of the firearm.

Mr. Massie commented that Mr. Cottenoir should not have left Mr. Véronneau at liberty when he was in possession of a firearm. The potential for trouble is always present in a penitentiary and not even staff are allowed to walk about with a firearm inside the walls. According to Mr. Massie, Mr. Cottenoir should have taken the handgun away from Mr. Véronneau or locked up Mr. Véronneau and asked the control correctional officer to watch him and close all the doors. Mr. Cottenoir had several choices and he should have ensured that there was a minimum level of security and that Mr. Véronneau was not walking freely about in the penitentiary. Mr. Cottenoir could also have asked Mr. Véronneau to give him the handgun. Mr. Cottenoir should have done something concrete. He could have remained with Mr. Véronneau in the classroom or asked the control correctional officer to watch him. Mr. Cottenoir told

Mr. Massie that he had left Mr. Cottenoir [*sic*] alone through nervousness and added that he had not taken possession of the firearm because he did not want to risk his life. Mr. Massie noted, however, that Mr. Cottenoir had risked the lives of others in the institution. Mr. Massie explained that Mr. Cottenoir had given them two different stories about the time when he first saw the handgun.

Mr. Massie admitted that all kinds of dangerous situations can develop within minutes and the warden of the institution had allowed Mr. Véronneau to cross the institution with a loaded handgun. Mr. Jutras had even explained to him how to cross the institution between 2KL sector and the hospital. Mr. Massie added that the weapon was difficult to recover but it was Mr. Véronneau who had taken the initiative in wanting to recover it and return this handgun to the authorities.

Mr. Cottenoir indicated to Mr. Massie at his second interview that he had not mentioned in his first statement that he had seen the weapon in 2KL sector because he was told on the stairway to say that he had only seen it when it was handed over at the hospital. Following this statement by Mr. Cottenoir, Mr. Jutras explained to Mr. Massie that he had only told Mr. Cottenoir not to mention having seen the weapon (not to talk about it) so as not to upset the staff, but Mr. Cottenoir had gone beyond this advice and had not mentioned in his statement that he had seen the handgun when he met with Mr. Véronneau in 2KL sector. Mr. Massie added that Mr. Jutras explained to them that he asked Messrs. Cottenoir and Goyer not to disclose to the staff the circumstances in which the handgun was handed over, but he never told them not to write it in a report.

Mr. Massie commented that Mr. Goyer had not been very cooperative during his meeting and had stated that he did not personally know Mr. Champagne. When Mr. Massie met with Ms. Renaud she was fearful, nervous and gave short answers. She no longer trusted the Correctional Service of Canada. Mr. Cottenoir explained to them that he had not tried to take the weapon from Mr. Véronneau because he was too nervous and he had to see Mr. Viau. The disciplinary hearing also dealt with Mr. Véronneau's story that the handing over of the handgun was arranged in advance and his accusation that Mr. Cottenoir had brought in the firearm. Mr. Massie thus reported that Mr. Viau was concerned about the number of people involved in the incident, but only Mr. Cottenoir was disciplined.

Mr. Massie and Ms. Jacques recommended Mr. Cottenoir's dismissal because of his meeting with Ms. Renaud and his having taken no steps to ensure the safety of the institution when he saw the firearm in 2KL sector. "It did not look right for Mr. Cottenoir to have met with an inmate's wife. Mr. Cottenoir abused Ms. Renaud's trust when the Correctional Service of Canada is trying to rehabilitate prisoners. Mr. Cottenoir used his position as a correctional officer to meet with her".

Pierre Viau, Warden of Leclerc Institution, decided that Mr. Cottenoir should be dismissed. Mr. Viau came to the conclusion that Mr. Cottenoir had abused the trust of a member of an inmate's family in order to obtain personal favours and that this conduct had broken the relationship of trust between himself and his employer. Further, he had failed to take action after meeting Mr. Véronneau when he was in possession of the handgun. Mr. Viau referred to the Code of Discipline (Exhibit 25) and the Standards of Professional Conduct (Exhibit 24).

Mr. Viau commented that it is very rare for a correctional officer to call a friend or member of an inmate's family and suggest that they have dinner together. It was the first time Mr. Viau had seen such an incident. Ms. Renaud's allegation against Mr. Cottenoir was serious and the evidence on the point was persuasive. Mr. Cottenoir had always denied telephoning Ms. Renaud, meeting with her or going out with her to a bar. Mr. Cottenoir contradicted Ms. Renaud but Mr. Viau accepted her story. She was well acquainted with the details of the apartment, the address, the furniture and the telephone number. Such actions are serious and prohibited. Mr. Cottenoir had thus placed himself in a very vulnerable position, subject to blackmail or pressure from an inmate for favours and to bring contraband into the institution. Mr. Viau also learned that Mr. Véronneau was not happy about it and this type of meeting does not improve relations between correctional officers and inmates. People at the institution had found out about the meeting.

As regards the lack of action on December 23, 1994, Mr. Viau explained that Mr. Cottenoir should at least have asked to unload the handgun. He should have recovered the weapon, or at least the clip, or he should have locked the classroom in which Mr. Véronneau was. Furthermore, Mr. Cottenoir should not have gone directly to 2KL sector. He should first have alerted Mr. Jutras. Mr. Viau wondered why Mr. Cottenoir had gone quickly and directly to 2KL sector for a meeting alone with

Mr. Véronneau, when Mr. Jutras was aware of the matter and present in the institution. When Mr. Cottenoir came to see him in his office, he told him Mr. Véronneau was in possession of a loaded firearm and he had seen it, but that Mr. Véronneau only wanted to hand it over in the presence of Messrs. Goyer, Jutras and himself. According to Mr. Viau, Mr. Cottenoir committed a very serious error of judgment in leaving Mr. Véronneau alone with the loaded weapon.

Mr. Viau then asked Messrs. Jutras and Cottenoir to go and get the weapon which Mr. Cottenoir had just seen. At that point Mr. Goyer joined them in Mr. Jutras' office. Mr. Viau thought it was more dangerous to go and get the handgun in 2KL sector because the inmates were in the common room. It was therefore decided to ask Mr. Véronneau to go to the hospital because he wanted to hand over the handgun as soon as possible.

As for the \$3,000 loan to purchase a handgun inside an institution, Mr. Viau learned of this at the hearing and he said it was illegal and that the purchase had not been authorized by the authorities. Neither he nor Jean-Yves Blais, Deputy Warden of Leclerc Institution, was aware of the loan. The only one who had spoken to Mr. Viau about the possibility that there was a firearm inside the institution was Mr. Goyer, and this conversation took place in October 1994. Mr. Viau replied that it was not the first time there had been such a rumour but if it proved to be true they would search for it like any item of contraband.

Mr. Viau explained that Mr. Cottenoir could not be reinstated if the tribunal allowed his grievance because 90 percent of the staff in Leclerc Institution and elsewhere are aware of these events. It is thus impossible for Mr. Cottenoir to work in a federal institution again. He has become very vulnerable and easy prey to inmates. Mr. Viau decided not to discipline the other people involved in the incident on December 23. Moreover, only Mr. Cottenoir was involved in the meeting with Ms. Renaud and this meeting was a very serious matter. Mr. Viau added that he asked for the disciplinary hearing on February 17, 1995, the report was submitted to him on March 24, 1995 (Exhibit 15) and the letter of dismissal is dated April 5, 1995. On or about January 30, 1995, he met with Mr. Véronneau in the S.H.U. of the Regional Reception Centre (R.R.C.) at the latter's request and in the presence of André Lapointe, the R.R.C. preventive security officer. Mr. Véronneau wanted to make a statement.

