BACK COVER PAGE OF
HOUSE OF COMMONS DEBATES
OFFICIAL REPORT (HANSARD)
VOL. 144, NUMBER 084
18 SEPTEMBER 2009

PAGE DE DOS
DÉBATS DE LA CHAMBRE DES
COMMUNES
COMPTE RENDU OFFICIEL (HANSARD)
VOL. 144, NUMÉRO 084
18 SEPTEMBRE 2009

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the following address: http://www.parl.gc.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : http://www.parl.gc.ca

CHAPTER TEN

THE RELEASE PROCESS

A. Jurisdiction of Parole Boards

1. The National Parole Board

a. Organization

The National Parole Board is an agency within the Ministry of the Solicitor General. The Board is independent of government in its decision-making role, except, of course, for the ultimate control exercised by Parliament through its legislative and oversight functions.

In addition to its headquarters in Ottawa, the Board has five regional offices (Atlantic, Quebec, Ontario, Prairies and Northwest Territories, and Pacific) where cases are studied and decisions made to grant or deny conditional release to eligible inmates in federal penitentiaries, or provincial prisons outside Quebec, Ontario and British Columbia. This decision-making process is initiated in the region.

National Parole Board members at Headquarters in Ottawa are called upon to re-examine certain negative decisions and to make recommendations to the Governor-in-Council concerning the granting of pardons.

b. Composition

The Board comprises 36 full-time members, including a Chairman and Vice-Chairman, who are appointed by the Governor-in-Council for terms not exceeding 10 years. Board members come from a wide variety of backgrounds — among others, corrections, social work, psychology, criminology, law enforcement, journalism and law. From time to time, as required, temporary board members are appointed for a period not exceeding three years to help the Board through periods of heavy case loads.

When the Board is reviewing the case of an inmate serving an indeterminate sentence or a sentence of life imprisonment as minimum

punishment, two community board members appointed for that purpose must review the case with three members of the Board.

2. Provincial Parole Boards

Provincial parole boards with limited powers have existed in Ontario and British Columbia for some years. Since 1978, Quebec, Ontario and British Columbia have established parole boards with jurisdiction over all inmates serving definite sentences in their respective provincial institutions, including those federal inmates serving sentences of two years or more pursuant to Exchange of Service Agreements.

Specific parts of the *Parole Act* and Parole Regulations govern the operation of provincial boards. Provinces may develop their own rules and regulations provided they do not conflict with the federal legislation.

B. Federal Release and Termination Processes

1. The Obligations of the National Parole Board

The National Parole Board has exclusive jurisdiction and absolute discretion to grant, deny or revoke day parole and full parole for inmates in both federal and provincial prisons, except for cases under the jurisdiction of provincial parole boards (Quebec, Ontario and British Columbia). The Board is ultimately responsible for the granting of unescorted temporary absences to penitentiary inmates; however, in some instances, the Board delegates this authority to directors of institutions. The Board also has the authority to specify conditions governing mandatory supervision release, and to revoke it, or to order certain offenders detained until warrant expiry.

In addition, the Board is obliged to notify all offenders sentenced to imprisonment for two years or more of their eligibility dates for full parole, day parole and temporary absence. Generally, inmates may have their applications for temporary absence or day parole reviewed once every six months, and for full parole, once every two years (the Solicitor General has recently proposed that full parole review be held at one-year intervals).

2. Obligations of the Correctional Service of Canada

a. Provision of Programs

The Penitentiary Regulations indicate the sort of programs which are to be made available to federal inmates to prepare them for release:

s. 13 The inmate shall, in accordance with directives, be confined in the institution that seems most appropriate having regard to:

(a) [the required or desirable custodial control], and

(b) the program ... most appropriate for the inmate.

s. 20(1) There shall be, at each institution, an appropriate program of inmate activities designed, as far as practicable, to prepare inmates ... [for release].

(2) ... the Commissioner shall, so far as is practicable, make available to each inmate capable of benefitting therefrom academic or vocational training, instructive and productive work, religious and recreational activities and psychiatric, psychological and social counselling.

s. 35(1) Every inmate is required to work in a position at an occupation or activity that is calculated to assist in his [or her] reformation and rehabilitation.

s. 42 Penitentiary industry shall be organized and developed with the objective of ensuring that inmates

(a) will be fully, regularly and suitably employed at tasks that will train them to obtain and hold employment when they return to society.

. . .

b. File Preparation

The Correctional Service of Canada is responsible for obtaining or preparing all reports for the National Parole Board on all cases the Board will review. The file will consist of available police reports, psychological and psychiatric reports, the pre-sentence report, judge's comments, Crown Attorney's comments, the inmate's criminal record, victim impact statement, institutional reports and assessments of the offender's potential for successful parole. Except for that which should not be disclosed on security or privacy grounds, the Board is required to share all information with the inmate. Even then, it is generally necessary to share "the gist" of the withheld information.

The case preparation officer also prepares a recommendation in favour of or opposed to the application with supporting reasons.

c. Release Supervision

The Correctional Service of Canada is responsible for the direct or indirect supervision of all federal inmates released on parole or under mandatory supervision, except in Alberta where parole supervision has been "provincialized".

3. File Study by the National Parole Board

The Board makes a comprehensive study of the inmate's file. All reports gathered by the Correctional Service of Canada are normally part of the investigation by the Board prior to any decision to grant or deny conditional release.

4. A Hearing

A full review of the application for day or full parole or detention review by the National Parole Board includes a hearing with the inmate to obtain as accurate a picture as possible. The hearing gives Board members an opportunity to talk with the inmate to seek important clarifications, to clear up any misconceptions that may have been created by the files, reports and other documentation, and to give the inmate a chance to put forward any additional information that may be important to the case.

Correctional Service of Canada representations are made in the presence of the inmate, but Board members may discuss the case and vote in the absence of the inmate.

The offender is entitled to be assisted at the hearing by a person of his or her choice, who may address the Board and advise the inmate how to answer questions. As this is not an adversarial process, the hearing is conducted informally, without becoming bogged down in technical procedural and evidentiary issues.

5. Decision Making

a. Criteria and Risk Assessment

This section of the report focuses on the present policy of the National Parole Board. The next chapter includes a more general discussion of the problems associated with risk assessment.

In February 1988, the National Parole Board published its newly-adopted *Pre-Release Decision Policies.* This policy has divided criminal offences into three categories and standardized the risk assessment process.

The Board considers all information, including the offence and the circumstances surrounding it, to determine the level of risk to society should that offender be released. As well, it examines the key factors which may have contributed to the criminal behaviour to determine whether these factors have been adequately addressed through individual initiative and participation in institutional programs and/or release plans.

As indicated above, criminal offences have been divided into three categories. Those in the *first category* may be summarized as those causing injury/death with intent to do so. Those in the *second category* include a number of serious offences (such as hijacking, use of firearm during commission of an offence, and prison breach/escape), those considered sexual offences and offences against public morals, offences against the person and reputation (such as abandoning child, impaired driving causing bodily harm/death, uttering threats, assault, etc.) and arson. The *third category* includes accessories and over 200 wide-ranging offences, including high treason, firearms offences, offences against administration of law and justice (such as bribery, perjury, public mischief, indecent acts, causing a disturbance, etc.), invasion of privacy, disorderly houses, all property and currency offences, etc. Offenders incarcerated for attempt or conspiracy will be reviewed within the category of offences relating to the substantive offence.

Specifically, the following offences are included in the first and second categories (all other offences are in the third category):

CATEGORY ONE OFFENCES

CRIMINAL CODE SECTION

79	Causing Injury with Intent
203	Causing Death by Criminal Negligence
204	Causing Bodily Harm by Criminal Negligence
218	Punishment for Murder
219	Punishment for Manslaughter
220	Punishment for Infanticide
221	Killing Unborn Child in act of Birth
222	Attempt to Commit Murder
228	Causing Bodily Harm with Intent
229	Administering Noxious Thing
230	Overcoming Resistance to Commission of Offence
231	Traps Likely to Cause Bodily Harm
232	Interfering with Transportation Facilities
245.2	Aggravated Assault
245.4	Torture
246.1	Sexual Assault
246.2	Sexual Assault with a Weapon, Threats to a Third Party or Causing Bodily Harm
246.3	Aggravated Sexual Assault
247	Kidnapping
247.1	Hostage Taking
Former offences:	Rape: 144 Attempt Rape: 145 Indecent Assault: 149, 156 Assault with Intent: 245 Dangerous Sexual Offenders/ Dangerous Offenders: 688

CATEGORY TWO OFFENCES

CRIMINAL CODE SECTION

75	Piracy
76	Piratical Acts
76.1	Hijacking

76.2	Endangering Safety of Aircraft
76.3	Offensive Weapons and Explosive Substances - civil aircraft
83	Use of Firearm During Commission of Offence
84	Pointing a Firearm
85	Possession Weapon or Imitation
132	Prison Breach
133	Escape and Being at Large Without Excuse

Sexual Offences, Public Morals

146	Sexual Intercourse with Female Under Fourteen
150	Incest
151	Seduction of Female Between Sixteen and Eighteen
152	Seduction under Promise of Marriage
153	Sexual Intercourse with Step-daughter, etc., or Female Employee
154	Seduction of Female Passengers on Vessels
155	Buggery or Bestiality
157	Acts of Gross Indecency
166	Parent or Guardian Procuring Defilement
167	Householder Permitting Defilement
176	Common Nuisance
195	Procuring

Offences Against Person and Reputation

197	Duty of Persons to Provide Necessaries
200	Abandoning Child
224	Counselling or Aiding Suicide
226	Neglect to Obtain Assistance in Childbirth
227	Concealing Body of Child
233	Dangerous Operation of Motor Vehicles, Vessels and Aircraft
239(2)	Impaired Driving Causing Bodily Harm
239(3)	Impaired Driving Causing Death
243.2	Impeding Attempt to Save Life
243.3	Duty to Safeguard Opening in Ice
243.4	Uttering Threats

245	Assault (former Common Assault - 245)
245.1	Assault with Weapon or Causing Bodily Harm
245.3	Unlawfully Causing Bodily Harm
246	Assaulting Peace Officer
281.1	Advocating Genocide
303	Punishment for Robbery (offence 302)
304	Stopping Mail with Intent
305	Extortion
380(1)(a)(b)	Criminal Breach of Contract
381.1	Threat to Commit Offence Against Internationally Protected Person
387(2)	Mischief Causing Danger to Life
387(5.1)	Willfully Do or Omit to Do, Endangering Life
387.1	Attack on Premises, Residence or Transport of Internationally Protected Person

Arson and Other

389	Arson
390	Setting Fire to Other Substance
392	Setting a Fire by Negligence
393	False Alarm of Fire
FORMER	Habitual Offenders

The preliminary assessment of risk ("low" or "not low") focuses on the risk of re-offending and provides the framework for further examination of the case with respect to risk reduction and management. Offenders in the first two categories of offences must satisfy the criteria in the policy to be granted release. Offenders in the third category who constitute a "low" risk of re-offending are to be released; the criteria are applied to those whose risk is assessed as "not low" to determine whether or not their releases would constitute an undue risk.

i. Psychiatric and Psychological Assessments

Offenders in the *first category* shall have psychiatric and/or psychological assessments completed prior to their first review by the Board if they were sentenced to two years or more or if their behaviour since sentencing indicates a need for such an assessment. Those in the *second and third categories* require such assessments if they have been incarcerated

previously for a first category offence unless the Correctional Service of Canada recommends, and the Board concurs, that they not be completed.

ii. Risk Assessment

Provided that offenders accept all conditions necessary for the protection of the public, *category one offenders* will be released if the risk assessed is not undue based on:

(1) A preliminary assessment of risk based on offender and offence-specific factors, specifically:

(a) a review of the statistical information on recidivism,

(b) the case-specific factors,

(c) psychiatric and/or psychological assessments completed to address the likelihood of recidivism,

and

(2) A review of the specific policy requirements to ensure that the offender satisfies the following considerations:

(a) other available information and professional opinion do not lead the Board to conclude that release would be inconsistent with the protection of society;

(b) where a professionally diagnosed disorder which likely contributed to the offence has been identified, the offender has received appropriate treatment, or the release plan provides for such treatment in the community, and release would not constitute an undue risk to society;

(c) the offender has participated in and benefited from other programs which are likely to enhance reintegration as a law-abiding citizen, such as life skills, Native spirituality and elder counselling, literacy training, substance abuse programs, employment or other programs appropriate to the offender, including those responding to social and cultural needs;

(d) the offender has a sufficient understanding of the offence, its gravity and impact, and the factors surrounding its commission;

(e) there is a release plan with appropriate control and support;

(f) in the event of an offender not meeting the specific criteria found in (a) through (d) above, where there are other significant circumstances which indicate that the offender will not constitute an undue risk on release, the Board may release the offender.

Category two offenders will be assessed similarly subject to the previously noted restraint on psychiatric and psychological evaluations. *Category three offenders* will be assessed according to the criteria set out in point two above if their preliminary risk assessment based on point one is "not low".

The Board is required to inform the inmate of the decision as soon as it is practicable, and to give written reasons to the inmate for denial or for the imposition of conditions other than the mandatory ones.

b. Voting

In cases where inmates are serving life sentences as minimum punishment, death sentences commuted to life, indefinite sentences or preventive detention, four members of the National Parole Board must vote and a majority of positive votes are required for the parole to be granted. For all other cases, a minimum of two votes is required, and all the votes must be in favour of conditional release if full parole, day parole or the first unescorted temporary absence is to be granted. In the absence of the required majority or unanimity, four (or two) new panel members shall be assigned to the case. (On subsequent unescorted temporary absences, the authority may be delegated to the Warden of the institution for a specific period of time (usually one year). For inmates serving sentences of five years or less, the power to grant unescorted temporary absences is delegated to institutional Wardens or Superintendents.)

c. Suspension or Revocation of a Conditional Release

A serious violation of the conditions of release generally results in suspension. Suspension refers to the interim removal of the offender from the community, pending a review to consider whether the offender's release should be revoked or whether the offender should be permitted to return to the community. Suspension may also be imposed if it is felt that a continuation of conditional release will mean a risk to the public. For instance, there may be signs that an individual is depressed or having trouble coping with community life, and that these troubles may lead to crime. Any parole board member or person designated by the National Parole Board Chairman (senior correctional and parole staff) may suspend the release.

Once release is suspended, the individual is returned to custody and a full investigation begins. The inmate is entitled to be advised of the reasons for suspension and has 14 days to provide an explanation as to why the release should not be revoked. In situations where further investigations show the case is not as serious as originally thought, the offender can be returned to his or her pre-suspension status. Serious cases, where the reviewing officer feels a risk to the public may arise, are referred to the National Parole Board which can, generally after 15 days and after a hearing if the offender so desires, either cancel the suspension and reinstate the release or revoke the release and order the inmate be returned to prison. Revocation occurs after the Board has considered that it would be inappropriate to return a suspended parolee to the community. The offender is entitled to written reasons for revocation and for decisions not to re-credit him or her with remission lost due to revocation.

Eligibility for future release for those returned to prison depends on the seriousness of the violation and whether it resulted in a new offence and additional custodial sentence. Remission is earned on the remainder of the revokee's sentence from the date of re-incarceration. Those who are revoked under mandatory supervision may be eligible for parole, unless they fall within the mandate of Bill C-67.

In the instance where a new sentence has been imposed, it is combined with the remainder of the previous sentence for the purpose of calculating remission and revised parole eligibility dates.

d. Re-examination where Parole Denied or Revoked

A federal offender whose release (other than temporary absence) has been terminated or revoked while he or she is at large, may request that the Board re-examine its decision; the offender is entitled to a hearing. Termination occurs in cases where the reason for conditional release no longer exists. When a school term ends, for example, the inmate's day parole for the specific purpose of attending a course will be terminated. Requests by offenders for re-examination when parole has been denied are normally considered without a hearing. Should the Board decide to hold a hearing, it is required to exercise its powers in accordance with the principles of fundamental justice. The offender is entitled to written reasons for the decision.

Although neither victims nor the public can ask for a re-examination, the chairperson of the Board has been known to have a new hearing convened so that subsequently received information may be fairly considered.

e. Judicial Review of National Parole Board Decisions

Although parole board decisions are not subject to review by or appeal to a court or other authority, the Federal Court may review the manner in which the National Parole Board has exercised its jurisdiction in certain circumstances (i.e. where an offender can demonstrate that the Board has not acted in conformity with either the common law duty to act fairly or the Charter of Rights). For any party (such as a victim) to be granted legal standing before the Federal Court to have a Board decision reviewed, it must be clearly shown that the decision had a direct impact on the interests of that party. To date, only offenders have brought applications to the Federal Court.

6. The Role of a Parole Supervisor

The parole supervisors employed by the Correctional Service of Canada or private agencies play an important role in the inmate's integration into the community. They provide advice and guidance to the inmate, obtain approvals for initiatives designed to help with reintegration or, when appropriate, suggest to the Board amendments to the conditions governing an inmate's early release.

A parole supervisor may be an officer of the Correctional Service of Canada, a representative of a private aftercare agency, such as the John Howard Society or Elizabeth Fry Society, or a volunteer in the community. When the direct parole supervisor is not a Correctional Service of Canada employee, a Correctional Service of Canada employee provides indirect parole supervision.

The Correctional Service of Canada has minimum standards of supervision (and is currently developing new conditional release supervision standards). The frequency of the interviews the parole supervisor has with the offender depends on the supervision category in which the offender has been placed (intensive, active, or periodic) and on the needs of the offender. Changes in an offender's release plans and sensational violations of release conditions are reported to the Board.

Parole supervisors employed by the Correctional Service of Canada may recommend to the National Parole Board the termination, suspension, or revocation of parole where conditions are not being honoured or there is a perceived increase of the risk to the community posed by the parolee. Private agency parole supervisors must make such recommendations to the indirect supervisor.

CHAPTER ELEVEN

IMPROVING THE QUALITY OF RELEASE DECISIONS

A. In General

The National Parole Board is an independent, quasi-judicial body that makes release decisions in relation to federal offenders and parole decisions for provincial inmates in provinces that do not have their own parole boards. Established in 1959, its full-time and temporary members are appointed by Order-in-Council, and its community members are appointed by the Solicitor General on the recommendation of the Chairman of the Board.

The Committee has had the benefit of public hearings with members and staff of the National Parole Board and has also met with many Board members and staff during its *in camera* meetings across Canada. It has also sat in on some actual Board hearings and examined sample anonymous parole files.

