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PROBATION

Definition

For the purposes of this report, "probation" is defined as a disposition of the court whereby an offender is released to the community on a tentative basis, subject to specified conditions, under the supervision of a probation officer (or someone serving as a probation officer) and liable to recall by the court for alternative disposition if he does not abide by the conditions of his probation.[1]

Another important part of the probation officer's work is the preparation of pre-disposition (pre-sentence) reports at the request of the court. Pre-disposition reports are dealt with in Chapter 11.

Provision for probation in Canada is set out in section 638 of the Criminal Code; section 638 reads:

> (1) Where an accused is convicted of an offence and no previous conviction is proved against him, and it appears to the court that convicts him or that hears an appeal that, having regard to his age, character and antecedents, to the nature of the offence and to any extenuating circumstances surrounding the commission of the offence, it is expedient that the accused be released on probation, the court may, except where a minimum punishment is prescribed by law, instead of sentencing him to punishment, suspend the passing of sentence and direct that he be released upon entering into a recognizance in Form 28, with or without sureties,
>
> (*a*) to keep the peace and be of good behaviour during any period that is fixed by the court, and

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[1] Compare with:
United Nations. ***Probation and Related Measures.*** New York; 1951, pages 3 to 11
Great Britain. ***Report of the Departmental Committee on the Probation Service.*** London: Her Majesty's Stationery Office, 1962, page 1
United States. ***Trends in the Administration of Justice and Correctional Programs in the United States.*** (Prepared for the Third United Nations Congress on the Prevention of Crime and Treatment of Offenders). Washington: Bureau of Prisons, 1965, pages 16 and 17.

(b) to appear and to receive sentence when called upon to do so during the period fixed under paragraph (a), upon breach of his recognizance.

(2) A court that suspends the passing of sentence may prescribe as conditions of the recognizance that

(a) the accused shall make restitution and reparation to any person aggrieved or injured for the actual loss or damage caused by the commission of the offence, and

(b) the accused shall provide for the support of his wife and any other dependants whom he is liable to support, and the court may impose such further conditions as it considers desirable in the circumstances and may from time to time change the conditions and increase or decrease the period of the recognizance, but no such recognizance shall be kept in force for more than two years.

(3) A court that suspends the passing of sentence may require as a condition of the recognizance that the accused shall report from time to time, as it may prescribe, to a person designated by the court, and the accused shall be under the supervision of that person during the prescribed period.

The person designated by the court under subsection (3) shall report to the court if the accused does not carry out the terms on which the passing of sentence was suspended, and the court may order that the accused be brought before it to be sentenced.

Where one previous conviction and no more is proved against an accused who is convicted, but the previous conviction took place more than five years before the time of the commission of the offence of which he is convicted, or was for an offence that is not related in character to the offence of which he is convicted, the court may, notwithstanding subsection (1), suspend the passing of sentence and make the direction mentioned in subsection (1).

Section 637 of the Criminal Code is sometimes mistakenly interpreted as providing for probation in addition to a prison sentence. As pointed out in Chapter 11, the Committee considers that s. 637 of the Criminal Code provides for an entirely different form of control to that contemplated by probation. It had its origin in the power which existed at common law, in cases of conviction for a misdemeanor, to add to a sentence of imprisonment a requirement that the offender enter into a recognizance with sureties to keep the peace and be of good behaviour.

Where there has been a breach of a recognizance entered into pursuant to s. 637 of the Code the only remedy available to the crown is to apply to have the indebtedness created by the recognizance forfeited. The court has no power in such circumstances to impose a sentence. Recent draft legislation repeated these provisions in terms specifically providing for probation following a term in prison. The Committee considers that such provisions would not be consistent with good probation practice. A period

of controlled and supervised freedom following a period of imprisonment is of the nature of parole and should be left with the parole authority. A period of imprisonment may incur one of the dangers probation is intended to avoid, exposure to unsuitable influences in prison. The court cannot measure the effect of a period of imprisonment before it is served and, consequently, is not in a position to determine the length of time which should be allowed for supervised release. Confusion can arise if the inmate whose prison sentence is to be followed by probation is granted parole.[2]

The Committee recommends that no provision for the imposition of probation in addition to a period of imprisonment appear in Canadian law.

The exact legal status of probation in Canada is unclear and a comparable lack of clarity is evident in other countries. Many people maintain that probation is technically not a sentence and it is usually referred to in the literature as a "disposition of the court". It will be noted that section 638 provides that the court, in dealing with an offender, may "instead of sentencing him to punishment, suspend the passing of sentence" and place him on probation.

The status of probation has been considerably advanced in recent years and its nature has been sufficiently clarified to warrant more formal recognition.[3]

Section 638 also provides that an offender can be placed on probation without supervision. That is a contradiction in terms since the definition of probation includes supervision as an essential element.

The Committee recommends that statutory provision be made for a distinct disposition of the court known as probation, defined as above.

Advantages of Probation

Probation provides one of the most effective means of giving expression to one of the fundamental principles on which this report is based—that, whenever feasible, efforts to rehabilitate an offender should take place in the community.[4] The advantages of community treatment are set out in Chapter 19. Probation should not be seen as leniency but as a form of treatment selected after an objective assessment of the situation. In fact, many offenders find probation more difficult than prison since responsibility for his own actions rests on him more heavily while he is on probation.

Utilization and Success of Probation in Canada

The use of probation in Canada has increased over the past few years.

[2] National Council on Crime and Delinquency. *Standard Probation and Parole Act.* New York, 1964, page 2

[3] Meeker, Ben S. "Probation as a Sentence". *Canadian Journal of Corrections,* 1967, 4, 281-305

[4] United States. *Trends in the Administration of Justice and Correctional Programs in the United States.* op. cit., pages 18 to 20.

TABLE 10

Number of Adults Placed on Probation in Canada, by Province and Territory, 1962–1966

Province	Year	Adults Placed on Probation	Province	Year	Adults Placed on Probation
Alberta	1962	1,067	Ontario	1962	5,700
	1963	1,191		1963	6,425
	1964	1,507		1964	5,939
	1965	1,453		1965	6,547
	1966	1,510		1966	6,454
British Columbia	1962	643	Prince Edward Island[b]	1962	
	1963	729		1963	
	1964	829		1964	
	1965	944		1965	
	1966	1,143		1966	
Manitoba	1962	368	Quebec[c]	1962	1,168
	1963	446		1963	1,225
	1964	548		1964	1,110
	1965	617		1965	1,044
	1966	551		1966	1,126
New Brunswick[a]	1962	570	Saskatchewan	1962	536
	1963	627		1963	627
	1964	629		1964	845
	1965	661		1965	904
	1966	816		1966	813
Newfoundland	1962		Yukon[d]	1962	
	1963			1963	
	1964			1964	12
	1965	1		1965	28
	1966	5		1966	35
Nova Scotia	1962	777	Northwest Territories[e]	1962	
	1963	1,156		1963	
	1964	1,484		1964	
	1965	1,551		1965	
	1966	1,547		1966	

[a]An unknown number of juveniles are included

[b]Data are not available for Prince Edward Island

[c]In Quebec during this period all supervision of adults placed on probation was done by private agencies. The figures here were supplied by those private agencies.

[d]Adult probation services began in the Yukon in 1964

[e]Adult probation services began in the Northwest Territories September 1, 1966. From September 1, 1966, to December 31, 1967, 62 adults were placed on probation.

SOURCE: Appropriate provincial departments and private agencies.

It should be kept in mind that the age used in defining adult varies from province to province. In some provinces individuals aged 16 and 17 are classed as juveniles and those placed on probation do not appear in the above Table. The statistics in the Table are influenced greatly since probation is used frequently with this age group.

TABLE 11

Number of Adults Placed on Probation in Canada by Annual Totals, 1962–1966

Year	Number Placed on Probation
1962	10,829
1963	12,426
1964	12,891
1965	13,728
1966	13,965

SOURCE: Appropriate provincial departments and private agencies.

During the current fiscal year, the total cost of adult probation services in Canada approaches $4,000,000.

Measuring the success of probation requires a definition of "success". One measure is the completion of the probation period by the probationer without a breach of conditions sufficiently serious to induce the court to terminate probation and impose a sentence. This is an important measure of success since it means that permitting the offender to spend the probation period in the community did not endanger the public while his successful efforts to abide by the probation conditions indicated progress on his part. Cost to the taxpayer is also reduced.

Information on the number of probationers who successfully completed probation is not available from all provinces. During 1966, Alberta reported that 89 per cent of adult probationers completed probation successfully, while Manitoba reported a success rate of 85 per cent, Ontario 85 per cent and Saskatchewan 84 per cent. This consistent high rate of success is most encouraging.

A study based on a more stringent definition of succes was carried out by the Ontario Probation Officers' Association.[5] Success was defined as "those

[5] Ontario Probationers Officers' Association. "An Examination of the Results of Adult Probation". *Canadian Journal of Corrections*, 1967, 1, 80-86.

probationers who were terminated early because of good behaviour plus those who completed their original term who did not have a further indictable offence in Canada during the three years immediately following termination." The study showed that 68.3 per cent of the cases were successful.

Studies carried out in other countries show a substantial rate of success on probation.[6]

All provinces have public adult probation services although none have a sufficient number of probation officers to meet all requests for service from the courts. In some provinces the public service is supplemented by private agency service. The stage of development of probation and details of practice vary greatly from one province to another. Some of the provinces have probation acts setting out the conditions under which the service operates. Other provinces do not have such legislation and operate directly under the provisions of the Criminal Code.

Eligibility for Probation

Under the provisions of section 638, probation may be granted only to a person who has no previous conviction or who has no more than one previous conviction if that previous conviction took place at least five years prior to the current offence or if the previous offence is not related in character to the current offence.

Such restrictions are not justified and raise a regrettable barrier to fulfilling the goal of dealing with as many offenders as possible in the community. The court should have full discretion to grant probation whenever the circumstances of the particular case warrant such action. Many cases involving a previous record are suitable for probation.

The Committee recommends that such restrictions on eligibility for probation contained in the Criminal Code be removed.

Procedures in Granting Probation

The method by which probation is currently granted is through employing Form 28 of the Criminal Code, a recognizance that serves multiple purposes. Appendices (a) to (d) of Form 28 deal with matters pertaining to an accused awaiting trial. Appendix (g) applies to a convicted person awaiting appeal and Appendix (e) to cases where there is no supervision.

Appendix (f) of Form 28 suggests the wording to be used in a recognizance for probation. Appendix (f) reads:

> The condition of the above written recognizance is that if A.B. appears and receives judgement when called upon during the term of

[6] See, for instance:
United Nations. *Practical Results and Financial Aspects of Adult Probation in Selected Countries.* New York, 1954
Cambridge Department of Criminal Science. *The Results of Probation.* London: Macmillan, 1958

commencing on , and during that term keeps the peace and is of good behaviour (add special conditions as authorized by section 638, where applicable) the said recognizance is void, otherwise it stands in full force and virtue.

Although the use of Appendix (f) for this purpose shares some common features with the other uses to which Form 28 is put, there are some special requirements not provided for.

Requirements that the offender obligate himself to pay a sum of money upon breach of the condition of the recognizance should not be continued. Although there may be some value in such an obligation under circumstances that apply to Appendices (a) to (d) and (g), the circumstances that apply to Appendices (e) and (f) are quite different and a bond has no value in such cases.

Further, probation is in itself such a necessary part of the whole correctional process that it should warrant a special procedure and specific rules attached to it.

The Committee recommends that the method by which an offender is placed on probation be by a probation order and not through employing the recognizance set out in Form 28 of the Criminal Code.

The court should be sure that the offender understands the provisions and nature of a probation order. This interpretation is better done in open court than by a probation officer because the offender is impressed with the fact that the order issues from the court and that failure to observe the terms of the order must be explained to the court. The offender should sign a copy of the probation order to indicate that he understands its provisions and that he is ready to commit himself to abide by those provisions.

There is some disagreement among correctional officials as to whether the consent of the offender should be required before a probation order is made. Offenders are not given a choice in relation to other dispositions by the court. It may be that some offenders who refuse probation would learn to accept it if it were imposed without their consent. However, the Committee is of the opinion that probation can be most effective if the offender understands and accepts what is involved. When he signs the order he commits himself to cooperation.[7]

The Committee recommends that before issuing a probation order the judge or magistrate explain the implications and conditions of the order to the offender; that a copy of the probation order signed by the judge or magistrate be served on the offender; and that the offender be asked to endorse the original order to the effect that a copy has been served on him, that he understands its terms and conditions, and that he agrees to abide by them.

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[7] Great Britain. *Report of the Departmental Committee on the Probation Service.* op.cit., page 3

It should be incumbent upon the court to notify the probation officer when he is expected to undertake the supervision of an offender and to forward the necessary documents to him. This is especially important in some provinces where probation officers do not sit in court unless they are specifically required to be there to give evidence on a breach or to present a pre-disposition report. Also, many probation officers serve a number of different courts and are not always available to any one court.

Conditions Attached to a Probation Order

The probation order should contain mandatory provisions setting out the essential elements that make up the probation contract. The requirement that the offender report to a probation officer should be specifically stated, making it clear that such reporting should be to a duly appointed probation officer. However, there should be provision for supervision by some other designated person to provide for those areas where there is no probation officer.

In addition to the mandatory provisions, discretionary provisions are necessary to fit the needs of the individual case. These might include the provision that the offender be required to reside in a place other than his own home, such as a probation hostel, where that is indicated and the provision that an offender who will benefit from psychiatric treatment, although not classifiable as mentally ill, be required to attend a psychiatric clinic until discharged by the clinic. Another provision might require the inmate to follow a prescribed course of study or vocational training.

Conditions in a probation order should be kept to a minimum. Particularly, conditions that interfere with aspects of the probationer's life that have nothing to do with his offence should be avoided. All situations cannot be anticipated at the time the order is made, and if unnecessary conditions are attached the court may face frequent requests for minor adjustments. More important, the probationer may be in violation of a condition that is not essential to his adjustment in the community.

The Committee recommends:

(A) MANDATORY PROVISIONS

That every probation order include, in addition to the name of the court making the order, the following:

(1) The name of the court within whose territorial jurisdiction the offender resides or will reside;

(2) The requirement that the offender keep the peace and be of good behaviour;

(3) The provision for the appearance of the offender, when called upon during the period of the probation order, so that the order may be varied or judgment imposed;

(4) The provision that the offender be under the supervision of a probation officer appointed or assigned to that territorial jurisdiction or a designated person;

(5) The provision that the offender be required to report to the probation officer in accordance with instructions given by the court and receive visits at his home by the probation officer.

(B) DISCRETIONARY PROVISIONS

That the present discretionary powers available to the court under section 638 (2) be retained.

The rehabilitation of the offender may be effected, among other things, through the interpersonal relationship developed between the probationer and his supervisor. Short terms of probation may not allow sufficient time for this process to function effectively.

The extension of the length of probation from two to three years is particularly valuable in cases where a youthful offender is involved. With offenders of this kind, who may be characterized by impulsive behaviour and lack of responsibility, a continuing relationship with a probation officer over an extended period of time may be effective.

However, in cases where the purpose of the probation order has been realized, the court should be empowered on application of either the probationer or of the probation officer to discharge the probation order at any time.

The Committee recommends that the maximum length of probation be three years.

Section 638 provides that the court may vary the terms of a probation order "from time to time". However, there is no uniform method for implementing this provision nor is there a standard procedure for compelling the attendance of the offender at a hearing to determine whether the conditions should be changed.

There should be access to the court by either the probation officer or the probationer to request a change in the conditions of the probation order. Such a provision would make it possible to keep the probation order flexible to meet the changing needs of the probationer as changed circumstances arise and as he responds to supervision.

The Committee recommends that, upon application of either the probation officer or the probationer to vary the conditions of or terminate the probation order, the court be empowered to approve the variation upon notice to the probation officer or the probationer or to set a date for a hearing to consider the merits of the application and to act as it sees fit. Procedure should be provided for compelling appearance before the court either by summons or warrant.

Failure to Abide by Conditions of a Probation Order

The present legislation fails to distinguish between a breach of the recognizance which occurs as a result of a subsequent conviction and one which occurs as a result of a failure to abide by one of the conditions provided under section 638 (2). A breach obviously may vary in seriousness from a minor curfew violation to a serious crime. The power of the court to deal with the breach on its own merits should be recognized.

Under section 638 (4) the court has a discretionary power to order the accused brought before it "to be sentenced". Under section 639 (4) the court has discretionary power to "sentence" the accused for the offence of which he has been convicted. Section 638 (2) provides that the court "may from time to time change the conditions and increase or decrease the period of the recognizance".

These discretionary powers of the court should be brought under one section.

The Committee is of the opinion that a new offence of breach of probation should not be created but that a breach should be dealt with as part of the original charge. Breach does not automatically call for an end to probation and a sentence. The probation order could be renewed, perhaps with the conditions varied. If a new offence of breach of probation is created, the breach would be heard either by the court that heard the original charge who would find it as convenient to deal with the original charge, or by a court not originally involved in the case, handicapped by a lack of knowledge of the offender.

The Committee recommends that the probation officer report to the court when a person under probation is convicted of a subsequent offence or wilfully fails to abide by any other condition of the probation order and that the court be empowered to compel the appearance of the probationer and to:

(a) continue the probation order,

(b) vary the probation order, or

(c) revoke the probation order and impose a sentence of fine or imprisonment.

The court should take into consideration sincere efforts on the part of the probationer during probation when sentencing following a breach. If after sincere efforts on probation, the offender receives as long a prison sentence following a breach as he would had probation not been granted, he has, in effect, suffered a greater penalty in terms of restricted freedom than if he had been sentenced immediately after conviction.

Transfer of Supervision

In our mobile society, requests for transfer of probation supervision are not uncommon, either because the offence was committed away from the jurisdiction within which the offender resides, or because the probationer

desires to change his place of residence subsequent to conviction for reasons of employment or family. Transfers of supervision are effected by the court amending the recognizance to allow the probationer to reside in another jurisdiction. Once the transfer has been approved the appropriate documents are sent to the distant probation officer, and supervision continues. However, the offender is still responsible to the court that made the order and reports of progress are sent to the probation officer of that court.

This procedure is cumbersome. Very real problems may arise if the transferred probationer violates the terms of his recognizance, either through being convicted of a subsequent criminal offence, or as a result of a breach of a special condition of the recognizance. If the court decides that the probationer should appear for judgment, it necessitates the transferred probationer's returning to the court of original jurisdiction.

The cost of the return of a violating probationer to the court may be considerable, especially when he has moved to another province. The cost may be so great that it, rather than the nature of his subsequent violation, tends to be the criterion upon which breach proceedings are instituted or not.

This results in inequity, because a probationer who stays within the jurisdiction of the originating court and subsequently violates his recognizance is liable to punishment, whereas a transferred probationer may escape the consequences of his broken promise to the court for economic reasons.

The Committee recommends that a court be empowered to transfer an order relating to a person on probation to another court of equivalent jurisdiction anywhere in Canada and that the court that has assumed jurisdiction in the case have power to order supervision, to alter or discharge the probation order and to sentence upon breach of the conditions of the probation order in the same manner as the court of original jurisdiction.

This procedure might also apply to cases where a probationer has absconded to another jurisdiction.

A form would be required setting out formally the transfer of jurisdiction from one court to another. It would also be necessary to ensure that the receiving court is supplied with full information about the case and about the probationer so it could deal intelligently with a breach or a request for termination.

One difficulty that is met frequently with probationers is that when a probationer who is being sought for breach is convicted in another jurisdiction of a new offence and neither court is aware of the situation. What is required to meet this situation is a communication system that would make the court hearing the new offence aware that the accused is on probation to another court. It should be the responsibility of the new court to notify the original court of what has occurred.

Such a communication system would also be useful with an offender who has completed a period on probation and is being charged with a new

offence in another jurisdiction. The records of the original court would be of great assistance to the court where the new charge is being heard.

New Probation Techniques and Facilities

The use of probation should be expanded as widely as possible. To facilitate this and at the same time increase the percentage of success to the maximum, new techniques and new facilities should be developed. Some of these have already proved their usefulness in limited experiments; others should be tried on an experimental basis to test their effectiveness.

There are four areas where expansion seems indicated.

(*a*) *Probation Hostels*—There are some individuals with special problems who will not respond readily to regular probation supervision but who could be placed on probation if living facilities were available. Some of them need the stronger controls possible in an institution. Some are faced with a home situation that cannot be tolerated. Others need some kind of special experience that requires a change to a new environment.

Living facilities of this nature are called probation hostels. A probation hostel should be located in a population centre, near schools and employment. The probationer goes out to school or employment but his evenings and week-ends are under some control. He can be given whatever counselling and similar help he needs. The hostel should be small to permit close relationships with the staff. These institutions can be graded so each one serves a different type of probationer.

The procedure is to make residence in a specified probation hostel and abiding by its rules a condition of probation. These institutions are not expensive to run because probationers who are working pay room and board. Some of those going to school will receive an allowance from the education authorities. Others, however, will not and public money should be available to remove any undue emphasis on the probationer's paying his way.

(*b*) *Use of Volunteers*—The use of volunteers, not to replace, but to supplement the work of the probation officer should be considered. This device would probably apply best with younger probationers. It must be kept in mind that the final step in rehabilitation is acceptance of the offender into his own community. The volunteer represents that community in a way the professional probation officer never can. The corner grocer or the mechanic at the local service station might offer a kind of help that supplements what the probation officer can do.

(*c*) *Attendance Centres*—In some situations probationers are required to spend their Saturdays or other free time in attendance centres,

while their regular education or employment is undisturbed. Specific and useful programs should be provided at these attendance centres. The opportunity can be taken for individual or group counselling. These centres are for day attendance only and do not contain sleeping quarters.

(*d*) *Group Work Methods*—The use of group work methods with probationers is another new development that offers promise with some probationers. Some of the time spent at attendance centers could be used in this way. So could some of the time spent in probation hostels. Portions of this program might center around organized recreational activities.

Staff Requirements

As in all areas of corrections, there is a serious shortage of qualified officers in probation. The danger in such a situation is that probation will be attempted with improperly prepared staff or that qualified staff will be given caseloads too large to permit effective work. The resulting failure is sometimes misinterpreted and probation itself is brought into undeserved disrepute.

The use of probation should be expanded only at the rate that permits effective service. It is difficult to set an exact number that constitutes an effective caseload for a probation officer. Briefs received by the Committee recommended a maximum caseload from a low of thirty-five to a high of sixty. If the probation officer also prepares pre-disposition reports the number he can supervise must be reduced accordingly. Distances to be travelled also affect the situation; rural caseloads usually involve greater travel and should therefore be lower.

Another factor that determines a suitable caseload is the seriousness of the cases under supervision. Often individuals are placed on probation who do not require supervision and who could be safely released without supervision. If a probation officer has any number of such cases under his supervision his total caseload can obviously be larger.

National Development of Probation[8]

The development of probation has been uneven across the country and the extent of service and standards of practice vary from province to province. It is obviously desirable that high standards of practice exist in all provinces. To bring this about, it is essential that the federal government take responsibility for establishing national standards and for giving financial assistance

[8] Canadian Corrections Association. *Proposals for Development of Probation in Canada.* Ottawa, 1967

to the provinces to help in meeting those standards. This requires a national probation act.

Such an act might provide for the appointment of a probation consultant within the federal correctional service, along with whatever staff is deemed necessary. It might set out the qualifications, duties and powers of a probation officer and training standards.

The Committee recommends that a federal probation development act be designed to promote high standards of probation practice throughout Canada.[9]

[9] The Ontario Probation Officers' Association has submitted a draft National Probation Act to the Government of Canada.

17

PRISONS

Definition

For the purposes of this report, the term "prison" is defined as "any institution which holds adults committed by the courts for illegal behaviour for periods longer than a few days." These institutions are known by many names—penitentiaries, reformatories, industrial farms, farm camps, forestry camps, training or correctional centres and jails (or gaols). It is recognized that the term "prison" has many unfortunately negative connotations and its use here reflects the lack of an acceptable substitute.

Purposes

A prison must not be viewed as a separate, and self-sufficient institution. Instead, each prison should be seen as an integral part of a broader system of services within an over-all correctional program. Each prison must, therefore, be planned not only to serve its peculiar and specific function but also to complement the work of the other services so that the common aim may be accomplished.

The prison should also be considered part of the community it serves, not as something apart leading an existence of its own.

A clear statement of purpose, understood fully by both staff and inmates, is essential for both the prison system as a whole and for each individual institution. The purposes of the system as a whole may be stated as particular adaptations of those for the general corrections field:

1. To hold the individual inmate in custody for the period of his sentence, subject to remission and/or parole.
2. To prepare the individual for permanent return to community living as a law-abiding and contributing citizen.

The individual institution has the same general purposes as the prison system of which it is a part, but its specific role in preparing the individual for a return to community living may be stated specifically in the light of the type of inmate it is intended to correct.

A primary aim of the prison is to re-educate people to live law-abiding lives in the community. This is society's best protection against a recurring sequence of criminal acts. The traditional prison tears the individual away from such family, community, education and employment responsibilities and isolates him in an abnormal society where he is exposed to a criminal value system. Opportunities to practice decision-making, so essential in rehabilitation, are extremely limited. It is difficult to conceive a device less suited to preparing people to live in the normal community than the traditional prison.

What is needed for a large proportion of inmates are small, specialized, community-centred, appropriately-staffed institutions resembling hostels or camps. Along with these open institutions others with stronger security are needed to control those inmates who cannot yet handle the freedom of the open setting. However, as in the open institutions, contact with the community should be maintained in every way possible in these more secure institutions.

Some of the implications of such a policy are set out in this chapter.

There are, of course, some individuals so dangerous that the protection of society from them must take precedence over their own rehabilitation and they must be held in secure custody. A concentrated effort should be made to treat these people while they are in custory, but it must be recognized that the primary aim is protection of society through their segregation. Fortunately, the number of such individuals is not large.

Custody is also necessary as a sanction to back up the demands of community treatment services such as probation and parole when the individual refuses to take advantage of the opportunities offered him.

Situation in Canada

The federal government is responsible for adults given a prison sentence of two years or more. The prisons operated by the federal government are known as penitentiaries. The provinces are responsible for those adults sentenced to prison for less than two years. The prisons operated by the provinces typically bear such names as reformatories, industrial institutions, correctional centres, camps, or gaols. Some of the anomalies that pertain to the division of responsibility between the federal and provincial governments are set out in Chapter 14.

The territorial governments in the Yukon and Northwest Territories carry the same responsibilities towards prisoners as the provinces.

The federal Prisons and Reformatories Act[1] lays down in what seems unnecessary detail the conditions under which the provincial prisons operate. It would appear to be more logical if this legislation were permissive legislation phrased in general terms, leaving the provinces with responsibility to operate their prison systems with a minimum of direction from the federal government.

The report of the Fauteux Committee also contains a recommendation that this legislation be reviewed.[2]

The Committee recommends that the Prisons and Reformatories Act be repealed and re-enacted after appropriate consultation with the provinces to remove unnecessary detail and leave the provinces with wide responsibility to operate their prison systems.

Excessive Use of Prisons in Canada

Throughout this report the Committee has stressed the importance of dealing with the offender in the community. We have suggested changes in sentencing policy to provide for the use of alternatives to prison as much as possible. To make this feasible, we have recommended increased probation facilities. In Chapter 18 we recommend an increased use of parole. We are of the opinion that through these measures a major decrease in Canada's prison population would prove possible, without increased danger to the public and with greater success in terms of rehabilitated offenders. A considerable saving in public money would also result.

Comparison with the use of prison sentences in other countries is difficult because of differing classifications of offences, differing definitions of what constitutes a prison, and differing ways of keeping statistics. A comparison with the commital rate for indictable offences in the United Kingdom may be acceptable since the applicable definitions seem equivalent. In Canada, almost 50 per cent of those convicted of indictable offences receive prison sentences. In the United Kingdom the corresponding figure is 35 per cent.[3]

The number and ratio to population of inmates in Canadian prisons showed an over-all increase from 1950 to 1964. During the last two years for which figures are available, there has been a noticeable and, in the opinion of the Committee, significant reversal in trends.

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[1] S.C., 1952-53, c.7

[2] Canada. Department of Justice. Committe Appointed to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada. *Report* (Fauteux Report). Ottawa: Queen's Printer, 1956

[3] Hogarth, John. "Towards the Improvement of Sentencing in Canada". *The Canadian Journal of Corrections*, 1967, 2, 122-136

TABLE 12

Adults in Custody in Federal Penitentiaries and Provincial Prisons in Canada as of March 31 [a], 1950–1966 and Rate per 100,000 Population

	1950	1951	1952	1953	1954	1955	1956	1957	1958
Penitentiaries									
Number	4,740	4,817	4,687	4,934	5,120	5,507	5,508	5,432	5,770
Rate	50	50	48	49	50	53	52	50	52
Provincial Prisons									
Number	8,915	8,009	8,605	8,757	9,337	9,546	8,995	9,739	11,192
Rate	95	84	88	88	91	92	85	89	101
Total Numbers	13,655	12,826	13,292	13,691	14,457	15,053	14,503	15,171	16,962

	1959	1960	1961	1962	1963	1964	1965	1966
Penitentiaries								
Number	6,295	6,344	6,738	7,156	7,219	7,651	7,514	7,438
Rate	55	55	57	60	59	62	59	57
Provincial Prisons								
Number	11,166	10,896	11,821	12,066	12,755	12,559	12,627	12,257
Rate	98	94	101	101	105	101	100	88
Total Numbers	17,461	17,240	18,559	19,222	19,974	20,210	20,141	19,695

[a]Quebec figures are expressed as of December 31.
SOURCE: Dominion Bureau of Statistics.

Why this reversal in trend is occurring is not clear. The increased use of probation and parole is no doubt a factor, but there may be other factors. This trend also appears in the United States.[4]

The Committee recommends that every effort be made to reduce the prison population of Canada through implementation of the appropriate measures suggested in this report.

Cost of Prisons

The cost of operating Canada's prison system during the fiscal year 1965-1966 was about $80,000,000[5]. Of these operating costs, $26,601,000 was spent by the federal Penitentiary Service, the remainder by the provinces.

[4] United States. Department of Justice. *National Prisoner Statistics. Prisoners in State and Federal Institutions for Adult Felons, 1966.* (NPS Bulletin Number 43, August 1968). Washington: Bureau of Prisons.

[5] Figures on provincial expenditures were supplied by the appropriate provincial government officials. Those related to the Penitentiary Service were taken from the annual report of the Commissioner of Penitentiaries.

Capital costs are not included in these operating costs. During 1965-66 the Penitentiary Service spent $28,173,666 on construction and equipment. Capital expenditures to the end of 1968 in connection with Penitentiary Service's Ten-Year Plan (begun in 1963) amount to $73,470,000 and an additional expenditure of $122,614,000 is anticipated to complete the Ten-Year Plan.[6]

The Process of Classification

A successful prison system requires efficient classification so that the inmate will be dealt with in the most productive way feasible. Classification is a continuous process through which diagnosis, treatment-planning and the execution of the treatment plan are coordinated to the end that the individual inmate may be rehabilitated.

There are various steps in an adequate classification process:

(*a*) The analysis of the inmate and of his problem related to his involvement in crime through the use of every available technique: social histories; medical psychiatric and psychological examinations; and studies of religious, educational, vocational, and recreational attainments and interests.

(*b*) Planning of a treatment program by the classification team meeting as a group.