Mr. Véronneau told him that Mr. Cottenoir had brought the firearm into the institution and given it to him. Mr. Viau emphasized that this statement had been made voluntarily and no promise had been made to Mr. Véronneau. Mr. Viau explained that he could not promise him anything or do anything for him. Mr. Viau also remembered that around noon on December 23, 1994, it was Mr. Cottenoir who had told him that Mr. Véronneau had the firearm. Mr. Viau added that he had not been involved in this firearm affair. Mr. Viau was very upset by the fact that Mr. Cottenoir had not taken the handgun away at once. Mr. Viau also took into account the fact that Mr. Cottenoir had no disciplinary record and had been a good employee during his six years of service, but the two incidents were very serious. Further, according to Mr. Viau each incident in itself merited dismissal.

François Cottenoir testified that he had been hired in May or June 1988. He had taken two months' training at the National Correctional Staff College (Exhibit 27) as a correctional officer. He had then worked part-time at the Federal Training Centre for eight months as a CX-COF-1. He then went to Cowansville Institution full-time for some years. In 1992-1993 he asked for a transfer and moved to Leclerc Institution as a CX-COF-1 assigned to towers, controls, armed patrols, visitor and inmate searches and inmate transportation. Mr. Cottenoir submitted two letters of congratulation in evidence (Exhibits 28 and 29). The first was dated December 12, 1989 and concerned a vehicle with a loaded weapon which entered the prison grounds (Exhibit 28). The second was dated July 17, 1990 and concerned the self-mutilation of an inmate (Exhibit 29). Mr. Cottenoir also entered in evidence his last performance appraisal report for the period from October 19, 1993 to December 7, 1994 (Exhibit 30) and a commendation certificate dated May 12, 1994 regarding his participation in the ECHO program (Exhibit 31).

Mr. Cottenoir testified that he had been an acting CX-COF-2 for two years. He was then assigned to the ECHO program as an AC-2 caseworker in May 1994. He explained that he had received no training as a caseworker and had about eight inmates in his charge. The caseworker's functions are quite different from those of a correctional officer in an ordinary range. Mr. Cottenoir recalled that Mr. Véronneau came to Leclerc Institution on August 24, 1994 and entered the ECHO program on September 14, 1994. Mr. Véronneau was initially under the authority of Jean-Yves Lebel. Mr. Véronneau said that they did not get along and two or

three weeks later there was a change of caseworkers and Mr. Véronneau was placed in Mr. Cottenoir's charge (early October 1994). Messrs. Lebel and Cottenoir arranged the exchange between themselves. When Mr. Véronneau came to Leclerc Institution Mr. Goyer talked about him frequently. According to Mr. Cottenoir, Mr. Véronneau was on his third offence and Mr. Goyer had appreciated his services. Mr. Goyer explained to Mr. Cottenoir that it would be a good thing to place Mr. Véronneau under his responsibility because he was a good "stooge": he said he needed help as an addict and could help them. Mr. Goyer took an interest in Mr. Véronneau's fate and suggested that Mr. Cottenoir place him in the ECHO program. Mr. Véronneau had to pass a test to be accepted for the program. Mr. Cottenoir accordingly discussed this with Mr. Véronneau before he entered the ECHO program. It was Mr. Cottenoir who took Mr. Véronneau's request for the program and passed it on to the ECHO program admissions committee. Mr. Goyer gave him the information that he was an addict and Mr. Cottenoir checked Mr. Véronneau's file before forwarding the request to the admissions committee. Mr. Cottenoir was also present when Mr. Véronneau's file was submitted to the committee. He was one of the members of the Committee and it decided in his favour. Mr. Cottenoir liked working in the program but added that he had little experience and would have preferred to have received training before undertaking the role of a caseworker. The ECHO program was a lengthy pilot program for addiction and alcoholism (eight to nine months). Inmates placed in this program have committed crimes while under the influence of drugs and have been using drugs. Mr. Cottenoir worked as a therapeutic caseworker. His relations were on a more friendly basis with the inmates. Dealings with inmates were based on feelings and trust. However, at the same time, the caseworker had to maintain his role as a "guard" (correctional officer). Discussions with inmates were conducted in groups, and sometimes individually. The inmates had to attend at least two compulsory sessions seven days a week. Mr. Cottenoir also held an optional session. When the events occurred in fall 1994, 30 to 35 inmates were enrolled in the ECHO program. Before October 1994 Mr. Cottenoir had never been involved in firearm searches in Leclerc Institution.

Messrs. Goyer and Cottenoir were very close friends. They were always together. They took their meals together at midday and in the evenings. They also saw each other outside the institution and away from work. Prior to September 1994 Mr. Goyer had been president of the local and had asked Mr. Cottenoir if he wanted to be the

union representative for grievances. Mr. Cottenoir was then elected vice-president of the local while Mr. Goyer was president. However, both ceased their union duties in 1994. In September or October 1994 Mr. Cottenoir learned from Mr. Goyer that Mr. Véronneau had spoken to him of the existence of a firearm inside the institution and that he would help Mr. Goyer recover it. Mr. Cottenoir testified that, at that time, Mr. Véronneau was not yet in the ECHO program and he only knew him by sight. Messrs. Goyer and Cottenoir kept this information secret between the three of them so as not to upset the staff. Mr. Cottenoir stated that he had discussions with Mr. Véronneau about this firearm that he wanted to recover.

Mr. Cottenoir added that at first Mr. Goyer and he did not talk much about the firearm. It was actually Mr. Goyer who was dealing with the matter. Then one evening in October 1994 Mr. Goyer told him he had spoken to Mr. Viau who did not think that the matter was serious. According to Mr. Cottenoir, Mr. Goyer did not keep him up to date on developments concerning the firearm. Neither he nor Mr. Véronneau talked to him about the meeting with Mr. Champagne. However, Mr. Cottenoir had learned from reading Mr. Véronneau's file and his conversations with him that Mr. Champagne was Mr. Véronneau's employer. Mr. Cottenoir also knew that Mr. Véronneau was a liar and a manipulator. Mr. Cottenoir was aware of Mr. Véronneau's personality as he was his caseworker and had his file. However, according to Mr. Cottenoir they developed a relationship of trust and had friendly discussions.

Mr. Cottenoir stated that in their discussions Mr. Véronneau suggested certain things and he listened to him. They talked to each other and Mr. Véronneau told him he was not a violent person but rather a dishonest type, a liar and a manipulator. Mr. Cottenoir learned that Mr. Véronneau had been sentenced for fraud, housebreaking, gun smuggling, manipulation [*sic*] and perjury.

Mr. Véronneau several times told Mr. Cottenoir that things were not going well with his girlfriend, that she was a good girl, that they wanted to break up, that she kept in shape since she trained with police officers, that she had money and that she wanted to start a business. Mr. Véronneau asked him if he wanted to spend the rest of his days working in a place like this. According to Mr. Cottenoir, Mr. Véronneau gave him Ms. Renaud's telephone number and he insisted that things were over between them. Mr. Cottenoir explained that he telephoned Ms. Renaud to meet with her and

that he was somewhat attracted to her. He told himself she had had enough of manipulation and lying and wanted to find something else in life. Mr. Cottenoir first stated that Mr. Véronneau had introduced Ms. Renaud to him on one of her visits but he could not remember the date. Then, in cross-examination, Mr. Cottenoir added that he had seen her in the visits room and remembered having exchanged a few words with her. Mr. Cottenoir often went to the visits room to meet Mr. Goyer. Mr. Véronneau also often spoke of Ms. Renaud and recounted his sexual exploits with her. He said she was a good girl, she was tired of visiting prisons and wanted to change her life. According to Mr. Cottenoir, it was Mr. Véronneau who suggested that he call her to take her out because he liked her and he wanted her to be happy with someone other than himself. Mr. Véronneau asked him to help her and he told him that "if he wanted to help her, to go ahead and he would expect nothing more". He said Mr. Véronneau added that if he called her she would be interested and she deserved to change her life.