In recent years, the National Parole Board has taken a number of steps to improve its efficacy and the public understanding of its role in the criminal justice system. It has adopted and distributed widely a "mission statement" which sets out the goals and principles that guide its day-to-day activities. It has prepared and widely distributed a number of informational packages, including the three volumes of briefing books it has prepared for this Committee to assist in its deliberations. After wide consultation, the Board has developed a policy on victim representation and a risk assessment policy for release decisions. It has also encouraged and facilitated attendance at parole panel hearings by members of the media and others, including members of this Committee. The National Parole Board is to be commended for these laudable efforts at making its activities more visible to the public.

The Committee believes that the National Parole Board is now *generally* performing its functions effectively. However, the Committee believes that a number of further steps are necessary to make the Board still more effective.

The National Parole Board is only as good as its decisions. The quality of these decisions depends in large part upon the expertise of Board members, the quality of training and retraining available to them, the information available to them, the relationship between the Board and parole supervisors, and the quality of the risk assessment instruments they apply to the cases that come before them.

B. Appointment of Board Members

Many of those who appeared before the Committee expressed concern about the qualifications of those named as members of the National Parole Board. Not all of those appointed in the past to the Board have had appropriate qualifications or experience, nor, it is said, have all shown the required sensitivity to its mission or the necessary commitment to its work.

Criminologist Dr. Justin Ciale of the University of Ottawa, for one, made the following comment to the Committee on the practice of appointments to the National Parole Board:

> I think the nomination of Parole Board members is not done on the basis of experience or on the basis of qualifications, but on the basis of political issues, and every party is guilty of that. (33:10)

Witnesses who appeared before the Committee in *in camera* sessions indicated that there have been problems with Board members who do not understand what the job entails, who are not committed to its mission or who are not willing to put sufficient effort into the job. In the colourful expression of one witness at an *in camera* meeting, some members have felt they were "anointed rather than appointed".

The effect of some inappropriate appointments has been to make scheduling of parole panels difficult and to increase the workload of other Board members who have been forced to take up the slack. These witnesses urged that appointees to the Board either have an understanding of the criminal justice system or an ability to acquire such an understanding. In their view, Board members need not necessarily be criminal justice experts or professionals.

As of September 1987, 46.7 percent of all permanent and temporary Board members had held criminal justice-related occupations prior to their appointments. In 1977, 85 percent of all Board members (in 1983, 62.7

percent; and in 1986, 52.1 percent) had previous criminal justice-related occupations. There has been a dramatic decline since 1977 in the number of Board members whose previous occupations were criminal justice-related.[1]

The Hugessen Task Force recommended in its 1972 report that "regional" parole boards should be made up of an independent person not involved in the correctional system, a judge, a senior police officer, a psychiatrist or psychologist, a criminologist or sociologist, a person with correctional responsibility and a person with parole supervision responsibility. The Goldenberg Committee recommended in its 1974 report that Parole Board members should be selected for their broad range of experience, their knowledge of the criminal justice field and their maturity.

The Nielsen Task Force also expressed, in its November 1985 report, some concern about the qualifications and calibre of National Parole Board members. It urged consideration of a system whereby the Chairman and members of the Board would be nominated by a screening committee of senior federal, provincial and private sector officials whose recommendations would be based on clearly-established objective criteria. It urged as one of its options that the *Parole Act* be amended to include these changes.

The Board can only be as good as its decision-makers. If those who are appointed as decision-makers do not have the requisite qualifications or experience, their decision-making is unlikely to be as effective as it should be. The National Parole Board has developed a Board Member Profile that sets out a number of criteria (including criminal justice experience) to be met by those who are appointed to the Board.

The Committee commends the Board for taking this initiative and the Government for acting upon it. The Committee believes that all those appointed to the National Parole Board should meet the criteria set out in the Board Member Profile. In addition, the Committee believes that the Chairman and the Vice-Chairman of the Board and the senior member in the region should be consulted on all appointments to the National Parole Board.

C. Training of Board Members

Another element in effective risk assessment and decision-making is the training received by Board members and the refresher courses available to them. In response to a number of questions put to members of the

National Parole Board by the Committee in both public and *in camera* meetings, the present training regime was described. It seems that Board members receive a short period of training at National Headquarters followed by parole hearing observation. This training is completed by new members participating in "in office" decisions and then going out with a more experienced Board member.

Training is often on-the-job because the documentation on which it is based is at times outstripped by rapid developments. It appears that, at times, workload pressures lead to the orientation and training available to members being compressed even more than they already are. Finally, the training and orientation given to members appears to deal largely with the Board and its policies — all members receive essentially the same training whether they have been previously involved in the criminal justice system or not.

Concern was expressed by some witnesses who appeared before the Committee at *in camera* sessions that the present training of new Board members was inadequate. It was felt that the "baptism of fire" approach could not prepare Board members (particularly temporary and community members) to meet the job to be done in assessing sometimes complex cases and files where the issues involved were often of great seriousness.

Although this approach seems to have been reasonably successful so far, the Committee believes that Parole Board member training can be improved. Board members must receive more intensive training based not only upon Board policies and correctional and release philosophy, but also on the evolving behavioural sciences. This training should take into account the previous experience, or lack thereof, that Board members have had in the criminal justice system.

Training will become increasingly important as public pressure for better risk assessment develops and as more complex risk assessment tools are applied.

Recommendation 39

The Committee recommends that members of the National Parole Board receive more intensive training upon appointment and as regular refresher courses. This training should be based not only upon Board policies and correctional and release philosophy, but

also upon behavioural sciences, and should take into account the members' previous experience in the criminal justice system.

D. Information Exchange

The quality of risk assessment, and hence of decision-making, is dependent upon the quality and completeness of information furnished to the National Parole Board by the Correctional Service of Canada. At the present time, the Board is totally dependent on the information provided to it by the Correctional Service of Canada which in turn is dependent on information provided to it by provincial authorities, police, private agencies and others. Unfortunately, on a number of occasions, the information provided to the Board has not been as complete as it should have been. As a result, the decisions taken in a thankfully small number of cases have had disastrous consequences. In the past year, Information Co-ordinators have been named by the Correctional Service of Canada and the National Parole Board to gather the required data for effective correctional and release decision-making.

Although this has been an important initiative, witnesses have told the Committee that there are still information gaps. One of the reasons for this is undoubtedly the fact that the information provided to the National Parole Board by the Correctional Service of Canada must pass from one organization to another with all the attendant risks of misunderstanding inherent in such an arrangement. In addition, the information on file is at times incomplete.

Incomplete or non-existent information has been a serious concern in the recent past. Both the Ruygrok coroner's inquest jury recommendations and those of the Pepino inquiry have addressed this issue. The recommendations of these two bodies have been accepted and implemented, and yet the Committee has been informed by different witnesses appearing before it that important information is still not always in inmates' files.

All the program planning and case preparation in the world will not assist the National Parole Board in properly assessing risk and making good decisions if the files before it are incomplete. **What is required is a concerted effort by all participants in the release process, at both the federal and provincial levels, in both the public and private sectors, to put in place the necessary mechanisms to ensure that inmates' files are as complete as they can be.**

One of the major problems in parole decision-making appears to be ensuring that the Correctional Service of Canada obtains relevant court information. In spite of negotiations the Ministry of the Solicitor General appears to be carrying on with the provinces and territories, this information is still not being consistently and reliably received.

Recommendation 40

The Committee recommends that the *Criminal Code* be amended to require courts to provide the Correctional Service of Canada with sentencing information (pre-sentence reports, victim impact statements, etc.) and the judge's reasons for sentence. The federal government should be prepared to pay the reasonable costs associated with this for sentences of two years or more.

E. Public Parole Hearings

Parole hearings at the present time are held in private within various penitentiaries. Throughout its report the Committee has put the emphasis upon the necessity of public education, as well as making more visible and understandable the sentencing, correctional and conditional release processes.

One means of rebuilding confidence in the conditional release system is to open parole hearings to the public. There are, however, competing interests which must be balanced. The privacy concerns of those providing information to the Correctional Service of Canada may at times override the principle of public access. In other circumstances, there may be security concerns that must be taken into account in allowing public access to parole hearings in prison. Finally, and a matter that has been considered extremely important in the past, is the idea that it is detrimental to the successful reintegration of an offender to permit the disclosure of past failings or problems. Such an offender may be subjected to discrimination in unrelated areas of his or her life (such as the unjustified denial of employment or housing) by the public revelation of parole information.

Despite these legitimate concerns, a majority of the Committee believes that parole hearings should be public. The pre-trial, trial and sentencing stages of criminal proceedings are in most cases open to the public. The determination of when and under what conditions an offender is to be conditionally released is of equal interest to the community.

There should be provision for the possibility of an inmate or witness to make an application to the Parole Board for the exclusion of the public from part or all of the hearing if there are serious privacy or security concerns.

Where parole hearings are held in prisons remote from population centres which, because of distance, are not easily accessible to the public, steps should be taken to hold them in court houses or in other appropriate facilities.

Recommendation 41

The Committee recommends that parole hearings be open to the public unless, on application to the Parole Board, it is decided to close a hearing to the public, in whole or in part, for reasons of privacy or security. The reasons for acceding to an application for a closed parole hearing should themselves be made public.

F. Victims and the Parole Board

1. Victim Information Considered at Parole Hearings

The National Parole Board has adopted a policy on victim representation in its decision-making processes. This policy clarifies a victim's right to make oral or written representations to the Regional Director or Director of Communications of the National Parole Board. Similarly, the victim may submit a copy of a victim impact statement considered by the sentencing judge to the same representatives of the National Parole Board. Any such documents are included in the inmate's file to be considered by parole panels. Under this policy, victims can be advised, on request, of the following matters:

- inmate's admission;
- inmate's eligibility review dates;
- release decisions and reasons;
- number of votes cast for release;
- type of release, and terms and conditions; and
- general description of destination of release.

The Committee commends the Board for this initiative. Under Correctional Service of Canada policy, any written victim impact statement presented to the sentencing judge at the time of sentence is to be included as part of a parole applicant's file and is to be considered by a Board panel examining a release application. **In the Committee's view, any victim who wishes to be informed should be advised of an offender's parole hearing date and of the date of release into the community.** These notifications would allow the victim of the offence for which the offender was incarcerated to make whatever oral or written submissions to the National Parole Board the victim deems necessary.

2. Victim Participation at the Hearing

The Committee believes that victims have something to contribute to the decision-making process of the National Parole Board by expressing their concerns about release decisions. This is already provided for in part by the Parole Board's policy on victim representations which permits a victim to submit a copy of a victim impact statement considered by a sentencing judge and to make further oral or written representations to officials of the Parole Board. If parole hearings are generally held in public, as recommended by a majority of the Committee, victims would be able to attend them.

It has been proposed by some that victims be given the right to participate in parole hearings either as parties to them or witnesses. To give the victim a "right of allocution", a right to make oral representations, at a parole hearing will lead to an unduly litigious atmosphere in which flexible and timely decision-making practices will be sacrificed. In addition, hurts and passions that may have healed will be aroused anew. Finally, the victim would be unlikely to be in a position to contribute to the Parole Board's task at hand — that is, assessing what an inmate has done to prepare for an eventual return to the community. Therefore, the Committee does not believe victims should have any right to participate in the parole hearing itself.

G. Relationship of Correctional Service of Canada and National Parole Board

Prior to 1977, the National Parole Service was part of the National Parole Board. Consequently, there was, at that time, a closer relationship between those engaged in case preparation and those making release

decisions. At times, the National Parole Board may need information or reports for decision-making purposes and has difficulty obtaining them in a timely or complete fashion from the Correctional Service of Canada. Another practical problem is that as an inmate changes institutions or changes ranges within an institution, he or she may change case preparation officers with resultant delays and incompleteness of files.

The Committee was told by some witnesses during its *in camera* sessions that some case preparation staff at times feel they have dual loyalty problems. They may be torn between the need of the correctional institution to alleviate inmate crowding and a Parole Board imperative to make thoughtful release decisions based on a thorough assessment of both risk and the appropriateness of a release plan.

Another problem faced by the National Parole Board is that although it is the releasing authority, it does not actually provide release supervision. Frequently, the Board is faulted for supervision problems for which it is not responsible, but for which it is expected to be ultimately accountable.

Taking all of the above into account, it would appear appropriate to have one authority responsible for the release process, from the preparation of the release plan to the actual release decision and the provision of release supervision. Consequently, the Committee believes that the National Parole Board should assume responsibility for all aspects of release. This would ensure that the Board has as much high quality information as possible on which to base its decisions. This would also ensure that the releasing authority is responsible for the implementation of its release decisions.

Recommendation 42

The Committee recommends that the National Parole Board be given full responsibility for the release process including the preparation of release plans, the release decisions and the provision of release supervision.

H. Risk Assessment

1. Background

What most concerns the public is the prospect of *violent* recidivism when an inmate is released prior to sentence expiry. The assessment of risk is

the foundation upon which the work of releasing bodies such as the National Parole Board is based. Its use of risk assessment instruments is a recent development. The *Pre-Release Decision Policies*,[2] adopted by the National Parole Board after extensive consultations, was based on a number of earlier studies conducted by the Ministry of the Solicitor General.[3] Information about these studies was prepared for the Committee by its research staff, and is available to the public through the office of the Clerk of the Committee, in a paper entitled *Success of Conditional Releases — Statistical Reviews* (30 December 1987).

The Committee believes that the following highlights from the *Solicitor General's Conditional Release Study* (1981) continue to be true and therefore merit serious consideration:

- "...a large body of empirical research which has been extensively assessed . . . has shown a lack of evidence (or of consistent evidence) of positive effects on recidivism from any correctional program, either in (or of) prison, or in the community." (p. 21)
- "It is quite certain that there are no supervision activities or techniques of which we can say that we are reasonably certain a positive effect ... will result if the technique is applied to certain types of offenders under certain types of conditions." (p. 21)
- Because community supervision is cost-effective and "probably less harmful to those it harms and more helpful to those it helps, than is prison, . . . [a] more serious commitment needs to be made to developing and evaluating the community programs of corrections, and to identifying those aspects of community corrections, if any, which will be effective with various types of offenders." (pp. 20-21)
- "Very little is known about the risk reduction effects of granting TAs to prisoners from time to time during incarceration." (p. 22) Federal offenders granted unescorted TAs are a little more likely to complete (or to continue) their parole supervision successfully than are those who did not obtain unescorted TAs. (p. 24) Similar (although overall lower) success rates were found for those released on MS. (p. 25) However, it is impossible to conclude that these differences in eventual success are attributable to participation itself. (pp. 24 and 27)

- Success rates for escorted TAs are over 99 percent and for unescorted TAs are over 95 percent. (p. 26)

- Participation in TAs and day paroles make a great deal of difference in the probability of receiving a full parole: a successful day parole raises the chances of obtaining full parole from 37 percent to 60 percent. However, the usefulness of "successes and failures on TA and day parole are somewhat overrated as factors which distinguish among offenders who will and will not eventually succeed on either full parole or MS, . . . as [t]he majority of offenders succeed on supervision anyway." (pp. 27 and 29)

- Release authorities endeavour to "select an inmate's release date based (among other things) on the progress over time of his [or her] attitude and participation in the penitentiary, such that he [or she] is released (other things being equal) at a time when he [or she] is 'ready'". It appears impossible to tell whether this factor is present in release decisions; it is also unclear whether the effect is true of all offenders and whether it is observable. (p. 29)

- "There is no way to measure precisely the degree to which inmates' expectations of release consideration may encourage them to participate in penitentiary programs. Moreover, . . . any risk reduction that results from program participation has yet to be demonstrated. . . ." (p. 30)

- The "violence" of offenders under release in the community "appears, because of the visibility of failure cases, to be higher for the overall group than it actually is". (p. 98)

- "The majority of offenders do not appear to become involved in new criminal activity during the period for which they are at conditional partial liberty in the community before the expiry of their sentence." (p. 98)

- It would be desirable to be able to distinguish better those offenders who, upon conditional release, will be violators, especially the violent ones, from those who will not [reoffend] in order to detain the former group. (p. 98)

- Past violence appears in the records of offenders who commit "spectacular incidents" during supervised release, but not all offenders with records of past violence will commit

any violation after release, nor do all persons involved in violence have a violent past. (p. 106)

- Greater incidence of violence in the past is associated with higher probabilities of violence in the future, though the certainty of future violence is never assured. (p. 106)
- No accurate system for predicting violence (not even one which would be right more often than it would be wrong) has yet been developed. (p. 106)
- Violent recidivism among federal offenders is not frequent enough to permit accurate pinpointing of all or even most of the future violent recidivists. (p. 106)
- Available prediction systems pinpoint *some* of the future violence but mistakenly identify as future violent recidivists large numbers who will not turn out to be violent. (p. 106)

2. The Difficulties Associated with Predicting Violent Recidivism

The Committee has learned that risk prediction is at this time an imperfect science, although statistical prediction is apparently superior to clinical prediction. While statistical techniques may be used quite effectively to distinguish between "high" and "low" risk inmates and to identify large numbers of offenders who are extremely unlikely to be re-arrested for violent offences after release, they are unable to predict with much accuracy who will become involved in *violent* criminal activity.

Statistical predictors fail to identify most of the offenders who would recidivate violently (false negatives) and they incorrectly label large numbers of those who would not (false positives). This tendency, combined with the fact that out of a very large number of offenders, only a very few will recidivate violently, creates the inevitable tendency for over-prediction. (Rare events are always difficult to predict efficiently.)

Even if statistical predictors were accurate 95 percent of the time, we would still incorrectly label many people who would be unlikely to commit serious violence. For example, if it were true that one person in a thousand would kill someone and if 100,000 people were "tested", out of the 100 who would kill, 95 would be correctly identified (5 would be missed); but, out of the 99,900 who would not kill, 4,995 would be identified as possible killers. Since such statistical predictors are currently only accurate about 50 percent of the time, only about half of the potential 100 killers would be correctly

identified (half would be missed), and 49,950 out of the 99,900 who would not kill would be falsely identified.