(*c*) Ensuring that the inmate and all staff who will be involved understand the treatment plan.

(*d*) Evaluation of the inmate's progress and the suitability of the treatment plan, and changing of the treatment plan as this is warranted.

The inmate should actively participate as much as possible in each step in the process.

Classification is thus a process that should continue throughout the inmate's stay in the institution. It should be dynamic, extending to all phases of the inmate's experience, not something static confined to formal meetings of the classification committee.

If the diagnostic and remand centres recommended in Chapter 15 of this report are introduced, much of the diagnostic aspects of classification can be carried on there. Where these do not exist, the prison system requires a central reception unit located in a separate institution, where newly-committed inmates pass through the initial classification process. This unit should have among its staff fully-qualified people representing the various pertinent professions. The opportunity presented by the inmate's stay in this reception unit should be used to assist him in overcoming the shock of

[6] Figures supplied by the Commissioner of Penitentiaries. Information on costs of construction being undertaken by the provinces is not at hand.

committal to prison. The program of this unit should be designed to prepare him to accept and benefit from the opportunities which should be presented through the program in the institution to which he is subsequently transferred.

Information collected by the staff of the reception unit about the inmates coming into the prison system can be most valuable in determining whether prison programs are realistic or whether they were designed to meet the requirements of types of inmates who are in the minority. Such information may lead to the conclusion that the program offered by some institutions is no longer effective and that these institutions should be converted to serve a different type of inmate.

Within the individual institution there must also be a classification team to implement the recommendations of the central reception unit. The classification team within the individual institution executes and supervises the inmate's program and modifies it as required, as well as coordinating pre-release and parole procedures.

The Committee recommends that the fundamental importance of classification within a prison system as a basis for

(a) grouping inmates for treatment purposes and

(b) planning and, when indicated, adapting the program of the individual inmate

be recognized and that the provision of adequate classification facilities be given top priority in all Canadian prison systems.

Custodial Classification

One of the important issues to be decided through classification is the degree of custody required by the inmate. This decision often determines the treatment program as well, since those forms of treatment that involve contact with the public are usually not as readily available to inmates in security institutions. Such a limitation is unfortunate because the advance of institutional corrections depends on the improvement of treatment programs. Improvement in control will reduce escapes but will do little to reduce recidivism.

In weighing custodial considerations, a number of essential questions must be asked about each inmate:

(*a*) Is he a danger to himself or to others while incarcerated?
Is he likely to attack a member of the staff or another inmate?
Is there a risk of suicide?
Is he likely to introduce contraband into the institution?

(*b*) Will he attempt to escape and how much aggression will he show in such attempts?

(*c*) Will he be a danger to society or to any particular individual if he does escape?

There are no objective means now available for determining the degree of custodial risk and decisions are based on judgment. A research approach to custodial classification is needed. Out of this might develop prediction tables that would help in assessing custodial risk on more objective grounds than is now possible.

The number of inmates of Canadian prisons who fall into the dangerous category is unknown. Usually, the dangerous group are divided into two categories, those requiring super-security and those requiring maximun-security. The report of the Enquiry into Prison Escapes and Security in Great Britain[7] implies that about .36 per cent of inmates of British prisons require super-security. The American Correctional Association in its *Manual of Correctional Standards*[8] estimates about 2 per cent of inmates fall into the super-security category and about 15 per cent into the maximum security category.

Estimates made by the Canadian Penitentiary Service run markedly higher than these figures but there is no clear indication on what these estimates were based.

The Penitentiary Service operates under the following security categories:[9]

1. *Maximum Security.* "Inmates who are likely to make active efforts to escape and who, if they do escape, may very well be dangerous to persons whom they may encounter in the community."

   Approximately 35 per cent of the Penitentiary population are considered to fall within this category. About 3 per cent require super-security.

2. *Medium Security.* "Inmates who are not likely to make active efforts to escape but who might very well run away if the opportunity presented itself."

   Approximately 50 per cent of the inmates are considered to fall within this category.

3. *Minimun Security.* "Those inmates who require neither fence nor wall to keep them confined, who will respect the invisible boundary that surrounds them and who, in any event, are not likely to be dangerous in the community if they do walk away." The remaining 15 per cent of inmates are seen as falling within this category.

The Committee recommends that the Government of Canada initiate research to:

(a) seek objective criteria for determining which prison inmates should be classed as requiring super-security, maximum, medium and minimum security;

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[7] Great Britain. *Report of the Inquiry into Prison Escapes and Security (Mountbatten Report).* London: Her Majesty's Stationery Office, 1966

[8] American Correctional Association. *Manual of Correctional Standards.* New York, 1964

[9] Commissioner of Penitentiaries. *Special Detention Units.* Ottawa: July 26, 1965

(b) determine the percentage of inmates of Canadian prisons who fall into these categories; and

(c) develop measurement techniques for rating the custody requirements of newly-committed inmates.

Although there are a small group of inmates who are determined to escape under any circumstances, most inmates will actively attempt to escape only as a result of tension created by special circumstances that exist at a specific time. It is therefore possible to reduce escape risks by means other than physical control. The following are considered essential.

(1) There should be a social service attached to each prison system which has, along with its other duties, the responsibility to deal with the inmates' family problems. One of the greatest tension-producing aspects of committal to prison is worry about the family. A social service connected with the prison system can provide the inmate with information about his family's welfare and assist the family with its problems, generally through referral to a community agency.

(2) Above all, good program that stresses joint staff-inmate participation and extends to all aspects of prison life will help build a positive atmosphere that gives the inmate a sense of hope and accomplishment. It will also help counteract the destructive effects of the prison society. Custody then becomes part of the continuing classification process and custody-rating can be subject to change on relatively short notice. The principle should be "control through involvement rather than through containment."

If such methods of exercising custodial responsibilities were realized, then in the Committee's opinion, more of those inmates who are serious custodial risks could be distributed throughout various institutions. Confining all such offenders in the same unit involves the danger of creating a completely negative society in which one has to be "bad" to gain acceptance and almost depraved to gain status.[10]

Inmate Subculture

One of the serious anomalies in the use of traditional prisons to re-educate people to live in the normal community arises from the development and nature of the prison inmate subculture. This grouping of inmates around their own system of loyalties and values places them in direct conflict with the loyalties and values of the outside community. As a result, instead of reformed citizens society has been receiving from its prisons the human product of a form of anti-social organization which supports criminal behaviour. The genesis of this subculture can be traced to a number of factors.

[10] Radziniwicz, Leon. *The Dangerous Offender* (The Fourth Frank Newsam Memorial Lecture). Chichester: The Police Journal, 1968

The convicted offender has generally experienced a history of failure in life. His apprehension, trial, conviction and imprisonment reinforce his feeling of failure with respect to socially acceptable norms. His adaptation to prison life follows a progression from "I am a failure" to "I don't care" to "I am a success on the basis of a new value system which I share with most of the others here who were also failures by the old standards." Thus the offender institutionalizes his socially unacceptable behaviour. He is no longer an isolated misfit in society but has become a part of his own society, the prison subculture, which in turn supports his resistance to the demands of conventional society.

The prison experience is characterized by deprivation of normal sexual opportunities. This situation is conducive to homosexual behaviour. A pattern of attitudes and practices developed around this situation becomes basic to the prison subculture. While the child molester is viewed with low regard or hostility, the passive homosexual is widely sought after and institutional homosexuality is not considered abnormal by many inmates. For the mature prisoner with a history of reasonably adequate heterosexual functioning outside prison, adaptation to the heterosexual deprivation of prison is generally reversible. On his release he usually finds opportunity for heterosexual relationships to which he can adjust. For the immature, or the sexually inadequate, however, the homosexual emphasis of prison life frequently integrates into his habit pattern a practice of deviance or sexual malfunction which is difficult to reverse when he is released.

The deprivation of freedom, with its attendant transfer of decision-making from the prisoner to the staff, enables the inmate of the traditional prison to avoid self-condemnation for his failures and his crimes by putting the blame on the authority figures who carry responsibility. The staff become the symbols of repression and the enemy against whom the members of the inmate subculture must defend themselves.

There are some inmates who, apart from the particular offence which brought them to prison, have been on the whole well-integrated members of conventional society and they tend to resist assimilation into the inmate subculture. However, it is only to other inmates that they can look for social acceptance since a relationship with other people is denied them. They gain that acceptance by falling in line with the mores of the inmate subculture.

To attempt to operate a treatment program in a prison without recognizing this socio-psychological situation is to attempt the impossible. Various experimental programs have been devised to turn these prison community pressures to positive use, such as shared staff-inmate program-planning, use of small-group activity, maintenance of family and community ties, community involvement in prison activities and minimizing custodial features. The dangers of the inmate subculture constitute the strongest argument against large prisons since there the inmate society becomes so massive and powerful it is almost impossible to reach individual inmates. It is the view of the Committee that emphasis should be placed on small and well-staffed institutions where this problem can be effectively handled.

Re-Education: Treatment and Training

"Treatment" can be defined as a series of activities engaged in by staff and inmates and by citizens from the outside community for the purpose of enhancing the motivation and inclination of inmates to function as law-abiding persons. The use of the term treatment in this way is sometimes criticized on the grounds that it comes from the field of medicine and is used there with a somewhat different connotation. However, it is in common use. "Training" may be defined as a joint activity designed to develop in the inmate the social and vocational skills necessary to adequate functioning in modern society. Treatment and training are closely related and, together, they constitute a series of progressive re-educative experiences for the inmate which promote his identification with non-criminal society and with goals sanctioned by the community.

The above concept clearly implies that the community shares with the prison staff and inmates responsibility for promoting dynamic programs of treatment and training. The response of prisoners to opportunities afforded for rehabilitation will be enhanced when prison programs receive full community support. To assume this role is to the advantage of the community as a form of self-protection through the reduction of recidivism.[11]

This concept also implies that treatment and training operate as a continuum starting with the arrest of the offender and continuing through the prison program to post-release activities. It is important that each phase of learning be reinforced and developed in subsequent phases, and that gains made while in prison are supported by opportunities of the discharged offender to achieve success and satisfaction in legitimate post-release activities.

There are two aspects to the development of an effective treatment and training program in a prison:

(*a*) The creation of a general atmosphere, felt by staff and inmates alike, that fosters both a belief that the inmates' attitudes and social habits can be changed and a determination to bring this about. This can be expanded into what is known as a therapeutic community, where authority is not exercised automatically from the top, but where staff at all levels and the inmates themselves work together in common decision-sharing.

(*b*) The development of specific program details to accomplish this common aim of rehabilitation.

It is not the function of this Committee to set out in detail what constitutes a good prison treatment and training program. Indeed, there was considerable disagreement among the authorities we consulted as to both the appropriate theoretical base for prison programs and program details. However, certain experiments noted by the Committee appear worthy of special comment.

One such development is work-release programs. This means the inmate enters the regular community during the appropriate hours of the day to

[11] Korn, Richard, R. "Correctional Innovation and the Dilemma of Change-from-Within". *Canadian Journal of Corrections*, 1968, 3, 451

attend high school, trade training school, or university, or to work, but returns to the institution at night and weekends. This makes it possible for him to maintain or build activities in the community necessary for a normal career, while continuing to serve his sentence. Work release programs would probably be possible with a larger proportion of the provincial prison populations, although the Penitentiary Service should use such programs when possible. At present, their application to provincial institutions is limited because day parole granted by the National Parole Board is necessary for inmates incarcerated for offences under the Criminal Code and other federal statutes. If the province were given authority over parole for all inmate of provincial institutions, as recommended in Chapter 14, a simpler procedure would be possible.[12]

The similarity between a small community-centred work-release prison and a probation hostel is obvious. However, the work-release prison would be intended for those who require a greater degree of control in that they can be returned to custody.

Recent experiments in applying the new techniques developed in relation to adult education academic programs to the inmates of prisons appear to deserve greater attention. Changing an inmate's educational level from grade 4 or 5 to high school matriculation may frequently have more effect on his future than trade-training or similar programs.

Home leaves for selected prison inmates who are not a security risk form part of the program in some institutions and should be used more widely. Only a minority of prison inmates have a stable relationship with a wife and children and even for those who have such a relationship a brief visit home may be more upsetting than useful in terms of the rehabilitation program. Whether such visits are indicated has to be determined in the light of all circumstances surrounding the individual case. Home visits can be supplemented by family visits to the institution.

Conjugal visiting has been advocated in some submissions to the Committee but few Canadian prisons lend themselves to such a program and an attempt to introduce conjugal visiting might raise more problems than it would solve. In those cases where a stable family relationship exists, home visiting would accomplish the same end under far more favourable conditions.

The whole prison program, from the time the inmate first enters, should be seen as a preparation for his return to the normal community either on parole or on discharge. However, if he is facing a long sentence, the initial steps may seem far removed from this final goal. During the last months of his incarceration, an intensified program aimed to prepare him for release is necessary, and should be offered him even if he is among those with poor expectations. This should include discussion of employment opportunities, readying him to return to his family, readying his family to accept him and perhaps providing

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[12] See Grupp, Stanley and Bérin, Jacques. "Work Release for Short-Term Offenders in France and the United States". *Canadian Journal of Corrections*, Op. Cit., 490
MacDonald, John A. "Towards Work Release Legislation in Canada". Op. Cit., 505
Correctional Research Associates. *Community Work — An Alternative to Imprisonment.* Washington, 1967.

living accommodation. If he has been in a maximum security institution he may have to relearn the habits of ordinary social behaviour. The value of prerelease hostels in preparing the inmate for return to normal living is becoming increasingly recognized.

Another suggestion has to do with the involvement of rehabilitated ex-inmates in the institution program. These men are a living proof that successful rehabilitation is possible and their word as to relative benefits of the law-abiding life will carry weight with the inmates. They also have an advantage in understanding the problems and viewpoint of the inmates. There have been successful experiments in using carefully-selected ex-inmates on prison staff.[13]

The Committee was impressed with the work of prison chaplains in bringing a spiritual dimension into the lives of prison inmates. The Statement of Purpose and Policy of the Canadian Correctional Chaplains' Association is attached to this chapter as an annex.

The Committee visited many prisons throughout Canada and discussed prison programs with prison staffs and others closely associated with these institutions. A questionnaire was distributed to all prisons in Canada requesting information on, among other matters, prison programs. The Committee is of the opinion that in many prisons there is no clear theoretical position underlying program that would make it possible to develop an integrated program guided by clearly-enunciated goals. The exact purpose served by many aspects of program is uncertain and much program is based largely on tradition. Nor have clearly-defined techniques been developed that are understood and utilized by all members of staff. Research into the effectiveness of program is almost totally absent.

The Committee recommends that the need for an integrated and comprehensive program, based on good classification and a clearly-stated theoretical position, and subject to routine testing through research, be recognized and that provision of adequate treatment facilities be given top priority in all Canadian prison systems.

Prison Labour and Prison Pay

It is highly desirable that all inmates of a prison be fully occupied during a normal working day. In this context, "fully occupied" is defined to include scholastic education, vocational and trade training and maintenance work and therapy sessions as well as prison industrial production. The need for recreation activities during the non-working hours is recognized.

There are several reasons why it is desirable to keep prison inmates fully occupied:

(*a*) Since the aim of the institution should be to prepare the inmate for his return to normal community living, it is important that as much time and effort as possible be spent on such preparation;

[13] Joint Commission on Correctional Manpower and Training. *Offenders as a Correctional Manpower Resource*. Washington, 1968.

(*b*) It is an unhealthful and incapacitating thing in itself to be left in long periods of idleness;

(*c*) Prison discipline is more easily maintained when the inmate population is fully occupied;

(*d*) Assuming that the inmate is being paid a substantial percentage of the prevailing minimum wage, the money he earns can be used to enable him to meet what would be considered ordinary financial responsibilities in the general community, such as defraying part of the costs of maintaining himself in the institution, helping to maintain his family in the community, building a fund to help him during the initial period after discharge, paying unemployment insurance and hospitalization premiums. The possibility of compensating the victim of his crime might also be considered. Some priorities would have to be established among these possible uses, depending on the wages he receives. A system of at least voluntary and perhaps compulsory savings from funds intended to help the inmate through the initial period after discharge would avoid the risk of the money's being squandered.

If any money is left over after these financial responsibilities are met, it should be left to the man to spend as he sees fit, within the security requirements of the institution. This would enable him to assume as much responsibility for his own affairs as possible.

(*e*) The products and services contributed by prison occupations represent a financial saving on the costs of prison administration.

Prison and government officials, other correctional experts, the public and the inmates themselves agree in principle that it is important that prisoners be fully occupied, but there are serious difficulties in the way.

One difficulty has to do with the amount to be paid to the inmate for what he is doing in prison. It may be easier to accept the idea that the inmate should be paid for time spent in industrial production than for time spent undergoing therapy or involved in maintenance work. However, to accept this policy places the inmate undergoing therapy, scholastic education, or trade or vocational training at a disadvantage, and this in spite of the fact that these occupations may mean more in terms of the treatment goals of the institution than does industrial production.

It would appear both just and practical, then, to pay remuneration to all inmates who are fully occupied and who involve themselves conscientiously.

A second question arises whether all should be paid the same amount. If one inmate is working as a shoemaker and another as an electrician, should differentials in pay rates that exist in the normal community be reflected in the institution and how much should the person taking scholastic training be paid? In the outside community he might well have to pay for such training, although many adult education schemes pay an allowance to the students. There are also some inmates who, because of mental or physical health,

cannot come up to the occupation norm set for most inmates; those who are permanently incapacitated probably should be taken out of the correctional stream and where suitable cared for in sheltered workshops.

It is suggested that there be a basic wage that is paid to all inmates who involve themselves conscientiously, within the scope of their capabilities and treatment and training requirements. There should then be a series of steps in the remuneration scale, open as an incentive to all inmates, to reward diligence and ability. The decision as to when an inmate is ready to move up the remuneration scale is decided through the classification process.

Relating the level of prison pay to what is paid in the outside community is also a problem. It is suggested that prison pay should represent a substantial percentage of the prevailing minimum wage in the outside community, although it should never be greater.

The Committee recommends that a system of prison pay be introduced in all Canadian prison systems, available to every inmate who involves himself conscientiously within the scope of his abilities and stage of development, whether or not his program includes industrial production; that there be a series of steps in the remuneration scale to serve as an incentive to all inmates; and that prison pay scales represent a substantial percentage of the minimum wage prevailing in the community.

As far as prison industries are concerned, the restrictions placed on selling on the open market handicap the introduction of modern production methods. Most prisons are limited to production for use by government departments. Industrial production in prisons sometimes tends to be inefficient, and old machinery and old production methods are sometimes continued in order to keep a maximum number of inmates busy, even though this means production methods do not correspond with those in the outside community.

In our opinion industry production in a prison should be governed by the following rules:

(*a*) Internal working conditions should, as far as possible, duplicate those on the outside. In particular, machinery and production methods should be modern, to facilitate the inmate's transfer to outside employment;

(*b*) Instruction should be of top quality. We suggest that industrial production within the institution should be related to the vocational and trade training program, although the two should be left administratively separate.

This kind of prison industry can be maintained only if there is a market for the products. The following should be considered:

(*a*) Expansion of use within government departments, including municipalities. The camp programs developed by various prison services in Canada in conjunction with the departments responsible for natural resources are an example of what can be accomplished;

(*b*) Use of prison products in the international aid program. Presumably this is a market that would not normally be supplied by Canadian manufacturers, so the disposal of prison products at reduced prices would present no problem. Involving the inmate in an altruistic program of this nature might also have secondary salutary effects, if it could help instil a sense of worth;

(*c*) Public information programs to make members of the public generally and members of industry and organized labour in particular knowledgeable about the issues involved.

The danger that industrial production can be given too much importance in a prison should be recognized. In the Committee's opinion, the treatment needs of the inmates should take precedence over maintenance requirements of the institution, or the financial gains to be had from industrial production.

The involvement of inmates of correctional institutions directly in community vocational and trade training programs should also be considered, as an alternative to providing duplicate training facilities in the institution. This proposal could have many advantages. The use of community facilities reduces capital and operating costs in the institution; high quality instruction is ensured; it affords an opportunity for specialized training; training levels reached are recognized by labour and industry; certificates do not give any suggestion that the individual has a prison record and participation in a normal community program might help improve the inmate's attitude towards society. Similar programs can be worked out for those taking academic education and for those who are employed in a job in the community.

Federal manpower programs intended to assist in adult trade-training programs should be expanded to include inmates of provincial prisons.

Another aspect of employment for regular workers in the community involves compensation for industrial accident. Similar provisions should apply in prison.

Role and Working Relationship of Staff

A prison should be an educational centre in the widest sense of the word, in which not only the inmates but the staff as well are being constantly re-educated. It is as necessary to re-examine the attitudes of experienced prison officers as to train new recruits.

If there is to be development of the therapeutic community approach to prison program, the role and importance of each individual staff member must be recognized. Each is expected to be competent in his own department and to have sufficient understanding of the roles of others to be appreciative. All staff members have an equal voice in discussion, although someone in authority must make the final decision.

In the present era of relative prosperity and better education candidates for a career on prison staff are more likely to be motivated by an interest in this kind of employment, than by considerations of personal financial security.

Community Involvement

A few of our Canadian prisons are beginning to recognize the importance of maintaining close community ties. The aim is to teach the inmate to function socially and this is most difficult if he is kept isolated from members of the normal community. To encourage citizen involvement, the prison must be more clearly defined as an agency of the community and not as the private preserve of the correctional administrator. For the inmate to feel genuinely a part of the community and for the prison to be a dynamic and creative agency of community purpose, it is essential that citizen participation be a basic tenet of the system.

Significant elements in community life should be a normal feature of prison life. On the other hand, prison programs should permit the inmates to take part in outside community activities. Programs now in operation in some institutions in Canada include access to mass media such as radio, television, newspapers and magazines, with encouragement of discussion of current affairs; utilization by citizens of institutional facilities, such as auditoriums, gymnasiums, vocational shops and classrooms for night classes; participation by the police in efforts to increase the inmate's understanding of law enforcement; participation by inmates in search and rescue operations, sports community leagues, blood-donor clinics, such welfare programs as building of community recreational facilities and similar service club work projects; drama and musical groups, and discussion sessions with citizen involvement.

Participation by an inmate in community welfare projects would provide him with an opportunity to make amends to his victim through service to society generally. This can have a beneficial effect on his rehabilitation.

Such contacts between prison inmates and members of the community also serve to keep the public informed about what goes on in our prisons and what additional facilities are needed. This forestalls unwarranted criticism of the prison based on misinformation, while at the same time ensuring that the public is in a position to support good institutional service.

Such contacts also pave the way for public acceptance of the inmate back into the community after discharge. Better acquaintance with the inmates in prison may help the citizen to see them as individuals with a problem.

Another important function of keeping the inmate in touch with the community is to make him aware of the resources that exist in the community to help him following discharge.

Keeping the staff in contact with the community is probably as important as establishing these contacts for the inmates. Staff can become institutionalized too.

A special community group which should be brought into the institutional program are rehabilitated ex-inmates. This corrects the situation where the inmate sees only failures among ex-inmates. It does the same for staff and members of the public.

It is recognized that the public should be involved in prison programs in ways that will not lessen the authority of the staff or interfere with the

functioning of the institution. Careful selection of the members of the public who are to participate in prison programs is, of course, necessary. Certain voluntary agencies have already participated in such programs and may well be of continuing assistance.

Corporal Punishment

Corporal punishment is still used by the Penitentiary Service as a disciplinary measure.

TABLE 13

Use of Corporal Punishment in Canadian Penitentiaries as a Disciplinary Measure.

Year	Number
1957 —	15
1958 —	16
1959 —	24
1960 —	12
1961 —	67
1962 —	18
1963 —	96
1964 —	26
1965 —	7
1966 —	32
1967 —	19
1968 to 15 Oct. —	1
TOTAL	333

SOURCE: Information supplied by the Penitentiary Service

Manitoba is the only province or territory that has used corporal punishment as a prison disciplinary measure in recent years. It still appears in prison regulations in British Columbia and Newfoundland but has not been used in those provinces for some decades.

Mr. A. J. MacLeod, Commissioner of Penitentiaries, gave evidence regarding corporal punishment as a prison disciplinary measure before the House of Commons Standing Committee on Legal Affairs on November 25, 1968. The following excerpt is taken from the Minutes of the Standing Committee.[14]

MR. GILBERT: Mr. Commissioner, I would like to direct other questions to you with regard to corporal punishment. . . .

MR. MACLEOD: . . . .As far as institutional corporal punishment is concerned, it cannot now be imposed in an institution without the specific approval of the Commissioner of Penitentiaries. Of course, we have very elaborate regulations governing the manner in which it is to be imposed. No more than ten officers can be present.

[14] House of Commons. Standing Committee on Legal Affairs. *Minutes of Proceedings and Evidence No. 5 (November 25 and December 3, 1968)*. Ottawa: Queen's Printer

The prison psychiatrist or medical doctor must be there; the warden or deputy warden must be there. The punishment can be stopped at any time by the doctor or the psychiatrist or the warden or deputy warden. Of course, the only problem with making rules about corporal punishment is that the more humane you try to make them, the less humane the operation looks in the end result. My own feeling is that the tendency is for it to go into disuse as a possible prison punishment, and, of course, when that happens then presumably the Regulations in the Act will reflect the practice.

MR. GILBERT: In other words, you would not have any objection if I brought forth an amendment to repeal that particular section?

MR. MACLEOD: I would not, no. As a judicial punishment, it is remarkable that it is reserved under the Criminal Code for offences that involve the use of violence or the threat of violence by the offender. Our people seem to think that it may have a useful short-term benefit if it is imposed on an offender but ultimately, society reaps more violence from him than it inflicted upon him.

The Committee agrees with this view. We are of the opinion that corporal punishment is contrary to modern prison philosophy and practice and we recommend its abolition.

The Committee recommends that the use of corporal punishment as a prison disciplinary measure be discontinued in Canada.

The Committee has also recommended (Chapter 11) the abolition of corporal punishment as a sentence of the court.

Remission

The same provisions for remission should apply in the provincial as in the federal institutions. This is discussed more fully in Chapter 18.

Location, Design and Size

It is axiomatic that any building should be designed to serve the purpose for which it is intended. There are several steps which should precede the designing of a prison. First, a clear and comprehensive statement of function should be formulated. Second, a careful examination of the type of inmate the institution will house should be undertaken to determine what is required for successful rehabilitation. Third, the program that is considered the most effective in accomplishing the rehabilitation goals of the institution should be worked out in detail.

The Committee has seen many instances in Canada where this planning sequence has not been followed as new prisons were developed. As a result, classification criteria and program have had to be adjusted to fit an institution not designed to serve its purpose.

The following principles are, in the Committee's opinion, important ones that apply generally to all prison planning.

Location

Prisons should be located within the limits or in the immediate vicinity of a major centre that has appropriate clinical facilities; it is an added advantage if the centre also has a university.

Such locations near major centres are desirable for these reasons:

1. Visiting by relatives of inmates is easier in the more accessible location. Many of the inmates will probably come from the city itself.
2. Community contacts, such as visiting in and out, employment interviews, sports, theatrical productions, and use of institutional facilities by the community, are facilitated.
3. Pre-release planning is easier near the large centre, because many of the inmates will probably come from that city, and because after-care placement and employment agencies are more accessible.
4. It is easier to attract and hold competent staff in this setting. Few senior people, or those with professional training, will choose to live in isolated locations.
5. The urban setting prevents the staff from becoming ingrown. There are opportunities for staff to get the stimulation of discussion with other experts in their own and related fields. Extension and similar courses can be arranged easily, through the university if there is one or through the use of specialist staffs available in the urban setting.
6. Part-time professional staff from the community can be utilized to supplement the work of the institutional staff.
7. Community facilities, such as clinics, hospitals, technical schools, universities and churches, may be used for the inmates. Such facilities are becoming increasingly available in most urban areas.
8. The prison can be used for field placement of university students. Included would be students in medicine, psychiatry, pedagogy, social work, psychology, law, sociology, theology, architecture and dietary science.
9. The institution and the university, if there is one, can work together conveniently in research.
10. Although land costs may be higher, operating costs are likely to be less. For example, cost of transportation of prisoners is less, since many of them will probably come from the city. Supply and repair services are also more readily available.

These comments do not apply, of course, to reforestation and similar camps which must be located at the place where the work is being done.

Design

There should be flexibility in prison structure, with each institution designed to serve the program for which it is intended. The Committee believes these principles should serve as a guide:

1. Since the programs vary widely, it follows that no one design will serve for all prisons.
2. A lack of flexibility is evident in much prison design in Canada, both past and present. As a result, we are burdened with large stone and steel structures, that cannot be adapted readily to a modern treatment program.
3. There has been sufficient experience to show that many inmates have shown a capacity to adapt to open and medium security institutions, if the inmates are selected through a good classification system, and if the institution is well staffed and has a good treatment program. Such institutions can be built at relatively low cost. They can be moved to a new location, adapted to other use, or abandoned if that becomes necessary.
4. Inmates, like everyone, require reasonable privacy. A feeling of self-respect must be instilled in inmates if they are to be rehabilitated and this is impossible in regimes that deal with them in depersonalized ways. Non-security cubicles are better than dormitories for some inmates. Toilet and shower facilities and change rooms should be designed with privacy in mind.
5. At the same time, space should be provided where socialization programs that bring the inmates together can be operated.
6. Correctional treatment is still in the process of evolution. The design of a prison should therefore make provision for gradual adaptation to renovated and improved programs as they are developed.

Size

The appropriate size for an institution should depend on the program and the type of inmate for which it is intended. However, since the major treatment device that can be used in prison is the relationship between staff and inmates, it should be as small as possible. The institution should be divided into separate units of a size to make it possible for each staff member to know each inmate personally, and for the staff to work as a team. An institution that consists of large units runs the risk of becoming a production-line operation, with all the problems of impersonalization and the development and perpetuation of inmate attitudes that work against a constructive program.

Annex

Canadian Correctional Chaplains' Association: Statement of Purpose and Policy

1. *Philosophy*

The Canadian Correctional Chaplains' Association is integrally involved in the process of corrections and contributes the theological perspective. The theological understanding of man applies equally to all men, whether defined by law as offenders or not. Society has a right to deprive the offender of his physical freedom but not of his moral freedom. Man must not be subjected, by the correctional process, to any damaging influences which tend to dehumanize him. The offender, because of his human dignity, must always be treated with responsibility and as a person having a capacity for responsibility. The approach of theology to corrections is not only a matter of penitence but moves towards renewal and redemption.

We acknowledge the validity of the multi-disciplinary approach. We agree that there is a biological, psychological, and sociological dimension to human life, but there is also a theological dimension arising out of man's relationship to God. The adequate treatment of man as a whole, requires a recognition of this dimension.

2. *Goals*

The specific contribution of pastoral ministration and counselling is directed towards instilling and nurturing a positive set of values based upon a theological concept of man. This applies to every offender and particularly to those in whom an anti-social value system has led to commission of criminal acts. We seek to lead each person into a wholesome, dynamic relationship with self, society, and God.

3. *Methodology*

The chaplain must accept and understand the offender as he is; yet, must help him to find, through whatever positive values he has, his way to the stated goals.

It is recognized that the best professional techniques, in conjunction with the personality resources and theological training of the chaplain will be employed to effect the integration of these values.

Our correctional system must provide the chaplain with adequate opportunities and facilities to implement a specific training program for the development of the moral and religious sense of the offender.