Mr. Cottenoir called her as Mr. Véronneau had suggested he do. Mr. Cottenoir invited her to dinner with him on the pretext of discussing business. At the time Mr. Cottenoir had no girlfriend and was not going out with anyone. She came to his place. At that time Mr. Goyer was living elsewhere with his girlfriend. They had dinner together and talked about business. Mr. Cottenoir mentioned three or four ideas to her, such as opening a restaurant or a billiard hall. Mr. Véronneau had said that she had money, that she wanted to go into business and that she needed a "front man". Mr. Véronneau wanted Mr. Cottenoir to act as "front man" for the business. Mr. Cottenoir also wanted to go into business, but he had not told Mr. Véronneau that.

Mr. Cottenoir found Ms. Renaud to his liking: he was attracted to her. However, he did not initially intend to have sexual relations with her. They therefore talked about business. During the evening Ms. Renaud told him "that she wanted to have done with that kind of life". According to Mr. Cottenoir, although he invited her to discuss business, there was a mutual attraction. They were strongly attracted to each other. They drank wine at his place and continued drinking alcohol when they went to the bar. Mr. Cottenoir admitted that he told her to leave Mr. Véronneau and that he was sexually attracted to her. He said that, out of politeness, he asked her to spend the night with him at his apartment. However, Mr. Cottenoir insisted he had no intention of sleeping with her, but when they were lying on his bed together they

talked about whether they should have sexual relations. Ms. Renaud and he discussed sleeping together and they decided not to do it. Mr. Cottenoir explained that it was not particularly important to him. At the time, Mr. Cottenoir had the impression that she had broken off her relations with Mr. Véronneau.

Mr. Cottenoir testified that during the night she went to sleep in the spare room. He fell asleep and when he woke next morning she had gone. Mr. Cottenoir insisted that he had not shown her photos of an inmate with his throat cut. The photos did not belong to him and he had seen them only once before that evening. In cross-examination Mr. Cottenoir stated that it was Ms. Renaud who found the photos in the spare room; they were lying on Mr. Goyer's desk. He then contradicted himself and added that he did not know the photos were in the apartment.

The following day Mr. Cottenoir called her on the telephone and it was a "crisis": she was very upset. Ms. Renaud had told Mr. Véronneau she had had dinner with Mr. Cottenoir. She told him Mr. Véronneau was angry. Mr. Cottenoir then decided to end their telephone conversation immediately and told her he would have nothing more to do with her because she had called Mr. Véronneau despite telling him she had broken off with him. Mr. Cottenoir told her it was better for them (himself and Ms. Renaud) not to speak to each other again. Mr. Cottenoir stated that he decided not to see her again because he realized that she was not a reliable person. Mr. Cottenoir was surprised that Ms. Renaud had called Mr. Véronneau since she had told him she no longer wanted to have anything to do with that way of life. Mr. Cottenoir was hoping Ms. Renaud would break with Mr. Véronneau. Mr. Cottenoir stated that he had never used his position to obtain anything whatsoever and had not done so in the case of Ms. Renaud. It was just that she attracted him and she had no prison record.

After his conversation with Ms. Renaud, Mr. Cottenoir wondered if he had not been manipulated by Mr. Véronneau. He therefore wrote up an observation report on his evening with Ms. Renaud. However, he did not give it to anyone. He discussed this incident with Mr. Goyer, his union president and confidant, who advised him to say nothing and not to give the authorities the report because if he reported it he would be dismissed and it would interfere with the investigation to locate the firearm. Mr. Goyer then told him that he would talk to Mr. Véronneau so that he would not talk to anyone about the incident since the weapon had to be recovered and that was the

priority. Mr. Goyer explained that if he reported the evening Mr. Véronneau would be transferred to another institution and the firearm would remain at Leclerc Institution. Mr. Goyer asked whether he was interested in Ms. Renaud, to which Mr. Cottenoir replied that he was not and that it was over. Mr. Goyer did not want Mr. Véronneau to be transferred to another institution.

Mr. Cottenoir testified that Mr. Véronneau said he was furious because he had not been told that he (Mr. Cottenoir) was going to telephone Ms. Renaud. He apparently wanted Mr. Cottenoir to tell him if he was going to call her. Mr. Cottenoir added that Mr. Véronneau's mood was constantly changing. Mr. Cottenoir explained his actions as resulting from his lack of experience and training. He had never worked on a case like this. Accordingly, as far as Mr. Cottenoir was concerned, that ended the incident with Ms. Renaud, and Mr. Véronneau and he seldom mentioned it again. Mr. Cottenoir testified that he realized it had not been a good idea to spend the evening with Ms. Renaud. He also concluded that he had been manipulated by Mr. Véronneau and Ms. Renaud. He also realized it was not a good idea to go into business with Ms. Renaud, Mr. Véronneau's wife.

Mr. Cottenoir told the Sûreté du Québec that he had not spent an evening with Ms. Renaud and he made no statement about this during the administrative investigation by Mr. Massie. Mr. Cottenoir explained that he said nothing because he was afraid of losing his job. He stated that he had seen Ms. Renaud on one evening only and had not had a relationship with her. However, he added that he had lacked judgment in not disclosing the matter and had learned his lesson from this experience. Mr. Cottenoir had no disciplinary record and wants to be reinstated. He realizes he should not have associated with people of that type even if they do not have a criminal record. The situation would not occur again because it had ruined his career. Mr. Cottenoir admitted that he had been told by his employer when he was hired that this type of association was frowned upon.

As for the incident of December 23, 1994, Mr. Cottenoir testified that he was not "in the picture". It was Mr. Goyer who was working with Mr. Véronneau to locate the firearm. Mr. Goyer trusted Mr. Véronneau, whereas he and Mr. Véronneau did not speak of the firearm. Mr. Cottenoir did not know why Mr. Véronneau asked him to be present and trusted him when the firearm was handed over.

Mr. Cottenoir stated that one evening in November 1994 Mr. Véronneau came to 2KL range and told him that he "was going into protection". He was very nervous and told him that "it's ruined, it won't happen [recovering the weapon]". Mr. Véronneau asked him for protection and to place him in segregation because he had been threatened by three inmates. Mr. Cottenoir then telephoned the keeper, Jean-Claude Labbé, to tell him of Mr. Véronneau's request. Mr. Labbé told Mr. Cottenoir he knew about the firearm story. Messrs. Véronneau and Cottenoir went to see Mr. Labbé and then Mr. Véronneau returned to his range. Soon afterwards, Mr. Cottenoir saw Mr. Véronneau walking in the small yard with some inmates. Then, a half-hour later, Mr. Véronneau told him that it was all arranged.

Mr. Cottenoir added that Mr. DelaDurantaye's call on December 23, 1994 took him by surprise. Further, Mr. Véronneau was really nervous on the telephone and told him to telephone Mr. Goyer and to do so quickly. At that point Mr. Véronneau told him he did not have the firearm yet but that "it was going down in 20 minutes". Mr. Cottenoir then left the message for Mr. Goyer on his answering machine and went to the institution where he went directly to the officers' dining hall. Mr. Cottenoir explained that, up to then, no one had believed Mr. Véronneau, but he took the chance of believing him when he said he would have it in 20 minutes. He went to the office of Messrs. Jutras and Morin but no one was there. Mr. Cottenoir then went to knock on the keeper's door but there was no one there either. Mr. Cottenoir telephoned Mr. Goyer and left a message that he was there and Mr. Goyer should come. Mr. Cottenoir tried to contact Messrs. Jutras and Goyer. He did not try to contact anyone else because he did not know who was aware of the firearm story. Mr. Cottenoir then called 2KL sector and Mr. Denis told him Mr. Véronneau was about to go crazy and was not controllable. Mr. Véronneau asked him to come at once.