Moreover, in terms of *general* recidivism, many of those released after serving sentences for property crimes tend to have lower success rates on parole than do those who have committed crimes against the person. This is demonstrated in Table 11.1, below, prepared by Dr. Nuffield in her 1982 study of parole decision-making in Canada.[4]

Table 11.1
Success Rates (No Re-Arrest Within 3 Years for an Indictable Offence), By Pre-Release (Commitment) Offence Construction Sample: 1,238 Cases)

Commitment Offence	N	Success Rate After Release
Non-violent sex offences	33	78.7
Narcotics offences	81	74.1
Homicide	33	72.8
Other crimes against the person	30	70.0
Unarmed robbery	170	67.0
Other crimes against property	17	58.9
Violent sex offences	35	57.1
Armed robbery	64	56.3
Assault	47	55.3
Fraud	116	55.1
Theft	65	50.7
Receiving or possession of stolen goods	60	50.0
Break and enter	395	45.5
Weapons offences	7	42.8
Escape	36	33.3
Other	47	70.3
Overall	**1,238**	**56.1**

Source: J. Nuffield, *Parole Decision-Making in Canada: Research Towards Decision Guidelines*, Table 8, p. 41.

More recent statistical work done by the National Parole Board seems to bear this out with respect to homicide — the most serious form of *violent* recidivism. Up to January 20, 1987, 130 of the 52,484 releases on full parole and mandatory supervision between 1975 and 1986 had resulted in convictions for murder or manslaughter.[5] Some offenders were released more than once. The study identifies "releases", not people. It should also be noted that these 130 homicides represent less than two percent of the 7,838 homicides committed during the study period. Absolutely preventing these homicides from occurring prior to the end of those offenders' sentences would have required detaining tens of thousands of offenders in prison unnecessarily until sentence expiry. Even if we were prepared, and could afford to do that, these homicides might only have been delayed.

The Committee's attention was drawn to the fact that only 15.4 percent (20) of the 130 homicides were committed by offenders who were at that time serving sentences in the community (on parole or mandatory supervision) for offences involving violence (although one-quarter [5] of these 20 homicides were committed by paroled murderers).[6] Almost 65 percent (27) of the 42 homicides committed by parolees were committed by offenders serving sentences for robbery (most, but not all, for armed robbery or robbery with violence).[7] It must be remembered, of course, that even the number of offenders serving sentences for robbery in the community who committed 59 of the 130 homicides[8] represents an extremely small proportion (one half of one percent) of the more than 11,000 releases of robbery offenders during the study period. Surprisingly, 30 percent (39) of the 130 homicides were committed by offenders on release for sentences related to purely property offences, almost all of whom were on mandatory supervision.[9]

Unfortunately, no Canadian data is available comparing other forms of violence committed during conditional release with the types of offences for which those offenders are serving sentences. The Committee has been advised that "the literature" suggests that no useful correlation is to be found between the sentenced offences, or criminal history, and the propensity for violence during conditional release. (In fact, Dr. Nuffield's literature review specifically noted that prior convictions for violent crimes are *not* good *predictors* of violent recidivism, although there may be some possible association between them (p. 55); age at the time of admission for the current offence or the presence of prior convictions for break and enter appeared to her to be the most powerful (but still very weak) predictors of violence — the younger the offender, the more likely a violent act after release (pp. 49 and 55).)

The Committee has no reason to doubt this, but feels the public interest would be well served by the production of Canadian data (similar to that produced for the "homicide study" referred to above). The Committee has already indicated that reforms should be based on the reality of crime, not just on public perception, if that perception has no basis in fact. The public cannot be adequately informed without the available "facts" and a strategy to educate them.

In spite of the difficulties associated with risk prediction, statistical research on Canadian released offenders is now providing valuable information about categories of offenders that appear more likely than others to complete their release successfully. By using such data, correctional agencies and parole authorities may reduce the risk associated with release of such offenders through the development and implementation of appropriate release plans (including prison and community programming and graduated releases).

Correctional and paroling authorities are faced with two types of risk to weigh in considering the release of offenders prior to sentence expiry: What are the risks of keeping an offender incarcerated until the end of sentence (particularly where the offender appears to pose no or little danger to the public or where release at the end of sentence will result in little support and supervision being given to the offender on release)? What are the risks of releasing to the community offenders who *may* pose a danger to the public?

The Committee recognizes that parole boards can do little to *eliminate* crime. However, the Committee believes they can and must strive to *contribute* to the protection of the public while offenders remain under their supervision. They can do this by focussing clearly on risk assessment when making conditional release decisions. **While risk assessment is often uncertain, the public can and should expect that Parole Board members exercise their best possible judgment on the best information available with the assistance of the best tools and assessments correctional staff are able to make.**

The risk assessment tool adopted by the National Parole Board recently is a direct result of the research conducted earlier this decade by Dr. Nuffield. It is understood by the Committee that Board members have been trained in and are applying this risk assessment policy. It is also understood

that the application of this risk assessment tool is subject to an on-going evaluation. The National Parole Board is to be commended for adopting this risk assessment policy and for building an evaluation into its application.

The risk assessment tool that the National Parole Board now has would appear, however, to apply only to the determination of risk of *general* recidivism. There is serious public concern about the high-risk, violent offenders in our correctional system. Because there are difficult cases in which the consequences of the failure of effective risk assessment can be quite severe, **the Committee believes that the National Parole Board must develop and apply a risk assessment instrument to address the high-risk, violent offenders that come before it.**

In the event that this is not possible, and this is what many witnesses have told the Committee, release plans and conditions should clearly identify high risk behaviours relevant to particular offenders so that, when these behaviours occur, there may be appropriate intervention. This, the Committee has been advised, can be done much more effectively than statistical or clinical prediction. The inquests into the murders committed by James Allan Sweeney and Alan Foster both revealed the presence of such behaviours which, had they been clearly identified for the significant persons associated with these offenders, might have permitted interventions which might have prevented the murders.

Recommendation 43

The Committee recommends that the National Parole Board develop and hold consultations on a risk assessment tool to be applied in cases where the offender is serving a sentence for, or has a recent criminal history of, violence.

Recommendation 44

Alternatively, or additionally, the Committee recommends that the following aspects of the jury recommendations 10 and 12 emanating from the inquest into the death of Celia Ruygrok be incorporated into National Parole Board policies and implemented:

10. If parole is granted, the inmate's [institutional] rehabilitation plan must be extended into a *Release Plan* clearly setting out how he or she is to be dealt with in the community. This

release plan must be clearly identified in a document and communicated to all persons who will have dealings with the offender in the community, including parole supervisors, police, community residential centre staff, and community resource persons.

(a) In formulating the plan, consultation must take place with persons in the community who will be supporting the parolee such as girlfriends and wives. They must be given all relevant information about the offence and the offender and be fully aware of their role in the release plan.

(b) The release plan must include all psychiatric and psychological information and must give clear guidelines to parole supervisors and community residential centre staff as to how to deal with the parolee. *There must be an identification of any danger signals to watch for and action to be taken if problems are encountered.*

(c) Where drugs or alcohol have been related to the original offence, there must be included in the parole plan a special condition that the parolee will submit to random alcohol and/or drug testing.

(d) Where psychiatric problems were identified as being present at the time of the offence, the parole release plan must include a special condition that the parolee will attend for professional counselling, psychiatric treatment and monitoring while on parole. In these cases, there should be periodic administration of psychological tests.

. . .

12. Parole supervision must take place in accordance with the release plan and there must be a full sharing of information between the various agencies working towards the same purpose.

(a) The parole supervisor must be free to deal with problems encountered by the parolee and *intervene*

> ***meaningfully when danger signals appear and at first sign of deterioration.* The parole supervisor must concentrate on getting to the root of the problem rather than mere policing.**

. . .

Notes

(1) National Parole Board, *Briefing Book for Members of the Standing Committee on Justice and Solicitor General*, Volume II, Appendices, November 1987, Appendix B "Profile of Current Full Time and Temporary Board Members", Tables 6 and 7.

(2) Described in Chapter Ten of this Report.

(3) Solicitor General Canada, *Solicitor General's Study of Conditional Release: Report of the Working Group*, Ottawa, March 1981 (hereafter called the *Conditional Release Study*), and Solicitor General Canada, *Mandatory Supervision: A Discussion Paper*, Ottawa, March 1981.

(4) J. Nuffield, *Parole Decision-Making in Canada: Research Towards Decision Guidelines*, Ottawa, Ministry of Supply and Services, 1982, p. 41.

(5) National Parole Board, *Briefing Book*, Volume II, Appendix E, p. 4, Table 1.

(6) National Parole Board, *Briefing Book*, Volume II, Appendix E, p. 9, Table 4.

(7) National Parole Board, *Briefing Book*, Volume II, Appendix E, p. 5, Table 2.

(8) National Parole Board, *Briefing Book*, Volume II, Appendix E, p. 9, Table 4.

(9) National Parole Board, *Briefing Book*, Volume II, Appendix E, pp. 7 and 9, Tables 3 and 4.

CHAPTER TWELVE

THE FUTURE OF CONDITIONAL RELEASE

A. Introduction

Most criminal justice and correctional systems in the Western world have some type of early release regime in place to allow those who are incarcerated to be released into the community before the expiry of their sentences. In recent years, as public confidence in the criminal justice system has declined, early release programs and mechanisms have become the centre of controversy. Canada is not an exception to this rule — its release system has been made gradually more restrictive since 1970.

The issue to be dealt with in this chapter is whether conditional release in any or all of its forms should be retained. If it is to be retained, what, if any, improvements are required?

B. The Retention of Conditional Release

The first question to be considered, before proceeding to discuss the various reforms that might be made to early release, is whether the conditional release of those who are sentenced to prison should be retained at all. This question has been posed most recently by many because a number of sensational occurrences, resulting in serious injury and brutal death, have undermined the public confidence in the manner in which those sentenced to imprisonment are reintegrated into the community. The abolition of parole has also been recommended by various Canadian and American commissions and task forces.

Some people who are opposed to conditional release and who want it restricted or eliminated altogether say that those who commit criminal acts should be punished for their actions. Anyone who is sentenced to a term of imprisonment, this argument goes, should serve that punishment. They argue that public confidence in the criminal justice system will be restored by offenders being seen to serve their full terms of punishment.

In stating its reasons for recommending the abolition of parole as we know it, the Canadian Sentencing Commission did not oppose conditional release in all its forms, but rather presented a variation of the above argument. The Commission argued that parole, or discretionary release, adds uncertainty to the sentencing process. The judge who imposes a sentence, according to this argument, does not know how long an offender is actually going to spend in prison. The Commission also concluded that parole contributes to sentencing disparity because of the evening-out impact it has on the amount of time inmates actually spend in prison. In essence, then, these arguments are to the effect that public confidence in the criminal justice system is undermined by the uncertainty of the length of terms of imprisonment imposed by sentencing judges. This position was supported by the President of the Law Reform Commission in his brief to the Committee.

Other witnesses argued in favour of retaining parole. Ole Ingstrup, then Chairman of the National Parole Board, said to the Committee:

> Therefore, I believe parole and conditional release in one form or the other is an important part of any criminal justice system. . . . *I believe society is better protected if the inevitable transition back to society from institutions is managed, is controlled, is supported* and is conducted in a way that gives us a possibility to bring people back into the institutions if we see signs of deterioration in their behaviour.
>
> Therefore, conditional release is an important strategy, an important method in our attempts to reduce crime in our society. (our emphasis) (Issue 30:23)

Captain David Moulton of the Salvation Army of Canada made the following comments to the Committee:

> First, we feel it [conditional release] gives a sense of hope to the inmates during their incarceration, something that is of a positive nature they can work with rather than just the negative sanctions that could be applied within an institution as far as behaviour is concerned. So it does allow staff as well as inmates that positive alternative to work toward.
>
> Second, *I think the whole conditional release program also offers not only hope, but help for those individuals when they are released.* Working in an agency with people coming out from institutions after a number of months — or in the federal system sometimes after a number of years, seven, eight or ten years — and then coming back into the community, we find that it is a traumatic adjustment, and we see that daily as people are coming out and being released into the community. (our emphasis) (57:31)

A similar argument was also made by Gaston St. Jean, Executive Director of the Canadian Criminal Justice Association, when he told the Committee that:

> We must stand behind the maintenance of parole, which can either recognize or lead to the occurrence of rehabilitation. *The belief in a person's ability to change is deeply rooted, and to unduly prolong incarceration of a person who shows signs of rehabilitation cannot be justified.* (our emphasis) (32:30)

Finally, the Infinity Lifers Group of Collins Bay Institution told the Committee:

> It is our belief that conditional release be retained but it should be controlled and determined by the Parole Board. Conditional release for Lifers is an important factor in helping them reintegrate back into society and should in our view be expanded and encouraged. *It should be set up as a structure for reintroduction into society and used as a mechanism for Lifers to establish some type of network to enable them to be successful in remaining in mainstream society as law-abiding citizens.* (our emphasis) (Brief, p. 6)

Those who have argued against the retention of conditional release have not convinced the Committee that parole should be abolished at this time. As indicated earlier in this report, the Committee believes that the primary goal of the criminal justice system is to contribute to the protection of society. This goal can be buttressed in part through the sentencing process by taking the steps necessary to encourage those who have committed criminal acts not to repeat this behaviour. In some circumstances, this goal can be achieved by the use of appropriate community and intermediate sanctions. In other circumstances, this goal will be achieved (at least in the short term) by incarceration.

In instances where the protection of society is sought by incarceration, nearly all of those imprisoned will at some point in their lives be returned to the community. **As indicated in the principles set out in the Introduction to this report, the Committee believes that public protection will be enhanced by preparing inmates for release into society while they are still incarcerated and then providing them with the requisite degree of supervision and assistance once they are released into the community.**

Although the Committee believes that conditional release in its various forms should be retained, it does not believe that the system is functioning as well as it should. The conditional release system in its current form suffers from internal weaknesses and a lack of public confidence in its efficacy.

Much of the public confidence in the conditional release system has been weakened by a number of disturbing incidents of serious injury and tragic death, attributable to violent, sexual offenders on some form of early release.

The Committee believes that the proposals presented to it by the Solicitor General of Canada in his appearance before it on June 15, 1988 go some way in addressing some of the problems in the conditional release system as we know it, but even these proposals can be improved upon. In particular, these proposals failed initially to make a distinction between violent and non-violent offenders. In addition, other improvements which may not require parole legislation are needed.

Recommendation 45

The Committee recommends that conditional release in its various forms be retained and improved upon by the adoption of the recommendations that follow.

C. Full Parole

1. Decision-Making Criteria

At present, parole eligibility is available in most cases at the one-third stage of a sentence of imprisonment. Whether an inmate is to be released into the community, and the circumstances under which this release is to occur, are determined by the National Parole Board. The Board makes parole decisions based upon an inmate's institutional record, release plan and the degree of risk the inmate represents to the community, all of which is now relatively structured pursuant to the Board's recently adopted decision-making criteria. **The Committee supports this approach to discretionary release decision-making. It is important that these decisions be made on full information, with risk assessment as the core value. The approach would be strengthened by incorporating it in law.**

2. Eligibility

One of the sources of the lack of public confidence in the criminal justice system at present is the point in a sentence at which an inmate is eligible for release back into the community on parole — currently at the one-third stage of a sentence of imprisonment. **It is widely believed, and the Committee agrees, that in many cases the time which must be served in**

prison should more closely approach the length of the sentence than it does at the present time.

When appearing before the Committee on June 15, 1988, the Solicitor General of Canada proposed that, generally speaking, the parole eligibility date be increased from one-third to one-half of a sentence of incarceration. Such a later parole eligibility date would make the time served in a carceral setting more closely approach the sentence imposed by a judge than is now the case. This would provide greater clarity about the meaning of the sentence for the public, offenders and the judiciary. On August 3, 1988, the Minister indicated he was seeking ways of limiting these proposals to violent offenders.

The Committee commends the Solicitor General for making this change in his original proposal. However, it does have some concerns about how "violent offenders" will be defined. The first of these is that, unless violent offenders are clearly defined, it would make a dramatic change in the parole eligibility dates of many inmates, and not just in those of the offenders who cause the greatest concern to the community. Violent offenders are defined by the National Parole Board in statistical material provided to the Committee as those sentenced for murder, manslaughter, attempted murder, sexual assault, wounding, and assault. Those sentenced for robbery (which may be armed or with violence, as well as unarmed) are excluded. The *first category* of offences set out in the National Parole Board's *Pre-Release Decision Policies* (to be found in Chapter Ten of this report) provides a considerably broader enumeration of "violent offences." The schedule to Bill C-67 (to be found in Chapter Eight of this report) appears to provide a more appropriate enumeration of "violent offences".

The Committee believes that the later parole eligibility date should apply only to those who cause the greatest concern to society — inmates who have been convicted of violent offences. Although it is difficult to define what constitutes a violent offence, the Committee believes that the later parole eligibility date proposed by the Solicitor General should apply only to those who have been convicted of the criminal offences set out in the Schedule to Bill C-67. Inmates convicted of all other offences should retain the current eligibility dates for parole — generally, at the one-third point of their sentences.

3. Amount of Time Actually Served

The proposed later parole eligibility date of 50 percent of a sentence of imprisonment is close to the level at which most paroled inmates are released at present. According to statistics provided to the Committee by the National Parole Board, very few of those serving terms of imprisonment are at this time actually released at the one-third point of their sentences. In 1986/87, 56.7 percent of *all* releases from penitentiary were pursuant to mandatory supervision — that is, after offenders had served over 66 percent of their sentences. During the same year, 32.1 percent of paroled inmates served between 40 percent and 43 percent of their sentences before being released on parole. The majority of those released on parole (55.2 percent) served between 46 percent and 49 percent of their sentences before being released.[1]

At present, "violent offenders" who are successful in obtaining parole serve, on average, 46 percent of their sentences.[2] This means they are serving 13 percent of their sentence after they become eligible for parole. Either the proposals will have little impact (these offenders will simply serve four percent more of the sentence in prison than they do now) or, if National Parole Board decision patterns remain unaffected by this change, these offenders may not be released until they have served about 63 percent of their sentences, on average. In the latter case, more inmates would remain in custody for a longer period of time, leading to a significant increase in the penitentiary population.

A similar problem may result if there is no change in the sentencing patterns of judges dealing with violent offenders. The argument is made by the Canadian Sentencing Commission, among others, that judges impose longer sentences of imprisonment to compensate for the date in a sentence at which an inmate becomes eligible for parole. For example, if a judge wants to ensure that an inmate will spend two years in prison, a sentence of six years incarceration will be imposed. In this case, if this argument is correct, such a judge might be expected to adjust his or her sentencing pattern by lowering sentences for violent offenders to account for the later parole eligibility date. If such a sentencing pattern adjustment does not take place, penitentiary overcrowding will result.