18

PAROLE AND STATUTORY CONDITIONAL RELEASE

Definitions

For the purposes of this report, the Committee has adopted the following definitions:

Parole is a procedure whereby an inmate of a prison who is considered suitable may be released, at a time considered appropriate by a parole board, before the expiration of his sentence so he may serve the balance of his sentence at large in society but subject to stated conditions, under supervision, and subject to return to prison if he fails to comply with the conditions governing his release. [1]

[1] Compare with definitions:

United Nations. Department of Social Affairs. *Parole and After-Care.* New York, 1954, p. 1.

Parole "may be defined as the conditional release of a selected convicted person before completion of the term of imprisonment to which he has been sentenced. It implies that the person in question continues in the custody of the State or its agent and that he may be reincarcerated in the event of misbehaviour. It is a penological measure designed to facilitate the transition of the offender from the highly controlled life of the penal institution to the freedom of community living. It is not intended as a gesture of leniency or forgiveness.

United States. *Attorney General's Survey of Release Procedures, Vol. IV, Parole.* Washington: Government Printing Office, 1939, p. 4.

Parole is "the release of an offender from a penal or correctional institution, after he has served a portion of his sentence, under the continued custody of the state and under conditions that permit his reincarceration in the event of misbehaviour."

National Probation and Parole Association. *Standard Probation and Parole Act.* New York; 1955, p. 2.

Parole "is the release of a prisoner to the community by the Parole Board prior to the expiration of his term, subject to conditions imposed by the Board and to its supervision. Where a court or other authority has filed a warrant against the prisoner, the Board may release him on parole to answer the warrant of such court or authority."

Canada. Department of Justice. Committee Appointed to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada. *Report* (Fauteux Report). Ottawa: Queen's Printer, 1956.

(continued on following page)

Statutory Conditional Release is a procedure whereby an inmate of a prison who has not been granted parole is released before the expiration of his sentence at a date set by statute so he may serve the balance of his sentence at large in society but under supervision and subject to return to prison if he fails to comply with the conditions governing his release.

Purpose and Value of Parole

Parole is a treatment-oriented correctional measure, not a sentence-correcting method. It is in no way aimed at reviewing the sentence of the court. As part of the correctional process, its function is rather to determine the portion of the sentence which is to be spent in the community and the kind of control and supervision which will be needed.

Parole supervision should not be thought of primarily as surveillance. While certain restrictions and controls are involved, the emphasis should be on assisting the offender to work out the adjustments in living arrangements and employment, and in his own feelings, attitudes and human relationships, which are needed if parole is to accomplish its purpose.

Parole is designed as a logical step in the total correctional process and is designed particularly to assist the offender's re-integration into the community as a contributing and law-abiding citizen. The restrictions on his freedom, which have been imposed as a result of his offence, are not entirely removed. The conditions of his life, however, are closer to those he will again experience as a free citizen after expiration of his sentence, than are the conditions of life in prison.

At the same time, for the offender, parole is an opportunity and a test of his self-control and ability to get along in the community. For society, it offers immediate protection through a degree of surveillance and control over the offender's behaviour, and long-term protection through a reduced likelihood of recidivism.

The period of time immediately following release from prison is a period of great stress. Those who have worked closely with offenders, both within and outside prisons, hold the view that a substantial proportion leave prison with the desire and intention to live within the law, but many become discouraged and fail during the first crucial months. If, on the other hand, they can sustain a law-abiding manner of living during this period, the chances of avoiding relapse into criminal behaviour are greatly improved. It is clearly sensible,

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(continued from page 329)

Parole "is a well recognized procedure which is designed to be a logical step in the reformation and rehabilitation of a person who has been convicted of an offence and as a result, is undergoing imprisonment. It is a procedure whereby an inmate in an institution may be released, before the expiration of his sentence, so that he may serve the balance of his sentence at large in society, but under appropriate social restraints designed to ensure, as far as possible, that he will live a law-abiding life in society. It is a transitional step between close confinement in an institution and absolute freedom in society. The sanction that is imposed for failure to live up to the conditions that govern the release is the return of the inmate to the institution."

then, for society, in its own interest, to concentrate attention and efforts to encourage and re-inforce changed behaviour during this period of time.

In the short run, it is obvious that parole, as compared with incarceration for the same period of time, involves certain risks to society, in that the control over the offender's behaviour is less direct and less complete than in prison.

As has been pointed out repeatedly, however, from many sources in many countries and jurisdictions, there are risks in any form of treatment of the offender. The short-term risks of parole are calculated risks and in the opinion of this Committee are less than the risks in the alternative of sudden and dramatic contrast beween incarceration and total freedom.

One cannot learn to live in freedom without experiencing freedom, and even the most open institution provides a restricted, protected environment. The offender who is to succeed in becoming a law-abiding and, hopefully, contributing citizen, must do so in the outside community. It is here that he has previously failed, and he returns to the community usually feeling more isolated from whatever positive personal and social relationships he previously had, than when he went into prison. The Committee believes strongly that the emphasis in administration of parole should be on social re-education of the offender, to help him find ways of living a socially-satisfying life within the law. The ideal is to provide the controls necessary because of irresponsibility or instability but to permit steadily increasing freedom to enable him to develop the necessary self-control and responsibility which are the criteria of maturity. This is the attitude and approach which we believe best promote successful social re-adjustment by an offender, and parole represents a unique opportunity to do this within the outside community where the test of his adjustment must eventually take place.

The Committee believes that the most important aspect of parole is its efficacy, when well administered, in assisting the successful re-adjustment of the offender into community living. However, it should also be noted that parole represents a less costly form of treatment than does incarceration of the offender for a similar period of time. It cost approximately $750.00 per year in the 1967-68 fiscal year to keep an inmate on parole; it cost approximately $5,300.00 to keep him in a penitentiary.[2] When indirect costs such as loss of economic productivity and the cost of maintaining dependants are considered, the saving in public funds becomes even more marked.

A survey covering 232 parolees during a period of one month (November 1966) in the Montreal area revealed that 86 per cent were employed. The 201 employed parolees earned $66,188.00 or an average of $329.00 per parolee per month.[3]

[2] House of Commons, *Debates*, Vol. 113, No. 32, October 28, 1968, pp. 2077, 2078. The Committee has attempted to find out the overall cost of parole. It has found out, however, that it is impossible at this stage to evaluate the actual cost of parole generally or to know the exact cost of keeping an inmate on parole. There are costs which are not taken into account such as some operating expenditures which are out of the National Parole Board's hands, supervision of parolees by the various probation services, and grants that do not meet the full cost which are made to the voluntary agencies.

[3] Survey carried out by the Quebec Regional Office of the National Parole Service.

A more recent survey covering 342 parolees during a period of one month (June 1968) in the Toronto area revealed that 287 employed parolees earned $109,323.00 and supported 408 dependants.[4]

A national survey conducted during that same month and covering 2,284 paroled inmates revealed that 1,949 (86 per cent) were employed, and these employed parolees earned a total of $673,371.00 or an average of $294.82 per parolee per month. The survey also reveals that 2,472 dependants were supported.[5]

The Committee points out that in choosing between a less and a more costly form of treatment the burden of demonstrating that it is more effective and necessary should rest upon the proponents of the more costly form.

Development of Parole in Canada[6]

While the concept of parole held by this Committee as described above is not that of clemency, there is no question that the original parole practices were related to clemency. It was possible from early days in Canada for some prisoners to be released from custody through the royal prerogative of mercy which rested with the Governor General. Practice advanced in the direction of parole when the Ticket of Leave Act was introduced into parliament in 1898. It is interesting to note that the Prime Minister of the day, Sir Wilfrid Laurier, in speaking of the new bill, recognized the problem of readjustment to the free community which faces an inmate of a penal institution when he is discharged. Conditional liberation was viewed as a method of bridging the gap between the control and restraints of institutional life and the freedom and responsibilities of community life. Under the terms of this Act, the Governor General of Canada could, on the advice of a designated member of the government, grant a conditional release to *any* prisoner serving a term of imprisonment.

Other federal legislation passed several years later at the request of two provinces, Ontario in 1916 and British Columbia in 1948, made provisions for a restricted type of parole through a system of indeterminate sentence.[7] Provincial parole boards in these provinces were given jurisdiction to grant parole to an inmate who had completed the "definite" portion of his sentence, during the "indeterminate" portion.

Release under the Ticket of Leave Act was greatly facilitated by the Salvation Army Prison Gates Section, a voluntary organization, which undertook considerable work interviewing inmates of penal institutions, checking character references and prospective employment for prisoners applying for ticket of leave, and supervising some of the prisoners released. In 1905, one of their officers, Brigadier Archibald, was appointed the first Dominion Parole

[4] Survey carried out by the Central Ontario and Northern Ontario Regional Office of the National Parole Service.

[5] Inmates Earnings Survey, June 1968, National Parole Board, Ottawa, Canada.

[6] See Miller, F. P. *Parole*, in McGrath, W. T. (ed.). "Crime and Its Treatment in Canada". Toronto: MacMillan, 1965.

[7] R.S.C. Chapter 217, SS. 43 and 152. The Prisons and Reformatories Act.

Officer. The administration of the Act as well as the royal prerogative of mercy was the responsibility of officers in the Department of Justice; a separate Remission Branch was organized within the Department, which later became the Remission Service.

During the years 1929-1931 the service was reorganized. The office of Dominion Parole Officer was absorbed and rules of practice were formulated. This followed a period during which there had been criticism that paroles had been granted too liberally.

During the depression years both prison population and tickets of leave increased. During the second world war selected prisoners were released to join the armed forces or work in industry under the "special war purposes ticket of leave".

The immediate post-war years were characterized by a considerable development in social services generally, and new resources both within and outside institutions enabled greater use of ticket of leave. The John Howard and Elizabeth Fry Societies, as well as the Salvation Army, expanded and developed their services and an increasing number of after-care agencies were organized and became active in this field. The Province of Quebec saw the establishment of the "Société d'Orientation et de Réhabilitation Sociale" and others. Growth of probation services in several of the provinces made their assistance available also. Community recognition of the value of parole-type services grew. In 1957, the Remission Service opened four new regional offices to add to the existing two. Increasingly the Remission Service was looking on tickets of leave less as the exercise of clemency and more as means of providing a supervised period of readjustment in the community. In 1953 the Minister of Justice appointed a "Committee to Inquire Into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada." This Committee, under the chairmanship of Mr. Justice Gerald Fauteux of the Supreme Court of Canada, reported in 1956, recommending the enacting of legislation to create a National Parole Board.[8] These recommendations were implemented on February 15, 1959, with the proclamation of the Parole Act (Chapter 38 of the Statutes of Canada 1958) which provided for the federal system presently in operation in Canada.

Utilization and Success of Parole in Canada

During 1959, the first year of its existence, the National Parole Board granted 2,038 paroles. During 1967 the Board granted 3,088 paroles. During the nine years of its existence the Board has granted a total of 20,254 paroles. This information is set out in detail in Table 14.

Some of those applications for parole that were not successful were deferred. In many cases a later application the following year was successful and parole was granted.

[8] Fauteux Report. Op. Cit.

TABLE 14

Parole Applications and Paroles Granted by the National Parole Board, by Penitentiaries or Provincial Institutions, 1959–1967

Year	Penitentiaries			Provincial Prisons			Totals		
	Number of Applications	Number of Paroles Granted	Per Cent Granted Parole	Number of Applications	Number of Paroles Granted	Per Cent Granted Parole	Number of Applications	Number of Paroles Granted	Per Cent Granted Parole
1959	2,264	994	44	2,564	1,044	39	4,828	2,038	42
1960	3,514	1,192	34	2,605	1,333	51	6,119	2,525	41
1961	2,874	1,005	35	4,018	1,292	32	6,892	2,297	33
1962	2,774	885	32	3,272	987	30	6,046	1,872	31
1963	2,521	663	26	3,645	1,126	31	6,166	1,789	29
1964	2,604	751	29	2,734	1,101	40	5,338	1,852	35
1965	3,068	1,127	38	2,601	1,170	45	5,669	2,297	41
1966	2,733	1,114	41	2,173	1,382	64	4,906	2,496	51
1967	2,797	1,328	47	3,848	1,760	46	6,645	3,088	46
Totals	25,149	9,059	36	27,460	11,195	41	52,609	20,254	38

The Ontario Parole Board granted 1,296 paroles during 1967 out of 2,105 applications.[9] The British Columbia Parole Board granted 411 paroles out of 417 applications during the 1966-67 fiscal year.[10]

Measuring the success of parole requires a definition of "success". One measure is the completion of the parole period by the parolee without either forfeiture or revocation. This is an important measure of success since it means that permitting the inmate to spend the parole period in the community rather than in the institution did not endanger the public while at the same time his chances of later success were increased and the cost to the taxpayer reduced.

The National Parole Board reports that of the 20,254 paroles granted up to the end of 1967, 1,105 were forfeited, and 1,092 were revoked, a total of 2,201 cases in which parole was not completed successfully. This means that 89.2 per cent of parolees completed their parole period successfully or are still on parole.[11]

The British Columbia Parole Board reports a success rate of 61 per cent in 1967. This is somewhat lower than the previous two years when success rates of 69 per cent were reported.

The Ontario Parole Board presents its statistics in somewhat different form, basing them only on those paroles granted during the year. These statistics show 60.73 per cent of those released during 1967 had completed their parole period successfully before the end of the fiscal year, 16.51 per cent were listed as violators and 22.76 per cent had not yet completed their parole period.

Another measure of success is whether the inmate's total correctional experience, including parole, enabled him to avoid further convictions after the parole period was completed. A recent unpublished study financed by the Canadian Penitentiary Service and carried out in the St-Vincent-de-Paul Penitentiary complex under the direction of Profesor Justin Ciale of the University of Montreal*, provides information for appraising the success of parole on this basis. A group of 1677 inmates who were released from regional penitentiaries between May 1959 and May 1961 were followed up for a period of over five years after their release. This study yielded the following results. (It should be noted that release of these inmates occurred during the early period of the National Parole Board's existence.)

This indicated a success rate of 55 per cent for parolees out of federal penitentiaries after a five-year period. Those who were released on expiry of sentence had a success rate of only 35 per cent. While it cannot be concluded from these figures alone that the fact of parole explains this difference,

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[9] Ontario. Department of Reform Institutions. *Report of the Minister, 1967.* Toronto: Queen's Printer.

[10] British Columbia. Department of the Attorney-General. *Annual Report of the Director of Corrections, 1967.* Victoria: Queen's Printer.

[11] Canada. National Parole Board. *Annual Report, 1967.* Ottawa: Queen's Printer.

* Dr Ciale has since been appointed Chief, Correctional Research, Department of the Solicitor General.

TABLE 15

Number of Inmates Granted Parole and those Released on Expiration of Sentence: Success and Relapse (5-year follow-up)

	Mode of Release		Total
	Expiration of Sentence	Paroled	
Number who did not relapse into crime	325	405	730
Number who relapsed within five years	610	337	947
Totals	935	742	1,677

nevertheless, they tend to support the views previously expressed by the Committee as to the efficacy of parole as a correctional measure.

Since parole was granted on a highly selective basis there is no way of knowing what might have been the result if those who were released at expiration of sentence had been granted parole. It would be unsafe to interpret these figures as conclusive.

Federal Parole Legislation

The *Parole Act*[12] governs the operation of the national parole system in Canada. This Act does not deal with provincial parole systems except at section 5. The provisions of the Parole Act will be discussed in some detail at appropriate points throughout this chapter. For convenience, the full text is attached to this chapter as annex A.[13]

The *Prisons and Reformatories Act* provides for several different procedures for parole. Section 43 provides that the Lieutenant-Governor of Ontario may appoint a parole board for that province. Section 46 provides for indeterminate sentences in Ontario. The Ontario Parole Board has jurisdiction to grant parole to an inmate of an Ontario prison who is serving an indeterminate sentence after he has served the definite portion of the sentence.

Sections 151 and 152 make similar provisions for indeterminate sentences in British Columbia and for the establishment of a parole board for that province. One major difference is that the provisions relating to British Columbia apply only to young offenders sentenced to specific institutions while the provisions relating to Ontario apply to inmates of all ages.

Sections 99, 107 and 166A establish special sentencing and parole procedures for women sentenced to the Good Shepherd Reformatory in Halifax,

[12] An Act to Provide for the Conditional Liberation of Persons Undergoing Sentences of Imprisonment. Chapter 38, 1958.
[13] See Annex A to this chapter.

Nova Scotia, and the Interprovincial Home for Young Women at Coverdale, New Brunswick. Parole may be granted by the Minister of Justice on the joint advice of the superintendent of the institution and the magistrate of the City of Halifax or of Albert County respectively. As far as the Committee can learn, these provisions have never been acted upon. Parole from these institutions has been governed by the provisions of the Parole Act and, formerly, by the provisions of the Ticket of Leave Act.[14]

There is an over-lap of jurisdiction between the National Parole Board and the Ontario and British Columbia Parole Boards. The provincial boards have jurisdiction over the indeterminate portion of an inmate's sentence. The National Parole Board has jurisdiction over the definite portion of a sentence imposed for an offence created by federal legislation. If the National Parole Board grants parole affecting the definite portion of his sentence, the inmate is already on parole when the time comes for the provincial board to consider parole affecting the indeterminate portion of his sentence. These difficulties have been overcome in practice through cooperative planning by the boards and services involved.

Federal-Provincial Responsibility in Parole

In Chapter 14 it is recommended that the federal government retain responsibility for parole as it affects inmates of federal penitentiaries and that the provinces assume jurisdiction over parole as it affects all inmates of provincial prisons.

Parole is seen as an integral part of the correctional process. Rehabilitation demands continuity and flexibility, including flexibility in determining whether an inmate should serve all of his sentence in the institution or whether he should serve part of it in the community. It also demands coordination of knowledge about the offender. It seems inefficient to the Committee for an offender to be under the jurisdiction of one government throughout his institutional career but for another government to be responsible for deciding whether he should be granted parole and for supervising him if he is granted parole. It is for these reasons that the Committee recommends that the provinces assume responsibility for parole as it affects all inmates of provincial prisons.

The system of indeterminate sentences in effect in Ontario and British Columbia provides a means of introducing provincial control over parole for at least a portion of those sentenced for offences against federal statutes. If the provinces assume responsibility for parole as it affects all inmates of provincial prisons, this alternative device of the indeterminate sentence would not be required.

These indeterminate sentences also make it possible for an inmate to be sentenced to a total of four years less two days—a combination of two years less a day indeterminate—all of which could be spent in a provincial prison.

[14] See Annex B to this chapter.

This is contrary to the general principle that the provinces be responsible for institutional care for only those sentenced to less than two years.

For these reasons, it is also recommended in Chapter 14 that the system of indeterminate sentences now in effect in Ontario and British Columbia be abolished.

Table 14 indicates that a substantial number of persons are paroled from existing institutions by the National Parole Board under existing practice. Thus the recommendation that jurisdiction for parole as related to this group of offenders be transferred to the provinces involves a substantial shift in responsibility. Five provinces do not now have a parole service and would require a period of time to develop a service adequate to the responsibilities involved. This might imply in certain instances a gradual transfer of responsibility. In any case, the National Parole Board should continue to carry this responsibility until alternative provisions are made.

The National Parole System

The administration of parole involves two major types of functions. One is a function of adjudication vested in the National Parole Board. Part of this responsibility is to determine whether an individual inmate is to be granted parole and at what point. Another part is to reach decisions regarding suspension and revocation of parole.

The National Parole Service has responsibility for collecting and collating the material required in a particular case by the National Parole Board in order to reach a decision regarding the granting, suspension or revocation of parole. The National Parole Board does not interview parole applicants but depends on the written material prepared by the National Parole Service.

The other function is the supervision of parolees, representing a combination of assistance to the parolee in meeting his problems of re-establishment in the community and direct guidance and control over his activities. This function is carried primarily by the National Parole Service but with the assistance of other agencies.

Section 4 (3) of the Parole Act, as part of the provisions governing the establishment of the National Parole Board, reads:

> The Chairman is the chief executive officer of the Board and has supervision over and direction of the work and the staff of the Board.

This makes the Chairman of the National Parole Board responsible for the work of the National Parole Service.

The Committee is of the opinion that the quasi-judicial nature of the National Parole Board's functions should be emphasized. The provision that the Chairman of the National Parole Board is responsible for the operation of the National Parole Service derogates from the quasi-judicial status of the Board.

The National Parole Board is an independent statutory body not answerable for its operation or decisions to any department or minister; the National

Parole Service operates on the other hand as a departmental service subject to direction and control by the Solicitor General. To provide that the Chairman shall in one capacity be free from, and in another capacity be subject to, ministerial direction and control seriously weakens the guarantees of independence upon which the impartiality of the National Parole Board must depend. Further, as has been pointed out, the National Parole Service performs all investigative functions for the National Parole Board, and in this respect also the impartiality of the Board is predicated upon its freedom to accept or reject information and advice tendered by the National Parole Service.

It appears to the Committee that the same principles apply as have been applied earlier in this report to the separation of functions between magistrates and police officers. Justice must not only be done but must be seen to be done.

Accordingly, the Committee recommends that:

1. **The independence of the National Parole Board be formally acknowledged by legislation freeing it from the possibility of ministerial direction in any aspect of the function of the Board or any member of the Board.**
2. **The National Parole Service should be by legislation directed to supply services as required by the National Parole Board and be made directly accountable to the Department of the Solicitor General.**

Structure of the National Parole Board

The Parole Act provides for the appointment by the Governor in Council of a National Parole Board consisting of not less than three and not more than five members to hold office during good behaviour for a period not to exceed ten years. The present Board is made up of five members. A majority of the members of the Board constitutes a quorum.

The Committee later in this chapter recommends that the Parole Board be enlarged. Until January 1969 the Parole Board membership was exclusively made up of people drawn from the judiciary and the legal profession. The Committee is of the opinion that the enlarged Parole Board envisaged by this Committee should contain representatives from various disciplines such as the judiciary, the police, the correctional services, psychiatry, psychology and social work.

The Committee, therefore, recommends that the Parole Board be composed of representatives from different disciplines appropriate to its functions.

National Parole Board Procedures

The Board is required to review the case of every inmate serving a sentence of imprisonment of two years or more, whether or not an application for such review has been made, and to review shorter sentences upon application by or

on behalf of the inmate. The powers of the Parole Board are set out in section 8 of the Parole Act:

> The Board may
>
> (*a*) grant parole to an inmate if the Board considers that the inmate has derived the maximum benefit from imprisonment and that the reform and rehabilitation of the inmate will be aided by the grant of parole;
>
> (*b*) grant parole subject to any terms or conditions it considers desirable;
>
> (*c*) provide for the guidance and supervision of paroled inmates for such period as the Board considers desirable; and
>
> (*d*) revoke parole in its discretion.

The Parole Board is not required to grant a personal interview to the applicant. Information concerning the inmate is collected by the Parole Service and submitted for review by individual Board members. Such information includes:

(*a*) The pre-sentence report which the trial judge or magistrate took into consideration before imposing sentence;

(*b*) The report of the investigating police force concerning the circumstances that surrounded the commission of the offence;

(*c*) The previous criminal record of the inmate, if any;

(*d*) The information collected by prison authorities upon admission to the institution, (better known as "the newcomer's sheet") as well as the initial report of the classification officer;

(*e*) Progress reports of the inmate's adjustment and progress in the institution and any special medical, psychological and psychiatric reports;

(*f*) The inmate's plans for the future;

(*g*) An investigation of home conditions and the possible reaction of the community to his release;

(*h*) Special reports from after-care agencies dealing both with the inmate in the institution and his family conditions in the community.

The Parole Board's decisions, therefore, are based upon a number of factors. The nature and circumstances of the offence itself, the record of other criminal activity by the inmate, the inmate's progress and adjustment during his present term of imprisonment, home and community conditions, are all considered. Effective functioning of the Board is greatly dependent upon the effectiveness of the Parole Service, which in turn depends upon reports from the institutions and from community agencies. Direct discussions with the inmate concerning his suitability for parole and of his work and living plans if parole is granted are within the jurisdiction of the Parole Service.

In certain kinds of cases it is the practice of the Board to hold formal meetings in adjudicating on parole applications. Frequently, however, deci-

sions are made by an examination of material by individual members of the Board. Not all members of the Board are necessarily involved in the consideration of a case and a decision made by two or more concurring members is deemed to be an adjudication of the Board.

As noted above, a parole applicant does not have an opportunity to present his case in person to the National Parole Board. This procedure follows the recommendation of the Fauteux Committee. Besides commenting on the time and expense involved in travelling to institutions for personal appearances, in a country the size of Canada, it appears that the Fauteux Committee had in mind that a short personal appearance could not provide as adequate a review of the relevant information as could a study and analysis of written material carefully collected from various sources.

The increased use of such written material is, of course, in keeping with trends in correctional practice; it involves a principle parallel to that which has brought about the increased use of pre-disposition reports by the courts. As long as the number of members of the Parole Board is limited to five, it stands to reason that they can review more cases on the basis of the analysis of written material than if they were to visit the different institutions. However, there are serious limitations to this method of operation.

From the viewpoint of the inmate, the decision-making body is far away and invisible. Further, the lack of a specific time known to him when his case will be reviewed and a decision made creates a state of uncertainty and strain. Inmates themselves and those working closely with them have brought to the Committee's attention the difficult situation thus created from the viewpoint of inmate morale. These considerations, plus opportunities to observe or discuss similar procedures in other jurisdictions, including the State of California, Canadian provinces where a parole system operates and certain European countries have led the Committee to the view that the occasion for personal appearance on pre-set dates is of considerable significance and value to the inmate. Where such a practice is followed, the content and orientation of the personal interview give the inmate a sense of "having been heard" or in legal colloquial parlance of having had "his day in court". The fact that he knows in advance that a definite date has been fixed, at which his case will come up leading to a quicker decision than through the present procedure, tends to reduce the restlessness and frustration which the indefiniteness of the waiting period under present procedures certainly magnifies.

The weight of expert opinion both in Canada and abroad is toward having "quasi-judicial hearings" in the institution. The body conducting this inquiry should be authorized to render a decision without delay after having seen the applicant.

Visits to the institution by members of the Parole Board for the purpose of these interviews would permit closer contact between the parole authority and the staffs of the institutions, the community services, the after-care agencies, the Regional Office of the Parole Service; with the inmates; and

with the public. The decision process would be accelerated and preparation for release facilitated, thus helping to develop a treatment policy in the institution.

The Committee is of the view that panels should be composed of no less than three so that in the event of disagreement a decision may be arrived at by a majority.

It will be necessary to increase the number of members of the Board to permit them to operate in panels if they are to take on the added work entailed in regular visits to the institutions and personal appearances by the parole applicants.

The Committee recommends that legislation be enacted to provide for sittings of the National Parole Board in panels of not less than three members within the institution where the parole applicant is imprisoned and to provide that the parole applicant shall have the right to appear before such a panel and make representations in person.

While the Committee is of the opinion that applicants should have the right to appear and make representations, the Committee is also of the opinion that the decisions of the Board should be final and not subject to judicial review.

Under existing procedures, when an application for parole is refused, the applicant is notified by the Board in writing, but the reasons for the refusal are not given. There are difficulties in giving reasons in written form, but they can be given verbally and interpreted if the applicant appears before a panel of the Board. There are many correctional advantages in giving the applicant the reason for the refusal. He knows what he must do to prepare himself for later applications. He knows that it is the final authority, the Board itself, that has decided which factors are important in relation to his application and he is less likely to assume that an adverse decision is due to institution staff or staff of the Parole Service having presented his case unfairly. Both the staff and the inmate now have an objective goal towards which they can work together. This will provide the staff with an opportunity to interpret further for the benefit of the applicant the full significance of the Board's reasons.

There are occasions when the reasons for refusal cannot be disclosed to the inmate directly. For instance, if there are reasons to suspect serious psychological malfunctions of which the inmate is not aware, this cannot be told to him bluntly in the interview and perhaps should be interpreted in an appropriate way by a psychiatrist involved in his treatment. There may be some development related to the applicant's family of which he is unaware. The Board must, therefore, have discretion not to disclose fully its reasons for refusal in special circumstances.

The most effective procedure is for the panel of the Board to hear the application and then adjourn to reach a decision. The applicant should then be brought back and the decision and the reasons for it given to him.

The Committee recommends that the panel of the National Parole Board who hear a parole application communicate its decision verbally to the applicant as soon after the decision is made as possible and that the panel give and interpret to the applicant the reasons for its decision.

Eligibility

Section 8 of the Parole Act (quoted above) sets out the powers of the Board to grant parole. These powers are very wide, much wider than in most countries. In some jurisdictions parole is restricted by legislation to certain classes of offenders; in other jurisdictions to a certain portion of a sentence. This is true even in countries which have generally progressive penal legislation. For instance, in Norway the general rule is that an inmate may be paroled when he has served two-thirds of his sentence, with a minimum of four months or, if sentenced to imprisonment for three or more years, after one half of his sentence.[15] In Sweden an offender undergoing imprisonment for a fixed term may be paroled when two-thirds of the term, but at least four months, have been served. Sweden also has a provision for mandatory parole after five-sixths of the term, with a minimum of six months.[16]

The major legislative restriction placed on the powers of the Board relates to the parole of those sentenced to death whose sentence was commuted to life imprisonment. Section 656 of the Criminal Code reads as follows:

> (1) The Governor in Council may commute a sentence of death to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in a prison other than a penitentiary for a period of less than two years.
>
> (2) A copy of an instrument duly certified by the Clerk of the Privy Council or a writing under the hand of the Minister of Justice or Deputy Minister of Justice declaring that a sentence of death is commuted is sufficient notice to and authority for all persons having control over the prisoner to do all things necessary to give effect to the commutation.
>
> (3) Notwithstanding any other law or authority, a person in respect of whom a sentence of death has been commuted to imprisonment for life or a term of imprisonment or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, shall not be released during his life or such term, as the case may be, without the prior approval of the Governor in Council.

An amendment to the Criminal Code, assented to on December 21 and proclaimed on December 29, 1967, for a period of 5 years, abolished the death penalty except for capital murder. It also contains a provision to the effect that no person convicted of either capital or non-capital murder may be released on parole without the consent of the Governor-General in Council. In practice the Parole Board reviews such cases, and if it is of the

[15] Evensen, Arne. *Social Defense in Norway*, pp. 87–89.
[16] See Penal Code of Sweden effective January 1, 1965, p. 62.

opinion that an inmate convicted of murder should be released on parole, it submits this recommendation to Cabinet for consideration and final decision. Cases where the Parole Board does not think parole should be granted are not submitted to Cabinet.

The Parole Regulations, as amended by P.C. 1968-48, effective from January 4, 1968, provide that no person convicted of either capital or non-capital murder can be recommended for parole before a period of 10 years has elapsed from the date of conviction.

The opinion has been expressed to the Committee by correctional officials that since the introduction of these amendments, a number of offenders, who otherwise would have been charged with and convicted of manslaughter, are now being charged with and convicted of non-capital murder, there being less reluctance on the part of juries all across Canada to render such a verdict. This means an automatic life sentence and a bar to parole before the offender has spent 10 years in prison.

We have been advised that many of those convicted under such conditions can prove to be satisfactory parole risks, and the Committee is of the opinion that the requirement that they spend 10 years in prison before parole can be recommended is too restrictive under the circumstances.

The Committee recommends that this procedure be reviewed so as to introduce sufficient flexibility to allow the earlier parole of inmates convicted of non-capital murder where that is indicated and subject to the circumstances of each individual case.