On arrival Mr. Cottenoir found Mr. Véronneau at the bottom of the staircase. Mr. Véronneau asked him to find somewhere quiet and Mr. Cottenoir chose the classroom. Both Mr. Véronneau and Mr. Cottenoir were nervous. In the classroom Mr. Cottenoir closed the door and Mr. Véronneau showed him the handgun and pointed it at his face. Mr. Cottenoir became upset and shoved it with his hand, asking him why he was showing him this weapon. Mr. Véronneau could not stop talking and saying that he thought it was not real. Mr. Cottenoir had never seen such a weapon. It was a 22 calibre Belgian handgun: the clip was underneath. Mr. Cottenoir replied that

he thought it was real. Mr. Cottenoir trusted Mr. Véronneau: he thought he would not shoot him but he still had doubts. Mr. Cottenoir did not think of asking him to give him the gun or taking it from him because they had an agreement and he knew he would not give it to him. Mr. Véronneau wanted to be released and he insisted on handing it over when all three were together. Mr. Cottenoir's first idea was therefore to go to the warden's office as he would know what to do and to leave Mr. Véronneau in 2KL sector. He told Mr. Véronneau to wait for him. Mr. Cottenoir did not think of locking Mr. Véronneau in the classroom. When Mr. Cottenoir left Mr. Véronneau, he did not look behind him to see whether Mr. Véronneau was following him or whether the classroom door had closed automatically. Mr. Cottenoir did not think of telling Mr. Denis that Mr. Véronneau had the handgun.

Mr. Cottenoir told Mr. Viau that Mr. Véronneau had the handgun and both went to Mr. Jutras' office. Mr. Cottenoir explained that if he had had experience he would not have gone to 2KL sector to meet with Mr. Véronneau alone. He added that he trusted Mr. Véronneau because he had no history of violence. Mr. Cottenoir admitted he could have told Mr. Véronneau to wait for him in the classroom, but he would not have snatched the gun out of Mr. Véronneau's hands and he did not think of looking for Mr. Goyer to get the gun away from Mr. Véronneau.

Mr. Cottenoir insisted that it was when he was going up the stairway to the hospital that Mr. Jutras told him to go and get Mr. Véronneau and not to touch the firearm, and that that was when Mr. Cottenoir told Mr. Goyer that he had already touched it. Mr. Jutras replied that he should not mention he had already seen it in 2KL sector so as not to upset the staff. Mr. Cottenoir never thought that he would be in trouble for this incident. He trusted Messrs. Goyer and Jutras and it was a good idea to recover the firearm.

Mr. Cottenoir stated that in response to several requests by his employer, he prepared two observation reports. The first is dated December 29, 1994 (Exhibit 17) and the second, January 19, 1995 (Exhibit 18). The report of December 29, 1994 was re-transcribed by police officer Proteau and entered in evidence as Exhibit 19. Further, on February 10, 1995, officer Proteau questioned Mr. Cottenoir, who made no statement but insisted on taking a lie detector test (Exhibit 22). (Exhibit 22, which is handwritten, was also re-transcribed and may be found in Exhibit 19.) On

December 29, 1994, Mr. Cottenoir stated that Mr. Véronneau had shown him the firearm for the first time as he went up the stairway into the hospital and he neglected to mention that he had touched it. On January 19, 1995, Mr. Cottenoir wrote that he wanted to correct part of the report and he made the following statement (Exhibit 18):

[TRANSLATION]

Following a meeting with regional investigative officers I again confirm the report dated December 29, 1994 on the Véronneau incident F.P.S. 914231B. However, I would like to correct part of the report. When I met with the inmate Véronneau in the area behind control C he showed me the weapon. He thrust it at me. I could see that it had a clip underneath. Inmate Véronneau was very nervous and as he took out the weapon asked me if it was a real one. I took the weapon he was pointing at me and saw there was a calibre and then I told him it was real.

I am now correcting and amending this report in accordance with the recommendations of G. Lauzon and M. Tremblay, and my reasons are: so as not to panic the staff and to prevent the staff knowing that the inmate had passed through two controls in possession of a weapon.

I was strongly recommended to change a section of my first report for the foregoing reasons.

Mr. Cottenoir explained that he had initially said that he saw the handgun for the first time as he was going up the stairway because Mr. Jutras had warned him not to say anything about the fact that he had already seen it in 2KL sector. However, during the investigation he was asked how it was that he had not written in the report that he had seen the weapon in the control area and that was when he changed his story.

Mr. Cottenoir added that he told the investigators that it was Mr. Jutras who ordered him not to mention that he had seen the handgun when he met with Mr. Véronneau in 2KL sector. However, when the investigators confronted him with Mr. Jutras' version, Mr. Cottenoir added the phrase "so as not to upset the staff". The investigators then called Mr. Jutras, who stated before Mr. Cottenoir that he had never told him not to mention in his report where he had first seen the handgun. Mr. Cottenoir insisted that Mr. Jutras ordered him not to mention it to anyone,

although Mr. Cottenoir had already described the handing over of the handgun to his colleagues in detail. The Sûreté du Québec investigators, officers Lauzon and Tremblay, after questioning several people confronted Mr. Cottenoir about this. The officers asked him why he had not mentioned in his initial statement (Exhibit 17) that he had seen the weapon when he met with Mr. Véronneau in 2KL range.

Mr. Cottenoir testified that he never thought there would be an investigation of the handing over the firearm and he wrote his report with the good of the administration in mind. Accordingly, when Sûreté du Québec officers confronted him and told him that his (first) version made no sense and that 11 people had said that he had seen the handgun in the classroom, Mr. Cottenoir corrected it (Exhibit 18). Mr. Cottenoir explained that it was Mr. Jutras who asked him not to mention it in his report, and this was some time after he had already talked about it to two or three of his colleagues, including Mr. Denis.

On January 19, 1995, officers Lauzon and Tremblay asked Mr. Cottenoir about this matter twice. On the morning of January 19, 1995, Mr. Cottenoir reiterated his story that he had seen the handgun for the first time on the stairway. However, on the afternoon of January 19, 1995, officers Lauzon and Tremblay questioned Mr. Cottenoir about the incident again, this time in the presence of Mr. Jutras. It was during this discussion that Mr. Cottenoir finally officially admitted that he had seen the handgun in the classroom when he met with Mr. Véronneau alone. Mr. Cottenoir ended by admitting that Mr. Jutras had never told him not to tell the truth in the official report or to make a false report. Mr. Cottenoir explained that, because Mr. Jutras had advised him not to say anything, he concluded that he should not write it up in the report. Mr. Cottenoir added that he spoke to his colleagues about it because they were correctional officers and not inmates or crooks. Mr. Cottenoir also said that it was Mr. Goyer who advised him not to include in his report the fact that he had seen the handgun in the classroom.

Mr. Cottenoir testified that he did not feel any pressure from Mr. Véronneau. It had not occurred to him that he was in a difficult situation and might have been vulnerable to blackmail. He was simply upset by the fact that Mr. Véronneau had talked about the meeting with Ms. Renaud.

Mr. Piché, counsel for the employer, confronted Mr. Cottenoir with the fact that it was at this hearing that he admitted for the first time that he had gone out with Ms. Renaud, and only after hearing her testimony. Mr. Cottenoir replied that he had not admitted the incident because he was afraid of the consequences. Mr. Piché added that Mr. Cottenoir appeared to change his story whenever he was challenged and asked him which of the stories was the truth.

Mr. Cottenoir stated that he wanted to be reinstated and he did not deserve dismissal because he had been smart enough not to go out more than once with Ms. Renaud. Mr. Cottenoir reluctantly admitted that he had found employment. He first stated in response to questions by Mr. Piché that he had opened a restaurant. However, in re-examination by Mr. Nadeau Mr. Cottenoir added that he had sold the restaurant and he did not want to disclose where he was working.

In his examination-in-chief Mr. Cottenoir referred to an annual meeting which he had attended in 1992 or 1993 as vice-president of the local. Mr. Cottenoir stated that he had made comments about the situation at Leclerc Institution. He had referred to the lack of staff and told Jean-Claude Perron that Leclerc Institution had had 60 incidents and that Mr. Viau had lost control of Leclerc Institution. Following that meeting Mr. Viau advised Messrs. Goyer and Cottenoir "to go easy".