Moreover, the Committee is concerned that offenders serving sentences for "non-violent" offences do not seem to obtain parole at the present time, on average, until more than 50 percent of their sentences have been served.[3] Although the Solicitor General has indicated that he would like to

distinguish between violent and non-violent offenders, it is unclear what action he plans to hasten the early release of non-violent offenders.

Despite these concerns, the Committee is reasonably confident that with appropriate directives and information-dissemination, both National Parole Board decision-making patterns and judicial sentencing practices will adapt to a later parole eligibility date for violent offenders.

4. Parole as a Privilege

Finally, the Committee believes that parole is a privilege that must be earned. The Committee agrees with the Honourable Brian Smith, former Attorney General of B.C., who said:

> I do not mean that you earn parole because you happen to be a nice manageable inmate who handles the guards well and is polite. I do not mean it at all. I mean that *you earn your entitlement to parole because you have demonstrated in some material way that you are prepared to change the way you behave and the way you interact with society.* (our emphasis)
>
> You may do that by demonstrating that you wish to learn a trade or an occupation. While you are in custody, you work at that. You demonstrate that when you get out, you do not intend to go back to pushing drugs or whatever you were in there for, but that you intend to work and want to work. It is not by telling a parole officer that you do, but you demonstrate it by having already shown that you can do so. (57:38)

The later parole eligibility date will allow the inmate convicted of a violent offence greater latitude to demonstrate that this privilege has been truly merited.

Recommendations 46

The Committee recommends that parole decision-making criteria be placed in law.

Recommendation 47

The Committee recommends that the eligibility date for full parole for those convicted of the violent offences set out in the Schedule to Bill C-67 be changed from one-third to one-half of a sentence of imprisonment.

Recommendation 48

The Committee recommends that appropriate directives and information be disseminated so that National Parole Board decision-making patterns and judicial sentencing practices are adapted to a later parole eligibility date.

D. Day Parole

At present, most inmates are eligible for day parole when they have served one-sixth of their sentences. Prior to 1986, few inmates were granted day parole at that stage. Since Bills C-67 and C-68 were enacted, it has been mandatory that all cases *must* be reviewed by the National Parole Board prior to the one-sixth point in the sentence. The Committee has been unable to determine what effect this has had on the actual earlier release of non-violent offenders. However, it is apparent that this has increased the workload of case preparation staff and the National Parole Board.

A number of problems have been identified with respect to the day parole program. For one thing, it has no identified legislative purpose. Moreover, the one-sixth point in a sentence of incarceration is said not to be enough time for an inmate with a sentence of less than 3 years to get into institutional programs or develop a proper release plan. It is often six months after the beginning of the sentence before institutional assessments and placements are completed and programs commenced. Even assessments may be delayed, given the difficulties experienced in obtaining court information.

In his June 15, 1988 appearance before the Committee, the Solicitor General of Canada proposed that the day parole eligibility date be set at six months before full parole eligibility. **The Committee agrees with this change in the day parole eligibility date. However, it feels it should be pointed out that in the cases of some offenders convicted of the violent offences set out in the schedule to Bill C-67, day parole eligibility could occur at or after the proposed point, but day parole supervision could last longer than six months.**

The purpose of day parole should be to enable the inmate to begin to prepare for reintegration into the community. It should consequently be made available for restitutional, vocational, educational or employment purposes relevant to the possibility of eventual full parole. Day parole should

be an occasion for the offender to demonstrate that the privilege of full parole has been earned and the commitment to "righting the wrong" is real. In the Committee's view, six months should be enough time in most cases for an offender to demonstrate that he or she is a good candidate for more full-time reintegration into the community. However, in some cases it may be desirable to retain a longer period of relatively close supervision than that which day parole could offer.

The proposed later day parole eligibility would also provide more time for inmates to benefit from intensive institutional programs. Similarly, greater time would be available for case preparation leading to a more effective information base for appropriate risk assessment of these offenders and the development of viable release plans.

By shortening the amount of time an offender may spend on day parole and delaying his or her eligibility for it, the amount of the sentence actually served in prison will be more directly related to the total sentence lengths. This should help restore public confidence in the criminal justice system.

The Committee favours the retention of automatic day parole review prior to the eligibility date. This will ensure that offenders who appear to be ready to begin their reintegration into the community, especially non-violent offenders, are able to benefit from day parole.

Recommendation 49

> **The Committee recommends that day parole be available to inmates six months before full parole eligibility date for restitutional, vocational, educational or employment purposes related to possible full parole.**

Recommendation 50

> **The Committee recommends that the provision for automatic review prior to the day parole eligibility date be retained.**

E. Temporary Absence

The Committee is concerned about what it considers to be some inappropriate uses of the temporary absence program. It has been made

available to some who would appear to be high-risk inmates for the "rehabilitative" purposes of celebrating birthdays, attending sporting events and going on shopping excursions. In the Committee's view, these represent inappropriate uses of an otherwise highly successful program.

Citizens United for Safety and Justice made the following submission to the Committee on temporary absences:

> We would agree that *certain situations justify release of offenders for short periods of time for humanitarian reasons only, provided there is no undue risk to the public.* Administrative policy and guidelines for correctional authorities should spell out the types of situations and the terms under which humanitarian release could be considered.
>
> Definition of humanitarian reasons includes: visits to specialists for medical reasons, otherwise not obtainable to the offender; visit to a gravely-ill close relative (parent, brother, sister or grandparent); the funeral of any of these same close relatives. All visits to be escorted.
>
> These should be the only reasons for TAs, and although it is stated in the handbook by the NPB, "A Guide to Conditional Release", that these are indeed the only reasons for this type of release, it is quite obvious that the Board's definition of "humanitarian" includes such frivolous activities as shopping trips, visits to art exhibitions, lectures, sports and even birthday (the offender's) celebration outings. The idea of a convicted violent sex offender, whom the Court has sentenced to five years to be spent in a penitentiary, on a TA for 48 hours after having served as little as six months, is too reckless and irresponsible to comprehend, let alone [be] understood and accepted by the public at large. (Brief, p. 3)

During his appearance before the Committee on June 15, 1988, the Solicitor General of Canada proposed that temporary absences be refocussed to relate directly to inmate programs. **While the Committee welcomes the Minister's proposals for tightening up a generally successful program to ensure that it is more difficult for high-risk inmates to abuse it, the Committee does have some concerns.**

It is unclear how such temporary absences are to be used for reasons related to institutional programs and who is to make such a determination. It is also unclear from the Minister's proposal whether it will continue to allow temporary absences for such humanitarian reasons as the attendance at a funeral and, of course, medical emergencies. If this type of temporary absence is to continue to be available, it must be made clear who may benefit from it and who is to make this determination. At present, the National Parole Board delegates to the wardens its authority to authorize unescorted temporary absences for offenders serving sentences of less than five years. In the Committee's opinion, the Parole Board should retain this

power in relation to all offenders serving sentences for any offences involving any form of sexual assault or the taking of a life.

Recommendation 51

> **The Committee recommends that temporary absences be retained for purposes related directly to correctional programs and for clearly-defined humanitarian and medical reasons.**

Recommendation 52

> **The Committee recommends that the National Parole Board be precluded from delegating to wardens the authority to authorize unescorted temporary absences for offenders serving sentences for offences involving any form of sexual assault or the taking of a life.**

F. Earned Remission

At the present time, an inmate earns 15 days' remission of sentence for every 30 days served in prison. About one-third of the total sentence may be remitted. In theory, this is earned good time. In almost all cases, all remission time is automatically credited to an inmate and days are only deducted for institutional offences.

Those who support the continuation of earned remission argue that it acts as a series of rewards for good behaviour and is a technique available to correctional authorities to enable them to better manage the institutional population. Those who oppose earned remission say that inmates should not be rewarded for doing what they are supposed to do: that is, for respecting institutional rules and regulations.

In response to a question about earned remission, Ole Ingstrup, in his new capacity as Commissioner of Corrections, made the following observation:

> Seen from the correctional point of view, I have my doubts, quite frankly, that a remission system does very much in terms of improving institutional behaviour. I know that it is necessary to have incentives and disincentives in an institution in order to manage an institution, but I believe the remission system has become more or less an automatic system. (64:27)

The abolition of earned remission is not a new proposal. In its 1972 report, the Task Force on Release of Inmates (Hugessen Report) observed that remission had by then lost much of its value as a device to control

inmates (parole was seen as a much better means to this end) and recommended that it be abolished.

The Solicitor General of Canada proposed on June 15, 1988 that earned remission be abolished and that inmates be statutorily released under supervision when the lesser of one-third or twelve months of their term of incarceration remains. Essentially, this represents a shorter form of mandatory supervision.

The Committee supports this proposal but has some concerns which arise from the uncertainty in the Minister's proposal as to the nature of the conditions of supervision to be attached to the statutory release. The Committee believes that the conditions attached to this release should be broader than the present mandatory conditions in some cases. The requirement that an offender who has not been paroled may be required to reside in a community correctional centre during part or all of this statutory release period, whether or not all the requirements of Bill C-67 apply, is one example.

Recommendation 53

> **The Committee recommends that the legislative provisions for earned remission be repealed and that offenders be statutorily released under appropriate conditions (including residential conditions where necessary) and supervision for a period of 12 months or one-third of sentence prior to warrant expiry date, whichever of these periods is shorter.**

Recommendation 54

> **The Committee recommends that the detention provisions of Bill C-67 be retained and be applied in appropriate circumstances.**

Notes

(1) National Parole Board, *Briefing Book*, Volume III, Ottawa, June 1988, p. 11 and Figure 2.3.

(2) *Ibid.*, p. 41-42 and Figure 3.11.

(3) *Ibid.*, p. 117, Figure 6.3.

(4) *Ibid.*

CHAPTER THIRTEEN

PAROLE SUPERVISION

An essential part of the reintegration of offenders into the community is the intensity and quality of supervision to which they are subjected. Parole supervisors must be properly qualified and trained, have the required resources to effect their dual duty of supervising and assisting offenders and must be effectively motivated to do their job as well as possible.

A. Employees of the Correctional Service of Canada

1. In General

The Committee met with parole supervisors employed by the Correctional Service of Canada at *in camera* meetings across the country. These people, who play an essential role in the criminal justice system, are seriously demoralized. There are several reasons for this demoralization. Their caseloads are getting heavier and, because of frequent legislative and policy changes in recent years, the demands on them for documentation and accountability have become more intense. The advent of a number of competing directives and new initiatives in policy in recent years has left them feeling directionless. The recent increase of privatization and introduction of provincialization of parole supervision, with the consequential loss in person-years, but sometimes the retention of ultimate responsibility for supervision, has led to a climate of insecurity.

These issues must be addressed by the Correctional Service of Canada (or National Parole Board if it assumes these functions). In particular, the morale of its parole supervisors must be improved.

2. Caseloads

The Burnaby coroner's inquest jury that investigated the deaths of Joan Pilling, Linda Brewer and Megan McCleary (the Foster case) made the following recommendation on parole officer caseloads:

> That a review be undertaken to determine what an acceptable case load is for case workers and parole officers. It should be taken into consideration that different individuals will require varying amounts of their time.

The issue of parole officer caseload is one of particular concern to the Committee. Parole officers appear to have three types of cases — those including direct supervision, those involving indirect supervision (in which direct supervision is provided by private agencies) and those making up what one parole officer appearing before the Committee described as the "hidden caseload". The "hidden caseload" was described to the Committee as involving those offenders who have completed their period of conditional release but who continue to see their parole officers for further advice and assistance. Parole officers having such a caseload, which does not appear to be included in the official statistics, feel that, in conscience, they still must assist these offenders, even thought they are no longer under supervision.

Parole supervision is demanding on those who perform it and critical for the effective reintegration of offenders into the community. No two offenders are alike — each has to be provided with the appropriate degree of supervision and the right amount of assistance. How well and how smoothly parole supervision is going to go is unpredictable. Consequently, parole supervisors must be able to respond quickly and appropriately to developments in the lives of offenders whom they supervise. To do this, they must have an appropriate caseload level which will constitute an effective use of their time and skills, and still leave flexibility for them to respond appropriately to unexpected events.

The level of caseload to be carried by parole officers is difficult to determine. The Correctional Service of Canada has undertaken a study of human resource standards in a number of areas including Case Management Officers. It is expected that this study will be completed and the resulting standards will be implemented by April 1, 1989. The Committee commends the Correctional Service of Canada for undertaking this study and hopes it will result in the development of appropriate caseload standards for parole officers providing offender supervision.

3. Training Opportunities

Parole supervision is only as effective as those designated to perform it are able to make it. Consequently, parole supervisors must be properly trained and provided with opportunities for in-career refresher courses and retraining. Witnesses appearing before the Committee have suggested that those training and retraining opportunities that do exist are not always available to front-line parole supervisors. These opportunities, which are now available to middle management, should not only be increased but should also be made available to more parole supervisors.

B. Employees of Private Sector Agencies

In the past several years, the privatization of both parole supervision and the operation of community residential centres has been increased. There has always been some degree of private sector involvement in these aspects of the conditional release system, but what is new is the development of quotas to increase that involvement and the emergence of "for-profit" organizations in this sector.

The Committee has met with both the front-line staff and management of these private sector organizations in both public and *in camera* meetings. As a result of these encounters, the Committee has a number of concerns. The Committee has serious concerns about the qualifications of, and the training made available to, the staffs of privately-run halfway houses. Halfway house staff and private sector parole supervisors have often had inadequate access to information about the clients with whom they are dealing, e.g. Sweeney, Stanton. They also do not have (and some apparently do not want) direct access to the parole suspension power that is available to Correctional Service of Canada parole supervisors.

C. Halfway Houses

1. In General

The Committee supports the idea of halfway houses but recognizes that they have had some difficulties. Halfway houses are an appropriate means of reintegrating offenders into the community. By offering effective programming and facilitating offenders' access to various helping services, they serve as a support and assistance mechanism, as well as a place to live.

2. Halfway House Standards

Halfway houses, especially community residential centres opereated by private agencies, have been severely criticized in recent years. In 1985, Celia Ruygrok was murdered by James Allan Sweeney, a resident of a halfway house in Ottawa. In 1988, Tema Conter was murdered by Melvin Stanton, a resident of a halfway house in Toronto. In each case, a public outcry followed and an investigation ensued. Serious weaknesses in the release preparation, release determination, release supervision and information exchange processes were identified and efforts were made to correct them.

The Coroner's Inquest Jury investigating the death of Celia Ruygrok in Ottawa made 29 recommendations, most of which were accepted and implemented by the Solicitor General of Canada. Similarly, the Pepino Inquiry into halfway houses in Toronto made 32 recommendations of which 31 were accepted by the Solicitor General of Canada and are being acted upon.

A number of the recommendations made by both inquiries have been implemented as part of the *Standards and Guidelines for Community Residential Facilities* adopted by the Correctional Service of Canada on May 30, 1988. These Standards and Guidelines deal with community residential centre organization, administration, programs, personnel policies, evaluation, physical plant and security, relationship to community and police, and relationship to the Correctional Service of Canada.

L.A. Drouillard, Executive Director of the St. Leonard's Society of Canada, had the following comments to make about the Standards and Guidelines in light of the Pepino recommendations:

> In terms of responses to the recommendations of the Pepino report, there are a couple of standards that we feel are fairly intrusive, over-reactive in terms of being very detailed and very controlling. We think the whole issue of the partnership between the voluntary sector and government services is at issue, and we are actively pursuing those issues with the Correctional Service right now. Generally, we accept them in principle and the thrust is the correct way to go, supported by staff training. (55:13)

The Committee agrees with Mr. Drouillard that the Standards and Guidelines based in part on the recommendations of the Ruygrok and Pepino inquiries will help to ensure that halfway houses are run more effectively, more safely and have a greater degree of community acceptance. It also agrees with Mr. Drouillard that some of the Standards and Guidelines are detailed and intrusive. The Committee does not, however, see this as detrimental, particularly for offenders who have a history of violence. It must not be forgotten that the conditional release and release supervison processes deal with risk determination and risk management. The best way to manage risk is to set out clearly how it is to be done. That is what these Standards and Guidelines do.

3. Community Involvement

The Standards and Guidelines indicate how the community is to be involved in community residential centres. They require the centres to:

- inform geographically close neighbours of their programs and services;

- make their annual reports public;

- establish admissions committees, including geographically close neighburs, to process applications for residency;

- develop policies on responding to public inquiries, proposals and complaints; and

- develop plans for liaison with local police forces to facilitate communication.

These are laudable steps and should be taken in all cases. The difficulties faced by halfway houses once they are functioning in a community often can be traced to the way in which they have been established in a neighbourhood.

When setting up halfway houses, adequate steps have not always been taken by their sponsors to ensure that there has been effective community involvement in their establishment. From time to time, this has resulted in considerable resentment and fear of, as well as resistance to, the location of halfway houses in different communities. There must consequently be an effort on the part of agencies establishing halfway houses to involve the community from their inception. On the other hand, the community has a responsibility to accept these halfway houses if all standards have been met and precautions taken. The conditionally released offenders in halfway houses are at the last stage of their reintegration into the community — they need all the assistance the communtity can give them to succeed.

4. Special Classes of Offenders

Not all offenders should be in halfway houses operated by the private sector. There are some violent, recidivist offenders who should be kept in a community setting more secure than a halfway house, where the supervision is more appropriate to the risk these offenders may pose. To this end, these types of offenders should be kept in Community Correctional Centres or community-based minimum security institutions operated by the Correctional Service of Canada.

5. Programming

The Committee believes that halfway houses should not just be places for the conditionally released offender to live. All of them should provide various degrees of programming, counselling and assistance dependent on the nature of those who are resident in them.

6. Specialized Halfway Houses

The Committee believes that more specialized community residential centres are required across Canada. Specialized facilities should be developed in all parts of Canada for Natives, women, offenders with mental disorders and offenders with substance abuse problems. These types of specialized resdential facilities would help to ensure that the offenders get intensive programming in a community setting.

Recommendation 55

The Committee recommends that the Correctional Service of Canada take all necessary steps to ensure that the *Standards and Guidelines For Community Residential Facilities* (incorporating the recommendations of the Ruygrok and Pepino Inquiries, among other conditions) are strictly adhered to by private agencies entering into contractual arrangements with it.

Recommendation 56

The Committee recommends that violent, recidivist offenders on conditional release be placed in community correctional centres operated by the Correctional Service of Canada with access to appropriate programs and supervision.