In the opinion of the Committee, wide and flexible provisions are preferable to rigid legislative limits on the powers of the Parole Board. Undoubtedly, some guides are necessary and in Canada these guides are set out in the Regulations. For convenience, the complete text of the Parole Regulations are set out as part of Annex A to this chapter. Regulation 2 (1) reads:

> (1) The portion of the term of imprisonment that an inmate shall ordinarily serve, in the cases mentioned in this subsection, before parole may be granted, is as follows:
>
> (*a*) where the sentence of imprisonment is not a sentence of imprisonment for life or a sentence of preventive detention, one-third of the term of imprisonment imposed or four years, whichever is the lesser, but in the case of a sentence of imprisonment of two years or more to a federal penal institution, at least nine months;
>
> (*b*) where the sentence of imprisonment is for life but not a sentence of preventive detention or a sentence of life imprisonment to which a sentence of death has been commuted, seven years.
>
> (2) Notwithstanding subsection (1), where in the opinion of the Board special circumstances exist, the Board may grant parole to an inmate before he has served the portion of his sentence of imprisonment required under subsection (1) to have been served before a parole may be granted.

(3) A person who is serving a sentence of imprisonment to which a sentence of death has been commuted, shall serve the entire term of the sentence of imprisonment unless, upon the recommendation of the Board, the Governor in Council otherwise directs.

(4) The Board shall not recommend a parole, in a case coming within subsection (3), until at least ten years of the term of the imprisonment have been served.

Since experience indicates that parole can be of maximum effectiveness, correctionally, if it is flexibly related to the circumstances, personality and progress of the individual offender, the Committee supports this use of flexible regulatory powers. It suggests, however, that there is value in Parole Regulations being examined and reviewed periodically. The Advisory Council on Criminal Justice suggested in Chapter 25 would, in the view of this Committee, be a suitable body to undertake such review.

Parole Conditions

Before parole is granted, the conditions under which it is granted are explained to the applicant. His acceptance of parole under these conditions therefore constitutes an agreement on his part to abide by these conditions.

He is required to avoid further offences. In fact, if he is convicted of an indictable offence during the period of his parole which is punishable by imprisonment for a period of two years or more, his parole is automatically forfeited. If, after he has completed his parole period, he is convicted of an indictable offence committed while he was on parole, parole is deemed to be forfeited on the date the offence was committed.

Certain other conditions apply automatically to all parolees. The parolee must:

(*a*) Obtain permission before changing job and residence;
(*b*) Obtain permission before leaving the jurisdiction;
(*c*) Obtain advice before marrying;
(*d*) Obtain permission before assuming substantial indebtedness;
(*e*) Endeavour to maintain steady employment;
(*f*) Avoid use of intoxicants to excess;
(*g*) Avoid disreputable places and associates;
(*h*) Keep reasonable hours as defined by the parole supervisor;
(*i*) Obtain permission before buying or operating an automobile;
(*j*) Submit written reports and keep appointments for interviews as instructed by his parole supervisor;
(*k*) Comply with all reasonable instructions of his parole supervisor.

These conditions appear to this Committee to be reasonable.

The Board also has authority to attach special conditions in the individual case where that is considered desirable.

Suspension

The term "suspension" means a procedure whereby parole is temporarily suspended pending a permanent decision whether the parole should be continued or revoked. Under the terms of the Parole Act, suspension occurs through the issuing of a warrant of suspension and apprehension by a Regional Representative of the Parole Service under authority delegated to him by the Board. Such action may be taken only if the Regional Representative is of the opinion that it is "necessary or desirable in order to prevent a breach of any term or condition of parole" (Section 12 of the Parole Act). Such suspension must be followed by a review by the Board which may either cancel the suspension or revoke the parole, returning the parolee to the institution from which he had been paroled.

Section 12 (2) of the Act provides that the paroled inmate apprehended under a warrant of suspension shall be brought before a magistrate and "the magistrate shall remand the inmate in custody until the Board cancels the suspension or revokes the parole." There have been some objections raised as to the role of the magistrate in this procedure since he seems to have little discretion. However, the Committee is of the opinion that he has an important function to perform in this regard and that his function should be continued and stated more fully in the Act.

The Committee recommends that the Parole Act define the jurisdiction of the magistrate in relation to suspension of parole as follows:

That the magistrate, upon being satisfied:

(a) that the person brought before him is the person named in warrant;

(b) that the warrant has been issued by a person lawfully authorized to do so;

(c) that the sentence, including the period of parole, has not expired or been terminated;

shall remand the parolee in custody.

Recently proposed legislation envisages a broader concept of the usefullness of suspension. At present, suspension may be used only to prevent an anticipated breach of conditions. Such proposed legislation would permit its use as an aid in rehabilitation to help the parolee through a particularly difficult period or as a warning that action will be taken if he does not make a more serious effort. To implement this broader concept, the Regional Representative would have authority to suspend parole for a period of up to fourteen days and would have authority anytime during that period to cancel the suspension and return the parolee to the community. If he does not cancel the suspension before the end of the period of fourteen days, he must refer the matter to the Board.

The Committee expresses concern that the decision to cancel the suspension or revoke the parole should be taken within a reasonable period of

time after the parolee is brought before the magistrate. That an offender should not be left in prolonged uncertainty as to his future is a matter of important correctional principle.

Forfeiture and Revocation

The term "forfeiture" applies to the procedure whereby a person who, while on parole, is convicted of an indictable offence punishable by imprisonment for a term of two years or more automatically loses his privilege and is returned to the institution. Under the provisions of section 13 of the Parole Act, parole is automatically forfeited and the Board has no discretion in the matter.

The term "revocation" applies to the procedure whereby a parolee who violated one or more of the conditions of his parole may be returned to prison to serve the remainder of his sentence. Parole may also be revoked if the parolee is convicted of a summary conviction offence or of an indictable offence that does not involve automatic forfeiture. When parole is revoked, the Board issues a warrant of apprehension and the parolee is returned to custody to serve the remainder of his sentence. The Board has discretion in all cases and is under no compulsion to revoke parole in any case.

The Committee is of the opinion that automatic forfeiture on conviction for an indictable offence constitutes an unnecessary restriction of the authority of the Board and feels that the Board should have the power in exceptional cases to reach a decision on the merits of the individual case. For example, an offender serving a sentence of twenty years for armed robbery might have been released on parole having served say twelve years. If, for example, he is convicted on indictment for dangerous driving while on parole, it does not seem to the Committee that his parole should be automatically forfeited and that he be returned to the penitentiary to serve the outstanding balance of his twenty year term.

The Committee recommends that the Parole Act be amended so as to provide that automatic forfeiture of parole be made subject to a condition that the National Parole Board may exempt a parolee from the operation of forfeiture when extraordinary circumstances justify such exemption.

Termination and Discharge of the Parolee from his Sentence

The Committee expresses the view that parole could be terminated in exceptional cases after a long period of successful readjustment. Termination would have its principle application to parole from sentences of preventive detention and imprisonment for life. The possibility of termination of parole with consequent re-admission to society as a fully free member would provide motivation and support for those who presently face the prospect of a lifetime under supervision, however nominal. However, as termination of parole would amount to a modification of sentence, the Committee feels that it is an appropriate function for a court.

The Committee recommends:

(a) that the Parole Act be amended to provide for termination of parole in appropriate cases;

(b) that jurisdiction to order such termination be conferred upon a judge or magistrate having jurisdiction (but not necessarily territorial jurisdiction) to impose the original sentence for which parole has been granted;

(c) that such termination be ordered only after a hearing held on application by the Parole Board or the parolee.

Statutory Conditional Release

Canada's experience, like that in most other countries, has been that during the early development of parole releases were made cautiously and were granted to the better risks among prison inmates. This is a necessary stage in development, particularly in view of the fact that the occasional dramatic incident whereby a parolee commits some violent crime tends to create strong public reaction against parole as a whole. Increasingly, however, it is being pointed out that the practice of parolling only the better risks means that those inmates who are potentially the most dangerous to society are still, as a rule, being released directly into full freedom in the community without the intermediate step represented by parole.

At present, about 25 per cent of inmates coming out of the federal penitentiaries do go on parole. The other 75 per cent come out without any formal supervision, although many of them do apply voluntarily for assistance to the private after-care agencies. Since there are about 3,500 releases from the penitentiaries each year, the number who are being released without supervision is considerable. Among them are many of the most dangerous who could not meet the requirements for parole.

Only about 60 per cent of penitentiary inmates who are eligible to be considered for parole do apply. There are many reasons why some do not apply but a major factor is the remission provisions in effect in the penitentiaries. Each inmate is credited on admission with statutory remission amounting to one-quarter of his sentence. He can lose this through misbehaviour but, barring such loss, he is eligible for release as a free man after serving three-quarters of his sentence.[17] In addition to this, he may earn three days' remission each month if he applies himself industriously. Earned remission cannot be lost through misbehaviour or any other reason.[18]

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[17] *Section 22(1) of the Penitentiaries Act 1961 reads as follows:*

Every person who is sentenced or committed to penitentiary for a fixed term shall, upon being received into a penitentiary, be credited with statutory remission amounting to one-quarter of the period for which he has been sentenced or committed as time off subject to good conduct.

[18] *Section 24 of the same Act states that:*

Every inmate may, in accordance with the regulations, be credited with three days' remission of his sentence in respect of each calendar month during which he has applied himself industriously to his work, and any remission so earned is not subject to forfeiture for any reason.

If the inmate is granted parole, the statutory remission period becomes part of the parole period and if his parole is forfeited or revoked he loses the credit for statutory remission and must serve the full sentence less whatever earned remission he has to his credit. Many inmates come to the conclusion that they prefer to complete their sentence in the institution rather than place their statutory remission period in jeopardy.

The Committee has seriously considered the possibility of allowing the parolee to be credited with the period of time which has been successfully served in the community while he was on parole. The arguments in favour and those against follow.

Present legislation might be interpreted as an interference with the sentence of the court which provides that when parole is forfeited or revoked the parolee returns to serve the full remaining portion of his sentence. The time spent in the prison plus the time spent under control in the community on parole will then total more than the original sentence.

Parole is a procedure whereby an inmate may be released "so he may serve the balance of his *sentence* at large . . . ". If he is serving his sentence, should he not be given credit for successful time on parole even if the parole is forfeited or revoked? If he completes the parole period successfully he does get credit.

There are reasons to believe the parolee would be increasingly anxious to avoid revocations as the end draws near and he sees his credit building up.

If forfeiture is involved, the courts will most likely take the situation into consideration when sentencing.

Under present practice the National Parole Board is most reluctant to revoke towards the end of the parole period except in most serious circumstances.

Arguments Against:

The parolee was released under conditions he accepted, namely, that the whole period is in jeopardy when he risks forfeiture or revocation. He cannot claim that being in the community constitutes serving a *prison* sentence.

Towards the end of his parole period control would taper off if all that could be done on revocation were to return him to serve the remainder of the parole period.

Administration would be most difficult, trying to keep track of each individual's time served as he goes in and out.

The present practice not only reduces the number applying for parole but it creates a paradoxical situation in that in some cases inmates who constitute the greatest danger and are not paroled are under control for a shorter period than the good risks who are paroled, since the parolee is under supervision for the remission periods. Another danger that appears in a system of giving credit is that there would be less willingness to take risks and there may be more early revocations.

The Committee has reached the conclusion that in order to be consistent with the overall philosophy underlying the correctional process expressed in its report, the parolee should be credited with the period of time which he has already successfully served in the community whenever parole is forfeited or revoked. However, it is of the opinion that the parolee should not be credited with the amount of time equal to that of statutory and earned remission since these apply and are granted to inmates for reasons essentially based on good behaviour.

The Committee recommends that when parole is forfeited or revoked the parolee be credited with the period of time which he has already successfully served in the community but that he be not credited with the period of time which is equivalent to the 25 per cent statutory remission or with any earned remission that he might have had to his credit before he was paroled.

The aim should be to develop a system under which almost everyone would be released under some form of supervision. It is best if he is released at the point at which the chances for his successful reintroduction to community life would be highest. This means the extension of parole as we now know it to every case possible.

However, there will be many who will not qualify for parole and they should also be subject to supervision. This can be accomplished by making the period of statutory remission a period of supervision in the community, subject to the same procedures that apply to parole. This means the releasee would be subject to conditions and to return to complete his sentence in the institution if he violates those provisions. He should also receive the same kind of assistance and control through supervision that applies to parolees.

For practical reasons, there would be little purpose in supervising an inmate whose statutory remission period is only a few days in length. Perhaps a period of sixty days should be seen as the minimum when supervision could be effective.

Since the success rate among these inmates is apt to be less than among those who qualify for parole, some name for this program other than parole should be used so that there will be no confusion between the success rates of parole and the success rates of this new program.

The Committee recommends that a system called Statutory Conditional Release be introduced through appropriate legislation to make any period of statutory release longer than sixty days subject to the same rules and conditions that govern parole.

Such legislation should increase the number of inmates applying for parole instead of waiting for conditional release since either form of release will imply supervision. It will prevent the unconditional release of so many inmates who need supervision but do not receive it because it cannot be imposed under present circumstances.

The Committee recognizes that as a result of loss of statutory remission through misbehaviour some of the worst risks may still be released at full expiration of sentence without the period of statutory supervision. However, just as it is rare now for the total period of statutory remission to be cancelled, it can be assumed that this will apply to few offenders under the proposed provisions.

The remission provisions in force in the penitentiaries differ from those in force in the provincial prisons. This makes for difficulties, including the fact that an inmate sentenced to penitentiary for two years serves a shorter period than one sentenced to a provincial prison for twenty months, unless he loses his statutory remission through misbehaviour. The Committee is of the opinion that the remission provisions should be the same for inmates of federal and provincial prisons and that statutory conditional release should apply to inmates of provincial, as well as the inmates of federal prisons. This is also provided for in proposed legislation now before Parliament. Supervision of those released from provincial prisons should be the responsibility of the provincial parole boards recommended earlier in this report.

The Committee recommends that the same remission provisions apply to inmates of federal and provincial prisons and that provision for Statutory Conditional Release as outlined above apply equally to all.

Since 1964 the National Parole Board has been experimenting with a new form of release which is referred to as minimun parole. This type of release consists essentially in releasing those inmates who had not been released on regular parole and who applied for this special form of parole some months prior to the expiration date of their sentence. Minimum parole consists of one month per year of sentence being granted to the applicant; it includes the same general conditions and supervision as does regular parole. As this form of release mostly applies to the difficult cases the failure rate has, since the beginning of the experiment, been in the order of 50 per cent.

If Statutory Conditional Release is introduced, the need for this program of minimum parole will disappear.

Supervision

Good parole supervision depends on the experience and quality of the supervisor. Essentially, parole supervision consists of harmonizing a treatment counsellor's role with authoritarian responsibility as specified by the parole agreement. The accent rests on guidance and treatment with the interview used as a basic tool for developing a personal relationship between the supervisor and the parolee.

Each of the two provinces that have major parole systems—Ontario and British Columbia—have public services responsible for supervising parolees. In Ontario, this responsibility rests with the Rehabilitation Service within the Department of Correctional Services. In British Columbia, it rests with the British Columbia Probation Service.

Supervision of parolees under the jurisdiction of the National Parole Board is generally provided by private agencies, provincial public services (usually the provincial probation service) or directly by the staff within the Regional Office of the National Parole Service, although a few cases, particularly in out-lying areas, are supervised by private individuals. The extent to which these various facilities are used is shown in the following table.

TABLE 16

Supervision of National Parolees by Type of Agency
1959–1967

Year	Private Agency		Provincial Public Service		Regional Offices		Other		Total
	Number	%	Number	%	Number	%	Number	%	
1959	991	56	341	19	441	25	—	—	1,773
1960	1,217	55	434	19	400	18	174	8	2,225
1961	1,091	54	526	26	248	12	148	8	2,013
1962	955	55	421	24	270	16	78	5	1,724
1963	812	48	451	27	329	19	95	6	1,687
1964	741	44	453	27	380	22	120	7	1,684
1965	1,062	52	555	27	361	17	80	4	2,058
1966	1,089	44	751	31	553	23	56	2	2,449
1967	1,111	39	872	31	822	29	41	1	2,846

The implementation of Statutory Conditional Release will increase sharply the burden on available supervisory facilities. Not only will the caseload increase greatly, but the type of inmate coming out of the institution on that program will represent a greater problem for the supervisor.

If this emergency situation is to be met successfully, it will be necessary to utilize every available resource. This will require careful planning carried out well in advance of the implementation of Statutory Conditional Release.

The role the Committee sees for the private after-care agencies in providing supervision is set out in Chapter 20.

At present, the federal government does not reimburse the provinces for the costs involved in supervising federal parolees by the provincial public services, chiefly the provincial probation services. The effect is to reduce the probation service available within the province to the extent that probation officers devote their time to parole supervision. In the Committee's opinion, the federal government should reimburse the provinces for this service so that probation services will not be curtailed.

Administrative Procedures

The National Parole Service functions through a series of Regional Offices across the country. Each of these Regional Offices is under the direction of

an official who bears the title of Regional Representative. This official exercises delegated authority in relation to various matters, such as the suspension of parole.

The Regional Representative arranges the collection of the material on the individual parole applicant that is compiled in the local area. This material is then sent to the head office in Ottawa where material collected from other sources is added and the case prepared for presentation to the Board.

Since it is recommended in this report that the National Parole Board operate through panels that would hold sittings within the penitentiaries and hear parole applicants, if and when this recommendation is implemented, it will become more feasible for the Regional Office to complete the case preparation for presention to the panel, reducing the need for material to be sent to head office in Ottawa. This would speed the decision-making process.

The Regional Representative also carries responsibility in relation to the supervision of parolees. It has been suggested earlier in this report that his authority in this matter be increased by giving him the right to suspend parole for a period of up to fourteen days and the right to use this procedure for treatment purposes, as well as to prevent the anticipated violation of one of the parole conditions.

In the light of the proposed division of work, the regional representative's relationship to the travelling panel with decision-making authority would be analogous to the relationship of the Executive Director of the National Parole Service to the National Parole Board. He would be a resource person to the travelling panel, acting as secretary and liaison person between the latter and the Service. The regional director would be responsible for all clinical, administrative and supervisory services dealing with parole, while the travelling panel would exercise the decision-making authority in the granting of parole.

The Committee recommends that the responsibilities of the Regional Representative be clearly stated and defined.

Annex A

PAROLE ACT

Proclaimed in force February 15, 1959

P. KERWIN,
Deputy Governor General.
(L.S.)

CANADA

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories QUEEN, Head of the Commonwealth, Defender of the Faith.

TO ALL TO WHOM these Presents shall come or whom the same may in anywise concern,—GREETINGS:

A PROCLAMATION

W. R. JACKETT,
Deputy Attorney General,
CANADA

WHEREAS in and by section twenty-five of an Act of the Parliament of Canada, assented to on the 6th day of September 1958, and entitled "An Act to provide for the Conditional Liberation of Persons Undergoing Sentences of Imprisonment", being chapter thirty-eight of the Statutes of 1958, it is provided that the said Act shall come into force on a day to be fixed by Proclamation of Our Governor in Council.

AND WHEREAS it is expedient that the said Act should come into force and have effect upon, from and after the fifteenth day of February, in the year of Our Lord one thousand nine hundred and fifty-nine.

NOW KNOW YE that We, by and with the advice of our Privy Council for Canada, do by this Our Proclamation declare and direct that the said Act shall come into force and have effect upon, from and after the fifteenth day of February, in the year of Our Lord one thousand nine hundred and fifty-nine.

OF ALL WHICH Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed. WITNESS: The Honourable PATRICK KERWIN, Chief Justice of Canada and Deputy of Our Right Trusty and Well-beloved Counsellor, VINCENT MASSEY, Member of Our Order of the Companions of Honour, Governor General and Commander-in-Chief of Canada.

AT OTTAWA, this thirteenth day of February in the year of Our Lord one thousand nine hundred and fifty-nine and in the eighth year of Our Reign.

By Command,

C. STEIN
Under Secretary of State

CHAPTER 38

An Act to provide for the Conditional Liberation of Persons Undergoing Sentences of Imprisonment

(*Assented to 6th September*, 1958)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Parole Act*. — Short title.

INTERPRETATION

2. In this Act, — Definitions.

(a) "Board" means the National Parole Board established by this Act; — "Board."

(b) "inmate" means a person who has been convicted of an offence under an Act of the Parliament of Canada and is under sentence of imprisonment for that offence, but does not include a child within the meaning of the *Juvenile Delinquents Act* who is under sentence of imprisonment for an offence known as a delinquency; — "Inmate."

(c) "magistrate" means a justice or a magistrate as defined in the *Criminal Code;* — "Magistrate."

(d) "parole" means authority granted under this Act to an inmate to be at large during his term of imprisonment; — "Parole."

(e) "paroled inmate" means a person to whom parole has been granted; — "Paroled inmate."

(f) "parole supervisor" means a person appointed by the Board to guide and supervise a paroled inmate; and — "Parole supervisor."

(g) "regulations" means regulations made by order of the Governor in Council. — "Regulations."

BOARD ESTABLISHED

3. (1) There shall be a board, to be known as the National Parole Board, consisting of not less than three and not more than five members to be appointed by the Governor in Council to hold office during good behaviour for a period not exceeding ten years. — Board established.

(2) The Governor in Council shall designate one of the members to be Chairman and one to be Vice-Chairman. — Chairman and Vice-Chairman.

(3) The Governor in Council may appoint a temporary substitute member to act as a member in the event that a member is absent or unable to act. — Temporary members.

(4) A majority of the members constitutes a quorum, and a vacancy on the Board does not impair the right of the remaining members to act. — Quorum.

(5) The Board may, with the approval of the Governor in Council, make rules for the conduct of its proceedings and the performance of its duties and functions under this Act. — Rules of procedure.

Head office. (6) The head office of the Board shall be at Ottawa, but meetings of the Board may be held at such other places as the Board determines.

Seal. (7) The Board shall have an official seal.

Remuneration. **4.** (1) Each member of the Board shall be paid such remuneration for his services as is fixed by the Governor in Council, and is entitled to be paid reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties.

Staff. (2) The officers, clerks and employees necessary for the proper conduct of the business of the Board shall be appointed in accordance with the provisions of the *Civil Service Act*.

Chief executive officer. (3) The Chairman is the chief executive officer of the Board and has supervision over and direction of the work and the staff of the Board.

POWERS AND DUTIES OF THE BOARD

Jurisdiction of Board. **5.** Subject to this Act and the *Prisons and Reformatories Act*, the Board has exclusive jurisdiction and absolute discretion to grant, refuse to grant or revoke parole.

Review of cases. **6.** (1) The Board shall at the times prescribed by the regulations

(a) review the case of every inmate serving a sentence of imprisonment of two years or more, whether or not an application has been made by or on behalf of the inmate, and

(b) review such case of inmates serving a sentence of imprisonment of less than two years as are prescribed by the regulations, upon application by or on behalf of the inmate.

Decisions. (2) Upon reviewing the case of an inmate as required by subsection (1) the Board shall decide whether or not to grant parole.

Regulations. **7.** The Governor in Council may make regulations prescribing

(a) the portion of the terms of imprisonment that inmates shall serve before parole may be granted,

(b) the times when the Board shall review cases of inmates serving sentences of imprisonment, and

(c) the class of cases of inmates serving a sentence of imprisonment of less than two years that shall be reviewed by the Board upon application.

Powers of Board. **8.** The Board may

(a) grant parole to an inmate if the Board considers that the inmate has derived the maximum benefit from imprisonment and that the reform and rehabilitation of the inmate will be aided by the grant of parole;

(b) grant parole subject to any terms or conditions it considers desirable;

(c) provide for the guidance and supervision of paroled inmates for such period as the Board considers desirable; and

(d) revoke parole in its discretion.

9. The Board, in considering whether parole should be granted or revoked, is not required to grant a personal interview to the inmate or to any person on his behalf.

Personal interview.

10. Where the Board grants parole it shall issue a parole certificate, under the seal of the Board, in such form as the Board prescribes, and shall deliver it or cause it to be delivered to the inmate and a copy to the parole supervisor, if any.

Parole certificate.

11. (1) The sentence of a paroled inmate shall, while the parole remains unrevoked and unforfeited, be deemed to continue in force until the expiration thereof according to law.

Effect of parole.

(2) Until a parole is revoked, forfeited or suspended the inmate is not liable to be imprisoned by reason of his sentence, and he shall be allowed to go and remain at large according to the terms and conditions of the parole and subject to the provisions of this Act.

Idem.

SUSPENSION OF PAROLE

12. (1) A member of the Board or any person designated by the Board may, by a warrant in writing signed by him, suspend any parole and authorize the apprehension of a paroled inmate whenever he is satisfied that the arrest of the inmate is necessary or desirable in order to prevent a breach of any term or condition of the parole.

Suspension of parole.

(2) A paroled inmate apprehended under a warrant issued under this section shall be brought as soon as conveniently may be before a magistrate, and the magistrate shall remand the inmate in custody until the Board cancels the suspension or revokes the parole.

Apprehension. "Paroled inmate."

(3) The Board shall forthwith after a remand by a magistrate under subsection (2) review the case and shall either cancel the suspension or revoke the parole.

Review by Board.

(4) An inmate who is in custody by virtue of this section shall be deemed to be serving his sentence.

Effect of suspension.

FORFEITURE OF PAROLE

13. If a paroled inmate is convicted of an indictable offence, committed after the grant of parole and punishable by imprisonment for a term of two years or more, his parole is thereby forthwith forfeited.

"Regulations."

APPREHENSION UPON REVOCATION OR FORFEITURE OF PAROLE

14. (1) If any parole is revoked or forfeited, the Board may, by warrant under the seal of the Board, authorize the apprehension of the paroled inmate.

Apprehension.

(2) A paroled inmate apprehended under a warrant issued under this section, shall be brought as soon as conveniently may be before a magistrate, and the magistrate shall thereupon make out his warrant under his hand and seal for the recommitment of the inmate as provided in this Act.

Recommitment.

EXECUTION OF WARRANT

Warrants for apprehension.

15. A warrant issued under section 12 or 14 shall be executed by any peace officer to whom it is given in any part of Canada, and has the same force and effect in all parts of Canada as if it had been originally issued or subsequently endorsed by a magistrate or other lawful authority having jurisdiction in the place where it is executed.

RECOMMITMENT OF INMATE

Place of recommitment.

16. (1) Where the parole granted to an inmate has been revoked, he shall be recommitted to the place of confinement to which he was originally committed to serve the sentence in respect of which he was granted parole, to serve the portion of his original term of imprisonment that remained unexpired at the time his parole was granted.

Idem.

(2) Where a paroled inmate, upon revocation of his parole, is apprehended at a place not within the territorial division to which he was originally committed, he shall be committed to the corresponding place of confinement for the territorial division within which he was apprehended, to serve the portion of his original term of imprisonment that remained unexpired at the time his parole was granted.

Effect of forfeiture.

17. (1) When any parole is forfeited by conviction of an indictable offence the paroled inmate shall undergo a term of imprisonment equal to the portion of the term to which he was originally sentenced that remained unexpired at the time his parole was granted plus the term, if any, to which he is sentenced upon conviction for the offence.

Term to be served.

(2) The term of imprisonment prescribed by subsection (1) shall be served as follows:

(a) in a penitentiary, if the original sentence in respect of which he was granted parole was to a penitentiary;

(b) in a penitentiary, if the total term of imprisonment prescribed by subsection (1) is for a period of two years or more; and

(c) in the place of confinement to which he was originally committed to serve the sentence in respect of which he was granted parole, if that place of confinement was not a penitentiary and the term of imprisonment prescribed by subsection (1) is less than two years.

Conviction for offence committed during parole.

(3) Where a paroled inmate is, after the expiration of his parole, convicted of an indictable offence committed during the period when his parole was in effect, the parole shall be deemed to have been forfeited on the day on which the offence was committed, and the provisions of this Act respecting imprisonment upon forfeiture of parole apply *mutatis mutandis*.

ADDITIONAL JURISDICTION

Revocation or suspension of certain punishments.

18. (1) The Board may, upon application therefor and subject to regulations, revoke or suspend any sentence of whipping or any order made under the *Criminal Code* prohibiting any person from operating a motor vehicle.

(2) The Board shall, when so directed by the Minister of Justice, make any investigation or inquiry desired by the Minister in connection with any request made to the Minister for the exercise of the royal prerogative of mercy. Clemency.

19. An order, warrant or decision made or issued under this Act is not subject to appeal or review to or by any court or other authority. Order, etc. final.

MISCELLANEOUS

20. Any order, decision or warrant purporting to be sealed with the seal of the Board or to be signed by a person purporting to be a member of the Board or to have been designated by the Board to suspend parole is admissible in evidence in any proceedings in any court. Evidence.

21. All expenditures under or for the purposes of this Act shall be paid out of money appropriated by Parliament therefor. Expenditures.

22. The members and staff of the Board shall be deemed to be employed in the Public Service for the purpose of the *Public Service Superannuation Act*. Superannuation.

23. Notwithstanding subsection (2) of section 4, the Governor in Council may by order transfer persons who prior to the commencement of this Act were members of the staff of the Department of Justice to the staff of the Board. Transfer of staff.

24. (1) The *Ticket of Leave Act* is repealed. Repeal. R.S. 1952, c. 264.

(2) Every person who at the coming into force of this Act is the holder of a licence issued under the *Ticket of Leave Act* to be at large shall be deemed to have been granted parole under this Act under the same terms and conditions as those under which the licence was issued or such further or other conditions as the Board may prescribe. Licence under former Act deemed parole.

(3) Every person who was issued a licence to be at large under the *Ticket of Leave Act*, whose licence was revoked or forfeited and who at the coming into force of this Act is unlawfully at large may be dealt with under this Act as though he were a paroled inmate whose parole had been revoked or forfeited. Revoke or forfeited licence.

(4) A reference in any Act, regulation or document to a conditional liberation or ticket of leave under the *Ticket of Leave Act* shall be deemed to be a reference to parole granted under this Act. Reference.

(5) The powers, functions and duties of the Minister of Justice under section 666 of the *Criminal Code* are hereby transferred to the Board, and a reference in that section to permission to be at large on licence shall be deemed to be a reference to parole granted under this Act. Habitual criminals.

***25.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. Coming into force.

* Note—Proclaimed in force as of February 15, 1959.

Parole Regulations, as amended

REGULATIONS MADE UNDER THE PAROLE ACT

1. These Regulations may be cited as the *Parole Regulations*.

2. (1) The portion of the term of imprisonment that an inmate shall ordinarily serve, in the cases mentioned in this subsection, before parole may be granted, is as follows:

(a) where the sentence of imprisonment is not a sentence of imprisonment for life or a sentence of preventive detention, one-third of the term of imprisonment imposed or four years, whichever is the lesser, but in the case of a sentence of imprisonment of two years or more to a federal penal institution, at least nine months;

(b) where the sentence of imprisonment is for life but not a sentence of preventive detention or a sentence of life imprisonment to which a sentence of death has been commuted, seven years.

(2) Notwithstanding subsection (1), where in the opinion of the Board special circumstances exist, the Board may grant parole to an inmate before he has served the portion of his sentence of imprisonment required under subsection (1) to have been served before a parole may be granted.

(3) A person who is serving a sentence of imprisonment to which a sentence of death has been commuted, shall serve the entire term of the sentence of imprisonment unless, upon the recommendation of the Board, the Governor in Council otherwise directs.