Arguments

Raymond Piché, counsel for the employer, referred to the letter of dismissal of April 5, 1995 (Exhibit 1) and the offences mentioned in it. Mr. Piché argued that it was for the employer to present evidence of them.

Mr. Piché pointed out that the offences committed by Mr. Cottenoir were very serious. The Standards of Professional Conduct (Exhibit 24) emphasize professional behaviour by employees of the Correctional Service of Canada that is consistent with the Mission of that department. The Mission of the Correctional Service of Canada states at p. 5 of Exhibit 24:

As public servants, we are accountable to our Minister and to Parliament, and, through them, to the Canadian people as a whole. Our behaviour must, at all times, show that we are worthy of their trust and confidence to carry out the responsibilities of our agency. As employees in the field of

corrections, we have a special obligation to make sure that everything we do in our work — whether it is administrative or involves direct contact with offenders — ultimately contributes to the protection of society. This is a vital obligation that is both demanding and exciting. It calls upon each of us to meet high standards of honesty and integrity, and to approach our work in a spirit of openness, compassion and co-operation. These are indeed the hallmarks of professionalism.

This document recognizes, at p. 5:

. . . that corrections is a complex field which frequently presents an employee with difficult practical and ethical decisions. The principles set out in the Standards of Professional Conduct are intended to guide staff in situations where the right course of action may not always be clear.

Mr. Piché referred to "Standard Two - Conduct and Appearance", found at p. 9 of Exhibit 24:

Behaviour, both on and off duty, shall reflect positively on the Correctional Service of Canada and on the Public Service generally. All staff are expected to present themselves in a manner that promotes a professional image, both in their words and in their actions.

He also cited "Standard Four - Relationships with Offenders" to be found at p. 12:

Staff must actively encourage and assist offenders to become law-abiding citizens. This includes establishing constructive relationships with offenders to encourage their successful reintegration into the community. Relationships shall demonstrate honesty, fairness and integrity. Staff shall promote a safe and secure workplace and respect an offender's cultural, racial, religious and ethnic background, and his or her civil and legal rights. Staff shall avoid conflicts of interest with offenders and their families.

According to this rule (at p. 13):

. . . It requires that staff maintain a delicate balance between personal and professional interest in the offender.

Inappropriate relationships include, but are not limited to, concealing an offender's illegal activity, using inmate services for personal gain, and entering into business or sexual

relationships with offenders, their families, or their associates. Supervisors are expected to take prompt action when they see signs that an inappropriate relationship between an employee and an offender exists or could develop.

"Standard Five - Conflict of Interest" provides, at p. 14 of Exhibit 24, that:

Staff shall perform their duties on behalf of the Government of Canada with honesty and integrity. Staff must not enter into business or private ventures which may be, or appear to be, in conflict with their duties as correctional employees and their overall responsibilities as public servants.

Discussion and Relevance

...

Staff cannot use or appear to use their position for personal gain or advantage.

Mr. Piché added that the Code of Discipline provides that a public servant commits an offence if he or she "performs his or her duty in a careless fashion so as to risk or cause bodily harm or death to any other employee of the Service, or any other person(s)" (Exhibit 25, p. 5). The same is true if he acts in a manner likely "to discredit the Service" (p. 6), and if he or she "improperly uses his or her title or authority to personal gain or advantage; . . . enters into any kind of personal or business relationship not approved by his or her authorized superior with an offender or ex-offender or the offender's or ex-offender's friends or relatives . . ." (Exhibit 25, p. 8).

Mr. Piché reviewed the evidence and noted that Mr. Cottenoir had testified that he was aware of the Standards of Professional Conduct (Exhibit 24) and the Code of Discipline (Exhibit 25). The evidence showed that Mr. Cottenoir telephoned Ms. Renaud to talk to her about business, though he had other ideas in his mind. He invited Ms. Renaud to come to his place and they had dinner together. Mr. Cottenoir wanted to have sexual relations with her. Ms. Renaud testified that the next day Mr. Cottenoir showed her photos of an inmate with his throat cut and she was afraid. Mr. Véronneau was angry with Mr. Cottenoir: he did not like Mr. Cottenoir going out with Ms. Renaud. Then, during the investigation of the handing over of the handgun the Correctional Service of Canada investigators and the Sûreté du Québec officers found out about this evening with Ms. Renaud. When she was being questioned,

Ms. Renaud accused Mr. Cottenoir of wanting to have sexual relations with her. Mr. Cottenoir denied this incident up to the time of the hearing of this adjudication. Mr. Piché explained that the employer placed its full trust in its employees and yet it is clear that the story given by an inmate's wife is the one that should be accepted, and it is Ms. Renaud that should be believed. She appears to be speaking the truth and her testimony is that of a trustworthy person. Even the Correctional Service of Canada investigators and the Sûreté du Québec officers reported that she appeared to be speaking the truth. The employer decided to do a wiretap and found that Ms. Renaud had told them the truth. Mr. Cottenoir was confronted with Ms. Renaud's story but continued to deny the incident. Ms. Renaud was asked to describe the apartment, which she did in detail. However, Mr. Cottenoir tried to explain her familiarity with the apartment by saying that he had described the premises to Mr. Véronneau. Mr. Cottenoir maintained that Ms. Renaud should not be trusted because she had got the description of the apartment from Mr. Véronneau. The employer decided to believe Ms. Renaud and all this took place during the investigation of the discovery of the handgun. The discovery of a firearm in a penal institution is a rare occurrence.

Mr. Piché added that Mr. Véronneau was a very good friend of Mr. Goyer, who lived with Mr. Cottenoir. Mr. Goyer arranged for Mr. Véronneau, who had succeeded in gaining admission to the ECHO program, to change his caseworker: it was Mr. Cottenoir who took over Mr. Véronneau's case. Then, immediately afterwards, the friendly relations between Mr. Cottenoir and Mr. Véronneau intensified. They told each other about their private lives and Mr. Cottenoir spoke about his daughter and his girlfriend, which is unusual. They also spoke about business. Mr. Véronneau quickly suggested to Mr. Cottenoir that he look after Ms. Renaud. Mr. Piché noted that there were two versions of this story. Mr. Véronneau testified that he was shocked and the investigation found that he even consulted the chaplain. Mr. Cottenoir testified that it was Mr. Véronneau who had suggested he telephone Ms. Renaud to discuss business and that she deserved to start a new life with someone else (other than Mr. Véronneau). Mr. Cottenoir tried to repair the damaged relationship with Mr. Véronneau. Mr. Goyer also arranged for Mr. Véronneau to go and work in the visits room. Then there is the scenario between Messrs. Goyer and Véronneau about the recovery of a firearm. Mr. Cottenoir was not fully informed about the recovery of the firearm, but we know that Mr. Goyer told Mr. Cottenoir that Mr. Véronneau trusted only two people: Mr. Goyer and Mr. Cottenoir.

Mr. Piché alleged that Mr. Goyer lied to his employer and when he testified at this adjudication hearing. Mr. Goyer had testified he was not aware that Mr. Champagne had come to Leclerc Institution on December 8, 1994 to lend Mr. Véronneau money. However, the evidence showed that Mr. Goyer was present when Mr. Champagne visited Mr. Véronneau and that it was Mr. Goyer who persuaded him to lend him the \$3,000. Moreover, at the disciplinary hearing, Mr. Goyer stated that he was not aware that Mr. Cottenoir had asked Ms. Renaud to his apartment (Exhibit 15, p. 3). However, when Mr. Goyer testified at this adjudication he stated that he had advised Mr. Cottenoir to conceal his evening with Ms. Renaud from the employer. Mr. Cottenoir confirmed this in his testimony. In view of the very close friendship between Messrs. Goyer and Cottenoir it is impossible for Mr. Goyer not to have been aware of this incident. Mr. Piché concluded that Mr. Goyer is a liar.