Recommendation 57

The Committee recommends that the Correctional Service of Canada, in partnership with private agencies, develop additional halfway houses to provide supervision and programming appropriate to the needs of Native offenders, female offenders, offenders with substance abuse problems and offenders with mental disorders.

CHAPTER FOURTEEN

OVERVIEW OF CORRECTIONAL PROGRAMS

A. In General

No study of sentencing and conditional release is complete without a review of what happens to offenders once they are incarcerated. The Committee came to this conclusion early in its work. Consequently, the Committee not only held public and *in camera* hearings, as mentioned earlier, it also visited a number of penitentiaries.

As indicated in the principles set out in the Introduction to this report, the Committee considers the delivery of and inmate participation in institutional programs as essential to preparing offenders for their return to the community. The more effective institutional programs are, and the more meaningful inmates' participation in them is, the more likely are offenders to complete successfully their conditional release into the community. The most important consequence of these developments would be the reduction of the likelihood of recidivism and the resultant protection of the community from the commission of further offences.

During its visits to penitentiaries, the Committee was able to observe a number of vocational, educational, lifeskills and substance abuse programs in action. Members of the Committee were able to talk with instructors and inmates in these programs, as well as those involved in a number of other programs. The commitment of both the instructors and inmates who were actively involved in these programs was obvious. This commitment was all the more striking in that it manifested itself in an environment where institutional security is often perceived to be of primary importance and where equipment and supplies are at times scarce or difficult to acquire.

B. Community Involvement in Programs

The Committee was impressed by the degree of community involvement in institutional programs by volunteers. This was especially striking in programs addressing illiteracy, substance abuse, chaplaincy and secular and religious-based prison fellowship programs across the country. The Committee believes that wherever possible community involvement in

institutional programs is essential. Such community involvement in institutional programs ensures that inmates are kept in touch with the society into which nearly all of them will some day return. This type of community participation also has the effect of humanizing and individualizing the inmates in the eyes of the community - the public perception of inmates as dangerous is dispelled by the contact the community has with them.

Recommendation 58

The Committee recommends that the Correctional Service of Canada facilitate a continued and even greater degree of community participation in institutional programs.

C. Citizens Advisory Committees

Part of the community involvement in institutions may be seen in the various Citizens Advisory Committees to be found across the country for each institution or district parole office. This initiative has much to commend it — the existence of these Citizens Advisory Committees must be made better known in the community and a broader degree of participation in them must be encouraged. They must also be given the required resources to perform their functions effectively.

The Committee heard evidence from a Citizens Advisory Committee which demonstrated an exemplary approach for members of the community to follow in working with offenders. The Niagara Citizens Advisory Committee, which was established in March 1981, incorporated a company called Absolute Pallet and Crate (A.P.C.) in the fall of 1985 with the assistance of the Correctional Service of Canada. The members of the Citizens Advisory Committee set up this program as a way of providing employment, job-skill training and different types of counselling to offenders with poor job skills, poor living habits and other problems.

Absolute Pallet and Crate produces pallets and crates, and operates an industrial woodworking plant on a competitive basis in the commercial market. It provides on-the-job training and counselling to federal and provincial offenders, social assistance recipients and others in the Niagara region. Job placement assistance is also available — this activity has met with a high success rate. These initiatives by volunteers from the community working with offenders deserve emulation elsewhere in Canada.

Recommendation 59

The Committee recommends that the Correctional Service of Canada allocate more resources to Citizens Advisory Committees so that community participation in their activities may be more widespread and so that they may more effectively perform their functions, particularly those which increase inmates' job skills.

D. Commissioner's Task Forces

When he appeared before the Committee on June 28, 1988, the newly-appointed Commissioner of Corrections, Ole Ingstrup, indicated that he had established a number of task forces to report to him by the end of August 1988. One of these task forces was given a mandate to examine the quality and availability of institutional and community programs. He also indicated that several private sector groups, in particular the Canadian Association of Elizabeth Fry Societies, would be invited to participate in this task force.

The Commissioner of Corrections is to be commended for taking these steps. The Committee looks forward to receiving the report of this task force, as well as those of the three other task forces established by him, which he said he would make available on their completion. The Committee anticipates not only receiving the task force reports and their recommendations, but expects to be reviewing their implementation in the months ahead.

Although the Committee has not reviewed particular correctional programs in depth, it has considered them within the broad sweep of its study of sentencing and conditional release. Its visits and the evidence it has received have raised a number of general concerns about institutional programs about which the Committee now wishes to make recommendations.

E. Program Resources

One of the concerns the Committee has is the resource imbalance between the requirements of security and the needs of programs. It appears to the Committee that inadequate resources are committed to programs. There is no doubt that bricks and mortar, fences and technology are important, but, in the long run, society will be more fully protected if all inmates are provided with the opportunity to develop the personal, educational and vocational skills which will enhance their chances for

success upon release into the community. More funds must be allocated to correctional programs. An increased budget would enable correctional authorities to offer a greater array of effective programs to assist offenders to return to the community as law-abiding citizens.

Recommendation 60

The Committee recommends that the Correctional Service of Canada devote a greater proportion of its resources to institutional programs, and that the government commit additional resources for it to do so.

F. Program Continuum

Offenders will be more successfully reintegrated into the community if the programs in which they are involved in the institutions are accessible to them in a continuous way in the form of their equivalents outside the penitentiaries. One of the rationales for removing parole supervision from under the aegis of the National Parole Board and placing it under the responsibility of the Correctional Service of Canada in the late 1970s was so that there would be a continuum of programs from the penitentiaries into the community. Unfortunately, in the Committee's view, although many institutional programs have their equivalents in the community, the situation can not be characterized as being a programming continuum.

Recommendation 61

The Committee recommends that the Correctional Service of Canada take the necessary steps to ensure that, whenever possible, offenders on conditional release may participate in programs that are continuous with those in which they have been involved while in institutions.

During its penitentiary visits, the Committee heard evidence of a related problem. It appears that some of the vocational programs in which inmates are involved while in prison do not always teach skills adequate to enable offenders to be licensed to take certain types of jobs in the community. This has been a source of frustration to inmates and has undermined their commitment to these vocational programs.

Recommendation 62

The Committee recommends that the Correctional Service of Canada ensure that its programs provide the requisite degree of skill development to enable inmates to be suitably certified where required for particular types of employment in the community.

Another continuity problem identified by the Committee is that of the availability of programs in institutions of different levels of security. This is especially a problem for inmates who may wish to take advantage of post-secondary educational programs available to them. If an inmate is transferred, he may discover that by moving to a lower-level security institution he has to forego the post-secondary education program in which he is involved. This has led to the ironic situation where such an inmate may refuse a transfer to a lower level security penitentiary so that he might continue with his post-secondary education program.

Recommendation 63

The Committee recommends that the Correctional Service of Canada take the necessary steps to ensure that inmates transferring from one institution to another, or from one security level of institution to another, do not thereby lose access to post-secondary education programs in which they are involved.

G. Long-Term Programs

During its visits to penitentiaries, the Committee met with a number of Lifers groups — these are groups of inmates serving life sentences and having parole ineligibility periods of anywhere from 10 to 25 years. The number of these inmates is growing at a steady rate. Unlike many other offenders, they are faced with long periods of incarceration before being eligible for any form of conditional release. Most institutional programs are designed for inmates spending a much shorter period of time (generally less than five years) in prison. There do not appear to be sufficient long-term programs to deal with the needs of lifers.

A number of Lifers groups made oral and written submissions to the Committee on this issue. The Infinity Lifers Group of Collins Bay Penitentiary put the issue in the following terms:

> We are recognized as being a distinct group amongst the prison population, yet, no special considerations are made in that respect. It appears that rules and regulations are developed for the lowest common denominator. Most programs are developed and implemented for those with shorter and determinate sentences. It is a constant source of frustration for Lifers, who make up a large part of the static and stable population to be constantly reminded by C.S.C. officials that it is unfortunate but there is not much in the way of programs for them. We are however encouraged to create our own programs, which most often can be frustrating because of problems getting them recognized by these same officials. (Brief, p. 8)

The Committee believes that this is a serious issue and it must be addressed. It has come to this conclusion knowing that the solution to this problem is not an easy one.

Recommendation 64

The Committee recommends that the Correctional Service of Canada develop programs appropriate to the needs of inmates serving long periods of incarceration prior to their eligibility for conditional release.

H. Sex Offenders

One of those inmate groups that causes the greatest public fear and harm are sex offenders. There are a number of programs for sex offenders across the country. The Committee has met with the staffs of and visited some of these programs. There are currently more sex offenders in our prisons than the programs can handle — each program has a long waiting list. Each of the sex offender programs uses different techniques for teaching its patients how to control their behaviour.

Dr. William Marshall of the Department of Psychology at Queen's University, one of the founders of the first treatment program for sex offenders in 1973 at Kingston Penitentiary, told the Committee that:

> Canada and North America... actually, particularly Canada, is at the forefront of the world in this. Probably of the 20 leading experts in the world in treating sex offenders, 5 or 6 are Canadians, or at least so I would say; and that is unusual. So we have an unusual opportunity in Canada to do something that would be exemplary for the rest of the world.
>
> But we are at a stage where we can deliver a treatment program that will guarantee a remarkable reduction in recidivism versus untreated. I do not have any doubt about that. It is just the opportunity to do it, and do it properly and not in this piecemeal way that it is being done, that is standing in the way of effective treatment. (43:34)

Dr. Marshall identified several problems faced by sex offender treatment programs. One of these is the inadequate level of resources allocated to these programs. He expressed the view that these programs felt that their status was somewhat shaky and consequently took patients with whom they would be more likely to succeed in order to sustain their credibility as viable programs. He also indicated that sometimes security concerns over-ride treatment requirements.

Dr. Marshall's submissions to the Committee are somewhat disquieting. Some of the offences committed by sex offenders have had tragic consequences. The public expects that not only will sex offenders be apprehended, convicted and punished, but also that they will receive treatment to reduce the likelihood of their re-offending. This expectation is not being met as effectively as it should be.

The Ministry of the Solicitor General has recently developed terms of reference for an evaluation of sex offender programs across Canada — they are to be commended for doing this. The Committee hopes that this evaluation will be completed at an early date.

The Committee believes that the resources allocated to sex offender treatment programs must be dramatically increased. Full institutional support must be given to these programs so that they may be used as effectively as possible to reduce the possibility of recidivism by sex offenders.

Recommendation 65

> **The Committee recommends that the Correctional Service of Canada dramatically increase the resources allocated to sex offender treatment programs.**

I. Special Groups of Offenders

It has long been recognized that Native offenders and female offenders have special programming needs. Many witnesses addressed the Committee on these concerns. The next two chapters of this report deal with the correctional programming needs of Natives and women.

J. Final Comments

It is the Committee's view that present programs must be improved upon and new ones must be developed. New programs must not be

developed at the expense of old ones. More specifically, programs aimed at particular classes of high risk offenders should not be developed to the detriment of the continued viability of programs already available to the general inmate population.

The Solicitor General of Canada and the Correctional Service of Canada must be commended for their recent efforts and, in particular, the development of programs for dealing with the serious problems of substance abuse and illiteracy. These are examples of the development of new programs to address long-standing problems among offenders. Substance abuse programs and educational programs must be more comprehensively available throughout the correctional system. More new programs like these must be developed, but not at the expense of effective existing programs.

Recommendation 66

The Committee recommends that new programs aimed at high risk offenders not be developed at the expense of existing programs available to the general inmate population.

One of the questions that the Committee put to many of those who appeared before it and whom it met on its penitentiary visits was whether the institutional or community programs in which they were involved had been evaluated to determine their effectiveness. The Committee was surprised and left somewhat unsettled at the small number of programs that had been evaluated.

One of the Committee's broad conclusions about programs is that some of them work for some offenders in some circumstances. Unless more programs are evaluated, it will be difficult to determine what will work under what circumstances.

Recommendation 67

The Committee recommends that programs offered to offenders both in institutions and in the community build in, where feasible, a requirement for and a capacity to effect evaluations.

These are the broad institutional program issues that the Committee has identified as part of its study. The Committee believes that these issues must be addressed to make the reintegration of offenders into the community more effective.

CHAPTER FIFTEEN

NATIVE OFFENDERS

A. Overview

Natives represent a disproportionate percentage of offenders in federal institutions compared with their proportion of the general population. Native people make up approximately two percent of the Canadian population. At the present time, Native offenders make up 9.6 percent of the inmate population. Native offenders make up an even greater proportion of the inmate population in Canada's west and north. Specifically, 31 percent of those incarcerated in institutions located in the prairies are of Native origin.[1] Since the early 1980s, the rate of growth in the Native proportion of inmates in federal institutions has exceeded the rate of growth of the inmate population as a whole.

Native offenders are less likely to participate in rehabilitative programs within federal institutions than the general inmate population. Natives are less familiar with the release preparation system and more likely to waive release eligibility opportunities than the general inmate population in federal institutions.[2] Native offenders have a lower probability of being released on parole than the general inmate population: in 1987, 42.1 percent of the general inmate population was released on full parole while 18.3 percent of the Native inmate population was released on full parole.[3]

The serious disruption of the Native culture and economy that has taken place in this century has had a devastating effect on the personal and family life of Native inmates They are often unemployed, and have low levels of education and vocational skills. Many of them come from broken families and have serious substance abuse problems. Some Native inmates, especially Native women, are incarcerated at great distances from their home cities or towns, or their reserves.

B. Sentencing

One reason why Native inmates are disproportionately represented in the prison population is that too many of them are being unnecessarily

sentenced to terms of imprisonment. **The Committee believes that there should be a more widespread use of alternatives to imprisonment.** These alternatives are examined in Chapter Seven of this Report. As argued in that Chapter, these alternative sentencing techniques are meant to and have the effect of ensuring that the offender accepts responsibility for his or her action, repairs the harm done by the action and is not subjected to the destructive effect of imprisonment.

In the submissions it made to the Committee, the Native Counselling Service of Alberta urged that more Native-centred alternative sentence programs be developed. In particular, it expressed the view that such programs should address the low self-esteem of Native offenders by engaging them in positive work activities and teaching them interpersonal coping skills. Brad Morse of the University of Ottawa told the Committee that Native communities and organizations need financial and human resources, as well as the legal authority, to develop their own alternatives to incarceration.

The Committee agrees with these two submissions. Too many Native offenders are being incarcerated. Incarceration has a destructive impact on these offenders and their relationship with the community. The Committee believes that a greater variety of programs offering alternatives to incarceration for Native offenders must be developed and administered for Native people by Native people.

Recommendation 68

The Committee recommends that governments develop a greater number of programs offering alternatives to imprisonment to Native offenders — these programs should be run where possible for Native people by Native people.

C. Institutional Programming

As indicated earlier in this Chapter, Native offenders participate in institutional programs to a lesser degree than the general inmate population. The reasons for this are not always clear. One of the causes of this phenomenon appears to be that these programs are not always delivered in ways that are appropriate to the cultural background of Native inmates. In addition, those who deliver these programs often come from non-Native backgrounds with the result that there are at times cross-cultural difficulties.

The Committee believes that programs to be delivered to Native inmates must be done in a way that accepts and is adapted to cross-cultural differences between Natives and non-Natives. This is especially important in relation to programs of great importance to Native inmates such as substance abuse and vocational or educational upgrading. These types of steps will help to increase the participation of Native inmates in institutional programs.

Not only should these programs be so designed and delivered but, where possible, Native instructors and teachers should be hired. Although the Correctional Service of Canada has had an affirmative action initiative for several years and its modest goal has been met, there are still not enough Native professionals and workers in the system, especially in areas of the country where Natives are concentrated. All non-Natives who deliver such programs to Native offenders should be provided with opportunities to receive sensitivity training to enhance their ability to deliver institutional programs to Native inmates.

Recommendation 69

The Committee recommends that institutional programs be developed and delivered in a way that is sensitive to the needs of Native inmates.

Recommendation 70

The Committee recommends that, wherever possible, Native instructors and teachers be hired to deliver programs to Native inmates.

Recommendation 71

The Committee recommends that non-Natives involved in the delivery of programs to Native inmates be provided with opportunities to receive sensitivity training to enable them to understand the cultural backgrounds and needs of Native inmates.

In recent years, Native peoples across Canada have developed a greater sense of their history and their cultural heritage. This is all part of the Native self-government current. Native inmates have been caught up in this current. There are Native Brotherhoods and Native Sisterhoods in many

institutions. They provide a sense of community among Native inmates and permit them to discuss and build upon their historical and cultural roots.

A related development has been the increasingly widespread interest in Native spirituality among Native inmates. This involves the spiritual guidance in Native traditions offered by Elders and the observance of such practices as the sweat lodge. The effect of Native spirituality is to put the Native inmate in touch with the Native community and its age-old traditions.

Both Native Brotherhoods/Sisterhoods and Native spirituality are allowed to function within the correctional system (in fact there are Commissioner's Directives in support of this), but they are looked upon with cynicism and disdain in some circles. **The Committee believes that both Native Brotherhoods/Sisterhoods and Native spirituality have a rehabilitative impact on Native inmates and should not only be fully recognized but should also be provided with adequate resources so that they can function effectively.**

Recommendation 72

> **The Committee recommends that Native Brotherhoods/Sisterhoods be fully recognized and provided with the resources necessary to function properly.**

Recommendation 73

> **The Committee recommends that Native spirituality be accorded the same recognition and respect as other religious denominations and that Native Elders be accorded the same treatment as other religious leaders.**

D. Conditional Release

As indicated earlier in this chapter, Native inmates often waive their right to apply for early release or when they do apply for such early release, it is granted to them at a later point in their sentence. It appears that Native inmates are often not as familiar with release preparation processes and the conditional release system as other inmates.

Native inmates require more assistance in preparing and applying for early release. This can be done by either the Correctional Service hiring

more Native case preparation staff to assist Native inmates in preparing their release plans or engaging Native organizations to send Native workers into the institutions to assist Native inmates in preparing for release. While such functions fall within the mandate of the presently contracted-for Native liaison workers, the obligations of these workers continue to expand.

Recommendation 74

The Committee recommends that the Correctional Service of Canada either hire more Natives or enter into further contractual arrangements with Native organizations to assist Native inmates in preparing release plans and applications for early release.