(4) The Board shall not recommend a parole, in a case coming within subsection (3), until at least ten years of the term of imprisonment have been served.

3. (1) In the case of every inmate serving a sentence of imprisonment of two years or more, the Board shall:

(a) consider the case of the inmate as soon as possible after the inmate has been admitted to a prison, and in any event within six months thereof, and fix a date for his parole review;

(b) review the case of the inmate in order to decide whether or not to grant or recommend parole and, if parole is to be granted, the date upon which the parole is to commence, on or before

(i) the date fixed for the parole review pursuant to paragraph (a), or

(ii) the last day of the relevant portion of the term of imprisonment referred to in subsection (1) of section 2,

whichever is the earlier; and

(c) where the Board, upon reviewing the case of an inmate pursuant to paragraph (b) does not at that time grant or recommend parole to the inmate, continue to review the case of the inmate at least once during every two years following the date the case was previously reviewed until parole is granted or the sentence of the inmate is satisfied.

(2) Where an application for parole is made by or on behalf of an inmate who is serving a sentence of imprisonment of less than two years, the case shall be reviewed upon the completion of all inquiries that the Board considers neces-

sary but, in any event, not later than four months after the application is received by the Board.

(3) Nothing in this section shall be construed as limiting the authority of the Board to review the case of an inmate at any time during his term of imprisonment.

4. (1) Where the Board receives an application to suspend or revoke a sentence of whipping, the Board shall

(a) determine forthwith if the sentence should be suspended pending further investigation and, if it was so determined issue an order accordingly;

(b) conduct such investigation as appears to be warranted in the circumstances; and

(c) as soon as possible after completing the investigation, if any, referred to in paragraph (b)

(i) revoke the sentence,

(ii) refuse to revoke the sentence,

(iii) suspend the sentence for any period the Board may deem applicable,

(iv) refuse to suspend the sentence, or

(v) cancel the order of suspension, if any, made pursuant to paragraph (a).

(2) An order of suspension made pursuant to subsection (1) expires ten days before the expiration of any term of imprisonment to which the convicted person, to whom the sentence of whipping relates, has been sentenced unless, before that day, the Board revokes the sentence of whipping.

5. Where the Board receives an application to suspend or revoke an order made under the *Criminal Code* prohibiting a person from operating a motor vehicle, the Board shall

(a) conduct as quickly as possible such investigation as appears to be warranted in the circumstances; and

(b) determine as soon as possible if the order should be suspended or revoked and, if it so decides, issue an order accordingly.

6. Where the Board suspends or revokes an order made under the *Criminal Code* prohibiting a person from operating a motor vehicle, the suspension or revocation may be made upon such terms and conditions as the Board considers necessary or desirable.

AMENDMENT TO PAROLE REGULATIONS

Under authority of His Excellency the Governor General in Council, (P.C. 1968-48 dated January 4, 1968), the Parole Regulations have been amended in accordance with the schedule listed hereunder.

Schedule

1. (1) Paragraph (b) of subsection (1) of section 2 of the Parole Regulations is revoked and the following substituted therefor:

"(b) where the sentence of imprisonment is for life but is not

(i) a sentence of preventive detention,

(ii) a sentence of life imprisonment to which a sentence of death has been commuted either before or after the coming into force of this paragraph, or

(iii) a sentence of imprisonment for life which has been imposed as a minimum punishment after the coming into force of this paragraph,

seven years."

(2) Subsection (3) of section 2 of the said Regulations is revoked and the following substituted therefor:

"(3) A person who is serving a sentence of imprisonment to which a sentence of death has been commuted either before or after the coming into force of this subsection, or a person upon whom a sentence of imprisonment for life has been imposed as a minimum punishment after the coming into force of this subsection shall serve the entire term of the sentence of imprisonment unless, upon the recommendation of the Board, the Governor in Council otherwise directs."

Annex B

TICKET OF LEAVE ACT

CHAPTER 264

An Act to provide for the Conditional Liberation of Convicts

SHORT TITLE

1. This Act may be cited as the *Ticket of Leave Act.* R.S., c. 197, s. 1. Short title.

ADMINISTRATION

2. It is the duty of the Minister of Justice, or of such other member of the Government as may be designated by the Governor in Council, to advise the Governor General upon all matters connected with or affecting the administration of this Act. 1931, c. 13, s. 1. Administration.

TICKET OF LEAVE

3. (1) The Governor General by an order in writing under the hand and seal of the Secretary of State may grant to any convict, under sentence of imprisonment in a penitentiary, gaol or other public or reformatory prison, a licence to be at large in Canada, or in such part thereof as is mentioned in such licence, during such portion of his term of imprisonment, and upon such conditions in all respects as to the Governor General may seem fit. Granting of licence to convicts.

(2) The Governor General may from time to time revoke or alter such licence by a like order in writing. R.S., c. 197, s. 3. Revocation or alteration of same.

4. The conviction and sentence of any convict to whom a licence is granted under this Act shall be deemed to continue in force while such licence remains unforfeited and unrevoked, although execution thereof is suspended; but, so long as such licence continues in force and unrevoked or unforfeited, such convict is not liable to be imprisoned by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such licence. R.S., c. 197, s. 4. Sentence deemed to continue although execution is suspended.

5. (1) A licence under this Act may be in the Form A in the Schedule, or to the like effect, or may, if the Governor General thinks proper, be in any other form different from that given in the Schedule that he may think it expedient to adopt, and contain other and different conditions. Form of licence.

(2) A copy of any conditions annexed to any such licence, other than the conditions contained in Form A shall be laid before both Houses of Parliament within twenty-one days after the making thereof, if Parliament be then in session, or if not, then within fourteen days after the commencement of the next session of Parliament. R.S., c. 197, s. 5. Deposit of conditions before Parliament.

Forfeiture of licence.

6. If any holder of a licence under this Act is convicted of any indictable offence his licence shall be forthwith forfeited. R.S., c. 197, s. 6.

Convicting justice to forward certificate in Form B to Secretary of State.

7. When any holder of a licence under this Act is convicted of an offence punishable on summary conviction under this or any other Act, the justice or justices convicting the prisoner shall forthwith forward by post a certificate in the Form B in the Schedule to the Secretary of State, and thereupon the licence of the said holder may be revoked in manner aforesaid R.S., c. 197, s. 7.

Action upon forfeiture.

8. (1) If any such licence is revoked or forfeited, it is lawful for the Governor General by warrant under the hand and seal of the Secretary of State to signify to the Commissioner of the Royal Canadian Mounted Police at Ottawa that such licence has been revoked or forfeited, and to require the Commissioner to issue his warrant under his hand and seal for the apprehension of the convict, to whom such licence was granted, and the Commissioner shall issue his warrant accordingly.

Execution of warrant of police commissioner.

(2) Such warrant shall and may be executed by the constable to whom the same is given for that purpose in any part of Canada, and has the same force and effect in all parts of Canada as if the same had been originally issued or subsequently endorsed by a justice or other lawful authority having jurisdiction in the place where the same is executed.

Bringing of licensed convict before justice of the peace.

(3) Any holder of a licence apprehended under such warrant, shall be brought as soon as conveniently may be before a justice of the peace of the county in which the warrant is executed and such justice shall thereupon make out his warrant under his hand and seal for the recommitment of such convict to the penitentiary, gaol or other public or reformatory prison from which he was released by virtue of the said licence, and such convict shall be so recommitted accordingly, and shall thereupon be remitted to his original sentence, and shall undergo the residue of such sentence that remained unexpired at the time his licence was granted; but if the place where such convict is apprehended is not within the province, territory or district to which such penitentiary, gaol or other public or reformatory prison belongs, such convict shall be committed to the penitentiary, gaol, or other public or reformatory prison for the province, territory or district, within which he is so apprehended, and shall there undergo the residue of his sentence as aforesaid. R.S., c. 197, s. 8.

Convict whose licence is forfeited to undergo term of imprisonment for the time of sentence unexpired.

9. (1) When any such licence is forfeited by a conviction of an indictable offence or other conviction, or is revoked in pursuance of a summary conviction or otherwise, the person whose licence is forfeited or revoked, shall after undergoing any other punishment to which he may be sentenced for any offence in consequence of which his licence is forfeited or revoked, further undergo a term of imprisonment equal to the portion of the term to which he was originally

sentenced and which remained unexpired at the time his licence was granted.

(2) If the original sentence in respect of which the licence was granted was to a penitentiary, the convict shall for the purpose of serving the term equal to the residue of such original sentence be removed from the gaol or other place of confinement in which he is, if it is not a penitentiary, to a penitentiary by warrant under the hand and seal of any justice having jurisdiction at the place where he is confined.

Confinement in a penitentiary.

(3) If he is confined in a penitentiary, he shall undergo a term of imprisonment in that penitentiary equal to the residue of the original sentence.

Term of imprisonment.

(4) In every case such convict is liable to be dealt with in all respects as if such term of imprisonment had formed part of his original sentence. R.S., c. 197, s. 9.

In all respects same as original.

REPORTING TO POLICE

10. (1) Every holder of a licence who is at large in Canada shall notify the place of his residence to the chief officer of police, or the sheriff of the city, town, county or district in which he resides, and shall, whenever he changes such residence within the same city, town, county or district, notify such change to the said chief officer of police or sheriff, and, whenever he is about to leave a city, town, county or district, he shall notify such his intention to the chief officer of police or sheriff of that city, town, county or district, stating the place to which he is going, also, if required, and so far as is practicable, his address at that place, and whenever he arrives in any city, town, county or district he shall forthwith notify his place of residence to the chief officer of police or the sheriff of such last-mentioned city, town, county or district.

Notice by holder of licence to police authorities as to place of abode.

(2) Every male holder of such a licence shall, once in each month, report himself at such time as may be prescribed by the chief officer of police or sheriff of the city, town, county or district in which such holder may be, either to such chief officer or sheriff himself, or to such other person as he may direct, and such report may, according as such chief officer or sheriff directs, be required to be made personally or by letter.

Report of male holder of licence to police authorities.

(3) The Governor General may, by order under the hand of the Secretary of State, remit any of the requirements of this section either generally or in the case of any particular holder of a licence. R.S., c. 197, s. 10.

Remittance of requirements.

OFFENCES AND PENALTIES

11. (1) If any person to whom section 10 applies fails to comply with any of the requirements thereof, he is in any such case guilty of an offence against this Act, unless he proves to the satisfaction of the court before which he is tried, either that, being on a journey he

Failing to comply with section 10.

tarried no longer in the place in respect of which he is charged with failing to notify his place of residence than was reasonably necessary, or that, otherwise, he did his best to act in conformity with the law.

Penalty on summary conviction.

(2) On summary conviction of any such offence the offender is liable, in the discretion of the justice, either to forfeit his licence, or to imprisonment with or without hard labour for a term not exceeding one year. R.S., c. 197, s. 11.

Failing to produce licence.

12. Any holder of a licence who

(a) fails to produce the same whenever required so to do by any judge, police or other magistrate, or justice of the peace, before whom he may be brought charged with any offence, or by any peace officer in whose custody he may be, and fails to make any reasonable excuse for not producing the same; or

On breaking conditions of licence.

(b) breaks any of the other conditions of his licence by an act which is not of itself punishable either upon indictment or upon summary conviction;

Penalty.

is guilty of an offence upon summary conviction of which he is liable to imprisonment for three months with or without hard labour. R.S., c. 197, s. 12.

Arrest of licensed convict without a warrant.

13. (1) Any peace officer may take into custody without warrant any convict who is the holder of such a licence

(a) whom he reasonably suspects of having committed any offence; or

(b) if it appears to such peace officer that such convict is getting his livelihood by dishonest means;

and may take him before a justice to be dealt with according to law.

Forfeiture of licence.

(2) If it appears from the facts proved before the justice that there are reasonable grounds for believing that the convict so brought before him is getting his livelihood by dishonest means such convict shall be deemed guilty of an offence against this Act, and his licence shall be forfeited.

Conviction of convict brought before justice of the peace.

(3) Any convict so brought before a justice of the peace may be convicted of getting his livelihood by dishonest means although he has been brought before the justice on some other charge, or not in the manner provided for in this section. R.S., c. 197, s. 13.

SCHEDULE

FORM A

LICENCE

OTTAWA, day of 19 .

His Excellency the Governor General is graciously pleased to grant to , who was convicted of at the for the on the , and was then and there sentenced to imprisonment in the penitentiary, gaol or prison (*as the case may be*) for the term of , and is now confined in the , licence to be at large from the day of his liberation under this order during the remaining portion of his term of imprisonment, unless the said shall before the expiration of the said term be convicted of an indictable offence within Canada, or shall be summarily convicted of an offence involving forfeiture, in which case such licence will be immediately forfeited by law, or unless it shall please His Excellency sooner to revoke or alter such licence.

This licence is given subject to the conditions endorsed upon the same upon the breach of any of which it will be liable to be revoked, whether such breach is followed by a conviction or not.

And His Excellency hereby orders that the said be set at liberty within thirty days from the date of this order.

Given under my hand and seal
at the
day of 19

Secretary of State.

CONDITIONS

1. The holder shall preserve his licence and produce it when called upon to do so by a magistrate or a peace officer.

2. He shall abstain from any violation of the law.

3. He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes.

4. He shall not lead an idle and dissolute life without visible means of obtaining an honest livelihood.

If his licence is forfeited or revoked in consequence of a conviction for any offence he will be liable to undergo a term of imprisonment equal to the portion of his term of years which remained unexpired when his licence was granted, viz: the term of years.

Form B

FORM OF CERTIFICATE OF CONVICTION

I do hereby certify that A.B., the holder of a licence under the *Ticket of Leave Act* was on the day of in the year duly convicted by and before of the offence of and sentenced to

J.P. Co.

R.S., c. 197, Sch.

19

GRADUAL RELEASE AND AFTER-CARE

Definition

The term "after-care" applies to programs intended to help the prison inmate bridge the gap between life in prison and life in the community. In a wider connotation, after-care includes parole and statutory conditional release. However, the term "after-care" is often used in a sense that excludes parole and statutory conditional release. In this chapter, the term is used in its wider connotation.

Changing Concepts

In the past, a clear distinction was drawn between institutional and such non-institutional care as absolute discharge with or without conditions, probation, parole and statutory conditional release. This distinction was based on practice. A prison was a place of confinement and punishment and could hardly be confused with any other form of correctional treatment. These distinctions have been fading, particularly since the last world war, and are not so clear-cut today.

> It is customary to-day to classify the treatment of offenders into two broad categories: institutional and non-institutional. Indeed, it is common to divide personnel who work with offenders according to this same classification and there has emerged a concept that the penological orientation of the two groups is significantly different, their training correctly based on different principles and even that there should be a natural antagonism between the two groups. If one were to catalogue the many causes that have slowed up the evolution of comprehensive progressive social defence policies and practice, this schism would probably have to be ranked high among them. . . . non-institutional treatment measures today. . . . not being based exclusively on a desire to avoid institutionalization, have embraced certain elements of institutional services and conversely, institutional programs, no longer preoccupied with the removal of the offender from society, have incorporated features clearly identifiable with treatment in freedom. . . . Thus the line between institutional

and non-institutional treatment has become so blurred in a number of countries that the identifying distinction can be made only on the basis of the nature of the agency or authority under which the treatment takes place.[1]

It is significant that these ameliorations of prison regimes are not based solely on humanitarian considerations or used just as a reward for good behaviour. They are recognized and used as correctional techniques. The offender must learn to live in society and he can do this only if he can practice community living.

This changes the traditional concept of a prison. The institution is not seen any more as an end in itself but as part of an entire process that includes after-care.

Value of After-Care

The period of the inmate's adjustment to the community after a period in prison is crucial. He has been living in a restricted setting under a special set of rules. Now he must change his outlook and activities to meet a different environment. This involves many things. He may have learned dependency in the institution and may find it difficult to assume responsibility for many decisions that were formerly made for him. He may miss the security of the institution and fear competition in the community. If he has a family he has to work out his relationships with them and resume his place as husband and father. This is not always easy for a man with a prison record. He has to find employment and he may find that his criminal record bars him from legitimate employment. If so, he may be under strong pressure to resume illegal ways of making a living. He has to establish relationships with his fellow-workers and his neighbours, old and new. Again his record may prove an obstacle.[2]

The difficulties faced by a woman coming out of prison may be even greater than those faced by a man. Society may be even more unforgiving towards her.

The Committee is convinced that no aspect of prison planning ought to be more important than preparation for release. The consolidation of whatever progress the inmate may have made in the institution depends on his finding a solution to the problems he faces during the period of transition back to the community. If no solution is found, all that has been accomplished will be lost. Without assistance during this crucial period the inmate may become discouraged and recidivism will be the result.

The Committee recommends that after-care services be recognized as an essential part of every prison system and that treatment within the prison and treatment on after-care be recognized as aspects of a continuing process.

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[1] United Nations. *Probation and Other Non-Institutional Measures* (Working Paper Prepared for the Third United Nations Congress on the Prevention of Crime and Treatment of Offenders). New York: 1965

[2] Kirkpatrick, A.M. "After-Care and the Prisoners' Aid Societies" in McGrath, W.T. (ed.) *Crime and Its Treatment in Canada.* Toronto: Macmillan, 1965

Steps leading towards Release

The inmate's readiness for return to the community depends, at least in part, on what has happened to him in the institution. If he has been incarcerated in the traditional prison with undue stress on security his readiness for return to the community will be less than if he has served his sentence in an institution with a progressive program.

In a sense, the whole prison program should be a preparation for release, but obviously parts of it have more direct relevance to after-care adjustment. The steps being taken in more progressive institutions to maintain a close contact with the community are particularly important.

The use of intermittent sentences, which permit the inmate to serve his sentence on a part-time basis while continuing his employment in the community, represents an effort to reduce the inmate's separation from the community to a minimum, thus reducing his need for after-care.

For those serving a full-time sentence, the presence of members of the community in the institution represents an initial step in readying the inmate for discharge. Members of the community can be involved with the inmates through sports, social, religious or recreational programs. They can participate in discussion groups on such topics as current affairs. They can be directly involved in after-care planning with individual inmates.

Visits by the inmate to the community may be the next step. These visits may begin as short periods out of the institution for athletic or social occasions, or, for those interested, attendance at church. The inmate may then become involved in such outside activities as those connected with service clubs or church community groups. Eventually, he may attend a regular community school or work in the community on a full-time basis, returning to the institution at night.

Home visits are important if there are positive elements in the family relationship that can be built on. Such visits provide an opportunity to maintain normal family relationships in appropriate surroundings. Visits by the family to the inmate are also important.

When the inmate is ready to leave the institution, it is best if he is released on parole. If he cannot be released on parole, then a period on statutory conditional release is desirable. Such procedures are designed to ensure that he will receive the maximum of assistance coupled with control.

Hostel facilities are needed during this period for some inmates. Some of these hostels can be part of the prison system where the inmate spends the last few days in custody. The federal Penitentiary Service is opening such hostels in Vancouver, Winnipeg, Toronto and Montreal and some of the provinces also have such hostels. Other hostels are required for some inmates for longer periods after they are free of custody. These are generally operated under private auspices and many exist across Canada.

At present, the majority of inmates come out of Canadian prisons on expiry of sentence rather than on parole, and statutory conditional release is not now in operation. If the recommendations contained in this report are adopted, more inmates will come out of prison under either parole or statutory conditional release. However, there will still be many short-term inmates who come out on expiry of sentence and some of those released on parole or statutory conditional release will desire further assistance after the period of formal control has expired.

These requirements may be met through services where the inmate can voluntarily seek assistance.

Services in Canada

Canada has a voluntary after-care service that is well-developed in comparison with many other countries. For the most part, this service is provided by private agencies. These agencies exist in all provinces. They are discussed more fully in Chapter 20.

The Department of Correctional Services of Ontario, a public department, offers a voluntary after-care service to inmates coming out of institutions in that province.

20

CITIZEN PARTICIPATION AND THE ROLE OF THE VOLUNTARY AGENCY

Citizen Participation in Corrections

Use of exile and banishment is found in the history of many penal systems. The sentence of transportation from the country can also be found in the early history of Canada.[1] Even after such a specific sentencing device was abandoned, however, the attitude of banishing the offender from society remained; he was banished behind the walls of prisons. Vestigial remnants of this attitude to the offender remain, and are heard in such declarations as, "We should lock them up and throw away the key!"

The point of view which has been expressed throughout this report is that the offender is and remains a member of society, and the aim of the correctional process is that he become a law-abiding and contributing member, rather than an outsider who is at war with society. Thus our report emphasizes the need for correctional treatment to take place within the community whenever possible, making use of the community's general health, welfare and educational resources, and of community-based correctional methods such as probation, parole and part-time imprisonment. When the protection of the community requires greater physical control through full imprisonment this should be used, but correctional aims will be forwarded if imprisonment does not represent complete banishment from society. We have pointed out elsewhere the importance we attach to program within the prison which involves the inmate in ways which reflect the role of a contributing citizen on the outside—work, education and leisure time activities. We have pointed out the importance of his having contact not only with staff but also with persons from the outside community.

This concept of corrections makes imperative a much wider community understanding of the offender and of correctional methods than presently exists. If recommendations in this report concerning more extensive use of probation, part-time imprisonment and parole are adopted, members of the

[1] Edmison, J. Alex. "Some Aspects of Nineteenth-Century Canadian Prisons" in McGrath, W.T. (ed). *Crime and Its Treatment in Canada.* Toronto: Macmillan, 1965.

general public will be in more frequent contact with the offender who is still serving his sentence, as well as with the offender who has completed his sentence. Such contact will be as employers, fellow employees, fellow members of unions, family, neighbours and, hopefully, friends. It is important that the public understand that there is more to any individual offender than the fact that he has committed an offence. We have pointed out elsewhere that offenders are not a homogeneous group. Each offender is an individual and like all individuals has varying attributes of character and personality, positive and negative, good and bad. One of the most effective ways of accomplishing the aims of corrections is to give recognition and encouragement to the healthier and more desirable aspects of the offender's personality and behaviour.

Citizen participation in corrections has already begun in Canada. Several provinces have established correctional advisory committees to government, some to advise on correctional matters in general, others to advise on specific aspects of program, such as trade training and prison industries. The Commissioner of Penitentiaries issued an instruction on November 29, 1968, that provides for the establishment of a Citizen Advisory Committee in connection with each penitentiary. Citizens are also active in providing such direct services as parole and after-care and in programs within prisons, both federal and provincial.

The Committee welcomes these developments and is of the opinion that citizen participation should be widely encouraged.

It is recommended that it be a matter of policy in the appropriate government departments to encourage citizen participation in the field of corrections.

The Voluntary Agencies

The voluntary agencies constitute one of the most effective channels for citizen participation in the corrections field. It is probably valid to say that Canada has made more extensive use of voluntary agencies than most other countries.

The earliest record of organized voluntary prisoners' aid work in Canada goes back to 1867 when a group of church workers in Toronto began to conduct Sunday School classes in the Toronto Gaol. This led to the formation of the first Prisoners' Aid Association in Canada in 1874.[2]

Since then, voluntary agencies have developed in all provinces and they have assumed many new functions. The Directory of Correctional Services in Canada, published by the Canadian Corrections Association, lists twenty-three voluntary agencies that offer correctional services as their primary function, excluding those offering only hostel facilities.

[2] Edmison, J. Alex. "First Steps in Canadian After-Care". *Canadian Journal of Corrections*, 1968, 10, 272-281.

The Salvation Army is organized nationally and is active in all provinces. The other agencies serve either a whole province or part of it. Many of those that serve men offenders carry the name John Howard Society while those serving women bear the name Elizabeth Fry Society. In some instances there is a combined John Howard and Elizabeth Fry Society. In addition to a John Howard Society, there are four agencies in the Province of Quebec which bear different names: la Société d'Orientation et de Réhabilitation Sociale and the Catholic Rehabilitation Service in Montreal, le Service de Réadaptation Sociale in Quebec City and la Société Saguenéenne de Réhabilitation Sociale in Chicoutimi. The Catholic Welfare Bureau operates in Winnipeg. The British Columbia Borstal Association provides a parole service to young men coming out of the New Haven institution.

Several of these agencies operate through branch offices.

Two bodies provide these agencies with a channel of communication for joint discussion and action in some matters. The John Howard Society of Canada coordinates the work of the agencies that bear the name John Howard, although not all such agencies are members of the coordinating body. The Association of Social Rehabilitation Agencies (Quebec Division) coordinates the work of the agencies in the Province of Quebec.

The Provincial Council of Elizabeth Fry Societies performs the same function for the three local Elizabeth Fry Societies in the Province of Ontario, in Kingston, Ottawa and Toronto.

Living accommodation for offenders at various stages of the correctional process has been offered by volunteer agencies for many years. However, there has been a rapid increase in such facilities in recent years. This expansion has helped fill a serious gap in correctional services and the variety of organizations involved has permitted useful experimentation. These facilities have, in many instances, developed in isolation without reference to the general correctional movement in the related area. Greater joint effort in planning and operating these facilities in relation to the general correctional field would, in the opinion of the Committee, be desirable.

In addition to these agencies offering correctional services as their primary function, many others serve offenders as part of their work in the general welfare area.

Fifty-three voluntary agencies received grants from the Canadian Government during the current fiscal year to assist their work in parole and after-care.

Another group of voluntary agencies do not offer direct service but act as coordinating and information centres for advanced correctional planning. The Canadian Corrections Association serves the whole of Canada. Four other agencies serve specific regions or provinces. They are, the Atlantic Provinces Corrections Associations, the British Columbia Corrections Association, the Ontario Association of Corrections and Criminology and the Quebec Society of Criminology.

The Role of the Voluntary Agencies

The functions performed by the voluntary agencies may be grouped under four headings: Public Education, Citizen Involvement, Social Action and Direct Service. Some agencies perform only one or two of these functions; others perform all four. It will help clarify the role of these agencies if their work is examined under each of these headings separately.

Public Education

A majority of these agencies devote considerable attention to developing an interest on the part of the public in correctional matters and to ensuring that the members of the public who are interested are properly informed. These agencies recognize that one of the most effective ways for citizens to learn about corrections is to become directly involved in the agency's program whether in planning or in direct service to offenders. Public education programs also involve use of the media and work-shops open to the public.

Citizen Involvement

Citizens become involved in corrections through the agencies in many ways. Some serve on boards, helping to plan, operate and finance the agency's total program. Others become involved in public education programs designed to interest other citizens in corrections. Others participate in study groups to examine specific problems related to corrections, perhaps in the process of preparing a brief addressed to government. Others become involved in direct service to offenders, within the prison or on parole or after-care. Still others become involved as employers of ex-offenders.

Social Action

Many of these agencies serve as critics of the public correctional services, suggesting to governments ways in which the services can be improved. There can be no doubt that a great deal of the impetus towards penal reform in this country in the past came from the voluntary agencies.

A difficulty sometimes arises for those agencies that are involved in social action and at the same time offer a direct service. The social action function sometimes creates friction with the staffs of the public correctional services, the people with whom the voluntary agency must have a cordial working relationship if it is to perform the direct service function effectively.

A change has occurred in that while the voluntary agencies were practically the only spokesmen for penal reform at one time, this is no longer true. Today, the staffs of the public services constitute a parallel source of influence for reform.

What is required is a procedure whereby the voluntary agencies can participate in the planning of public correctional services as partners rather than as critics.

Direct Service

Direct service to offenders is provided by voluntary agencies at almost every step in the judicial and correctional process, although these services are frequently not sufficient to fully meet the need.

1. *The Court Hearing.* The Salvation Army has traditionally provided a social (as contrasted to a legal) service to the accused while he is in custody awaiting trail and during the trial itself. This includes helping the accused with family problems and speaking on his behalf if the court requests it. The Indian and Métis Friendship Centres in many parts of the country provide this service to Indian and Métis accused. Voluntary agencies also provide probation services to the courts in some areas. An additional service needed at the court hearing stage now generally lacking is a referral service so those accused who have social problems can be referred to the appropriate social or medical service in his community. Legal aid is becoming increasingly available, but its availability does not meet the need of the accused with a social problem.

2. *Prison Services.* These services take many forms. Some supply visitors on a friendship basis; others supply reading or recreational material, bring entertainment groups into the institutions, lead discussion groups, or teach art and handicrafts. Others are involved in treatment programs, including group therapy. Alcoholics Anonymous is active in many institutions. Chaplaincy services are supplied in some situations. So-called inmate-outmate programs establish friendships that continue after the inmate's discharge. The formulation of a plan for the period after discharge is carried out by voluntary agencies with inmates requesting such assistance. Pre-release visiting by the inmate to the community is sometimes supervised by the voluntary agency.

3. *Parole Supervision.* The voluntary agencies supervise a substantial portion of the parolees released by the National Parole Board. The percentage dropped from 56 in 1959 to 39 in 1967, but the numbers increased from 991 to 1,111.[3] The British Columbia Borstal Association supervises parolees from the New Haven institution.

4. *Voluntary After-Care.* Most of these agencies offer an after-care service to ex-inmates who are not on parole and who request assistance in getting re-established. This may take the from of casework help with personal problems, help with family or community problems, help in finding work, or financial assistance.

5. *Work with the Offender's Family.* Preparing the offender's family for his return, particularly if he has been in prison, constitutes another service offered by voluntary agencies. Some of these agencies organize

[1] See Table 16, Chapter 18.

group discussions with wives of offenders, helping them understand their husbands and the problems the family faces as a result of his crime and separation from them.

6. *Living Accommodation.* Hostel services are available to an offender at various stages of the correctional process. Remand homes for women offer an alternative to committal to jail awaiting trial. Probation hostels supplement traditional probation service. Half-way houses serve those coming out of prison.

The Voluntary Agencies and the Public Correctional Services

Every government has responsibility to ensure that adequate services are available to those offenders coming under that government's care, including such community services as after-care. However, ensuring that good services are available does not mean that the government must operate these services itself. Instead, where appropriate, it may utilize services of acceptable standard provided by voluntary agencies or other governments.

In the Committee's view, it is highly important that the voluntary agencies continue to serve as a channel for citizen participation in the corrections field and to provide a second voice in government correctional planning.

To perform these two functions well, it is essential that the voluntary agencies continue a major direct service function in relation to the government correctional services. This is essential if they are to maintain the realism that can come only from experience.

The Committee came to the conclusion that nothing is accomplished by pursuing arguments as to whether public or private workers can do the best job. Each has advantages and each has disadvantages. It is true that the demands for qualified workers created by the expanding correctional services will require the utilization of every available staff resource, but that situation may change. What does not change is the importance of the voluntary agencies in providing a channel for citizen participation and a second voice in government correctional planning.

Any administrative problems created for the government correctional services by the utilization of the resources of a rather large number of voluntary agencies will be more than compensated for by the stimulation and variety of experience that result.[4]

A Partnership

What is required is a partnership between the government correctional services and the voluntary agencies. Once such a partnership is established, the problem of conflict between the social action and direct service functions of the voluntary agencies will lessen. Joint planning that takes into consideration all points of view will then be possible.

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[4] Titmuss, R.M. *Essays on the Welfare State.* London: Unwin University Press, 1958.