Mr. Piché also argued that the excuse Mr. Cottenoir gave the tribunal at the adjudication about why he had said nothing about Ms. Renaud made no sense. Mr. Cottenoir stated that Mr. Goyer advised him to say nothing about going out with Ms. Renaud because, if the employer knew of it, Mr. Véronneau would be transferred to another institution and it would have threatened the firearm investigation. Mr. Piché wondered why the employer would have transferred Mr. Véronneau. It is not logical.

Mr. Piché also asked the tribunal to accept Mr. Jutras' version that the employer did not know about the firearm until December 8, 1994 when Mr. Jutras was told of a loan to purchase a firearm circulating inside Leclerc Institution. Mr. Piché pointed out that it did not make sense to be able to buy a firearm for \$3,000 in a penitentiary when that penitentiary was under the control of the Hell's Angels gang. Mr. Véronneau could not have bought this handgun for \$3,000 inside Leclerc Institution because it was worth much more. Mr. Piché noted that a possible explanation was that the handgun had been brought into the institution. Further, we know that Messrs. Goyer and Véronneau had a special relationship, as did Messrs. Véronneau and Cottenoir and Mr. Cottenoir with Mr. Goyer.

The evidence further showed that Mr. Véronneau was a skilled manipulator. It is thus quite possible that it was Mr. Véronneau who advised Mr. Cottenoir, already attracted to Ms. Renaud, to telephone her. In any case, it did not take much to prompt

Mr. Cottenoir to invite Ms. Renaud to spend the evening with him. Mr. Piché emphasized the fact that Ms. Renaud was a victim. She was afraid of Mr. Véronneau and was completely dominated by him. That was how Mr. Cottenoir committed a serious disciplinary offence which Mr. Véronneau could use to his advantage and use for blackmail. Mr. Cottenoir was in a vulnerable and weak position in relation to Mr. Véronneau. Mr. Cottenoir testified that it never occurred to him that Mr. Véronneau could have blackmailed him and this shows a lack of judgment on his part. Mr. Piché suggested two possibilities: either Mr. Cottenoir lied or he is not very smart.

Mr. Piché argued that Mr. Cottenoir let himself be dragged into a firearms incident by Messrs. Goyer and Véronneau and now he is playing the innocent. He is trying to persuade us that he was inexperienced and that was why he did not ask any questions. On December 23, 1994, Mr. Véronneau called him when he was off duty and told him to come in. Mr. Cottenoir hurried to 2KL sector to meet with Mr. Véronneau, who was waiting for him. In the classroom, Mr. Véronneau showed the firearm to Mr. Cottenoir, who says he did not know what to do. Mr. Véronneau acted innocent and asked whether the handgun was real. Mr. Cottenoir then examined it and, in doing so, he had to go near the handgun. Mr. Cottenoir stated that he told him the handgun was real because he noticed the weapon was loaded with bullets. Mr. Piché pointed out that the clip on the handgun pointed downwards and that the bullets could only be seen if it was opened.

Mr. Piché added that Mr. Cottenoir told the tribunal that he then went to see Mr. Jutras. When Mr. Cottenoir left his home that day to go to the prison it was to recover the firearm. However, Mr. Cottenoir told the tribunal that on arrival he did not know what to do and he panicked, except that he did examine the handgun. Mr. Piché argued that the evidence of Mr. Cottenoir's coolness and bravado (Exhibits 28 and 29) contradicts his story about the recovery of the handgun. In the letters of congratulation (Exhibits 28 and 29), there was no mention of being prepared to intervene to recover a firearm or to prevent the self-mutilation of an inmate, whereas, in the December 1994 incident, Mr. Cottenoir was prepared for the recovery of the handgun. His story is therefore not credible. Mr. Cottenoir could have locked the door of the classroom and so confined Mr. Véronneau. His failure to act allowed Mr. Véronneau to walk freely in the institution with a 22 calibre handgun loaded with

nine bullets on him. Mr. Cottenoir excused his actions by accusing "management" and explaining that "management" was also at fault because it decided to make the inmate cross the institution with the handgun on him. Mr. Piché argued that it was Mr. Cottenoir who had allowed Mr. Véronneau to walk around freely and that it made no sense to send an armed team to recover the handgun in the circumstances of this case. The decision taken was the only proper one because the harm had already been done.

Mr. Jutras then learned that Mr. Cottenoir had seen and touched the handgun when he met with Mr. Véronneau in 2KL sector. He therefore advised him to say nothing to the employees so as not to upset them. However, Mr. Cottenoir did not listen and told his colleagues, including Mr. Denis, about the incident. Then, a few days later Mr. Cottenoir wrote up his report on this incident in which he mentioned that he saw the handgun for the first time in the hospital. After two investigations were conducted Mr. Cottenoir ultimately corrected this statement. He testified that he did not know there would be investigations. Mr. Piché commented that this was a strange way of explaining his false statement since finding a firearm in an institution is a very serious matter. Mr. Cottenoir stuck to his first story even when confronted by Sûreté du Québec officers. It was only when he was questioned for a third time and with Mr. Jutras present that he admitted he had seen the firearm in the classroom first, and he blamed Messrs. Goyer and Jutras for advising him to say nothing about it. Then, at a fourth meeting, Mr. Cottenoir finally admitted that it was not Mr. Jutras who had told him to write that he had seen the firearm in the hospital, but Mr. Goyer. However, in his testimony at the adjudication hearing, he no longer remembered anything and he was the only witness who could not remember anything.

Mr. Piché noted that Mr. Cottenoir made a false report to his employer and that he denied throughout, until the hearing of the adjudication, that he had met with Ms. Renaud. The employer accepted these two incidents. Moreover, Mr. Cottenoir's involvement in the handgun affair is not clear. Mr. Cottenoir tried to excuse his conduct by saying that he was upset and panicked. However, panicking and getting upset are not a permissible way to perform the duties of a correctional officer. Mr. Cottenoir had a duty to maintain security and he had to be able to do his work, otherwise he should have sought employment elsewhere.

Mr. Piché noted that, in his testimony, Mr. Cottenoir tried to minimize his part in these two incidents and placed the blame on others (Messrs. Véronneau, Jutras and Goyer, among others). He pleaded a lack of experience and "stupidity". He began telling the truth when he realized that Ms. Renaud was a credible witness. The truth did not come to him naturally. Mr. Cottenoir had a duty to explain two important matters to his employer and he did not tell the truth. Mr. Piché argued that an employee cannot refuse to tell his employer the truth and then do so only before an adjudicator.

Mr. Piché concluded that Mr. Cottenoir's version of these two incidents is the least credible: his explanations are not clear. His story is confused and is essentially designed to support his argument. Mr. Cottenoir did not naturally tell the whole truth and had to be prodded: even the question about his employment at the time of the adjudication hearing shows this. Everything Mr. Cottenoir does is calculated. If he can find someone on whom to place the blame, he does so. It was not until Ms. Renaud testified that Mr. Cottenoir saw it was better for him to admit that he had met with her.

Mr. Cottenoir asked to be reinstated in his position because it was a type of work he liked. Mr. Piché argued that the tribunal should dismiss this grievance because Mr. Cottenoir cannot go back to work for the employer and, if the tribunal decided that dismissal was not appropriate in the circumstances, it should award him monetary compensation rather than reinstatement. Mr. Piché insisted that Mr. Cottenoir deserved dismissal. He had wanted to have sexual relations with the wife of an inmate and reinstating him would amount to signing his death warrant. Such an offence is a serious one in the eyes of a group of offenders and they would apply their own form of justice. Mr. Cottenoir also could not restore the relationship of trust with his employer and his rehabilitation was impossible. In support of his position Mr. Piché cited the work of Earl Edward Palmer in *Collective Agreement Adjudication in Canada* (third edition) and the *Francis* decision (Board file 166-2-24111). Mr. Cottenoir's conduct is not tolerated by the Correctional Service of Canada or by society. This message must be made very clear. Mr. Cottenoir tried to take advantage of Ms. Renaud's vulnerability. He tried to play with Ms. Renaud's feelings and that is very serious.