It is felt by many Native inmates that the National Parole Board is not always sensitive to the needs of Native offenders or the environment to which they are to be conditionally released. This is demonstrated in two contexts. One of these is to refuse to accept a release plan because there is no parole supervision capacity in the area to which the inmate is to be conditionally released — often a reserve or remote village where the offender has come from or where there is a community willing to take him back. The other is to impose the standard dissociation condition of release saying that the offender is not to have contact with anyone with a criminal record.

Insofar as the first situation is concerned, the local community or the reserve is often willing to take back the Native offender and provide him or her with the necessary support and supervision. The Correctional Law Review suggested the following legislative provision to address this problem:

> With the offender's consent, and where he or she has expressed an interest in being released to his or her reserve, the correctional authority shall give adequate notice to the Aboriginal community of a band member's parole application or approaching date of release on mandatory supervision, and shall give the band the opportunity to present a plan for the return of the offender to the reserve, and his or her reintegration into the community.[4]

Although it may not be necessary to put such a provision in statutory form, the National Parole Board should follow the suggested procedure it enunciates. This approach would enable the community to which the offender is to return to indicate that it wishes the offender to return and that it is willing to take responsibility for reintegrating him or her.

The dissociation condition of conditional release can be a serious problem to the Native inmate who may wish to return to his or her community or reserve. A dissociation clause preventing the conditionally released inmate from associating with those with criminal records may force the Native offender to break friendships or to stop associating with family members. Although a dissociation clause prohibiting a conditionally released inmate from dealing with most people with criminal records is generally desirable, its imposition upon a Native offender should be carefully examined before such a decision is made.

Recommendation 75

The Committee recommends that, where possible, the National Parole Board conditionally release a Native offender to his or her home community or reserve if that home community or reserve indicates that it is willing to and capable of providing assistance and supervision to the offender.

Recommendation 76

The Committee recommends that the National Parole Board carefully examine the implications of imposing a dissociation condition prohibiting association with people having criminal records before imposing it upon a Native offender.

There are a number of Native-run programs and halfway houses across Canada. The Committee believes that in most cases Native offenders are best served by Native-run programs that most appropriately respond to their particular needs. Unfortunately, there are not enough of these programs and they are often under-funded. The Committee believes that there should be more of these Native-run programs for Native offenders.

Recommendation 77

The Committee recommends that governments fully support the expansion of Native-run programs and halfway houses to accept Native offenders upon their conditional release from prison.

Many Native groups that appeared before the Committee expressed concern about not being consulted in advance of important policy

developments. Both the Correctional Service of Canada and the National Parole Board have advisory committees on Native offenders. Since the Parole Board and the Correctional Service are in reality, if not in bureaucratic terms, part of the same system, it would appear to make more sense to have one advisory body on Native offenders advising both the Parole Board and the Correctional Service at the same time. This advisory body should have as members, among others, representatives of the Native organizations involved in criminal justice matters.

Recommendation 78

The Committee recommends that the Correctional Service of Canada and the National Parole Board jointly establish an advisory committee on Native offenders upon which would be represented the major Native organizations involved in criminal justice matters.

E. Native Community Involvement

The Correctional Service of Canada has a Citizens' Advisory Committee at each institution and at each district parole office. Where there are significant numbers of Native offenders, steps should be taken to ensure that there is proportionate Native representation on these Citizens Advisory Committees.

Recommendation 79

The Committee recommends that where there is a significant number of Native offenders, the Correctional Service of Canada should ensure that there is proportionate Native representation on Citizens Advisory Committees attached to institutions and district parole offices.

Notes

(1) Correctional Service of Canada, *Responses by the Correctional Service of Canada to Questions Raised by the Standing Committee on Justice and Solicitor General*, July 15, 1988, p. 49.

(2) Solicitor General Canada, Ministry Secretariat, Correctional Law Review, *Correctional Issues Affecting Native Peoples*, Working Paper, No. 7, February 1988, p. 3-5.

(3) *Op cit.*, Note 1.

(4) *Op cit.*, Note 2, p. 36.

CHAPTER SIXTEEN

WOMEN IN CONFLICT WITH THE LAW

A. The Context

1. Women and Crime

Holly Johnson, a researcher for the Solicitor General of Canada, had this to say in *Too Few to Count: Canadian Women in Conflict with the Law*:

> Canadian statistics suggest a link between the social and economic status and the criminality of women. ... In the experience of correctional workers, women who come into conflict with the criminal justice system tend to be young, poor, under-educated and unskilled. A disproportionate number are Native. Many are addicted to alcohol, drugs, or both. Large numbers have been victims of sexual abuse and many are emotionally or financially dependent on abusive male partners. This type of information about the lives of women offenders is essential for a better understanding of their needs for services, but is generally lacking in available statistical data.[1]

Aside from annual statistical data concerning the offences with which women (and men) are charged, penitentiary data, and some prison data concerning sentence lengths, we know little about women in conflict with the law. Existing statistics (with respect to charges laid) confirm the commonly held belief that women are far less involved in criminal activity than are men and that the actual amount of violent crime committed by women is also small.

a. The Offences with which Women are Charged and for which they are Imprisoned

i. National Charges

In 1985, almost 54 percent of the criminal charges against women were for theft or fraud — over 65 percent of which were for theft under $200 (primarily shoplifting). Other offence categories can be ascertained from Figure 16.1.

Figure 16.1

CRIMINAL CODE OFFENCES, 1985

WOMEN CHARGED

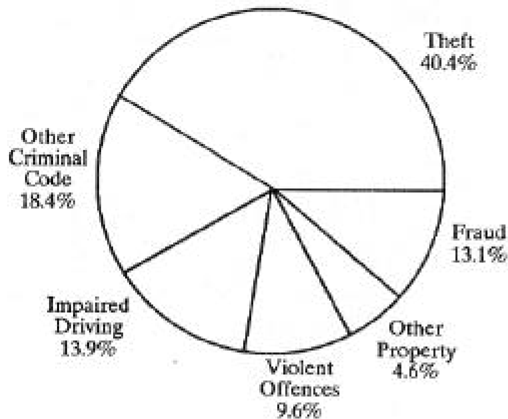
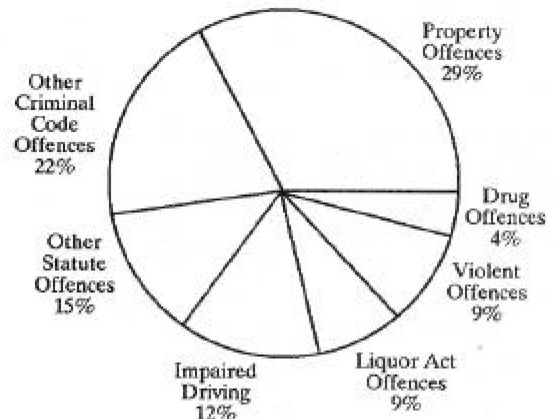


Figure 16.2

OFFENCE TYPE FOR WOMEN ADMITTED UNDER SENTENCE TO PROVINCIAL INSTITUTIONS, 1985



ii. Sentenced Admissions to Provincial/Territorial Institutions

In 1985, provincial and territorial institutions admitted about 8,000 women after sentence — one half of them for at least the second time that year. Their sentenced offence categories are set out in Figure 16.2.

iii. Penitentiary Admissions

Table 16.1 shows the offence types for which men and women were admitted to penitentiaries in 1985.[4] (These statistics probably include admissions for release revocations, etc., not just sentenced admissions.)

b. Data Submitted to the Committee About Female Offenders in Saskatchewan

The Elizabeth Fry Society of Saskatchewan included in its brief some data it had collected from various sources about inmates at its provincial prison, Pine Grove Correctional Centre, in Prince Albert. This data provides an illustrative profile of women offenders in provincial institutions (section i below).

Table 16.1
PENITENTIARY ADMISSIONS -- 1985

	MEN		WOMEN	
Offence	**#**	**Per Cent**	**#**	**Per Cent**
Murder/Manslaughter	283	60%	20	14.2%
Attempt Murder/Wounding/ Assault	334	7.1	10	7.1
Rape/Other Sexual	132	2.8	2	1.4
Robbery	1051	22.2	18	12.9
Sub-total -- Violent	1800	38.3	50	45.6
B & E/Theft/Fraud	1833	38.8	29	20.7
Drugs	374	7.9	40	28.6
Other (Crim. Code and Fed. Stat.)	720	15.2	21	15
TOTALS	**4727**	**100%**	**140**	**99.9%**

i. Population Profile at Pine Grove in June 1986

In June 1986, women incarcerated at Pine Grove were serving sentences in relation to the following offence categories:

- 21 percent for drinking and driving;
- 25 percent for property crimes; and
- 45 percent for non-payment of fines.

With respect to length of sentence, 74 percent were serving sentences of less than 60 days — 60 percent, less than 30 days.

Johnson's research points out that with respect to sentenced admissions to provincial institutions in 1985, almost two thirds received sentences of less than a month (half, less than 14 days). This is consistent

with data supplied by the Elizabeth Fry Society of Montreal that 75 percent of sentenced admissions to Maison Tanguay were for less than 30 days.

ii. Characteristics of Pine Grove Inmates

The Society reported the following data with respect to a recently published population survey:

- 74.5 percent of the inmates were under age 30;
- 83.4 percent were of Native ancestry;
- 58.5 percent had at least one dependent child;
- 78 percent had more than two children (includes non-dependent children);
- 72 percent had a Grade 9 education or less;
- 89.4 percent were unemployed prior to incarceration; and
- 60 percent lived in either Regina or Saskatoon prior to incarceration.

An informal survey of just over half the population in November 1986 indicated that:

- 55.2 percent had been victims of sexual abuse; and
- 79.3 percent admitted to serious addictions problems.

A survey of all inmates with sentences of two years or more who were discharged from Pine Grove from April 1, 1985 to April 30, 1987 revealed that:

- all 17 had been serving sentences for crimes of violence (11 for manslaughter);
- more than half had been victims of violence, including sexual assaults (incest or rape);
- all had drug/alcohol addictions;
- 11 had children (6 were single parents); and
- more than 75 percent had been assessed as requiring a medium or maximum security setting for all or most of their sentences.

2. The Need for Research

It is no doubt because women pose much less of a threat to public safety than do men that women offenders have not been seriously studied in the past. Nevertheless, thousands of women are sentenced to prison each year. Yet no nationally collected sentencing data is available in Canada; provinces which do collect court data do not necessarily segregate the information by gender.

As the Elizabeth Fry Society of Montreal presented the situation:

> Generally speaking, apart from penal data as such, there is little information collected and compiled which would provide a clear picture of the "female" client, and it would seem that such information is clearly necessary for proper action (Brief, p. 20).

Johnson suggests:

> Little can be said with confidence about the type of counselling or treatment programs that would benefit women offenders. We need to know, in greater detail, the specific life situations of women who are charged with criminal offences. On the basis of this knowledge, programs could be designed to direct offenders into non-criminal life-styles and improve the life situations of thousands of would-be offenders.[5]

Recommendation 80

The Committee recommends that the Solicitor General of Canada and the Minister of Justice jointly convene a Female Offender Research Working Group, involving representatives from other relevant federal departments and inviting the participation of relevant private sector agencies and interested provincial/territorial governments and academics to coordinate current and planned research about female offenders (criminality, sentencing and corrections). Further, this working group should recommend priorities for research undertaken or funded by the Ministry of the Solicitor General and the Department of Justice.

B. Community Sanctions

In its brief to the Committee, the Canadian Association of Elizabeth Fry Societies pointed out that:

> Women are sentenced to terms of incarceration both indirectly and directly. Indirect sentences of incarceration may result from the failure to pay fines because of poverty or the failure to complete a community service order because no one would babysit the children ....
>
> One of the ways in which direct incarceration has become the sentencing "norm" for non-violent property offences is through the lack of community sanctions. Judges cannot be expected to exercise their discretion and use restraint if there are no available choices ... (Brief, p. 13)
>
> For meaningful community sanctions to be a real "choice" available across the country, there must be an increase in the funding of community sanctions .... If there is no increase in funding ..., then only women in large centres or in provinces that recognize the need for this funding, will benefit .... There must be a federal commitment to ensure that women across the country will have access to a basic level of community programming. Anything less would clearly result in unwarranted disparity ... (Brief, p. 27)

Johnson suggests that the high rate of women being sent to jail more than once for minor offences is evidence of the failure of the penal system:

> At a minimum, greater emphasis must be placed on programs and services to enable women to serve their sentences in the community, particularly those women unable to meet the requirements of a financial penalty. Programs for women in need of educational training, skills development, addiction counselling and the like are much more readily implemented and utilized in the community than during a few days or weeks of incarceration.[6]

The Committee has already indicated, throughout Chapter Seven, its support for increasing the use of community sanctions, particularly for non-violent offenders, which most female offenders appear to be. Given the nature of the offences committed by women, the status of women in Canadian society, the condition and scarcity of women's custodial settings, and the desirability of not separating dependent children from their parents unless necessary, greater restraint must be used in the incarceration of women in Canada.

1. Fine Options and Community Service

While it might not appear that a minor shoplifting charge could result in jail time, because of their inability to pay fines, many women do end up serving time. **The Committee has already expressed its view that less reliance should be placed on imprisonment for fine default. It agrees** with the Canadian Association of Elizabeth Fry Societies **that the resources now used to imprison fine defaulters would be better used in community programs.**

The economic position of many women who come into conflict with the law makes fines inappropriate in many cases. Some jurisdictions use fine options programs to convert the fine sanction into community service. Unfortunately, these programs are not widespread. This means that the impact of fines on women is very disparate across the country.

While calling for greater use of fine options, Elizabeth Fry Societies caution that some women may have difficulty completing such programs in the absence of suitable childcare arrangements.

Recommendation 81

The Committee recommends that those who are developing and funding community sanctions include appropriate provision of quality childcare so that all offenders may benefit from them.

Recommendation 82

The Committee urges governments to make fine options programs more widely available and, in the meantime, to encourage the judiciary to use community service orders or other community sanctions in lieu of fines for economically disadvantaged female offenders.

2. Education, Treatment and Self-Help Models

Elizabeth Fry Societies identify the value of group work in a wide range of areas: life skills, addictions, employment readiness/work adjustment and shoplifting. Programs they favour generally contain education and awareness components, counselling or treatment components, and self-help components which may be continued formally or informally by the participants when the initial program has been completed. The programs encourage women to look at all the circumstances in their lives to understand the underlying contributors to their criminal behaviour and to learn techniques to reduce stress and skills to change their behaviour and position in society.

a. Shoplifting

As can be seen from the statistical material presented earlier in this chapter, women are heavily involved in shoplifting crimes. A number of Elizabeth Fry Societies have developed shoplifting counselling programs to address this problem. In some jurisdictions, participation in the program may divert the offender from criminal justice processing; more frequently, participation may be a condition of probation or engaged in voluntarily in conjunction with other community dispositions. Regrettably, few of these programs have stable funding and only a few of them seem to be operating across the country at any particular point in time.

Recommendation 83

The Committee recommends that governments provide greater support to the establishment, evaluation and maintenance of shoplifting counselling programs throughout Canada.

Recommendation 84

The Committee encourages the business community to support shoplifting counselling programs.

b. Substance Abuse and Sexual Abuse

Both impressionistic and the limited statistical data available indicate the prevalence of addictions among women in conflict with the law. Moreover, common sense suggests that addicted people — particularly those who are young and have limited incomes — are at risk of coming into conflict with the law. In addition, the Committee has been advised that many women who are incarcerated have been victims of sexual abuse and/or incest.

The Kingston Elizabeth Fry Society suggests that:

> For victims of society who suffer from physical/sexual/emotional abuse, it is often a vicious cycle of trying to ease and forget the pain through drugs/alcohol which then only exacerbates the situation (Brief, p. 2).

The Committee commends the present government for its initiatives in the substance abuse field generally. It would like to see, however, greater use

of addictions treatment programs by offenders who require them — preferably long before their criminal behaviour requires imprisonment.

As noted in Chapter Seven, it would be inappropriate to compel offenders to engage in treatment, and it is unlikely that treatment programs would waste their limited resources on involuntary clients. However, compelling addicted offenders to attend addictions awareness programs and providing greater resources for the voluntary clients of addictions treatment programs appropriate to the client's gender and culture are approaches that merit greater attention.

Recommendation 85

The Committee encourages criminal justice and addictions agencies to develop education/awareness programs suitable for use in conjunction with community sanctions. Such programs should be sensitive to the gender and culture of participants.

Recommendation 86

The Committee recommends that governments continue to expand their support for community-based addictions education/awareness and treatment programs and for sexual abuse counselling programs.

Recommendation 87

The Committee encourages Crown counsel, the defence bar and the judiciary to ensure that addictions treatment is explored with addicted offenders as a possible component of a community sanction where appropriate.

Recommendation 88

The Committee encourages breweries and distilleries to support innovative addictions education/awareness and treatment programs for offenders.

c. Work Adjustment and Employment Readiness

Many offenders are under-educated, poorly skilled, and lacking in stable work experience and habits. Many female offenders have all these handicaps. In addition, they have been socialized in a society that has relatively distinct expectations of and opportunities for men and women vis-à-vis work.

Women offenders generally need special assistance in understanding the kinds of occupational training available and the prospects for their successful employment. They may require intensive employment education, counselling and testing before they will be in a position to exercise a meaningful choice.

Recommendation 89

The Committee recommends that government departments with responsibilities for education, training, retraining and employment give priority to programs for female offenders and women at risk of coming into conflict with the law and that they provide adequate support to community initiatives which address the special needs of these women.

Recommendation 90

The Committee encourages Crown counsel, the defence bar and the judiciary, where appropriate, to consider the education, training and employment needs of female offenders in fashioning suitable community sanctions.

3. Community Involvement in Community Sanctions

The Canadian Association of Elizabeth Fry Societies proposed that sentences should have a "social value".

> Social value suggests that there is some input, concern or responsibility on the part of society in defining what it would consider to be valuable service to the community. Without the involvement of communities, community sanctions will likely not succeed in replacing prisons. (Brief, p. 14)

Along the same lines, the Elizabeth Fry Society of Kingston noted that:

> By using community corrections both the offenders and the community are active participants in rehabilitation, reconciliation and restitution. (Brief, p. 3)

The Committee has indicated in the principles set out in the Introduction, in its proposed sentencing purpose in Chapter Five, and in its discussion of sentencing options in Chapter Seven its support for victim-offender reconciliation and in particular its support for offenders accepting/taking responsibility for their criminal conduct by taking steps to repair the harm done. Hand-in-hand with this is the responsibility of the community to offer support to the offender to make constructive changes in her or his life which will reduce the prospects of further conflict with the law.