This ideal was set out by the former Minister of Justice, that late Hon. Guy Favreau:[5]

> How, in practice, can the private agencies and the Government redefine their functions realistically? I suggest that we agree first on certain basic principles; then, in trust and fundamental harmony, we can hammer out working arrangements that will allow Government and agencies to complement each other in every way for the common good.
>
> The first principle I suggest proposes a natural division of labour. I believe that both agencies and Government could solve their problems of re-adaptation if they first agreed that they are not rivals, but essentially different, and naturally complementary, colleagues. In practice, this means that each should be allowed to do whatever it does best. I think there is no question that private agencies are remarkably qualified, for instance, to provide counselling, help with housing and employment, and man-to-man fellowship; you are also admirably equipped to advise the Government on correctional problems with a detachment and wisdom that derive only from a long history of independent experience.

The Committee supports this view and suggests it provides a valid basis for a workable division of labour between the public and voluntary agencies.

It is recommended that government recognize the need for a partnership with the voluntary agencies; that this partnership involve a major direct service function on the part of the voluntary agencies in relation to the government correctional services; and that negotiations on a continuing basis be undertaken between government and the voluntary agencies with a view to formulating a policy as to the nature and extent of the direct service function the voluntary agencies are to perform.

What share of parole supervision can be properly carried by the voluntary agencies should be the subject of discussion between them and the parole authorities. The situation will change considerably when statutory conditional release is introduced since this will increase the number requiring supervision substantially. There is a risk to the voluntary agencies if too great a proportion of their resources is devoted to parole supervision. They may become too closely identified with the public parole service and their independence and flexibility may be lost.

The determination of the basis on which cases for supervision by the voluntary agencies are to be selected also presents difficulties. Several briefs received by the Committee from voluntary agencies contained suggested criteria. The following seem to have general support among the majority. The Committee does not suggest these criteria are necessarily the best but they might provide a basis for discussions between the government parole services and the voluntary agencies. The proposal was that a parolee should be supervised by a voluntary agency:

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[5] Favreau, Guy. *Parole Supervision and After-Care: The Evolving Partnership of Government and Private Agencies.* (Address to the John Howard Society of Nova Scotia, Halifax, February 4, 1965)

1. Where there has been an involvement of the voluntary agency in the inmate's situation by the inmate himself or by his family or some other interested agency or person.
2. Where there is a need for involving a variety of community resources.
3. Where there are major inter-personal or inter-family relationships which the voluntary agency can approach through its casework or group work service.
4. Where there is evidence of personality disturbance or deterioration that requires collateral psychiatric service.

Financing the Voluntary Agencies

The voluntary agencies require substantial financial support from government, particularly in so far as they undertake direct service in relation to government correctional services. Such grants should reimburse them for the direct services they provide. However, that in itself may not be sufficient. Their advisory function to government should be taken into consideration. So should their need for financial resources to permit experimentation.

An approach which takes into account all aspects of the agencies' contribution, its effectiveness and its relevance is necessary. Efforts have been made in recent years to work out measurement criteria, often referred to as "social indicators".[6] Further examination of what would be involved in a grant system based on this more sophisticated approach is indicated.

On the other hand, the independence of a voluntary agency may be jeopardized if too large a proportion of its budget comes from government sources. This aspect of the problem requires examination. The terms under which the grant is made has an obvious bearing.

Selection of Voluntary Agencies to Perform Specific Tasks

Growth of government support gives rise, of course, to questions as to the basis on which such support should be granted, and as to the selection of agencies to be used for specific purposes. These problems have come to the fore particularly in relation to parole supervision. It appears evident to the Committee that a responsible government service must satisfy itself as to the adequacy of standards under which any basic service, particularly one financed largely from government sources, is performed. At the same time, if government establishes a close supervision and attempts to enforce uniform standards, the autonomy and flexibility of the private agency, its freedom to meet those needs which seem particularly pressing in relation to the particular time and particular community in which the agency operates, disappear. In the Committee's opinion, the situation is confused and a more appropriate ongoing method needs to be worked out to provide a basis for such decisions.

[6] Gross, Bertram M. "Social Goals and Indicators for American Society". *Annals of the American Academy for Political and Social Science,* 1 and 2, 1967.

It is recommended that an advisory body, which includes representatives of voluntary service agencies, be set up to advise the government concerning the qualifications and suitability of specific voluntary service agencies for financial support from government, and to review and advise concerning the formulae on which such financial support is based.

New Roles for the Voluntary Agencies

Although the Committee sees as basic a continuing direct service role similar to that now being carried by the voluntary agencies, it recognizes the danger that the voluntary agencies may lose their readiness, incentive and capacity to seek new solutions. Voluntary agencies are not immune to stagnation.

Some of the recommendations in the report will, if adopted, mean substantial changes in the operations of the voluntary agencies. The introduction of statutory conditional release will not only increase substantially those requiring supervision in the community while still under formal control but it will reduce accordingly the number of ex-inmates seeking voluntary after-care. The transfer or responsibility for parole of all inmates of provincial prisons to the provinces will require a reassessment of the relationship between the voluntary agencies and the provincial services. At present, many of the voluntary agencies see their relationship with the federal government services as more important than their relationship with the provincial services.

The Committee suggests a deliberate re-examination of programs and policies by the voluntary agencies, to ensure they are effective, progressive and creative and that new programs and new approaches to old programs in the corrections field are not neglected. The capacity of the voluntary agencies for leadership in innovation must continue to develop.

21

THE YOUNG ADULT OFFENDER

Definition

The term "young adult offender" is used internationally to identify the age group immediately above the juvenile delinquent group. These individuals can no longer be considered children but they are not fully mature and their personality and their social habits are still flexible.

The exact definition in terms of age is arbitrary and varies from country to country.[1] No age definition is fully satisfactory because individuals mature at different rates.

The lower age limit is set by the definition of juvenile delinquent, and for this reason the Committee feels impelled to recommend age limits to be used in the definition of juvenile. The Committee is of the opinion that children who have not reached the age of 16 should be subject to the jurisdiction of the juvenile court only and that transfer to the adult court should not be possible for this age group. Those who have attained the age of 16 but have not reached the age of 18 should appear first in the juvenile court. The juvenile court should assess the accused individual's maturity. If the juvenile court is of the opinion that the maturity of the accused properly permits the case to be heard in the juvenile court the hearing should be held in that court. If the juvenile court is of the opinion that the accused is sufficiently mature to indicate the case should be transferred to adult court, that should be ordered.[2]

Those who have reached the age of 18 would fall within the young adult group who are the subject of this chapter.

The Committee has come to the conclusion that the upper age in defining the young adult group should be set at 21. Twenty-one seems

[1] United Nations. Department of Economic and Social Affairs. *The Young Adult Offender.* New York: 1965

[2] Canadian Corrections Association. *The Child Offender and the Law.* Ottawa: 1963

to be a recognized division point and is the age when the individual assumes many of the legal rights and duties of adulthood. The international trend seems to be towards raising this age (as high as 26 as set out in the Federal Youth Correction Act of the United States of America) and it may well be that the age will be raised in Canada in later years. In the meantime, this seems like a practical point to make a start.

The Committee recommends that a young adult be defined as one who has attained the age of 18 but has not reached the age of 21.

When an accused between the ages of 16 and 18 is transferred from the juvenile court to the adult court, he should be considered a young adult and the special provisions for that age group should apply to him.

Importance of the Young Adult Group

As in most countries, the young adult group forces itself on our attention because of its high crime rate.

TABLE 17

Number of Young Adults Convicted of Indictable Offences by Age Group and Sex in Canada
1957–1966

	Male			Female		
	16–17	18–19	20–24	16–17	18–19	20–24
1957	4,484	3,838	6,190	178	169	336
1958	4,911	4,300	6,888	211	192	401
1959	5,099	4,179	6,272	236	220	416
1960	5,760	4,686	7,203	255	269	534
1961	5,498	5,081	7,846	289	310	635
1962	5,752	4,940	7,929	300	345	575
1963	7,170	5,495	8,570	412	379	727
1964	7,469	5,342	8,253	429	417	834
1965	6 849	5,539	8,110	548	514	832
1966	7,250	6,224	8,669	642	606	1,006

SOURCE: Dominion Bureau of Statistics

It is clearly in society's interests to pay particular attention to the correction of young offenders since if their beginning criminal careers continue society will be victimized for many years to come. It is important to avoid the escalation of what might have been a brief phase of juvenile rebellion into a fixed criminal career by prematurely labelling the young offender as criminal and promoting his acquaintance with more confirmed offenders.

TABLE 18

Rates of Conviction for Indictable Offences Per 100,000 Population of Each Age Group by Sex

1957–1966

	16–17	18–19	20–24	25–29	30–34	35–39	40–44	45–49	50–59	60 and over	Total
	Males										
1957	1,817	1,629	1,053	690	505	428	331	245	170	53	545
1958	1,902	1,759	1,148	734	516	433	345	255	174	51	579
1959	1,887	1,652	1,035	614	434	366	257	196	150	44	506
1960	2,024	1,811	1,226	676	508	365	302	237	154	50	566
1961	1,844	1,899	1,336	759	523	411	311	239	169	55	603
1962	1,818	1,747	1,319	738	519	390	310	238	160	59	594
1963	2,136	1,845	1,370	792	546	433	328	250	175	59	644
1964	2,100	1,689	1,256	730	501	399	308	234	148	54	612
1965	1,863	1,674	1,175	699	467	364	283	211	145	49	584
1966	1,861	1,746	1,173	739	480	367	299	223	146	59	615

	16–17	18–19	20–24	25–29	30–34	35–39	40–44	45–49	50–59	60 and over	Total
	Females										
1957	74	73	58	45	37	30	22	19	14	4	33
1958	84	80	68	51	39	34	30	26	16	3	37
1959	90	89	70	51	40	37	26	25	15	4	38
1960	93	106	90	60	48	39	31	26	19	5	44
1961	101	118	106	72	57	46	42	35	27	7	54
1962	99	125	94	70	60	46	42	33	25	9	53
1963	128	132	115	86	68	53	48	34	26	9	61
1964	126	137	128	93	72	53	49	37	28	8	67
1965	153	158	120	101	75	71	53	41	36	9	76
1966	172	177	140	116	95	71	58	46	34	11	88

SOURCE: Dominion Bureau of Statistics.

It is also important that the offender's unlawful behaviour not be reinforced either by material advantage resulting from his offence or psychologically by an inflated sense of power. Because the young adult's behaviour pattern may not be as firmly set as that of the older adult, it is of particular importance that he be treated in a way that will earn his respect for the correctional process.

Court Jurisdiction

The suggestion that a special youth court be created to deal with this age group was considered and rejected by the Committee. There seems to be little virtue in a separate court and it would be difficult to staff. Also, the young adult has the same right of election of trial before a county court or a judge and jury that older adults possess.

In urban centres there might be an advantage in giving a restricted number of magistrates the task of dealing with the young adult offender. This would give the advantage of special experience on the part of the court without changing the legal arrangements.

The possibility of placing the young adult group under the jurisdiction of the juvenile court was also considered and rejected. It was thought the young adult would not be impressed by the atmosphere of the juvenile court and that adding this group to the responsibility of the juvenile court would overtax those facilities.

The Committee recommends that the adult court continue to have jurisdiction over the young adult group.

Special Legislative Provisions

The arrangement whereby the young adult appears before the adult court, and has his case heard under normal court procedures but is subject to special sentencing provisions, is in force in a number of jurisdictions.

The only special legislative provisions relating to young adults in Canada are sections 151, 152 and 153 of the Prisons and Reformatories Act. This applies to British Columbia only, and covers male offenders up to the age of twenty-three years. The court may sentence the young adult to a term of imprisonment of not less than three months followed by an indeterminate period of not more than two years less one day. Whether the young adult serves all or part of the indeterminate portion in prison or on parole depends on the British Columbia Parole Board.

Generally speaking, legislative provisions and court practices desirable for young adult offenders are simply those that ideally should apply to all accused and all offenders. However, while facilities are in short supply it seems wise to concentrate those facilities on the young adult.

Strong representations were made to the Committee to recommend statutory provisions for indeterminate sentences of up to two years for the young adult group. It was argued that in the case of many young adults the court is dealing with an individual without social or employment roots and if he is to be under supervision for a sufficiently long period for him to settle down a sentence of two years less a day is required. This period would not, hopefully, all be spent in the institution. Most of it might be spent on parole.

A sentence of this length might be indicated even if he was convicted of an offence that might otherwise call for a sentence of only a few months. This, it was maintained, is necessary if his criminal career is to be stopped before he gets into serious trouble. Comparisons were drawn with the procedures used with juveniles. The court, it was maintained, might not feel justified in giving a definite sentence of two years less a day in such a case

when it might give a shorter sentence in a case of a similar offence involving an older offender. An indeterminate sentence would be identified as an attempt to provide treatment and would therefore be more acceptable to the courts and perhaps to the public.

However, the Committee has already recommended the repeal of the provisions for indeterminate sentences now in force in Ontario and British Columbia, coupled with a transfer of authority over parole of all inmates in provincial institutions to the provinces. The effect of this would be to make all sentences subject to provincial parole and therefore adaptable to suit the demands of treatment for the young adult as well as the older offender.

The Committee was impressed by the arguments in favour of indeterminate sentences for the young adult offender but, on balance, decided against making such a recommendation.

It is important that the courts have pre-disposition (pre-sentence) reports to help in sentencing in cases involving a serious charge. Shortage of staff makes it impossible to prepare such reports in all cases where they would be desirable. However, in cases involving young adults they should be mandatory.

The Committee recommends a pre-disposition report should be mandatory in any case involving a young adult where a prison sentence is being considered by the court.

The advantages of avoiding a prison sentence with any offender, if feasible, have been stressed elsewhere in this report. These arguments apply with particular force to young adult offenders. The fact that these young people are so impressionable emphasizes the need in their case. The Criminal Justice Act of Great Britain contains a provision that gives legislative expression to this principle.

The Committee recommends that the legislation should state that the court shall not send a young adult to prison unless all other courses have been considered and rejected for specific reasons. The court's reasons for believing that a prison sentence is required should be reported verbatim in the court records.

Special Correctional Services

As with legislative provisions, what is required in the way of correctional services for young adult offenders parallels what is required for all offenders, although the need is particularly urgent with the young adult. Treatment in the community rather than in an institution, supervision by competent staff and clinical facilities should be priorities.

One special problem arises in connection with pre-trial detention of young adults. It is particularly important that young offenders be kept apart

from older, more experienced prisoners to avoid contamination, and it is during pre-trial detention that segregation is most apt to be neglected.

The Committee recommends that the police and the courts should whenever possible avoid holding a young adult in a lock-up or jail pending initial appearance or during remand or appeal. When it is necessary to hold a young adult in a lock-up or jail, he should be kept separate from older prisoners.

The development of prison facilities for the young adult offender also presents many difficulties. Since they are in the learning stage of life, it is particularly important that work-release and similar programs be available to them.

One mistake often made is to separate young adult prisoners from the general prison population and place them all in one special institution. It is as much of an error to assume that all young adult offenders are alike as it is to make that assumption about any other age group. Among the young adult group are the emotionally disturbed, the confirmed recidivists, the beginner and various other classifications. Age alone is not a sufficient criteria for classification.

The conclusion to be drawn is that a number of institutions, each designed for a different kind of inmate, should be planned to serve the young adult group.

The involvement of youth from the community in programs planned for the young adult offender is vital. Among them should be rehabilitated ex-offenders.

Juveniles in Institutions for Adults

The Committee was disturbed at seeing juveniles held in jails and prisons intended for adults in many parts of the country. This practice is not common but was called to the Committee's attention in a number of instances. Although the incarceration of juveniles is outside the Committee's terms of reference, the Committee feels justified in commenting on the situation since the adult correctional institutions are handicapped in trying to care for these children. The Committee is of the opinion that in no instance should juveniles be incarcerated in the same institutions as adults.

22

THE WOMAN OFFENDER

Differences in Male and Female Criminality

There are certain differences in the criminality of women, as compared with that of men, which have implications for correctional planning. The most outstanding single difference is that of numbers. In Canada, as in other jurisdictions that keep official statistics, many more men than women are dealt with by the police and the courts. The ratio varies according to the country and jurisdiction, but a marked disparity appears in all available statistics.

Problems of making accurate statistical comparisons have been discussed elsewhere in this report; they apply here also. Nevertheless, certain striking facts appear in the statistics which are available. In Canada during the 1950's, the ratio of male to female offenders fluctuated between 13 to 1 and 17 to 1. Recent statistics, however, show a ratio which, while still reflecting a marked difference between the two groups, indicate that the difference is reducing. From 1960 to 1966 the male-female ratio decreased steadily until in 1966, the last year for which figures are available, the ratio was 7 to 1.[1] This convergence has been brought about by a marked increase in the number of women convicted for indictable offences, particularly theft, which accounted for 80 per cent of the rise in the female rate. For summary convictions the male-female ratio was between 14 and 15 to 1 in both 1950 and 1966.

There is some indication that the difference in numbers between men and women offenders tends to be lower in highly industrialized societies than in less developed ones.

The second major difference is that offences committed by women tend to concentrate in fewer categories than those committed by men. Crimes involving violence are rare. The types of offence for which women are con-

[1] Dominion Bureau of Statistics, *Statistics of Criminal and Other Offences 1966.*

victed in significant numbers consist of theft, and to a lesser degree, fraud; of a group of offences which may be categorized as "offences without a direct victim" (vagrancy, public intoxication, drug addiction) and of a group of offences discernibly related to women's sexual or maternal roles (such as offences related to prostitution, neglect in child birth or concealing the body of a child, abortion*, infanticide, child neglect).

It will be noted that some statistics quoted in this chapter refer to rates of charges and others to convictions. Among indictable offences, the largest category of charges against women is that of theft, where the value of the thing stolen does not exceed $50. For these offences, the rate of females charged is 69 per 100,000 of adult population and the male-female ratio is 3 to 1. Of property offences, fraud is next in frequency, being 18 per 100,000 with the male-female ratio 8 to 1. Theft over $50 has a rate of 12 per 100,000 and a male-female ratio of 10 to 1. Some of the differences between offences committed by men and women may be seen by comparing certain other property offences which have more aggressive or violent connotations. For instance, break and enter has a male-female ratio of 49 to 1, robbery 32 to 1. It is also interesting to note that car theft, which seems to have particular significance for the male, shows a ratio of 50 to 1.

In 1966 only four types of indictable offences were committed by women more often than by men. These were: abortion or attempted abortion, neglect in childbirth and concealing the body of a child, infanticide, and keeping a bawdy house.[2] Offences related to prostitution formed the second highest number of indictable offence charges against females in Canada in 1966 (24 per 100,000 as compared to 7 per 100,000 for males).

The conviction rate for women in intoxication offences was 199 per 100,000 in Canada in 1966, with a male-female ratio of 10 to 1. While both charges and convictions under the Narcotic Control Act are much fewer, it is significant that charges against women are markedly higher proportionately to charges against men than for most other offences. The rate of charges against women under the Narcotic Control Act in 1966 was 3 per 100,000 population, with a male-female ratio of 3 to 1.

Figures available on charges of vagrancy are only for convictions, not persons, but the Dominion Bureau of Statistics reports that 1,811 convictions of females for vagrancy were recorded in 1966 in Canada.

We have been unable to obtain Canada-wide figures concerning charges of child neglect and abuse against women.

Table 21, attached as an annex to this chapter, shows the rate of charges per 100,000 of the population over 16 and the ratio of male to female rates for certain specific offences in Canada in 1966.

The third area of difference in considering women offenders as a group compared to men offenders as a group, appears to lie in the attitude of society towards the female offender. There is a considerable body of opinion among those experienced with law enforcement and corrections that women

* The general practice in Canada is not to prosecute the woman upon whom abortion has been performed but to prosecute the abortionist.

[2] Dominion Bureau of Statistics. *Statistics of Criminal and Other Offences 1966.*

are less likely than men to be formally charged and brought to trial, even though there is evidence that offences have been committed, and that there are discernible differences also in the disposition of convicted offenders. A brief prepared by the Canadian Corrections Association for the Royal Commission on the Status of Women in Canada, states:

> It is not rare for law enforcement officers to see a complainant drop charges when he finds out the person who victimized him is a woman. The police official may himself be less than zealous to pursue investigation in a minor matter when a woman offender is involved. He may use his discretion and give a warning rather than ask the prosecuting attorney to take the matter to the court. Should the case get to the prosecuting attorney level, the same hesitation about applying the full force of the law against a woman is present. Charges are often dropped. Courts are often more favourably disposed towards women offenders and usually do not send them to jail until they have offended several times or very seriously.

There is evidence, however, to indicate that some of these differences in treatment also are undergoing change. A striking statistic is that in 1901 the probability of a charge against a woman leading to conviction was 60.5 per cent but in 1948, the last year in which outcome of charge was specified by sex, it had reached 88.7 per cent, higher than the probability for males. In 1949 a change in method for statistical reporting by the Dominion Bureau of Statistics shifted from outcome of convictions (which might be several per person at one hearing) to conviction of persons charged. In 1949 we find that proportion of females charged who were convicted was 79.4 per cent but that in 1966 it had risen to 90.26 per cent.

It remains true, however, that there are marked differences in court disposition of men and women offenders. It has been noted in Chapter 11 that the sentence of whipping is still retained in Canada for men but not for women. Women are much less likely than men to receive lengthy prison sentences; this is apparent from an examination of the population of federal penitentiaries, where the proportion of men to women incarcerated is approximately 60 to 1.

Differences between women offenders and men offenders can hardly be discussed adequately without relating them to differences in male and female roles in society generally. The lower incidence of crimes involving violence may, to some degree, represent constitutional differences between male and female in terms of physical strength, but appears likely to be still more closely related to differences in social roles and expectations. Directly aggressive behaviour is more characteristic of the male, while the female tends to express aggression in more indirect ways.

Implications for Treatment

The fact that women are involved mainly in a restricted number of offences has implications for treatment.

Theft and Fraud

It will be noted from statistics already quoted that the large majority of theft charges against women involve small amounts of money or articles of minor value (theft, $50 and under). A significant proportion of these involve shop-lifting. Fraud charges against women, while considerably lower than charges for theft under $50 (18 per 100,000 population as against 69 per 100,000), are higher than the category of theft over $50 (12 per 100,000 population). Correctional workers with the woman offender have informed us that there appears to be an increasing number of women in the larger cities who persistently engage in the fraudulent use of cheques.

We have suggested elsewhere that offences of this nature, which do not endanger the physical security and safety of others, are the type which we consider frequently appropriate for treatment through such devices as fines, restitution and probation rather than through imprisonment. If a woman is not economically independent this, of course, affects the appropriateness of a fine or a requirement for restitution.

In some instances which are not considered suitable for fine or probation, use of day release sentences would appear to have potential effectiveness for preventing further offences, while helping offenders accept responsibility for repaying money fraudulently obtained.

Offences without a Direct Victim

Such offences as vagrancy, abuse of drugs and alcohol, and attempted suicide, may be categorized as "offences without a direct victim". This description recognizes that while the behaviour so categorized is of concern to society and likely to have harmful effects on society, it differs from offences which are directed against a specific victim or victims, such as murder or robbery and calls for different treatment.

The inappropriateness of most of our present methods of handling such behaviour is a matter for concern in relation to both men and women offenders. In this more general context it has been commented on elsewhere in this report, but it is discussed in more detail here because of the high proportion of such behaviour among women who are the subject of correctional treatment.

Section 31 of the Prisons and Reformatories Act provides that "Where provision therefor is made by the laws of the province in which a conviction takes place, any person convicted of being a loose, idle or disorderly person may, instead of being committed to the common jail or other public prison, be committed to any house of industry or correction, alms house, work house, or reformatory prison". In spite of its archaic language, this section appears to recognize what seems evident to this Committee, that lack of apparent means of support, wandering and begging, do not form part of those seriously harmful kinds of behaviour which the Committee has defined in Chapter 2 as the appropriate concern of the Criminal Code and of the processes of criminal justice. The fact that there has been little use in Canada of shelters other

than a jail can be assumed to be related to our failure to provide the appropriate alternate resources, rather than to a conscious decision that the treatment of vagrancy should be equated with the treatment of other "crimes". The alternate disposition provided in the Criminal Code, a fine, seems singularly inappropriate in view of the definition of the "offence" itself, and it is not surprising that the common practice is to give short jail sentences.

According to 1966 figures supplied by the Dominion Bureau of Statistics, 42 per cent of males and 48 per cent of females convicted of vagrancy were imprisoned. There is evidence to indicate that use of jails for vagrancy, besides being highly inappropriate, is also highly ineffective.

Canadian vagrancy laws, as they relate to women, define two major types. Section 164(1) (a) of the Canadian Criminal Code provides that:

> Every one commits vagrancy who
>
> (a) not having any apparent means of support is found wandering abroad or trespassing and does not, when required, justify his presence in the place where he is found.

One of the major uses of this section of the Code is for young girls who are away from home and found wandering on the streets. It is stated that the purpose is their own protection. However, while the intention may well be a protective one, the effect is frequently that of exposure to harm more serious than that against which it was intended to protect. We have found persons working with women offenders to be practically unanimous in underlining the harmful effects of incarcerating such young women with more confirmed offenders among them prostitutes, drug addicts and lesbians. It seems clear that the emphasis here should be on developing alternate social resources for women, and particulary for young women who are without lodging or visible means of support under health or welfare, rather than correctional, auspices. We are aware that this is an area under provincial jurisdiction, but we would point out that the correctional institutions to which such young women are presently committed for frequent short sentences are also under provincial jurisdiction.

It should also be noted that vagrancy provisions in relation to women are sometimes used in the control of venereal disease. That is, women who have no apparent means of support and are suspected of engaging in prostitution are arrested under these provisions, and if after physical examination they are found to be infected, they are committed to a correctional institution where they receive medical treatment. Control of venereal disease is, of course, a legitimate public concern. However, it seems clear to the Committee that the proper procedure for this purpose is through public health legislation.

Many women offenders have been convicted of a different type of vagrancy. Section 164(1) (c) provides that:

> Every one commits vagrancy who
>
> (c) being a common prostitute or night walker is found in a public place and does not, when required, give a good account of herself.

It is to be noted that this section does not define prostitution itself as a crime but rather defines the crime as that of being unable, if a "prostitute or night walker" found in a public place, to "give a good account of herself". The law in Canada, as in many other countries, appears to recognize the difficulties in either defining prostitution or eliminating it, and to aim rather at establishing control over public soliciting for purposes of prostitution, and at reducing exploitation. It may be noted that these are the aims which the report of the Wolfenden Committee in Great Britain suggests as the appropriate area of concern of criminal law in relation to this social problem.[3]

It is to be noted that there are certain types of provisions in the Criminal Code, such as those directed against keeping a bawdy house or living off the avails of prostitution, which attempt to prevent the exploitation of others.

It appears to the Committee, however, that section 164(1) (c) should be re-examined, both as to its clarity and appropriateness in defining the prohibited behaviour and as to its susceptibility of application in discriminatory fashion.[4]

Deciding on an appropriate disposition for those convicted of soliciting or of other offences related to prostitution is not easy. Women convicted under section 164(1) (c) are frequently fined but not dealt with constructively and consequently the imposition of a fine may have the appearance of amounting to payment of a periodic licensing fee. Jail commitments have similarly been less than effective as a deterrent. Combinations of brief sentences followed by periods of control in the community, or part-time imprisonment for evenings and week-ends with opportunities for approved daytime employment, may well prove more effective.

While more men than women are convicted of drinking offences, nevertheless, very similar considerations to those outlined in relation to vagrancy apply to charges of drunkenness, or "being intoxicated in a public place", in that these offences form a major group among the offences for which women are committed to jails. These charges arise from provincial legislation rather than under the Criminal Code, but are enforced through criminal procedures. Commitments under these legislative provisions are typically for terms of one or two months or less, and again typically are repetitive. This is particularly striking in the prairie provinces where the Committee was informed that commitments on vagrancy or intoxication run as high as ninety per cent or more of the incarcerated female population. An additional striking factor in the situation on the prairies is the extremely high proportion of women incarcerated in provincial jails who are of Indian

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[3] Great Britain. Committee on Homosexuality and Prostitution. *Report* (Wolfenden Report). London: Her Majesty's Stationery Office, 1957.

[4] The brief on "The Woman Offender", presented by the Canadian Corrections Association to the Royal Commission on the Status of Women in Canada, suggests that: "*being* a prostitute found in a public place is ... to be rejected as a punishable offence but ... *soliciting in a public place for the purpose of prostitution* is a more reasonable manner of describing the behaviour which is socially unacceptable." The same brief recommends (recommendation 3, p.11):

> *"That the present Criminal Code provisions regarding prostitution in Section 164(1) (c) be amended to prohibit only 'a male or female from soliciting a male or female in a public place for purposes of prostitution'"*.

or Métis origin. These factors, taken together, underline the close relationship between a position of social deprivation and disadvantage and the likelihood of conviction for this type of "criminal" activity.

The Committee's criticism of present practice in relation to control of public drunkenness does not imply lack of recognition that there is need for social concern and social intervention in relation to it. Consumption of alcohol plays a significant part in contributing to assaults and other, often serious, offences which are the proper concern of law enforcement and criminal justice. Even beyond this fact, however, it is necessary for the police to have power to intervene in many instances, both in the interest of public order and in the protection of the individuals concerned, such as the intoxicated person who wanders in traffic or falls asleep on the street in winter. The point we wish to make, however, is that after such protective intervention has been made, alternative procedures and resources should be available. We state our view that reduced harm and increased possibility of effective help to the vagrant or the publicly intoxicated person can be achieved through developing procedures and resources more appropriate than are as yet widely available in Canada.

It has been noted earlier in this chapter that women, in relation to men, are represented in much higher proportion in drug charges than in most other types of indictable offence.

As with other types of offence in the category of offences without a direct victim, the major sufferer from drug abuse is the user and correctional disposition should be related to this factor.

Attempted suicide is another offence for which charges against women are higher in proportion than the ratio of offences generally. While the numbers involved here are not as large as in the other categories discussed, and practice in many areas has been for crown prosecutors to refrain from laying charges under this section, nevertheless the section remains and is used. In 1966, 275 men and 139 women were convicted for this offence.[5] There is no statistical indication as to how many of these received mental health treatment but 59 men and 15 women were sent to jail.

An examination of the Criminal Code in relation to specific offences does not come within the Committee's terms of reference, but we have recommended in Chapter 2 that such a review be undertaken. We wish to record our opinion that particular attention should be given in such a review to offences which are without a direct victim. However, even more crucial than legislative change is the development of alternative methods and resources to deal with the social problems presented by these forms of behaviour.

The Committee recommends that early discussions between the federal government and the provinces give attention to developing across Canada services which could be used as alternatives to criminal proceedings in dealing with offences without a direct victim.

[5] Dominion Bureau of Statistics. *Statistics of Criminal and other offences 1966.*

Offences Related to Childbirth and Maternity

The third general grouping of offences prominent among those committed by women are offences related to childbirth and maternity, i.e. infanticide, concealing the body of a child, child neglect and abuse. This group of offences differs from the preceding group in that the harm done is mainly directed at someone other than the offender. The exception to this is the offence of concealing the body of a child, which in practice tends to be treated more leniently than the others, perhaps because the suffering caused to the offender by publicity in this type of case is not disregarded.

In relation to infanticide, child neglect and abuse, it is obvious that the harm done may be of a most serious nature, and is particularly repugnant in view of the helplessness of the victim. It is nevertheless demonstrable and is well known to persons most familiar with such situations that these offences are frequently associated with a condition of serious mental disorder, or at the least with a high degree of emotional stress which overwhelms the normal ability of the individual to control her behaviour. Thus, comments made in Chapter 12 on the mentally disordered person under the criminal law have application to a high proportion of offenders in this category.