Georges Nadeau, Mr. Cottenoir's representative, made the following arguments. In this case the tribunal has to decide on Mr. Cottenoir's future and his career. Mr. Nadeau referred to the reasons for dismissal as described in the letter of dismissal of April 5, 1995 (Exhibit 1). Mr. Nadeau indicated that Mr. Cottenoir's actions on December 23, 1994 were the result of a badly conceived, badly organized and impractical operation. The incident of which Mr. Cottenoir is accused was not his fault but rather the fault of "management" of Leclerc Institution. Messrs. Véronneau and Goyer were the ones who conceived the project to recover the firearm. The project was then submitted to Mr. Viau and Mr. Goyer testified about this. Mr. Véronneau also approached Mr. Jutras directly, who was in charge of preventive security. "Management" (Mr. Jutras) proposed an exchange to Mr. Véronneau, although at this point there were doubts as to whether Mr. Véronneau could recover the handgun. Mr. Nadeau emphasized that Mr. Jutras knew of the project well before December 8, 1994, contrary to what he wrote to Mr. Blais, the Deputy Warden of Leclerc Institution, on January 3, 1995 (Exhibit 20(b)).

Mr. Nadeau explained that this showed that Mr. Cottenoir was only an accessory and that he acted strictly as a witness in the handing over of the handgun. The persons really responsible for the recovery of the gun were Messrs. Jutras and Goyer, and it was they who had placed Mr. Cottenoir's life at risk. Accordingly, when Mr. Cottenoir went to the institution it was to act as a witness to the handing over of the handgun. It is thus not surprising that when he saw the firearm in the classroom he did not try to recover it because the plan was that Mr. Véronneau would only hand it over when the three officers were present together. Mr. Cottenoir followed the instructions: he went to look for Mr. Jutras to tell him that Mr. Véronneau had the firearm. "Management", for its part, made Mr. Véronneau walk across the institution with the gun on him. Furthermore, Messrs. Goyer, Cottenoir and Jutras were not armed when they met Mr. Véronneau at the hospital.

Mr. Nadeau added that the action taken to recover the firearm was based on the same conduct as that of Mr. Cottenoir. "Management" and Mr. Cottenoir really believed that Mr. Véronneau wanted to hand over the firearm. It was therefore just as reckless to make Mr. Véronneau walk right across the institution carrying the firearm loaded with nine bullets. According to Mr. Nadeau, the employer is trying to make Mr. Cottenoir a scapegoat.

There was no protective glass in the classroom windows, so locking Mr. Véronneau in the classroom would not have served any purpose. Further, Mr. Véronneau had an agreement with Messrs. Jutras, Goyer and Cottenoir and breaking that agreement could have had tragic consequences. Further, Messrs. Jutras and Goyer were not punished. Mr. Nadeau emphasized that the tribunal should look at the circumstances as a whole. Mr. Cottenoir was not the person primarily responsible in this incident of the recovery of the handgun. Mr. Cottenoir acted as he was required to do by the agreement.

On the question of Mr. Cottenoir's evening with Ms. Renaud, Mr. Nadeau argued as follows. Mr. Véronneau had spoken to Mr. Cottenoir of his intimacy with Ms. Renaud and the possibility of going into business with her. Ms. Renaud testified that Mr. Véronneau told her that Mr. Cottenoir would contact her because he wanted to go into business with her. Mr. Véronneau therefore held out the bait and Mr. Cottenoir bit. Mr. Cottenoir only went out with her one evening and he ended the relationship the next day. Mr. Cottenoir then wanted to make a report but was dissuaded from doing so by Mr. Goyer so as to avoid the possibility of dismissal. The whole matter lasted only one evening and Mr. Cottenoir did not deny this incident at the adjudication hearing. Mr. Cottenoir was a correctional officer AC-1, acting AC-2. He was vulnerable, inexperienced and had little training. He was at the mercy of a manipulator such as Mr. Véronneau. It is the employer that is responsible for this incident because it put him in the ECHO program and placed him in charge of Mr. Véronneau. This is an extenuating circumstance because the ECHO program required close relations between correctional officers and inmates. Mr. Cottenoir had not been properly trained for these duties and so he was manipulated by Mr. Véronneau. Mr. Cottenoir admitted his mistake. Mr. Nadeau pointed out that the *Francis* decision, *supra*, is different because it deals with a correctional officer who had relations with an inmate's mother for quite a long period of time. Mr. Nadeau cited the following decisions: *Matyas* (Board file 166-2-13483); *Beliveau* (Board file 166-2-12955); and *Amos* (Board file 166-2-14678).

Mr. Piché noted that in Mr. Cottenoir's case the relationship with Ms. Renaud only lasted one evening, but that does not in any way change the fact that he contravened the Code of Discipline and Standards of Professional Conduct. Mr. Cottenoir thought that Ms. Renaud had given up Mr. Véronneau. He wanted her to

break with Mr. Véronneau and he agreed with her that she should not speak to Mr. Véronneau about it. However, Ms. Renaud was under Mr. Véronneau's thumb and she spoke to him about it. When Mr. Véronneau discovered the facts, he was furious. That was when Mr. Cottenoir telephoned Ms. Renaud to tell her that she had not kept their agreement and he did not want to see her again. It was when Mr. Cottenoir was caught red-handed by Mr. Véronneau that he ended the relationship. Ms. Renaud attracted him and he liked her. Immediately after Mr. Véronneau gave him her telephone number he called her and tried to have sexual relations with her. Mr. Piché distinguished the cases of *Matyas, supra*, *Amos, supra* and *Beliveau, supra*, in which the public servants are not correctional officers and had no contact with inmates. In the instant case, the offence involved an inmate's wife. Ms. Renaud did nothing wrong. She was an innocent victim and that is what was serious. The length of the relationship does not matter. Even though there were weaknesses in the employer's conduct in this matter, Mr. Cottenoir lacked judgment.

Reasons

The employer had the burden of proof and it discharged it. Mr. Cottenoir was dismissed for his involvement in two incidents. In October 1994 he had a relationship for one evening with Ms. Renaud, the wife of inmate Véronneau, and on December 23, 1994, he threatened the safety of Leclerc Institution.

The evidence clearly shows that Mr. Cottenoir had a relationship with Ms. Renaud for one evening. He telephoned her on the pretext of discussing business when he simply wanted to go out with her. He found Ms. Renaud to his liking, he was attracted to her and he wanted to have sexual relations with her. Mr. Cottenoir admitted this although, in his testimony, he added that it was not what he first intended. According to Mr. Cottenoir, during the evening a mutual attraction developed. It was also he who suggested that she spend the night at his place. Mr. Cottenoir was convinced that Ms. Renaud had broken off her relationship with Mr. Véronneau. However, this proved to be wrong since Ms. Renaud immediately reported her evening with Mr. Cottenoir to Mr. Véronneau the very next day.

Mr. Cottenoir concealed this incident from his employer, and worse still, he denied it throughout various investigations and until his testimony at the hearing of this adjudication. It was not until after hearing Ms. Renaud's testimony on

September 4, 1996 that Mr. Cottenoir recognized it was better to admit the facts about the evening in October 1994. Mr. Cottenoir explained that his lack of honesty was due to his fear of being dismissed. Mr. Cottenoir therefore knew that this misconduct would result in dismissal and that the employer would not approve of this kind of offence.