C. Halfway Houses

One of the most distressing problems the Committee encountered was the paucity of community residential settings for female offenders. Most are located in Southern Ontario, a couple in Quebec, and one in Vancouver. Not surprisingly, the need to establish more halfway houses for women was raised by Elizabeth Fry Societies in Halifax, Sudbury, Saskatchewan and Edmonton. **In the Committee's opinion, appropriate residential facilities for female offenders are crucial to reduce Canada's reliance on imprisonment and to ensure equality of services and opportunities to all offenders.**

Halfway houses may be used for a range of criminal justice purposes: for pre-trial custody and bail supervision, instead of remand centres; as a sentencing option, where a residential component is required; and for early release from custody. Halfway houses can provide specialized collateral support and programming for their residents (life skills, addictions awareness, parenting skills, etc.) and also permit a comfortable, hassle-free transition from in-house programs to community programs or work. In their absence, female offenders have less access to appropriate day parole than do their male counterparts (either they do not get day parole or temporary absences, or they are released to halfway houses far from their home communities) and may experience greater difficulty in reintegrating into the community.

The Correctional Service of Canada seems to recognize the seriousness of the problem, but appears unwilling to act in the absence of provincial

partners. The Committee understands the Service's initial reluctance to expand halfway houses: there are simply insufficient numbers of *federal* female offenders eligible for day parole in each province to make federal halfway houses for women cost-efficient. However, it appears that little progress has been made in obtaining commitments from provincial correctional authorities to guarantee "provincial beds". It is curious that the Service seems to have had more luck in building federal-provincial prisons than halfway houses. **In the Committee's opinion, it is unconscionable for the federal government to continue not to take remedial action in this important area.** This is all the more true given the housing problems generally experienced by low income women.

The Committee understands that a number of options have been tried and others are being considered. In some communities, for example, federal female parolees may reside in halfway houses originally designed for men. Given the negative experiences many female offenders have already had with some men in their lives and the importance of day parole programs assisting women to become economically independent, **the Committee has *serious reservations* about placing small numbers of women (often only one) in halfway houses inhabited predominantly by men. The Committee would prefer to see female offenders integrated into other housing services for women.** It understands that these facilities may sometimes lack the specialized supports that female offenders may require. Moreover, existing facilities (such as transition houses and temporary shelters) may already be operating at capacity. The concept of private home placements seems not to have caught on and, again, such placements are unlikely to offer the degree of support female parolees may require.

The Committee is also aware that it would be undesirable to widen the net of social control (and incur the additional cost of so doing) by making residential facilities available as components of sentencing options where the offender would not have been incarcerated previously. Similarly, the provision of such residential sentencing options should not replace the provision of basic housing. However, there are other needs which might be met in conjunction with day parole facilities for federal female offenders: satellite apartments for long-term day parolees and second stage housing for parolees or other women at risk. Finally, the Committee is aware that existing halfway houses make no provision for children.

Recommendation 91

The Committee recommends that the federal government, preferably in conjunction with provincial/territorial governments, should fund community residential facilities for federal female offenders in the Prairies, Northern Ontario and Atlantic Canada.

Recommendation 92

The Committee urges community groups interested in operating such facilities and government funders to plan residential facilities and programs that will serve a diverse group of women at risk, where provincial/territorial correctional authorities are unwilling to cost-share "traditional halfway houses".

Recommendation 93

The Committee recommends that future federal-provincial Exchange of Service Agreements include halfway houses for women in the negotiated package and that no further federal-provincial agreements with respect to prison construction be made without agreement to fund or establish halfway houses for women in provinces/territories where they do not now exist.

Recommendation 94

The Committee recommends that, in the expansion of halfway houses for women, consideration be given to the prospect of accommodating dependent children with their mothers.

D. Prisons for Female Offenders

1. Distribution and Size of Women's Prisons

The Committee visited Kingston Prison for Women, the only penitentiary in Canada for women serving sentences of two years or more. It also toured the old and new Forts Saskatchewan in Alberta which house male and female federally and provincially sentenced offenders. As it held hearings across the country, the Committee heard about a number of other women's prisons in Canada.

Prison for Women accommodates 100-150 federally sentenced women. Women's prisons in Vancouver, Saskatchewan and Manitoba house 60-100 women — most serving sentences of less than two years. Alberta has several co-correctional facilities which accommodate mostly provincially sentenced women and men. Pursuant to federal-provincial Exchange of Service Agreements, some federally sentenced women are housed in these Western provincial prisons. Federally sentenced women in Ontario serve their time at the Prison for Women; women with provincial sentences in Ontario generally serve them in a women's prison near Brampton. Unlike other provinces, Quebec keeps almost all of its federally sentenced women (with provincially sentenced women) in Montreal. Small provincial facilities accommodating 20-30 women exist in each of New Brunswick, Nova Scotia and Newfoundland. Women throughout Canada with very short provincial sentences often serve them in local lock-ups (police cells) or local or regional detention centres.

2. Classification of Female Prisoners

Many provinces have a number of facilities which meet the varying security needs of men. Because so many fewer women than men are incarcerated (their participation in crime being lower), with the exception of Alberta and B.C., there tends to be only one women's prison in each province, and there is only one penitentiary for women in Canada. This results in all women being kept at the same security level — higher than most of them require.

In its brief to the Committee, the Elizabeth Fry Society of Kingston points out about the Prison for Women that:

> Although it is considered a multi-level security institution, historically speaking women are placed under high-level security on the grounds that this placement will be a motivator for them during their confinement. This means that over half of the women are classified as being high risk regardless of their real security risk. It has been believed that if the women are classified at their real security risk levels (considering that they have long sentences) and given the privileges that come with lower security levels that they will have no motivating factors to help them through their sentences. (Brief, p. 4)

Lorraine Berzins, previously the social services director at Prison for Women and later national policy coordinator for female offenders with the Correctional Service of Canada, in the late 1970s:

> ... made an accurate and detailed review of inmates at Prison for Women regarding issues such as level of danger to others, skills, education, and family status .... [C]ontrary to the existing assumptions, even the most dangerous women did not require maximum security ....[7]

A 1981 complaint to the Canadian Human Rights Commission by Women for Justice led to the introduction of a security matrix system at Prison for Women. While only 15 percent of the inmates were classified as maximum security, the rules and regulations governing their daily lives continued to be determined by reference to maximum security requirements. Since that time security at the prison has actually been increased. The recently introduced Case Management Strategies, according to a submission the Committee received late in its deliberations from the Canadian Bar Association, has resulted in only 12 percent of the Prison for Women population being designated as maximum security. The brief goes on to say that security continues to be given as the reason for lack of access to programs.

In its brief to the Committee, the Canadian Association of Elizabeth Fry Societies stated:

> Since security levels are kept artificially high, the institutions in which women are incarcerated are not required to offer the quality of programming they would otherwise be required to offer.
>
> ... Although women in prison may "cascade" through security levels on paper, the reality is that the few institutions that house women are run as maximum security facilities, regardless of the paper requirements. (Brief, pp. 13-14)

The Elizabeth Fry Society of Kingston proposed that:

> Women be classified at their actual security level, that they be promoted [down] through the classification system according to their real progress and that they be transferred to community correctional facilities ... according to that progress. (Brief p. 4)

The Committee is concerned that large numbers of women prisoners across the country are being detained in facilities which provide much higher security than most of them require and than most of them would be subjected to if they were men. This has an adverse impact on program opportunities and release planning, particularly since women are often housed far from family and friends.

3. Prison Programming

a. General Concerns

The briefs of the Canadian Association of Elizabeth Fry Societies and the Elizabeth Fry Society of Saskactchewan contain scathing attacks on Canadian prisons for women:

> The current conditions under which women serve sentences of incarceration are sorely in need of attention. Because of their numbers, the needs of women who are serving time in jails, prisons and penitentiaries across the country are virtually ignored. For women serving lengthy sentences this is a serious problem. Prisons today are little more than warehouses. Women who enter with no skills generally leave with no skills. Women who enter illiterate generally leave illiterate. Those who enter in need of psychological care and support generally leave without ever being offered a "rehabilitation program." Those who enter with some skills or training have nothing to encourage or support them. (CAEFS Brief, p. 15)

> Saskatchewan's present correctional system does nothing more than add to society's and the individual woman's problems. It also costs taxpayers a lot of money. We pay to have the woman put through an expensive court experience, we fly her to a correctional centre, we pay someone to care for her children while she is incarcerated and we return her in a demoralized condition to the identical situation that caused her conflict with the law initially. Often we pay the long range costs of her children's disrupted lives as well. All this for a crime which was probably non-violent in nature. (Brief, p. 2-3)

The Committee has already expressed its views in Chapters Five and Seven on the importance of restraint with respect to the use of incarceration. Given that some women will inevitably continue to be incarcerated (some, for relatively long periods of time), **the Committee supports the suggestions of the Elizabeth Fry Society of Saskatchewan that:**

> **Institutional programming must be relevant to offenders' life experiences. It must seek to address the underlying reasons why they commit offences. In order to do that, it must be culturally relevant. For women it must deal with sexual abuse and low self esteem. It must give women the concrete skills to help them work towards financial indepedance. (Brief, p. 15)**

In addition, of course, it must deal with substance abuse. These suggestions are in line with those of Dr. Robert Ross and Elizabeth Fabiano, as set out in their research *Correctional Afterthoughts: Programs for Female Offenders*, that policy formulation and program development should be based on an objective and realistic assessment of the characteristics, needs and circumstances of the offender.

The Committee acknowledges that, since the Canadian Human Rights Commission's finding in 1981 with respect to women's unequal access to programs, Prison for Women offers a broader range of programs and services than do any of the provincial prisons and that attempts have been made to give federal female offenders housed there access to programs available to male offenders in the region. However, for whatever reasons, the actual participation by women in training and work placements which will ultimately contribute to the capacity of women offenders to obtain well-paid employment still appears to be very limited. In 1987 an inmate and parolee brought an action in the Federal Court of Canada seeking redress under sections 15 and 28 of the Charter of Rights and Freedoms. (The case is expected to go to discovery in the fall of 1988.)

The Committee supports the proposal of the Canadian Bar Association that the tentative statement of correctional goals and principles, which the Correctional Law Review Working Group proposes be established in legislation, include the following:

> **In administering the sentence imposed on women offenders, correctional programs and opportunities shall be responsive to the needs, aspirations and potential of women offenders.**

b. Release Planning

i. Release Planning Services and Programs

Elizabeth Fry Societies proposed that "formalized pre-release planning" be implemented at Prison for Women and the provincial women's correctional centres. Some ask that a position of National Liaison Worker (implemented on a pilot project basis in 1985/86) be resumed at Prison for Women to facilitate the women's contacts with programs and services in all regions of the country. The Elizabeth Fry Society of Saskatchewan put it quite well:

> ... Solid plans on "the outside" are essential if a woman is not going to be drawn back into the cycle of street life, addictions and crime. It is impossible to formulate successful plans without a safe place for her to live upon her immediate return to the community and without someone to help her make the contacts with services on the outside. (Brief, p. 14)

It is also suggested that the Prison for Women pre-release program (weekly information and discussion group on topics relevant to release)

operate year-round, rather than for only 10 weeks per year as it does now, and that similar programs be developed in the provinces. In some cases, the Canadian Association of Elizabeth Fry Societies suggests:

> The exit scenario of a woman released from prison ... entails an RCMP escort to the bus depot and the provision of one bus ticket. Pre-release planning and re-integration into the community call for more support upon release than a bus ticket — and more "community" to be released to than a bus depot. (Brief, p. 14)

Recommendation 95

The Committee recommends that additional resources be made available to private sector agencies serving women in conflict with the law to enhance pre-release programming and services for female offenders.

ii. Parenting as Women's Work

A couple of Elizabeth Fry Societies suggested that provincial women do not obtain temporary absence passes to resume their work as mothers. While such passes are available to permit (generally male) offenders to maintain jobs and support their families there is a feeling that parenting responsibilities are not considered by institutional or paroling authorities as "real work".

c. Native Women

i. Background

There is a shockingly high number of Native women in Canadian prisons. They are even more overrepresented than are Native men in our prison populations. Why this is so is commented upon by Johnson in *Too Few to Count*:

> This high rate of criminalization of Native people is clearly linked to their bleak socio-economic profile. ... The situation is aggravated for Native women who suffer racial discrimination, gender discrimination and, until 1985, ..., legislated discrimination. ... (p. 39)

> ... [S]tatistics offer only a glimpse of the consequences of a near complete breakdown of the Native culture[s] and traditional way[s] of life. ... [L]ack of experience in an urban environment, poor support systems and visibility to police almost certainly increase their chances of coming into contact with the criminal justice system. ... (p. 41)

She also comments on the statistical data available from the Correctional Service of Canada with respect to Native women at the Prison for Women:

> Native women admitted to federal terms of incarceration are more likely than non-Native women to have served a federal sentence previously, and are twice as likely to be incarcerated for crimes of violence. Sentences, however, were shorter overall for Native women owing to the minimum mandatory sentences given for the drug offence of importing (more often a white woman's offence) and the greater likelihood of Native women to be convicted of manslaughter which does not carry a minimum life sentence, compared to murder, which does.
>
> Isolation from family and community support is even more severe for Native than non-Native women inmates. Three quarters of Native women who receive federal sentences are from the Pacific and Prairie regions, yet seventy per cent are incarcerated in the Prison for Women in Ontario, great distances from where they were admitted and presumably from where they will eventually return. This likely has a very negative effect on release plans and on chances for early release. Research has shown that Native women are less likely to be granted full parole, and those who are released early are more likely to have parole revoked, a situation which may be affected by isolation from families while incarcerated and poor support in home communities upon release. (pp. 42-43)

ii. General Program Implications

Thus, it may be seen, imprisoned Native women are triply disadvantaged: they suffer the pains of incarceration common to all prisoners; in addition they experience both the pains Native prisoners feel as a result of their cultural dislocation and those which women prisoners experience as a result of being incarcerated far from home and family. **The Committee believes that all of the recommendations it has made in the previous chapter with respect to Native prisoners generally apply also to Native women. In practical terms what this means, for example, is that programs of addictions counselling must be appropriate to Native female offenders in terms of both culture and gender.**

iii. Release Planning

Native women who are incarcerated have specialized release planning needs which must be addressed by both institutional authorities and community groups. It may be necessary for governments to provide support to Native organizations to work with incarcerated Native women.

d. Specific Concerns Related to the Possible Closure of the Prison for Women and to Federal-Provincial Exchange of Service Agreements

As was indicated by some of the statistics presented at the beginning of this chapter, most women in provincial correctional centres serve very short sentences. Programs, to the extent they exist, are generally geared to short-sentenced offenders and may be aimed at improving the offender's life skills or simply occupying her time. In such circumstances there is unlikely to be any training directed at making her economically independent.

i. Education

Educational programs may cover adult basic education and high school upgrading. (Post-secondary education is unlikely to be available except by correspondence courses.) Teachers may not be available, particularly not full-time. Given that many women in conflict with the law may have been learning disabled or had other school problems, self-directed learning is unlikely to be of significant benefit to them.

ii. Work Placements

Work placements in small provincial institutions may consist of laundry, kitchen, and cleaning. In some places, it may include gardening and yard maintenance. Occasionally, industrial sewing may be available. Almost all of these work placements continue to restrict women to low-paying jobs.

iii. Family Visiting

Women's correctional institutions vary considerably in their facilities for and attitudes towards family visits. For one thing, most institutions are far from home and thus the travelling costs and time may inhibit visits from children or other family members. (In Saskatchewan, for example, Pine Grove Correctional Centre is 150 kilometres north of Saskatoon and even further from Regina.) On the other hand, two institutions actually permit very young children to remain in prison with their mothers.

Contrary to the experience of imprisoned men, imprisoned women for the most part tend to have spouses or intimate friends who disappear from their lives when they are incarcerated. This is particularly problematic for

women given that an offender's rehabilitation is widely believed to be directly linked to the amount of support he or she has on the outside.

iv. Other Programming

It has also been suggested that recreational facilities, health care and counselling opportunities leave a great deal to be desired. The Committee's views on counselling and treatment programs for women has been expressed earlier in this chapter.

v. What Can Be Done?

Elizabeth Fry Societies suggest that institutions would be able to offer a broader range of specialized programs and services appropriate to short- and long-sentenced women by contracting for them. They caution that the motivation for this should be better, not cheaper, programming. They recommend that programs focus on:

- self esteem and assertiveness;
- substance abuse education, counselling, and self-help; and
- sexual/other abuse education and counselling.

They also suggest that Exchange of Service Agreements include program and service guarantees so that the federal government may be assured that all federal female offenders obtain a level of programs and services equivalent to each other and to that received by federal male prisoners.

Ultimately, the real question is how should the federal government plan for and accommodate federal female offenders? Closure of the Prison for Women has been called for by almost every study made of women prisoners — most recently, the Canadian Bar Association recommended that legislation be introduced to compel closure in a timely fashion. For the most part, this recommendation is supported by the recognition that the distant geographic separation of federal female offenders from their families and community supports not only makes the pain of imprisonment harsher than is reasonable, but also undermines their prospects for successful reintegration.

Exchange of Service Agreements to date appear not to have significantly improved the lot of federal female offenders, except to keep some women somewhat closer to family and community supports than would otherwise be the case. Only Quebec keeps most of its federally sentenced women. Nowhere is there any reason to believe that the programming available in the provinces to date has been adequate to meet the needs of long-sentenced women. Only co-correctional facilities (Alberta) or larger women's prisons (B.C.) seem to give any hope of offering program improvements. Yet Elizabeth Fry Societies have been reticient to support (in some cases they oppose) co-corrections. They do, however, support the concept of co-ordinate men's and women's prisons where the administration and certain basic services would remain separate, but where certain program facilities would be shared.

Moreover, there are presently 40 lifers at Prison for Women; one must ask seriously how their programming needs will be addressed in provincial facilities. On the other hand, many of these women do have relatively strong family ties which suggest the importance of accommodating them closer to home.

The Committee has been exposed to a range of issues related to female offenders (and, most dramatically, to federal female offenders). There is obviously no simple answer to the question of how the needs of federal female offenders should best be met. In the past, the Canadian Association of Elizabeth Fry Societies has proposed that the Correctional Service of Canada establish a sixth administrative region with responsibility for all federal female offenders in Canada, to be headed by a Deputy Commissioner as are the present five geographic regions. Ultimately, what seems to be required is a commitment to planning and carrying out sound decisions.