The serious harm which may be done to the child victims makes this a necessary area of concern for law enforcement and criminal justice. In our view, however, major emphasis should be placed on providing preventive social resources such as child protection and family services and on treatment which is primarily under the auspices of mental health and social welfare authorities rather than the unrealistic and ineffectual use of imprisonment in relation to these offences.

Differences in Sentencing Practices in relation to Women and Men Offenders

We have noted that, on the whole, there seems to be greater readiness in society to avoid the use of incarceration or severe forms of punishment for women than for men. Some considerations contributing to this appear to arise from logical causes, such as the lower proportion of violent offences committed by women. Sometimes, also, courts appear to recognize that incarceration of the mother of young children would, in certain situations, penalize their children even more directly and severely than does, in other situations, the incarceration of a father. Apart from such instances, it is difficult to defend this discrimination in favour of women on grounds of logic. General recommendations concerning sentencing made elsewhere in this report should make clear that we are not suggesting that practice be changed in the direction of sentencing women as men are presently sentenced; for the most part we believe that greater equality in treatment between the sexes should be reached by modifying sentencing practices in relation to men offenders.

Chapter 11 of this report suggests that special considerations should apply in relation to sentencing where there is grave public risk from rationally

motivated but illegal activity such as professional crime. Statements have been made to us by law enforcement and correctional personnel that there appears to be an increased involvement of women in such kinds of crime as passing forged cheques and counterfeit money.

We have also been informed that women involved in organized criminal activity frequently, though not exclusively, become so involved through their personal relationships with men who initiate and organize such activity. It is asserted too that in instances where a man and woman have been involved together in a planned offence, it is not uncommon for the woman to assume before the court the major responsibility, even where the man was in fact the main instigator and planner. It is stated that this is done on the assumption that she will receive a lighter sentence than would the man. We consider it appropriate that women who have carried out minor roles because of emotional attachment and economic dependence on the men involved should have these considerations taken into account by the courts. We see no sound reason however why women who deliberately involve themselves in organized "professional" criminal activity should be given preferential treatment solely because they are women.

Correctional Services for the Woman Offender

The correctional principles that apply to offenders in general apply to women offenders as well. These principles are set out in earlier chapters of this report.

One of these principles is that treatment of the offender involves the total sequence of events which is experienced in connection with the criminal justice process—in the words of our Committee's terms of reference "from the initial investigation of an offence through to the final discharge of a prisoner from imprisonment or parole". Everything which happens to the offender during this process has its effect either in the direction of correction or in the opposite direction.

We wish to emphasize the importance, throughout this entire process, of this treatment being such as to enhance rather than degrade the offender's human dignity and sense of worth as a person. It is recognized that many of our traditional correctional procedures are based upon the opposite assumption, namely, that if treatment emphasizes society's abhorrence of the offending behaviour through dramatizing the offender's difference from, and inferiority to, the "normal" citizen, the consequences of such behaviour will be feared and the behaviour avoided. Contrary experience, to the effect that the offender all too readily accepts society's opinion that he or she is a degraded and inferior person, and is driven more firmly to identification and continuing association with others similarly labelled, is only slowly creating change in our methods of treating offenders, both men and women.[6]

If the offender is to be encouraged in the hope and belief that he or she can attain an accepted status in the wider society, rather than solely in the

[6] Bertrand, Marie-Andrée. "Self-Image and Delinquency: a Contribution to the Study of Female Criminality and Woman's Image". Acta Criminologica, 1969, II, 71-138.

criminal sub-culture, the many small repetitive procedures which carry the opposite message must be changed.

Examination of the kinds of offences most frequently committed by women has revealed a number of factors which require to be taken into account in planning for the woman offender. Additional factors have been drawn to our attention by a number of experienced correctional workers and which appear also in literature concerning the women offender; these also deserve examination.

One such factor is the particular importance for the woman offender of personal appearance, clothing, and physical surroundings. This is perhaps only an aspect of the more general principle that human beings have a marked tendency to respond with the type of behaviour which others appear to expect of them. Thus, good personal grooming and reasonably pleasant physical surroundings are important in enhancing a feeling of self-respect in both men and women. The difference appears to lie in the fact that they seem to be of somewhat more central importance to the woman, who tends more typically to use clothing and personal surroundings as a significant expression of her personality. Thus, any correctional institution for either short-term or long-term custody, or any program which is part of an endeavour to change the attitudes and behaviour of women offenders for the better, must pay special attention to these things.

A second factor which has been drawn to our attention is an apparent tendency of women offenders to need and use specialized medical, psychiatric and social treatment resources in higher proportion than is true of the same number from an undifferentiated group of men offenders. This may simply be an aspect of the marked difference in numbers between men and women offenders proportionate to the general population. That is, since fewer women out of the total population are sentenced by the courts than is true of men, the sentenced group may represent overall a more socially aberrant and emotionally disturbed group than do the sentenced men. Also, the difference may reflect a general difference in attitude towards the use of such treatment resources as between women and men in the general community. In any case, administrators and correctional workers in many jurisdictions have pointed out the high proportionate requirement in women's institutions for these special services. It is the practice in many jurisdictions also that a probation or parole caseload of women offenders is normally smaller than a comparable caseload of men.

During discussion sessions concerning the woman offender at the Canadian Congress of Corrections in Halifax in June, 1967, it was agreed that in women's institutions there is a stronger factor of "emotional contagion", through the more readily expressed emotionality of the women, than with a comparable group of men. This was asserted not only by correctional workers whose experience had been with women offenders only, but the male administrators of a federal and provincial institution respectively, who in both instances were experienced in institutions for men as well as institutions for women. This suggests special problems in institutional management which

add to the other factors discussed in Chapter 17 of this report in underlining the importance of small, well-staffed living units in planning correctional institutions for women.

Community Services

Another principle stressed in this report is that, unless there are strong reasons against it, the offender should be dealt with in the community rather than being sentenced to prison. Problems sometimes arise in providing community correctional services to women because of small numbers. For instance, in some areas there may be only two or three women on probation or parole and it is difficult to provide supervision. This points up the need to coordinate services to women offenders.

Hostel facilities are urgently needed for women offenders, particularly the younger women, because of the need for additional protection.

The need for voluntary agencies to serve women offenders is also urgent in some parts of the country. Such services for women are not as widespread in Canada as those for men, although the agencies serving men will often assist women as well.

Prison Services

The number of women sentenced to prison in Canada, in comparison to the number of men, is so small it is difficult to plan prison services for them.

TABLE 19

Population Movement in and out of Canadian Prisons for Women, 1967–1968

Jurisdiction	Movement In During Year	Movement Out During Year	Population as of March 31, 1968
Newfoundland	41	41	4
Prince Edward Island	14	14	—
Nova Scotia	179	180	16
New Brunswick	215	219	19
Quebec	2,376	2,407	68
Ontario	4,851	4,841	214
Manitoba	1,016	1,017	43
Saskatchewan	564	572	20
Alberta	1,162	1,169	54
British Columbia	1,117	1,122	106
Yukon	226	229	1
Northwest Territories	212	212	7
Penitentiaries	76	78	111
Kingston			(75)
Matsqui			(36)
Totals	12,649	12,101	663

SOURCE: Dominion Bureau of Statistics. *Correctional Institution Statistics 1967-68.*

This Table includes all admissions to these institutions, including those awaiting trial or on remand. This means that the same individual may be admitted to more than one institution during proceedings related to the same offence. For instance, she may be admitted to a jail awaiting trial and then admitted to another institution after conviction and sentence. It is therefore impossible to determine the number of individual women who were incarcerated in Canadian prisons during the year under consideration.

The Committee notes the existence of marked differences in the number of women committed to prison between provinces with comparable population. These differences obviously call for further study.

Another factor to be considered in planning prison services for women is the "social" nature of the offences for which most women are sentenced to prison, in contrast to the more aggressive crimes committed by some men. Relatively few women inmates present a custodial problem in prison. This makes it possible to reduce the limitations otherwise imposed by the necessity for security on the establishment of a more effective correctional environment.

In the past, the Government of Canada operated one Prison for Women in Kingston, Ontario. This institution has a capacity for one hundred inmates. Recently, an institution was opened at Matsqui, British Columbia, to serve female inmates who are drug addicts from the Western provinces. Those from the Eastern provinces are still committed to the Prison for Women in Kingston.

This arrangement whereby all women in Canada receiving a prison sentence of two years or more (except the drug addicts from the Western provinces) are sent to one central institution creates many problems.

1. Women from communities far from Kingston are separated from their families and other community contacts. This causes hardships while the inmate is in the institution and makes pre-release planning most difficult.

2. There is no French-language program at the Federal Prison for Women in Kingston. Because of this, Quebec courts are reluctant to impose sentences of two years or more on women. This is illustrated by the fact that on December 14, 1967, there were forty-five inmates from Ontario in the Prison for Women and only twelve from Quebec. To operate two programs, one in English and one in French, in an institution as small as the Prison for Women does not seem practicable.

3. Segregation presents problems. The population of the Prison for Women in Kingston is made up of a wide range of inmates in terms of age, degree of criminal sophistication and emotional stability. Ideally, if numbers justified it, these inmates should be segregated in a number of institutions.

The institution for female drug addicts at Matsqui in British Columbia has a capacity of one hundred and fifty. Less than a third of that capacity is in use at present.

The Committee has stressed the advantages of relatively small institutions over large institutions in another part of this report. Practical considerations, however, do not permit this principle to be carried to extremes. Adequate correctional services can be provided only where the group for whom the services are intended is sufficiently large to utilize those services. This means the services must be provided by administrative units of reasonable size.

The most effective way of accomplishing this, in the opinion of the Committee, would be for the Government of Canada to purchase service in respect to women sentenced to two years or more from the larger provinces—Ontario, Quebec, British Columbia and, probably, Alberta—so that women from those provinces serving a sentence of over two years would be held in provincial institutions. In the Atlantic provinces it is suggested the Government of Canada offer to establish a prison service for all women with a sentence of over thirty days. The Atlantic provinces could then purchase service from the Government of Canada for their women serving sentences over thirty days and under two years. This seems more feasible than the proposal that the Atlantic provinces supply prison service for all women inmates since the numbers in each province are too small.

Manitoba and Saskatchewan present a special problem. One possible solution is for the Government of Canada to provide a regional service to these two provinces for all women inmates serving more than thirty days, similar to the arrangement suggested above for the Atlantic provinces. An alternative would be for these two provinces to purchase service from one of the larger provinces with suitable facilities for those inmates requiring security, with each province operating its own prison services for the remaining inmates.

Physical segregation of the inmates on the basis of acceptable classification criteria could be accomplished by appropriate architecture.

In all cases, the jurisdiction purchasing service would reimburse the jurisdiction providing the service. Help with capital cost would have to be considered too so the jurisdiction providing the service could build additional facilities to serve the additional inmates.

It is recommended that arrangements for purchase of prison services for women be made between the Government of Canada and the various provinces so that a unified service could be provided in each area and that the Government of Canada offer to purchase service from the larger provinces and to provide regional services that could be purchased by smaller provinces.

These arrangements would not solve all problems related to prison services for women offenders in Canada. Area prisons would still require the removal of some inmates some distance from home. Purchasing service by one province from another for those inmates who require security would also mean

some inmates would be transferred some distance from home. However, the number separated any great distance from home and community would be greatly reduced.

Not all French-speaking inmates come from Quebec and French-language institutions or parts of institutions would be required in other areas. However, those French-speaking inmates who receive a sentence of less than two years are already being cared for in these areas. If all inmates from the Province of Quebec, regardless of length of sentence, were cared for in institutions within the province, the judges would feel less inhibited in arriving at an appropriate sentence.

Segregation would still be a problem in those areas where the female inmate population is small. There would be a problem if one or two long-term inmates were held among a group of short-term inmates, even if security were no problem. It would be disturbing for the long-term inmates to watch the short-term inmates come and go. However, an aggressive work-release and parole program, backed by an active local voluntary agency with hostel facilities available to it, should ensure that few women offenders spend a long period in prison.

Continuing Jurisdictional Responsibility

These provisions would leave the jurisdictional responsibility of each level of government undisturbed. The Government of Canada would retain primary responsibility for women who receive sentences of imprisonment of two years or more, the provinces for those who receive sentences of less than two years.

The inmate for whom service is purchased from another government should be subject to all rules and regulations of the prison in which she is placed. This would include such matters as rates of pay and home-visiting privileges.

However, the Committee is of the opinion that the government with primary responsibility should retain responsibility for parole. That is, the National Parole Board would retain responsibility for parole as it applies to any woman serving a sentence of two years or more for whom the Government of Canada has purchased service from a province, and the province would assume responsibility for parole as it applies to an inmate serving a sentence of less than two years for whom service has been purchased from the Government of Canada or from another province. Parole supervision might, of course, be purchased to retain continuity of staff-inmate relationship where that seems desirable.

It is recommended that the government with primary responsibility retain responsibility for parole as it applies to any woman inmate for whom prison service has been purchased from another government.

A Leadership Role

The training and exchange of experience among correctional workers has tended to neglect the particular problems of those who deal with women

offenders. It would appear to the Committee that progress in treatment of women offenders throughout Canada and the development of appropriate services would be advanced by appointment of a senior officer within the Department of the Solicitor General who would not only be responsible for developing appropriate program, staff recruitment and staff training in relation to women in federal institutions, but would also be responsible for facilitating exchange of information and experience among others carrying similar responsibilities in provincial services throughout Canada.

We have suggested elsewhere that in a country such as Canada, which has marked regional differences and a federal form of government, the role of the central government in ensuring an effective system of corrections requires exercise of leadership through stimulation of experiment, exchange of information and experience, and mutual planning among the various government jurisdictions and voluntary agencies which contribute to the whole. The fact that women offenders form a comparatively small and readily identifiable group offers an opportunity to pioneer in developing this type of leadership. The sense of isolation which was communicated to the Committee by staff members working with women offenders should be substantially reduced if they could feel an identity with a larger group engaged in a common task.

The Committee recommends that the Government of Canada appoint a suitably qualified woman to a position of senior responsibility and leadership in relation to correctional treatment of the woman offender in Canada.

Indian and Métis Women Offenders

The number of Indian and Métis women sentenced to prison in Canada is shown in the following Table.

Although detailed information is not available, it appears that the great majority of these women were convicted of offences, such as drunkenness, that are social rather than criminal in nature.

The fact that in many prisons for women, particularly in the Western provinces, the majority of the inmates are Indian or Métis calls for special programs in these institutions designed to meet the particular needs of these Indian or Métis women. The importance of involving the general community in corrections has been stressed throughout this report. The need to involve members of the Indian and Métis communities in programs designed to help these Indian and Métis women offenders seems particularly acute.[7]

[7] Alberta. Executive Council. *Report of the Alberta Penology Study* (McGrath Report). Edmonton: Queen's Printer, 1968.

TABLE 20

Number of Indian and Métis Women in Selected Prisons for Women in Canada for Certain Periods in 1965 or 1966

Institution	Period	Total Admitted[a]	Total in Detention[b]	Indian or Métis	Per cent Indian or Métis
Kenora District Jail, Ontario..	Jan–June 66	281		266	95
The Pas Correctional Institution for Women, Manitoba	August 66		17	17	100
Portage La Prairie Correctional Institution for Women, Manitoba	August 66		63	44	69
Riverside Correctional Centre, Saskatchewan	August 66	30		24	80
Fort Saskatchewan Provincial Gaol (Women's Section), Alberta	August 66	109		81	74
Oakalla Prison Farm (Women's Gaol), British Columbia	April 66	76		35	46

[a]Total number admitted during period of time indicated
[b]Retained in jail at the time of the collection of data

SOURCE: Canadian Corrections Association. *Indians and the Law*, Ottawa: Queen's Printer, 1967

Annex

TABLE 21

Rate of Charges per 100,000 Population over 16 and Ratio of Male to Female Rates for Specific Offences in Canada in 1966

Offence[a]	Rate per 100,000 Population in Canada[b]		Ratio of Rates
	Male	Female	Male—Female
Theft $50 and under	240	69	3:1
Offences related to prostitution	7	24	1:3
Assaults (not indecent)	293	18	16:1
Fraud	138	18	8:1
Theft over $50	118	12	10:1
Break and enter	197	4	49:1
Having stolen goods	56	4	14:1
Gaming and betting	43	3	14:1
Narcotic Control Act	9	3	3:1
Car theft	99	2	50:1
Offensive weapons	35	1	35:1
Robbery	32	1	32:1
Wounding	6	1	6:1
Sex Offences (excluding rape)	40	0.5	80:1
Murder[c]	2	0.4	5:1
Attempted murder	2	0.1	20:1
Manslaughter	0.3	0.1	3:1

[a]Listed in order of frequency of female charges.

[b]Rates based on the population of men and of women in Canada over the age of 16. 1966 Census data.

[c]Includes capital murder and non-capital murder.

SOURCE: Adapted from material of M. Benson. Based on Table 1B in *Dominion Bureau of Statistics. Crime Statistics (Police) 1966.*

23

SIGNIFICANCE OF CRIMINAL RECORDS AND RECOGNITION OF REHABILITATION

Criminal Records

When they become public knowledge, records of criminal conviction greatly handicap rehabilitation and thus threaten to destroy the correctional process. In the Committee's view, it follows, then, that convictions should be recorded only for offences dangerous enough to society to override the harm they do to the offender. Accordingly, a way should be open to the courts to deal with minor offenders without registering a formal conviction. There is no federal provision for this in Canada at present. Other countries have introduced such reforms as discharge without conviction and probation without conviction. The Committee evaluated and made recommendations on these procedures in Chapter 11 of this report.

Availability

The public has relatively little trouble learning that a man has been convicted of a criminal offence. Among other organizations, credit firms, bonding companies and employment agencies have such information, and it is available to a wider public through court records.

The Committee deplores this widespread dissemination, which can be needlessly harmful to an offender, whether he is just out of prison or has abided by the law for many years. It is our opinion that official criminal records should be available only to organizations requiring them for court, police or correctional purposes. We are aware, however, that there are methods, apart from access to official records, of finding out if a man has been convicted of a criminal offence. Legislation, therefore, is likely to be an incomplete safeguard in this area. Continuing public education is necessary to discourage such methods as questioning a man's neighbors about his past.

In the Committee's view, society's right to be protected against crime and the threat of crime demands that an offender demonstrate his rehabilitation by leading a crime-free life in the community for an appropriate number of years. Only when society is satisfied that he is worthy of the risk would it be prepared to annul his conviction. But what of the intervening years? An offender who is sincerely trying to rehabilitate himself ought not to be demoralized by running into his record at practically every turn. There are many other aspects of rehabilitation which this Committee has dealt with in other parts of this report.

Recognition of Rehabilitation

When an offender has shown over an appropriate number of years that he wants to lead a crime-free life and is capable of it, there should be a procedure to ease, as much as possible, the legal disabilities and social stigma of a criminal record. In such cases legislation should provide for nullifying his record, granting him a certificate of good behaviour and recommending him for a pardon which would vacate his conviction. The chance, thus given, to start again with a clean record would provide additional and strong motivation to earn this new status and, once earned, not to risk it by further crime.

All three parts of this provision need not apply to minor convictions. Consider, for example, the man who once made a mistake—say, taking a car without the owner's consent (joyriding) as a teen-age prank—and finds himself years later embarrassed publicly and professionally and perhaps unable to be bonded or transferred to another country. The hardship in such cases is obvious, but it would be effectively alleviated by nullifying the record alone. There would be no necessity further to recognize rehabilitation by a certificate of good behaviour and a pardon.

By nullifying, the Committee does not mean physical destruction. It would be both impractical and unwise to attempt, in effect, to erase all trace of a criminal record. Such information is widely disseminated and kept on file by governmental and private agencies, some of which—newspapers, for example—could not be expected to destroy their records. Nor, of course, could the police be expected, in cases of public necessity, to do without the proper and indispensable intelligence that criminal records provide. Further, a criminal conviction will be remembered and memory cannot be obliterated.

By nullifying, the Committee means that official criminal records should not be available to the court, where they affect sentence, or the public, where they affect many aspects of an ex-offender's life, including employment. The record of an offender whose rehabilitation has been recognized should be placed in past records and sealed. The effect should be that, for the purposes of the court and the public, the conviction never occurred. The Committee also feels there should be an onus on the police to show cause that an annulled record they require is of sufficient public importance

to justify releasing it to them. Such cause should be shown to the satisfaction of the Solicitor General or the appropriate provincial minister of justice or attorney general.

To indicate more precisely the Committee's views as to the effect of the annulment or vacating of a criminal conviction,

The Committee recommends that, save as provided in this report with respect to the investigation of crime and subject to the safeguards and restrictions specified, a conviction which has been annulled or vacated shall be deemed never to have taken place in respect of all matters over which Parliament has jurisdiction and in particular and without limiting the generality of the foregoing shall be deemed never to have taken place:

(i) for the purpose of any criminal proceeding or other proceeding over which Parliament has jurisdiction;

(ii) in relation to the cross-examination of a witness in any proceeding over which Parliament has jurisdiction;

(iii) in relation to any provision in an act of Parliament by virtue of which a person who has been convicted is disqualified from holding any office or performing any public function;

(iv) for the purpose of employment in any branch of the public service of Canada.

Summary Conviction Offences

The Committee considers it feasible for the purposes of nullifying to separate offences into minor and major on the basis of their danger to society. We define a minor offence as one punishable on summary conviction. Because the consequences of a criminal record for such convictions are out of proportion to the gravity of the offence, nullifying should be automatic after an appropriate crime-free period. In the Committee's opinion, neither a hearing nor a document recognizing rehabilitation nor a pardon is necessary.

The Committee, therefore, recommends:

(a) that criminal records resulting from summary conviction be annulled automatically after a crime-free period of two years from the end a sentence;

(b) that "end of a sentence" be taken to mean, in the case of a fine or other punishment not involving probation or prison, from the date of conviction; in the case of probation, from the end of the probation period; in the case of prison, from the end of the prison sentence; in the case of parole, from the end of the parole period;

(c) that an annulled record of summary conviction not be activated in the event of any later conviction, which would be dealt with as a first offence.

The Committee feels that, as experience is accumulated, consideration might be given to broadening this category to include certain other offences.

Indictable Offences

Different considerations apply to major offences, which the Committee, for practical purposes, defines as those classified by the criminal law as indictable. Because some of the criminals most dangerous to society are among those convicted of indictable offences, care must be taken to ensure that recognition of rehabilitation is not granted prematurely. Yet if, as this Committee believes, society's best long-term protection is rehabilitation, the need for such recognition is most urgent for those who must overcome the stigma of conviction for a major offence.

The Committee's view is that the most effective safeguard against an unjustified recognition of rehabilitation is a full hearing with the onus of proof placed on the applicant. We have considered suggesting that a court conduct this hearing, but the judiciary is already carrying a heavy workload, and furthermore, does not have adequate resources to assist it in making the necessary assessment of the offender. The National Parole Board, as this Committee sees it reconstituted, would seem the more practical choice. It would have the field staff and the experience.

The Committee, therefore, recommends:

(a) that criminal records resulting from conviction for indictable offences be annulled after a successful hearing before the National Parole Board, the hearing to take place on application of the offender at any time following a crime-free period of five years from the end of sentence;

(b) that "end of sentence" be taken to mean the same for nullifying records resulting from conviction for indictable offences as for records resulting from summary conviction.

Employment

One of the most debilitating social consequences of a criminal record is the difficulty of finding employment. An ex-offender, to have any chance at all, must be able to make a legitimate living for himself and his family. This can revive his self-respect and give him a feeling of belonging to the law-abiding community. It also gives him an opportunity to make friends—most likely fellow workers—who have no connection with his past life.

Yet society must have the right to protect itself against the threat of recidivism. An employer's reluctance, for example, to entrust funds to someone who has been convicted of embezzlement is a fact that must be recognized. This further underscores the need for a five-year wait and a full hearing before the National Parole Board before nullifying records for indictable offences.

Even so, nullifying alone is not enough for an ex-offender confronted with a job application form which asks: "Have you ever been convicted of a crimi-

nal offence?" What is needed is legislation that would be of practical assistance in getting him past this first stage in the employment process and into a personal interview. This legislation should provide that the National Parole Board, once satisfied that the applicant is worthy of the risk, issue him a certificate of good behaviour and recommend to the Executive that he is a proper person to be granted a pardon. The pardon should state that "the conviction shall be deemed to have been vacated". An ex-offender, faced with the question, "Have you ever been convicted of a criminal offence?" could then reply: "Yes, but I hold a certificate of good behavior from the National Parole Board." If pardoned, he could reply: "Yes, but I hold a pardon which vacates my conviction."

The Committee, therefore, recommends that a person, who has applied to the National Parole Board at any time after five crime-free years from the end of sentence for an indictable offence and who has satisfied the Parole Board after a full hearing that he has been of good behavior, be granted a certificate of good behavior;

that the National Parole Board issue this certificate and accompany it with a recommendation to the Executive that the holder is a proper person to be granted a pardon, which shall state that the conviction shall be deemed to have been vacated;

that, in the case of indictable offences, the two above steps be taken in addition to nullifying the record;

that "end of sentence" be taken to mean the same for a certificate of good behaviour and a recommendation for pardon as for nullifying.

The Committee makes this recommendation after carefully considering an alternate procedure: that the National Parole Board issue successful applicants a certificate of rehabilitation which would provide that "the conviction shall be deemed to have been vacated". It was suggested that an ex-offender could then reply, "No", to the question, "Have you ever been convicted of a criminal offence?" and be asserting a legal fact.

After strong representations from consultants, the Committee has rejected this alternative on at least three grounds. First, that the term "certificate of rehabilitation" suggests a guarantee by the Government that the holder is rehabilitated and will commit no further crime. Second, that to reply, "No", to the question, "Have you ever been convicted of a criminal offence?" would be legally correct but morally ambiguous. Third, that the question could be rephrased in such a way as to induce an ex-offender to disclose a vacated conviction.

The Committee realizes that legislation cannot solve all the problems an ex-offender encounters in his efforts to find employment. For example, job applications present particular difficulties for those who have served a prison term. Blanks in insurance stamps, social security and hospitalization payments and lack of references all suggest time spent in prison. Continuing public education would be necessary to supplement legislative change.

Provincial Jurisdiction

The Committee is aware that many of the legal disabilities arising from a criminal record relate to property and civil rights, and are therefore under the jurisdiction of the provinces. It is also evident that there are far more records of convictions for offences created by provincial legislation than for offences created by federal legislation. We urge the initiation of discussions between the federal government and the provinces to consider the effect of our recommendations dealing with recognition of rehabilitation on matters under provincial control.

International Travel and Immigration

To allow rehabilitated former offenders normal freedom of movement from country to country would, of course, require international agreement. A Canadian tourist with a criminal record may find his record little handicap in travelling to a country where a visa is not required, but immigration is almost certain to be barred. The United States Government, for example, is not prepared to accept for immigration purposes an ordinary pardon granted under the Criminal Code.

This problem can only be solved by reciprocal agreements between nations establishing international standards for rehabilitation and ensuring their recognition.

24

DEVELOPMENT OF HUMAN RESOURCES IN THE FIELD OF CORRECTIONS

People constitute the most important element in any correctional system. It follows that staff development should be assigned maximum priority by every correctional administrator. However, if offenders who are not yet committed to a career of criminal activity are to be prevented from becoming so and if corrections in Canada is to operate as a cohesive system, then staff of high caliber are required in all jurisdictions and in all services related to corrections. We submit, therefore, that staff development should not be left only to the individual correctional system but that it should be planned on a Canada-wide and long-term basis under the leadership and stimulation of the federal government.

The Police

This report deals with only a segment of the policeman's functions, that which is most directly related to corrections, consisting of the way in which persons who have either committed an offence or are suspected of having committed an offence are dealt with.

A Sense of Accomplishment

Staff in any field will operate at a much higher efficiency level, if they feel that they are part of a progressive service with positive ideals. They must know that they have sufficient facilities to accomplish their work effectively and that no illogical or arbitrary obstacles will hinder their action. For them to realize that their profession stands high in public regard helps raise their morale.

These principles apply to the police. Those who belong to an efficient and forward-looking force on the whole react accordingly. Unfortunately, so may those who belong to forces where standards are low, and the results often bring the whole police system into undeserved disrepute.

One of the pre-requisites for good staff development is to offer both the recruit and the long-term staff member an opportunity to participate in a service of which he can be proud.

Public relations present a special problem in police work. Tradition and authority are under attack in many spheres and the police frequently bear the brunt. However, poor police practices have contributed to these difficulties. The police must concentrate on building better public relations if the service is to attract and hold the kind of men and women needed.

Recruitment

Great care is required in selecting police recruits. Not only are a minimum level of education[1] and good character essential, but the motivation that leads the recruit to seek a police career should be examined. Written aptitude tests will help in selection, although no test has yet been devised that will give fully reliable information on which to determine whether a recruit will become a good policeman.

Since no pre-employment test will itself ensure good selection, each police force should have an apprenticeship system so that the final assessment of the recruit's suitability can be made on the basis of performance on the job, as it now is in many larger forces.

Training

The policeman's proper role is not confined to narrowly-conceived enforcement, and his training should reflect that fact. He should be trained so he can take his place along with the other appropriate services in broad programs designed to meet the crime problem.

> The police know that their work forms only a segment of the fight against crime. It is essential that all agencies engaged in the work of prevention and rehabilitation cooperate closely, and that, wherever possible, the full support of the public is obtained. The aim is not just to catch the criminal; it is to rehabilitate the offender so that he will never again become a police problem.[2]

Some aspects of criminology should form part of the training of all police, with emphasis on knowledge of the sciences of human behaviour and a better acquaintance with the operation of the courts and of the correctional services.

Each recruit should work under the direction of an experienced supervisor and opportunities to work alone should be expanded only as his performance shows he is ready. This kind of on-the-job training should be considered part of his over-all training program and should be carefully and deliberately planned.

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[1] The minimum educational requirement in most Canadian police services is Grade 10. See Kelly, W. H. "The Police", in McGrath, W. T. (ed.). *Crime and Its Treatment in Canada.* Toronto: Macmillan, 1965.

[2] Ibid.

Each step in the policeman's progress towards increased competence should be clearly defined and achieved on the basis of barrier examinations, and his successful completion of each step should be recognized in an increased salary scale. Up-grading training should continue to be available to him throughout his career to avoid stagnation and to keep him up-to-date on new techniques. Such training might be available within the service itself or at some outside police school.

To make it possible for a number of personnel to be on training at any given time, each police force should maintain a training cadre over and above the regular establishment.

Canadian universities should be encouraged to increase their training facilities for police personnel.

Because of the mobility of the Canadian population generally and in particular of persons engaged in serious and highly-organized criminal activity, uniformly good standards of detection and law enforcement throughout the country are of great importance, if this kind of crime is to be effectively controlled. It follows, therefore, in our opinion, that the federal government, in co-operation with the provinces should provide leadership in the development of police training facilities. Some of this is already being done in the Royal Canadian Mounted Police Colleges which train limited numbers of municipal police. The Committee notes with approval the federal government's recent decision to set up a national police college, made at the request of the provinces. It is suggested that the federal government support the extension of university facilities in this field by whatever means are available, including financial assistance.

Working Conditions

Police work makes great demands on personnel. Long hours, often during the night and under difficult and even dangerous conditions are routine. Relationships with the public are sometimes strained and the policeman is frequently exposed to undeserved abuse. The policeman is limited in his social life.