However, Mr. Cottenoir still tried to shift the blame. He testified that it was Mr. Goyer who advised him to conceal his relationship with Ms. Renaud from his employer and that he was manipulated by Mr. Véronneau. I find these excuses difficult to believe or accept. The evidence submitted by Mr. Cottenoir himself showed him to be a correctional officer with experience and coolness. The two letters of congratulation dated December 12, 1989 (Exhibit 28) and July 17, 1990 (Exhibit 29) showed that Mr. Cottenoir could act with professionalism, take the necessary steps to ensure safety in the penitentiary and even to prevent an inmate from mutilating himself. What the evidence does show is that Mr. Cottenoir has difficulty admitting his misconduct. His credibility is questionable and it was only when he was confronted and had his back to the wall that he finally admitted his evening with Ms. Renaud. Prior to the hearing of this adjudication he maintained that Ms. Renaud was lying and that her description of his apartment came from Mr. Véronneau. Mr. Cottenoir claimed that he had described the furniture and the apartment to Mr. Véronneau and that it was from him that Ms. Renaud got the description she gave to the Sûreté du Québec officers and the Correctional Service of Canada investigators. Mr. Cottenoir also lied about the photos of the inmate with his throat cut. Ms. Renaud stated that it was Mr. Cottenoir who showed her these photos and she regarded this as a threat. Mr. Cottenoir testified that it was not he who showed her the photos. According to him, Ms. Renaud found these photos in the spare bedroom. He stated that he did not know the photos were in the apartment and, at the same time, he added that they were lying on Mr. Goyer's desk.

Mr. Cottenoir's conduct is very serious. He lies easily, accuses others and excuses himself by implicating other people. It does not matter that his relationship with Ms. Renaud lasted only one evening. The evidence also shows that Mr. Cottenoir intended to continue it and to keep it hidden from Mr. Véronneau and his employer. However, he had to end it when he found that Ms. Renaud had told Mr. Véronneau almost everything and that Mr. Véronneau was very angry.

Mr. Cottenoir also tried to excuse himself by alleging that he was manipulated by Mr. Véronneau and that the latter had told him to go out with Ms. Renaud. I find this statement hard to believe since when Ms. Renaud told Mr. Véronneau of her evening with Mr. Cottenoir, Mr. Véronneau was very angry and sought advice from the chaplain. Mr. Cottenoir was also quite familiar with Mr. Véronneau's case and knew he was a manipulator.

Mr. Cottenoir's conduct in the incident involving Ms. Renaud is very serious. It is one of the most serious kinds of misconduct, made worse by the fact that Mr. Cottenoir wanted to conceal his involvement and it was only when he saw he had no choice but to admit the truth that he finally admitted the facts. Mr. Cottenoir broke the essential relationship of trust with his employer. He was a correctional officer who worked very closely with the inmates. The employer had to rely on him and, in view of Mr. Cottenoir's actions, it is clear that the relationship of trust cannot be re-established. Mr. Cottenoir abused Ms. Renaud and demonstrated a lack of respect for her when he denied the facts and sought to persuade his employer and the Sûreté du Québec officers that she was lying. By having a relationship with Ms. Renaud, even if only for one evening, and seeking to conceal this from Mr. Véronneau and his employer, Mr. Cottenoir placed himself in a terrible position of vulnerability and weakness. Because he was afraid of dismissal, he was easy prey to Mr. Véronneau's blackmail. The fact that Mr. Cottenoir did not realize this is incredible and shows a very serious lack of judgment. Mr. Cottenoir admitted that he lacked judgment when he did not report this evening to his employer. At the same time, however, he testified that he realized he should not have been associating with "people of that type even if they did not have any criminal record". This statement seems to indicate that Mr. Cottenoir does not really understand the allegation against him. He was not dismissed because he associated with "people of that type", but because he sought a relationship with an inmate's wife, which placed him in a position of weakness and laid him open to blackmail and conflict of interest.

Accordingly, Mr. Cottenoir deserves dismissal for the incident of October 1994. The tribunal considered evidence of extenuating circumstances that might justify reducing this disciplinary penalty, but found none. Mr. Cottenoir had a clean disciplinary record, six years and a few months' service and two letters of congratulation. However, the misconduct involved in his relationship with Ms. Renaud

is so serious that it justifies dismissal. This incident by itself therefore justified his dismissal.

As to his involvement in the handing over of the firearm, Mr. Cottenoir claimed that he panicked on December 23, 1994 when he saw the handgun in the classroom near 2KL sector. When Mr. Cottenoir spoke on the telephone with Mr. Véronneau that day, he already knew that when he went to Leclerc Institution Mr. Véronneau would be in possession of the firearm since he had told him he would have it in 20 minutes. Messrs. Cottenoir and Véronneau had a close relationship. Mr. Cottenoir was Mr. Véronneau's caseworker in the ECHO program. Mr. Cottenoir even helped Mr. Véronneau with his admission to the program. He took the request and gave it to the admissions committee, of which he was a member. He was even present when Mr. Véronneau's case went before the Committee and it decided in his favour. Moreover, Mr. Cottenoir exchanged cases with Mr. Lebel in order to have Mr. Véronneau under his responsibility.

I found interesting Mr. Cottenoir's statement that Mr. DelaDurantaye's call of December 23, 1994 took him by surprise. Mr. Cottenoir was off duty and Mr. Véronneau's call to tell him he would be getting the firearm in 20 minutes and that he should come gave him time to prepare and allowed him enough time to plan how he would act when he arrived at Leclerc Institution. This telephone call should not have surprised him since he had been working with Messrs. Jutras and Goyer for months to recover the firearm. Mr. Cottenoir knew that Mr. Véronneau wanted to hand over the firearm in the presence of these three officers. Why then did he go to meet Mr. Véronneau directly in 2KL sector? He knew that there was a very strong possibility that Mr. Véronneau already had the firearm. Mr. Cottenoir should have first gone to see Messrs. Jutras and Goyer and awaited their arrival before rushing to see Mr. Véronneau by himself. He should also have ensured the safety of his colleagues and Leclerc Institution once he had seen (and touched) the handgun. Mr. Cottenoir acted very improperly when he left Mr. Véronneau to walk about alone in 2KL sector. At the very least, Mr. Cottenoir should have warned Mr. Denis of the situation. Mr. Cottenoir should also have taken away the clip from the handgun or asked Mr. Véronneau to give it to him, and if he refused to do so, he should have locked him in security somewhere and told Mr. Denis of the situation. Mr. Cottenoir could also have asked Mr. Denis to tell Messrs. Goyer and Jutras and in the meantime stayed

locked with Mr. Véronneau to ensure the safety of the institution. One thing is certain: Mr. Cottenoir should not have left Mr. Véronneau at liberty, armed and alone in the range. By his actions Mr. Cottenoir placed the safety of Leclerc Institution at risk on December 23, 1994. There may have been shortcomings in the actions of Messrs. Jutras and Goyer, but that does not excuse Mr. Cottenoir's misconduct.

Once again, Mr. Cottenoir did not tell his employer, the Correctional Service of Canada investigators and the Sûreté du Québec officers the whole truth. Mr. Cottenoir initially made false statements. He first said that he had seen the handgun for the first time in the hospital, when that was not true. It was only when he was confronted with Mr. Jutras by officers of the Sûreté du Québec that he changed this statement. He excused "his mistake" by accusing Mr. Jutras of asking him to make this false statement. When Mr. Jutras denied giving such an order, Mr. Cottenoir then said that it was Mr. Goyer who told him to conceal the fact that he had already seen the handgun in the classroom near 2KL sector.

It is also worth noting that Mr. Cottenoir testified that he had not disclosed to his employer where he had seen the handgun the first time "for the good of the administration and because he did not think there would be an investigation about the handing over of the firearm". Mr. Cottenoir therefore tends not to tell his employer the truth openly and sincerely.

This incident shows once again that the employer can no longer trust Mr. Cottenoir. Mr. Cottenoir has difficulty admitting the facts and telling the truth. He is not sincere. Even his testimony about his present situation indicates this. He first said that he had opened a restaurant and it was only in cross-examination that he changed this statement, adding that he had sold it, but he would not disclose where he was working.

In conclusion, Mr. Cottenoir is not a trustworthy person. His dismissal is justified in the circumstances of the instant case and the tribunal found no extenuating circumstances to justify reducing this disciplinary penalty.

For these reasons, the grievance filed by Mr. Cottenoir is dismissed.

**Muriel Korngold Wexler,
Deputy Chairperson**

OTTAWA, October 22, 1997.

Certified true translation

Serge Lareau