If the police services are to attract and hold their quota of good recruits in competition with other employment careers, it is essential that a sense of pride and accomplishment be developed. But that is not enough. Good wages, proper pension plans and holiday provisions, decent quarters and the other standard requirements of good working conditions must be provided.

Efficient police administration units are also essential. Proper standards cannot be maintained in a small police force and the small forces should be absorbed into units large enough to stimulate the building of a tradition of accomplishment, with the resulting transmission of ethical principles. Proper supervision and on-the-job training can also be provided only in the larger unit, along with opportunities for transfer and promotion. Disciplinary boards that can deal effectively with complaints about improper actions by the police are also easier to develop in the larger units.

The Committee believes that each province should have a police act to ensure high standards of police service.

Lawyers

That lawyers should be competent to participate in the criminal process has traditionally been regarded as axiomatic. Recently, has come an awareness that they should be competent to extend their function to participation in the whole correctional process. When the judge's function was merely to award punishment, counsel addressed the Bench on the extent and nature of punishment to be awarded and there was little or no need for special training or skills in this regard. Now that the function of a sentence is understood to extend beyond the imposition of punishment, to ensuring the protection of the public in a wider sense, new skills are necessary in order that a lawyer may participate in an adequate fashion by advising and informing the court as to appropriate dispositions. The Committee is of the opinion that all law schools should introduce courses in criminology to give law students and lawyers a knowledge of criminological theory and of the sciences of human behaviour, and to produce a better understanding of their own role in relation to the whole correctional process. This view has been supported in discussions the Committee has held with members of law faculties throughout Canada.

The matter of further specialist education for members of the judiciary is dealt with in Chapter 11.

Correctional Services Personnel

Training for What?

Part of the difficulty in staff development for the correctional services is the lack of a clear-cut statement of the aims and purposes of many of these services. This is particularly apt to occur in prisons, where the conflict between custody and treatment is often unresolved.

The problem is compounded by the failure of some services to live up to stated aims. For instance, most prisons list treatment as one of the aims; however, it is upsetting for the inmates to examine critically their own motives and attitudes and the result of a treatment program may be tension and discord in the institution. The attractions of a smooth-running institution are many. Such an institution looks efficient and may win praise from both government authorities and the press. The institution that suffers the stress of a treatment program may be more efficient in terms of the stated aims of the prison, but this may not be readily appreciated.

The aim of each correctional service must be clearly and unequivocally stated if staff training is to have any real direction. This report is based on the belief that behavioural modification is one of the prime aims of all correctional services including prisons and that emphasis on methods other than

punitive are necessary to achieve this aim. Further, and most important in catalyzing a staff training program, it is based on a sincere belief in the efficacy of the program. It is only in a correctional service based on such concepts that the staff member can feel he is part of a positive and worthwhile endeavour and that he can take pride in his work.

Where to Begin

Training of staff should start at the senior levels, not at the lower levels of staff. Unless the senior staff are devoted to a program of corrections, that program and the training of staff to carry it out will have little success. A belief in and an understanding of correctional methods must be communicated to junior staff by their superiors if progress is to be assured. This need exists for professionally-trained staff as well as for staff who are not professionally trained. Without active support for a positive program from senior staff, professionally-trained staff will become discouraged and will either resign or confine themselves to professional routines.

It follows that the sequence of training should be from the most senior staff down through the managerial and supervisory staff to junior levels.

Who Should be Responsible for Recruitment and Training

It is important that those who are responsible for recruiting, training and supervising new staff be orientated favourably towards the positive aims of the service. Recruitment will then be based on those characteristics in the recruit that provide a reasonable expectation that he can identify with the rehabilitative aims of the service. Also the training and supervision he gets will support and promote those aims.

Different Settings

Correctional services are of many kinds, from maximum security prisons to probation and parole, and staff personality and skills most suited to each vary. However, the dividing lines between the different services are becoming less distinct and increasing emphasis is being put on co-ordination between them. These changed conditions make changed demands on staff who increasingly need experience in several different areas of service.

As far as possible a correctional staff member should be selected with the intention of giving him experience in a number of settings and, as part of his training, he should be prepared to fit into these different situations. Over the first few years of his experience, he should work in different services—in prisons of varying security, in probation hostels, in probation and parole. In this way a body of correctional officials with the broadest approach will be developed.

Recruitment

As with police recruitment, written tests can be of value in determining whether an applicant has the desired motivation as well as the desired

qualifications. However, none of the tests developed to-date are fully reliable for staff selection and final selection is best made on the basis of performance on the job. Each correctional service should provide for a short probationary period of apprenticeship or internship that applies to all staff, professional and non-professional.

Training—Administrative Staff

Special courses should be developed within the universities to prepare staff for administrative positions within the correctional services. Administration requires special techniques and the staff member who has been successful in a non-administrative position may not be qualified to become an administrator.

The correctional administrator requires knowledge of the usual techniques that apply generally to administration. In addition, he must be fully familiar with the special aspects of administration in a correctional setting. He must know the problems presented by each class of inmate and the special contributions that can be made by staff members from each of the various disciplines. It is not necessary that he know how to apply the special techniques of each staff member but he must know what each staff member has to contribute and how the techniques and requirements of all can be blended in a way that will produce a real team approach.

In addition to university courses in correctional administration, more limited courses at the community college and the in-service levels are required.

Training—Professionally-Trained Staff

The term "professional" is used in two ways in the corrections field. In one sense it refers to any staff member, whatever his academic background, who is employed full-time in the corrections field and who brings to his work an obvious degree of competence, open-mindedness and commitment. In the other sense it refers to the person who is a member of a recognized profession. In this section the term "professionally-trained staff" is used to refer to those who are members of a recognized profession and who are employed in the corrections field in positions where they practice the techniques of their respective professions.

With the exception of university departments directly concerned with criminology or corrections, few professional schools in Canada provide specific training for the corrections field. Most professional schools take the view that their responsibility ends with the provision of generic training in their specialty in that their graduates should have enough knowledge of the specialty to be able to practise it in any setting in which it is proper for these professionals to practise.

This is quite likely so in some cases. Dentists might logically assume that there are no differences in dental needs between law-abiding citizens and offenders which would suggest differential diagnoses and treatments. On the other hand, those professions concerned with learning, relearning or

therapy should possess a fairly wide theoretical knowledge of criminology and corrections in addition to general training. These professions will include, in the main, psychiatry, social work, applied pyschology, applied sociology, pedagogy and theology. In practice, members of these professions are exposed to very little of the correctional field before they may enter it and therefore their knowledge about it is acquired "on the job" and through off-hours reading. Some of these professionals, notably from psychiatry and social work, and in a few cases applied psychology, had pre-graduation contacts with correctional agencies but in most cases these contacts do not appear to be systematic.

Departments of criminology provide, in the main, excellent background in criminology and in the theoretical aspect of corrections but generally do not provide training at the professional level in the skills and techniques of behavioural modification.

There is no sound reason why social service personnel or applied social scientists would be provided with specific training in corrections by the professional schools since most of these students will not practise in corrections. Training of all to the required degree would not be practical. Therefore, it is incumbent upon the correctional agency hiring such personnel to provide the necessary training.

To date, the training of such professionals in most correctional settings has been either non-existent at the formal level or inadequate. Most administrators have assumed that professionals coming into the setting either know all they need to know at the academic level or have the academic wit to learn it by themselves. If they have not, no course will provide it, it is claimed. It is assumed that their practical knowledge of prisoners in the correctional field will come through experience in the setting without any formal guidance from either administration or other professionals. In the view of the Committee this is a mistake and has been one of the factors contributing to the high turnover of professional staff in corrections—particularly correctional institutions. In the not too distant past some of these professionals have found themselves floundering in a hostile environment with little or no knowledge of the environment and many times with little or no real knowledge of the significant behavioural traits of the inmate population. In many cases they came in at salaries in excess of other correctional personnel who had little formal education but considerable experience in dealing with the prison population.

It is suggested that for the first few months of employment professionals operating on a full-time basis and who are concerned with behavioural modification at whatever level be freed from the demands of a full workload and be given every opportunity to become familiar with the setting. During the induction period they should be closely associated with experienced professional and competent correctional colleagues who could be relied upon to provide them with proper guidance.

In addition to technical material related to the practice of the specialty in corrections, the professional should be made acquainted with the function and oragnization of the service of which he has become a part and the responsibilities and authority of all staff members.

After an appropriate probationary period, the new professional staff member and his supervisors should reach a mutually-acceptable decision as to his future in the correctional setting. Some professionally-trained persons find it impossible to adjust to the demands of an authoritarian nature made by the correctional setting. This is not to their discredit, but the fact should be recognized both for their future satisfaction and for the welfare of the service.

Training—Staff Who Are not Professionally-Trained

Most non-professional staff in the corrections field work in prisons. The community services—probation, parole and after-care—ideally call for staff who are professionally trained.

Non-professional staff working in prisons may be divided into three groups:

(1) those who spend almost their entire working hours with the inmates,

(2) those whose contacts with the inmates are part-time or occasional,

(3) those who have little or no direct contact with the inmates.

It is the view of many correctional experts that the personnel who fall within the *first of these groups* are the most influential people, next to the inmates themselves, in shaping inmate attitudes. Their opportunities to influence inmate attitudes are much greater than the professional's who may meet with a particular inmate for only an hour at a time at wide intervals. This puts the non-professional staff in the position of being the key people in carrying out the institution's rehabilitation aims.

Two different types of employees make up this group. The shop instructors, industrial personnel and maintenance supervisors make up one type. The custodial staff make up the other.

These two types of staff are apt to have different relationships with the inmates. The instructors and maintenance supervisors have the status that goes with their special knowledge and their usefulness to the inmate in teaching him a skill. The custodian staff have traditionally lacked this advantage.

The handicap faced by the custodial officer can be alleviated only if he is trained to a level where he carries the same competence, status and self-confidence in discharging his responsibilities as the instructor or maintenance supervisor does in discharging responsibilities related to his specialty.

Personnel who fall in the *second group*—those with occasional contact with the inmates—may well require the same kind of training as those in full-time contact with the inmates. The inmates' training in relationships

with others can be furthered in informal as well as formal situations. For example, clerks of record in some institutions are required to collect certain data from inmates or to care for inmates' personal property. How these clerks conduct themselves while dealing with the inmates can foster either positive or negative attitudes towards those in authority.

Personnel in the *third group*—those who normally have no direct contact with the inmates—are often neglected in correctional staff training except for courses, usually outside the service, in their specialty. While staff in this group do not require the same intensity of training in correctional work, some problem situations can be avoided if they know something of the aims and purposes of the institution and if they are made to feel they are part of the over-all design.

Staff training for non-professional staff should be continuous throughout the staff member's career, and progress towards increasing competence should be recognized in salary scales. Each institution should have a training cadre to make this possible. Supervision of new and junior staff should be carefully planned and organized so they will have maximum opportunity to learn and so they will not be placed in situations beyond their competence.

Working conditions should be at a level that will permit the prison service to compete for competent staff with other career opportunities. The special nature of prison employment involving supervision of confined persons and an element of danger is such that many potential staff members choose not to apply, and further disadvantages caused by uncompetitive working conditions can place the prison service at a serious disadvantage in seeking staff.

Professionally-trained staff should be used as instructors in in-service staff training. This, along with a consultant role to all staff may be the most profitable way to employ the scarce professionally-trained staff who are available.

Great improvements in the scope and quality of staff training, of both community college and in-service nature, have occurred in Canada in recent years. Community college training of a kind that is related to work in the corrections field is now available in a number of provinces. The Canadian Penitentiary Service has three full-time in-service training colleges and almost all provinces offer organized in-service training to all correctional staff including both those employed in institutions and those employed in community-centered services such as probation and parole.

Shortage of Professional Staff

Although it is desirable for certain positions in the corrections field to be staffed by professionally-trained personnel, including probation, parole, after-care and such institutional services as classification, the shortage of trained people is such that most of these positions are now and will continue for many years to be filled by non-professional personnel. This situation should be recognized and training facilities developed to prepare staff with undergraduate university education and similar qualifications to assume this kind of

responsibility. Some facilities of this nature do exist in Canada and staff prepared by them, working under adequate supervision, are performing at a high level of success.

Role of the Canadian Government

Although all correctional administrators should give maximum priority to staff development, Canada-wide leadership by the Canadian Government, similar to that being provided in such fields as health and welfare, is required if success is to be assured. This leadership should extend to recruitment, the encouragement of expansion of university facilities for the training of professional staff and of facilities to prepare non-professional personnel who will be staffing service positions that ideally call for professionally-trained staff, open to provinces that wish to use them.

The Committee welcomes the announcement of a bursary scheme under the Department of the Solicitor General to encourage post-graduate training in the corrections field. A number of provinces also have similar provisions.

The Committee recommends that the Government of Canada, jointly with the provinces:

(a) prepare an occupations monograph dealing with the corrections field to inform high-school and university students and others of the potential of a career in this field;

(b) encourage the expansion of university teaching facilities in this field; encourage the expansion of community college and other facilities for the training of non-professional staff;

(c) offer financial assistance in the form of administrative grants to stimulate the development of training facilities and in the form of bursaries.

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RESEARCH, PLANNING AND ADVISORY COMMITTEES

Need for Organized Planning

The corrections field in Canada as in most countries has suffered from a lack of comprehensive, continuous and long-term planning based, as far as possible, on empirical information. Planning has tended to be sporadic or limited in scope and little use has been made of research.

The development of a truly professional service must be preceded by long and careful preparation, and planning must provide for adjustment as experience establishes the success or failure of operating programs.

Planning should proceed on the broadest base possible so that plans for individual services can be coordinated. The division of responsibility for corrections between the federal and provincial governments and the division of responsibility in some instances among several departments present special problems not met with in a unitary system. Whatever planning organization is set up will have to make provision to deal with these special problems.

Need for Research

Research answers to many criminological problems are not available, nor have research techniques or facilities been developed that could supply all the answers. This is comparable to the situation in other areas of human behaviour. It is true that the research material now available is not being used as it should be, but even with the best intentions the correctional administrator finds many blanks in objective knowledge. He obviously cannot wait for research to provide the answers and, in the meantime, must proceed on the basis of a collation of informed opinion.

The primary need in relation to criminological research is a conviction on the part of both government authorities and the public that research findings are essential in determining policy and in operating the law enforcement,

judicial and correctional services. Until recently, policy-making has been based exclusively on common sense and on the impressions picked up by individuals in the course of their work. This is in sharp contrast to what is done in matters involving the physical and biological sciences.

This has contributed to the failure to meet the challenge of crime successfully. Common sense is fallible and we have had ample demonstration that no matter how intelligent or how experienced an individual may be, his opinions are not fully reliable unless the "facts" on which he bases his opinions are reliable.

When this principle is accepted, the demand for accurate knowledge will grow and so will readiness to subject favourite biases to the test of research.

Need for Canadian Research

While Canada should, of course, make full use of research findings from other countries, the need for criminological research the world over is great and Canada cannot afford to wait until some other country provides the required knowledge.[1] At the same time, there are reasons why specific Canadian research is needed.

Crime is a social problem and our Canadian crime problem can be understood and overcome only in terms of the peculiar society that is ours. Much research has to do with Canada's unique political and legal systems. This calls for research tailored to the specific problem and what has been discovered in other countries cannot be applied to Canada without re-examination.

Also, a research program is essential in any effective educational program to produce staff for the law enforcement, judical and correctional services. Such research is needed as a supplement to class instruction for the students and to keep the teaching staff from becoming stale. Research also helps keep the staffs of the operating services in touch with modern thinking.

Scope of Criminological Research

To be effective, research must be considered an integral part of the whole system of justice, not just an appendix. This means that every phase of the system should be under constant review to assess its effectiveness, and that procedures should be established to provide for the incorporation of research findings as research points the way to more effective procedures.

It is also important that research findings be published. In this way Canada can contribute to a world pooling of knowledge to the mutual benefit of all. Publication makes research findings available to other workers for checking. Also, publication of research material enables the public to judge effectiveness of the services.

[1] Grygier, T. "Current Correctional and Criminological Research in Canada." *Canadian Journal of Corrections*, 1961, 3, 423-444.

Research can be applied in many areas of the criminological field:

1. *Understanding and Defining Crime.* Much more understanding of crime as a social phenomenon is needed. Those acts now defined as crime should be examined to decide whether they should continue to be so defined. (In this connection, it should be recognized that "crime" is not a unified activity but consists of a series of quite different activities. Sexual perversion, assault and embezzlement have nothing in common except that they are all illegal.) Further understanding is needed of precipitating factors.
2. *Planning and Policy-Making.* Policies and planning should be based on accurate knowledge of the effectiveness of present policies and services, and on a careful prediction as to the effectiveness of alternatives.
3. *Administration.* There are many questions to be answered here related to the best administrative pattern for Canada's police, court and correctional services.
4. *Influencing Human Behaviour.* A great deal of information is needed on the best ways to influence human behaviour through the legal process. Does the process of criminal justice deter, and under what conditions? What is the most effective treatment method to be employed with each type of offender? How can offenders best be grouped for treatment purposes? How can the techniques developed by the various professions—law, medicine, psychiatry, psychology, social work, sociology, theology, pedagogy—be most effectively used in the corrections field? Research is also needed to develop better measurement tools related to treatment success.

Some Implications of Criminological Research

Criminology extends over a wide range of human behaviour, covering a large part of the fields of the various social and psychological sciences, as well as criminal law and judicial proceedings. It is difficult to lay down principles covering such a wide range of research.

A problem of coordination evidently exists. Research techniques developed by any one of the sciences involved may be used as circumstances warrant, backed by the professional knowledge of the particular discipline. All these different approaches must be blended if there is to be comprehensive consideration of the problem under study.

One serious handicap faced in criminological research is that the human beings who make up the material to be used in research cannot be dealt with in the way the physical sciences deal with their material. There are limitations to permissible experimental manipulation. For instance the most direct way to measure the effectiveness of sentencing policies would be through a research project wherein the sentence given a particular offender is determined

by a pre-established schedule. However, this runs contrary to our concepts of justice. The consent of the offender seldom solves the problem because his knowledge that he is part of a research project will influence his reactions.[2]

Another problem involves the definition of success or failure in relation to any particular aspect of the law enforcement, judicial or correctional process. Recidivism—the commission of a further offence by the individual—is often interpreted as failure. However, it may not be sufficient to define recidivism only in terms of absolute avoidance of another offence. Differences in the nature of the two offences and an increasing period of crime-free behaviour between offences may be acceptable measures of success.[3] Clearer and more precise definitions of success and the development of measurements of success not based on simple follow-up studies are needed.[4]

Changes related to the field of criminology are rapid and the researcher is sometimes faced with a time problem. If he takes sufficient time to complete a comprehensive and scientifically sound piece of research, he may learn that his findings are out of date before they are published. To be of practical help to the administrator, he may have to supply provisional or less than perfect information quickly.[5]

The most obvious effect of criminological research to date has been its tendency to disprove long-standing assumptions regarding the effectiveness of traditional approaches to the problem of crime. It has not been as successful in developing useful clinical techniques to replace what it has discredited. However, what it has accomplished is important. If two methods are equally effective, the one that imposes less hardship on the offender and on the taxpayer is to be preferred. Policies cannot be settled on the basis of empirical data alone, but require a balancing of research data and concepts of freedom, fairness, and privacy.[6]

Science, by its very nature, can give only limited answers expressed in terms of probability rather than certainty, and applicable only in the clearly defined circumstances in which the research data was secured. We must be wary of abandoning legal safeguards and interfering unduly with the lives of people simply on the basis of objectively established probability. Legal and scientific safeguards should not constitute alternatives but should work in harmony, each recognizing the other's contribution to the common cause.

Finally, if research is to have its maximum effect, there should be organized and continuous procedures to ensure that the findings of research will be implemented.

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[2] Geis, Gilbert. *Ethical and Legal Issues in Experimentation with Offender Populations*, in "Research and Correctional Rehabilitation". Washington: Joint Commission on Correctional Manpower and Training, 1967.

[3] Sherwood, Clarence C. *The Testability of Correctional Goals*. Ibid.

[4] United Nations. *Third United Nations Congress on the Prevention of Crime and the Treatment of Offenders*. New York: 1967. P. 9.

[5] Lodge, T. S. *Research and Research Methods*, in Klare, Hugh J. and Haxby, David. "Frontiers of Criminology". op. cit.

[6] President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington: United States Government Printing Office, 1967. p. 273.

Where Responsibility Lies

All law enforcement, judicial and correctional services have a responsibility to support research and to subject their own work to research evaluation whenever possible. However, the major responsibility should be divided between the governments and the universities.

The *governments* have a particular stake in sponsoring an increased flow of factual information since they carry the burden of operating most of the services. They have the advantage of greater financial resources and of having much of the research material available within their own services. However, there are limits on the kind and scope of research a public service can conduct. Government research workers are not normally free to publish research findings that are in conflict with government policy. There is often a split in jurisdiction between departments. This makes comprehensive study of a problem difficult. A third handicap suffered by the government research worker is the need to keep up with day-to-day problems faced by the present operating services. This does not leave much time or many facilities for basic research.

It should be noted that the kind of research that can be carried out within the operating services is limited because only part of the crime problem is represented by the individuals who are convicted. Basic issues related to understanding and defining crime must be sought within the general population of society.

The special advantages enjoyed by the governments— greater financial resources and research material readily available—can be passed on to the universities. The governments can sponsor research that they cannot undertake themselves by supplying funds to non-governmental research workers and by making the research material available.

The *universities* can best serve as the centres of what might be termed fundamental research. The universities have a number of advantages. They have the facilities—libraries, informed staff and research knowledge. They are more independent and are not committed to the implementation of any particular point of view.

It is also essential that universities carry on a research program to supplement classroom instruction. This is necessary for the students if they are to develop a fuller understanding of the problems to be faced and if they are to understand fully the results of research done elsewhere. It is also necessary if the staff are to keep up with new ideas and avoid falling into a routine.

Consideration should be given to relating correctional facilities more closely to universities in somewhat the same manner that teaching hospitals are related to universities with medical schools. Such a development would promote research as well as providing a training facility. It would also help narrow the gap between the academic and the service orientation.

To discharge its research responsibilities, each government department involved in criminological work shoud have a research unit, whose function would be to keep researchers and administrators in communication, to set up

research projects and procedures for the utilization of research findings, to serve as liaison with research activities in other government departments and in the universities, to arrange for contracted research with the universities, and to administer any research-grant program the government sponsors.

The Committee recommends that the Department of the Solicitor General and the Department of Justice maintain research units to discharge the responsibilities of those Departments in research.

It is suggested that provincial departments responsible for correctional services might consider the establishment of similar units at the provincial level.

Another research function that should be performed is that of national coordination, to ensure that research is not duplicated and that some priority is established. The organization set up to carry this function could do other things as well, such as serving as an information and library centre on research and as a source of technical research advice. The National Social Science Research Council might serve as an example of a desirable administrative pattern.

The Committee recommends that a Canadian criminological research council be set up under independent auspices but financed by the federal government to serve the national coordinating function.

Financing

No progressive industry would consider spending the large sums this country spends on its system of justice[7] without allocating a definite percentage of the budget to research to ensure that the money was being well spent.[8] We suggest that every government allocate two per cent[9] of its total law enforcement, judicial and correctional budget to research. Such expenditures on research will not only contribute to greater success but may well bring about a financial saving through greater efficiency.

Not all of this money would be spent by the government itself. Some of it would go to the universities in the form of contracted research projects and as training grants to help train research workers. Some of it would go to research students in the form of bursaries. There should also be a criminological-research-grants program similar in general terms to the medical-grants

[7] As indicated elsewhere in this report, during 1966 Canada spent $80,000,000 in operating its prisons, $4,000,000 on probation services and an unknown amount on its parole services. In addition, large amounts were spent on the construction of prisons, which in the Penitentiary Service alone ran to $28,173,666. Figures on the cost of the police services and the courts are not contained in this report.

[8] For an indication of trends see "Science spending increase to hit 4% of GNP: Solandt". *Canadian Research and Development*, 2, March-April, 1968.

[9] Morris, Norval R. "Some Problems in the Evaluation of Prisons" in Edwards, J. Ll.J. *Modern advances in Criminology*. Toronto: Centre of Criminology, University of Toronto, 1964-1965. p. 19.

program and the welfare-grants program now operated by the federal government to assist researchers with projects they are undertaking on their own initiative.

It is also to be hoped that more foundations can be pursuaded to allocate funds to this field.

Development of Research Staff

Since research requires a core of highly qualified specialist staff, deliberate planning to produce such staff is essential. This will require training grants to universities and bursaries to research students.

However, as with all services in the corrections field that require professional staff, it is unrealistic to expect a sufficient supply of fully-trained research workers to meet the requirements. As with the other services, it will be necessary to provide partial training to less qualified staff so that they can, under direction, do much of the work connected with the research program.

Statistics

Planning and research both require accurate and comprehensive statistics. This is necessary in determining national and local crime trends, in measuring the success of treatment programs, and in developing a good organizational structure.[10]

It is the Committee's opinion that every effort should be made to increase the quality of criminal statistics prepared by the Dominion Bureau of Statistics. Action should also be taken to ensure that Dominion Bureau of Statistics publications containing criminal statistics are brought to the attention of those people who could make use of them. It appears to the Committee that these publications are not as well known as they should be.

The Judicial Statistics Section of the Dominion Bureau of Statistics forms part of the Health and Welfare Division. Despite its name, the Health and Welfare Division deals only with health statistics. There is no obvious reason why criminal statistics should be grouped with health statistics. It would be as logical to group them with educational statistics within the Education Division or to group health and education statistics. The Committee is of the opinion that the unit responsible for criminal statistics should be raised to the status of a Division within the Dominion Bureau of Statistics and that it should deal only with criminal statistics. This Division could have three Sections: Law Enforcement, Judicial and Corrections.

The Committee recommends that the unit responsible for criminal statistics be raised to the status of a Division within the Dominion Bureau of Statistics and that it deal only with criminal statistics.

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[10] Gottfredson, Don. M. *Current Information Bases for Evaluating Correctional Programs*, in "Research in Correctional Rehabilitation". Op. Cit.

The operating services, however, require certain kinds of information on which to base short-term planning. To be useful, this information is often required on too short notice to be supplied by the Dominion Bureau of Statistics which is a more long-term operation. Each major correctional service requires an information-gathering service of its own and ready access to computer facilities.

Records

Another requirement is for facilities to permit rapid exchange of records on individual offenders. For instance, if an offender completes a period on probation and then moves to another province where he is convicted of a new offence, the probation service in the new province may not be aware that the offender has a previous probation record. It is important that the new probation service have the previous pre-disposition report and that they know the offender's reaction to the earlier probation experience.

The Identification Branch of the Royal Canadian Mounted Police seems the logical facility to provide this service as far as offenders convicted of indictable offences are concerned. The lack of finger-prints would make it more difficult for the Branch to serve this function in relation to those found guilty on summary conviction.

Advisory Committees

Crime prevention and control is the responsibility of the whole community. It follows that major groups in the community should be directly involved in planning the government's criminal justice programs, including the criminal law and its enforcement and the correctional services. Also, there are individuals in the community who possess special knowledge of particular value in such planning.

The Committee recommends that advisory committees to federal government be set up to provide for planning criminal justice programs on a wide basis.

Such advisory committees already exist in many foreign countries, including Great Britain, France, Belgium and the Netherlands.

At the Government Level

A committee or council advisory to the executive branch of government —rather than to any one department—should be established. It is essential that this committee be related to the Government as a whole because a number of departments—among them Justice, Solicitor General, Indian Affairs and Northern Development, National Health and Welfare, Manpower and Immigration, Public Works and the Dominion Bureau of Statistics—have a relationship to the appropriate services. Only an advisory committee at the government level could plan comprehensively.

This advisory body could carry some such title as "Advisory Council on Criminal Justice".

The Council could be made up of a chairman and some members appointed by Governor-in-Council and some members appointed by Canada-wide organizations. For instance, The Canadian Bar Association, The Canadian Association of Chiefs of Police, and the Canadian Corrections Association, might each appoint a number of members. It would be expected that in addition to lawyers, police officers and correction experts, representatives of other disciplines, particularly from the criminology departments and centres in Canadian universities, and representatives of the Canadian public, would be included. No government employee would be a member, although if these discussions and recommendations are to have maximum effect, advice is needed and appropriate government employees should be invited to attend.

The Council could operate through three Committees: Continuing Criminal Law Reform, Law Enforcement, and Corrections. These Committees should be inter-disciplinary in make-up. The members should be selected by the Council and all Committees would be responsible to the Council.

It is suggested that the Council (sometimes through its Committees) be responsible for:

(1) reviewing matters related to criminal justice that fall within the federal government's sphere of activity and recommending changes to the government. It might initiate studies itself, or recommend studies to the government. It would have authority to examine any aspect of the government's services in these areas, and to request cooperation from government officials;

(2) advising the federal government on matters on which the government requests advice.

It is essential that the Council be served by a competent and permanent secretariat who would perform regular administrative functions and undertake studies at the direction of the Council. This staff would also be available to the Council's Committees. The Council should have a budget to spend on such studies and on such matters as travel by Council members or staff.

The existence of the Council would not rule out special studies being undertaken by the government. In fact, the Council might recommend such studies to the government.

At the Departmental Level

Further advisory committees to the Departments of the Solicitor General and Justice are suggested.

Department of the Solicitor General:

(1) JOINT COMMITTEE ON CORRECTIONS. Because of the federal nature of Canada's governmental structure, a committee in the corrections field, similar in purpose and function to the Dominion Council of Health and the National Council of Welfare, is required. Its chief function would be to provide the senior federal and provincial

correctional administrators with an opportunity to meet at regular intervals to discuss matters of common concern. Opportunities for such meetings are now lacking and with the close relationships required between the federal and provincial correctional services, opportunities for such regular discussions are important. It might consist of the Deputy Solicitor General, the chief executive officer responsible for the correctional services in each province and representatives from the public, particularly the private after-care agencies, and representatives of the Advisory Council on Criminal Justice. Other senior federal and provincial officials could attend committee meetings when material related to their responsibilities is on the agenda. This committee should be provided with a secretariat. Close liaison between this Committee and the Advisory Council on Criminal Justice is essential. The representatives of the Council on this Committee would help provide this. Occasional joint meetings of the two groups might be arranged. Liaison could also be maintained at the staff level.

(2) RESEARCH ADVISORY COMMITTEE. It is suggested that a small Committee made up of perhaps from three (3) to five (5) non-government people, appointed by Governor-in-Council be set up to advise the Department's Director of Research in matters pertaining to the Department's research responsibilities. This would be a technical group. Not only would the members bring useful technical knowledge, but their independence and prestige would ensure relative freedom for the Department's research program and would protect the Department from undeserved criticism around research activities. This Committee's interests would be confined to the Department's research responsibilities while the wider functions related to research in Canada would be performed by the criminological research council recommended earlier in this chapter.

Department of Justice. Similar committees should be set up by the Department of Justice. It should be noted that while some of the functions of the proposed Joint Committee to bring federal and provincial administrators together, are already performed by the conference of Commissioners on the Uniformity of Legislation, the same considerations apply to the Department of Justice as have been suggested in relation to the Department of the Solicitor General.

Within the Provinces

Advisory committees of various forms and with varying functions are now in existence in several provinces. All provinces might like to consider the advantages of such committees.