The Committee believes that the accommodation of federal female offenders must be addressed on an urgent basis. The Committee believes that the Prison for Women must be closed and that satisfactory alternative arrangements be made. (This opinion is not intended to imply any criticism of the present administration of the Prison.)

Recommendation 96

The Committee recommends that the Solicitor General convene a Task Force on Federal Female Offenders, composed of

representatives of appropriate federal government departments and agencies, the Canadian Association of Elizabeth Fry Societies and other relevant private sector agencies, and interested provincial/territorial correctional authorities, to:

(a) plan for and oversee closure of the Prison for Women within five years;

(b) propose at least one plan to address the problems related to the community and institutional accommodation of and programming for federal female offenders; and

(c) develop a workplan for implementing the plan accepted by the Minister.

Recommendation 97

The Committee further recommends that the Task Force consult widely with inmates, women's groups and private sector correctional agencies, as well as with provincial correctional authorities, across the country at various stages of its work.

Notes

1. E. Adelberg and C. Currie (eds.), *Too Few to Count: Canadian Women in Conflict with the Law*, Press Gang Publishers, Vancouver, 1987, p. 26.
2. Calculations derived from data of Statistics Canada, *Canadian Crime Statistics*, Ministry of Supply and Services, Ottawa, 1986 (Annual #85-205), presented by H. Johnson; "Getting the Facts Straight", in Adelberg and Currie, *ibid.*, p. 27.
3. *Ibid.*, p. 34-35.
4. *Ibid.*, p. 37.
5. *Ibid.*, p. 43-44.
6. *Ibid.*, p. 36.
7. Lorraine Berzins, "The Diaries of Two Change Agents", in *ibid.*, p. 168.

CHAPTER SEVENTEEN

CONCLUSION

The criminal justice system is complex, parts of it sometimes function at odds with other parts, and it is much misunderstood. In recent years, sentencing and conditional release have been the object of criticism at times well-deserved and, at other times, unfounded. Regardless of whether these criticisms are justified or not, they must be addressed and, where required, improvements in sentencing and conditional release must be offered. There is no other way to provide the criminal justice system with what it most needs to be truly effective — a higher degree of public confidence.

The Committee approached this study of sentencing, conditional release and related aspects of the correctional system with a seriousness of purpose based upon reality. There have been some severe problems in recent times which have had tragic consequences and which have had to be addressed. This study was not grounded in abstract, theoretical precepts, but rather upon a sincere attempt both to look at the reality of the criminal justice system and to develop proposals that will work for the greater protection of society.

The Committee does not accept the counsel of despair offered by those who subscribe to the view that "nothing works". The Committee believes that some things work for some offenders in some circumstances. This report is grounded in this conclusion which underlies the principles set out in the Introduction.

The key to this report is the word "responsibility". The offender must take responsibility for his or her actions and do what is necessary to repair the harm done and prepare for an eventual reintegration into the community. Sentencing judges must ensure that the appropriate penalty is imposed on the offender once guilt is determined. The correctional system must ensure that the necessary treatment and programs are available to the offender to facilitate reintegration into the community. The releasing authority must ensure that inmates are released into the community under proper conditions and supervision for the protection of society. The release supervision system must ensure that the offender is properly reintegrated into

the community and provided with the necessary assistance so that this goal is achieved. The community must do its part in assisting those who have offended to reintegrate into society and to not re-offend.

There is no perfect system. There are no panaceas. Everything that can be done must be done. The Committee believes that the adoption of the recommendations and proposals contained in this report will assist in restoring public confidence in the criminal justice system.

APPENDIX A

LIST OF RECOMMENDATIONS

Recommendation 1

The Committee recommends that all federal participants in the criminal justice system (Department of Justice, the RCMP, the Correctional Service of Canada, the National Parole Board, and the Ministry Secretariat of the Solicitor General Canada) make public education about the operation of the criminal justice system, including the myths and realities which surround it, a high priority through:

(a) the effective use of their own communication capacities (print, radio, video and TV); and

(b) their financial and other support of the voluntary sector, so that citizens in local communities may be more actively engaged in activities which increase their understanding of the criminal justice system.

Recommendation 2

The Committee recommends that all participants in the criminal justice process give high priority to the provision of general and appropriate case-specific information to victims and their families.

Recommendation 3

The Committee recommends that, at a minimum, general information include the victim's right to seek compensation and restitution, the right to submit a victim impact statement and the right to be kept informed about various pre-trial, trial, and post-trial proceedings. Basic information should identify who is responsible for providing it and where further information may be obtained.

Recommendation 4

The Committee recommends that the provision of case-specific information to victims and, in appropriate cases, to their close family members be facilitated by the use of a form on which the victim may check off the various kinds of information he or she would like to

receive. Such forms should be appended to Crown attorneys' files and subsequently forwarded to correctional authorities.

Recommendation 5

The Committee recommends that the following be enacted in legislation as the purpose of sentencing:

The purpose of sentencing is to contribute to the maintenance of a just, peaceful and safe society by holding offenders accountable for their criminal conduct through the imposition of just sanctions which:

(a) require, or encourage when it is not possible to require, offenders to acknowledge the harm they have done to victims and the community, and to take responsibility for the consequences of their behaviour;

(b) take account of the steps offenders have taken, or propose to take, to make reparations to the victim and/or the community for the harm done or to otherwise demonstrate acceptance of responsibility;

(c) facilitate victim-offender reconciliation where victims so request, or are willing to participate in such programs;

(d) if necessary, provide offenders with opportunities which are likely to facilitate their habilitation or rehabilitation as productive and law-abiding members of society; and

(e) if necessary, denounce the behaviour and/or incapacitate the offender.

Recommendation 6

The Committee recommends that the following principles form part of a legislated sentencing policy and be considered in the determination of an appropriate sentence:

In endeavouring to achieve the sentencing purpose, the court shall exercise its discretion in accordance with the following principles:

(a) The sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender; further, it should be consistent with the sentences imposed on other

offenders for similar offences committed in similar circumstances (including, but not limited to, aggravating and mitigating circumstances, relevant criminal record and impact on the victim);

(b) The maximum penalty should be imposed only in the most serious cases;

(c) The nature and duration of the sentence in combination with any other sentence imposed should not be excessive;

(d) A term of imprisonment should not be imposed without canvassing the appropriateness of alternatives to incarceration through victim-offender reconciliation programs or alternative sentence planning;

(e) A term of imprisonment should not be imposed, nor its duration determined, solely for the purpose of rehabilitation;

(f) A term of imprisonment should be imposed where it is required:

   (i) to protect the public from crimes of violence, or

   (ii) where any other sanction would not sufficiently reflect the gravity of the offence or the repetitive nature of the criminal conduct of an offender, or adequately protect the public or the integrity of the administration of justice; and

(g) A term of imprisonment may be imposed to penalize an offender for wilful non-compliance with the terms of any other sentence that has been imposed on the offender where no other sanction or enforcement mechanism appears adequate to compel compliance.

Recommendation 7

The Committee recommends that judges be required to state reasons for the sentence imposed in terms of the proposed sentencing goal and with reference to the proposed sentencing principles, and salient facts relied upon, so that victims, offenders, the community, correctional officials and releasing authorities will understand the purpose of the sentence and appreciate how it was determined.

Recommendation 8

The Committee recommends that only advisory guidelines be developed at this time and that priority be given to developing first those which would be applied to the most serious offences.

Recommendation 9

The Committee recommends implementation of the following recommendations of the Sentencing Commission as to the development of such guidelines and the operation of a permanent sentencing commission:

(a) that four presumptions be used to provide guidance for the impostion of custodial and non-custodial sentences:

(i) unqualified presumptive disposition of custody;

(ii) unqualified presumptive disposition of non-custody;

(iii) qualified presumptive disposition of custody; or

(iv) qualified presumptive disposition of non-custody. (Rec. 11.5)

(b) that the following list of aggravating and mitigating factors be adopted as the primary grounds to justify departures from the guidelines:

Aggravating Factors

1. Presence of actual or threatened violence or the actual use or possession of a weapon, or imitation thereof.

2. Existence of previous convictions.

3. Manifestation of excessive cruelty towards [the] victim.

4. Vulnerability of the victim due, for example, to age or infirmity.

5. Evidence that a victim's access to the judicial process was impeded.

6. Existence of multiple victims or multiple incidents.

7. Existence of substantial economic loss.

8. Evidence of breach of trust (e.g., embezzlement by [a] bank officer).

9. Evidence of planned or organized criminal activity.

Mitigating Factors

1. Absence of previous convictions.

2. Evidence of physical or mental impairment of offender.

3. The offender was young or elderly.

4. Evidence that the offender was under duress.

5. Evidence of provocation by the victim.

6. Evidence that restitution or compensation was made by [the] offender.

7. Evidence that the offender played a relatively minor role in the offence. (Rec. 11.8)

(c) ... that the following principles respecting the use of aggravating and mitigating factors be incorporated to the sentencing guidelines:

Identification: when invoking aggravating and mitigating factors, the sentencing judge should identify which factors are considered to be mitigating and which factors are considered to be aggravating.

Consistency: when invoking a particular factor, the judge should identify which aspect of the factor has led to its application in aggravation or mitigation of sentence (For example, rather than merely referring to the age of the offender, the judge should indicate that it was the offender's *youth* which was considered to be a mitigating factor or the offender's *maturity* which was considered to be an aggravating factor. This would prevent the inconsistent use of age as an aggravating factor in one situation and as a mitigating factor in a comparable situation.)

Specificity: the personal circumstances or characteristics of an offender should be considered as an aggravating factor only when they relate directly to the commission of the offence. (For example, a judge might consider an offender's expertise in computers as an aggravating factor in a computer fraud case but the above principles would preclude the court from considering the lack of education of a convicted robber as an aggravating circumstance.)

Legal rights: the offender's exercise of his [or her] legal rights should never be considered as an aggravating factor. (Rec. 11.9)

(d) the establishment of a Judicial Advisory Committee which would act in an advisory capacity to the permanent sentencing commission, in the formulation of amendments to the original sentencing guidelines... [A majority of] the membership of the Judicial Advisory Committee should be composed of a majority of trial court judges from all levels of courts in Canada. (Rec. 11.11)

Recommendation 10

The Committee recommends that the minimum sentence for all offenders convicted of the second or subsequent offence for sexual assault involving violence be ten years and that the parole ineligibility period be established legislatively as ten years, regardless of sentence length.

Recommendation 11

To reach a public consensus on which offences or offenders should be subject to the aforementioned minimum parole eligibility period, the Committee recommends that the Department of Justice consult widely on this issue.

Recommendation 12

The Committee recommends that the Department of Justice continue to consult with the public (not just those with a particular interest in criminal justice issues) with respect to the Sentencing Commission's recommendations in this area and that interested individuals and

organizations be encouraged to comment on the specific rankings proposed by the Sentencing Commission.

Recommendation 13

The Committee recommends that legislation be enacted to permit the imposition of a community service order as a sole sanction or in combination with others, provided that the judge is satisfied that a discharge, restitution, fine or simple probation order alone would not achieve the purpose of sentencing proposed by the Committee.

Recommendation 14

The Committee recommends that guidelines for the number of hours of community service which should be imposed in various circumstances be developed to decrease sentencing disparity.

Recommendation 15

The Committee recommends that a legislated ceiling of between 300 and 600 hours (over three years) be established for community service sentences for adult offenders, provided that judges be permitted to exceed the ceiling where a greater number of hours is agreed to by the offender as a result of victim-offender reconciliation or an "alternative sentence plan" proposal and reasons are provided by the judge.

Recommendation 16

The Committee recommends that legislation be adopted to exclude sexual and violent offenders from eligibility for community service orders unless they have been assessed and found suitable by a community service program coordinator.

Recommendation 17

The Committee recommends that the federal government, preferably in conjunction with provincial/territorial governments, provide funding to community organizations for alternative sentence planning projects in a number of jurisdictions in Canada on a pilot project basis.

Recommendation 18

The Committee recommends that the federal government, preferably in conjunction with provincial/territorial governments, provide funding and technical exchange to community organizations to promote sound evaluation of such pilot projects.

Recommendation 19

The Committee recommends that the federal government, preferably in conjunction with provincial/territorial governments, support the expansion and evaluation throughout Canada of victim-offender reconciliation programs at all stages of the criminal justice process which:

(a) provide substantial support to victims through effective victim services; and

(b) encourage a high degree of community participation.

Recommendation 20

The Committee recommends that section 653(b) of the *Criminal Code* (contained in Bill C-89) be clarified to ensure that restitution for bodily injuries may be ordered in an amount *up to* the value of all pecuniary damages.

Recommendation 21

The Committee recommends that the federal government enact legislation, and/or contribute support to provincial/territorial governments, to enhance civil enforcement of restitution orders with a view to relieving individual victims of this burden.

Recommendation 22

The Committee recommends that the following recommendations of the Sentencing Commission be implemented:

(a) that a restitution order be imposed when the offence involves loss or damage to an individual victim. A fine should be imposed

where a public institution incurs loss as a result of the offence or damage caused to public property (Rec. 12.17); and

(b) that where the limited means of an offender permits the imposition of only one pecuniary order, priority be given to an order of restitution, where appropriate (Rec. 12.21).

Recommendation 23

The Committee recommends that probation be replaced by seven separate orders (good conduct, reporting, residence, performance, community service, restitution and intensive supervision), which might be ordered separately or in conjunction with one or more others or with some other type of order.

Recommendation 24

The Committee recommends that the *Criminal Code* be amended to provide a more efficient mechanism than is now the case for dealing with breaches of probation or other orders in a way which respects the offender's due process rights.

Recommendation 25

The Committee recommends that more extensive use be made of group work in community correctional programs and that adequate resources be provided so that these might be made available to offenders on a voluntary basis or pursuant to a performance order.

Recommendation 26

In particular, the Committee recommends that greater use be made of probation conditions or performance orders which require assaultive spouses to participate in specialized treatment or counselling programs.

Recommendation 27

The Committee recommends that consideration be given to the New Zealand sentence of community care and the Gateway Correctional Services model of intensive supervision.

Recommendation 28

The Committee recommends that funding be made available to voluntary and charitable agencies to establish or expand community residential and related programs.

Recommendation 29

The Committee recommends that home confinement, with or without electronic monitoring, be made available as an intermediate sanction, probably in conjunction with other sanctions, for carefully selected offenders in appropriate circumstances.

Recommendation 30

The Committee recommends that legislative changes required to permit the use of home confinement as a sentencing option provide reasonably efficient enforcement mechanisms which do not infringe basic due process rights of offenders.

Recommendation 31

The Committee recommends that consideration be given to requiring the consent of the offender and his or her co-residing family members to an order of home confinement.

Recommendation 32

The Committee recommends that in making an order of home confinement, the court consider appropriate collateral conditions (e.g., addictions counselling where appropriate).

Recommendation 33

The Committee recommends that intermittent sentences not generally be used with respect to sexual offences, where public protection, when necessary, should be secured through incarceration or where denunciation might be secured through home confinement, community residential orders, or short periods of continuous incarceration.

Recommendation 34

The Committee recommends that community residential settings be used for intermittent sentences.

Recommendation 35

The Committee recommends that consideration be given to combining intermittent sentences with performance orders or probationary conditions which are restorative or rehabilitative in nature.

Recommendation 36

The Committee recommends that the following recommendations of the Sentencing Commission be implemented:

(a) that once it has been decided that a fine may be the appropriate sanction, consideration be given to whether it is appropriate to impose a fine on the individual before the court. The amount of the fine and time for payment must be determined in accordance not only with the gravity of the offence, but also with the financial ability of the offender. Further to the above principle, prior to the imposition of a fine, the court should inquire into the means of the offender to determine his or her ability to pay and the appropriate mode and conditions of payment. (Rec. 12.20)

(b) that where the limited means of an offender permits the imposition of only one pecuniary order, priority be given to an order of restitution, where appropriate. (Rec. 12.21)

(c) that the use of imprisonment for fine default be reduced. (Rec. 12.22)

(d) that a quasi-automatic prison term not be imposed for fine default and that offenders only be incarcerated for wilful breach of a community sanction. (Rec. 12.23)

Recommendation 37

The Committee recommends that the following recommendations of the Canadian Sentencing Commission be implemented:

(a) that the federal and provincial governments provide the necessary resources and financial support to ensure that community programs are made available and to encourage their greater use (Rec. 12.1);

(b) that mechanisms to provide better information about sentencing objectives to sentence administrators be developed (Rec. 12.2);

(c) that a transcript of the sentencing judgment be made available to the authorities involved in the administration of the sentence (Rec. 12.3);

(d) that mechanisms to provide better information about alternative sentencing resources to the judiciary be developed (Rec. 12.5);

(e) that feedback to the courts regarding the effectiveness of sanctions be provided on a systematic basis (Rec. 12.6);

(f) that prior to imposing a particular community sanction, the sentencing judge be advised to consult or obtain a report respecting the suitability of the offender for the sanction and the availability of programs to support such a disposition (Rec. 12.7);

(g) that [existing] community sanctions be developed as independent sanctions,... [and] that additional proposals be examined by the permanent sentencing commission and by the federal and/or provincial governments for further review, development and implementation (Rec. 12.8);

(h) that the permanent sentencing commission *consider* the feasibility of developing criteria and principles which permit the comparison of individual community sanctions and which attempt to standardize their use (e.g., X dollars is the equivalent of Y hours of community service) (Rec. 12.10 and 12.11); and

(i) that the judiciary retain primary control over the nature and conditions attached to community sanctions (Rec. 12.12).

Recommendation 38

The Committee also recommends:

(a) that federal and provincial authorities develop, support and evaluate alternatives to incarceration and intermediate sanctions;

(b) that greater recognition and financial support be given to non-governmental agencies to develop alternative programs; and

(c) that greater linkages be developed between the criminal justice system and other social and mental health services in society.

Recommendation 39

The Committee recommends that members of the National Parole Board receive more intensive training upon appointment and a regular refresher course. This training should be based not only upon Board policies and correctional and release philosophy, but also upon behavioural sciences, and should take into account the members' previous experience in the criminal justice system.

Recommendation 40

The Committee recommends that the *Criminal Code* be amended to require courts to provide the Correctional Service of Canada with sentencing information (pre-sentence reports, victim impact statements, etc.) and the judge's reasons for sentence. The federal government should be prepared to pay the reasonable costs associated with this for sentences of two years or more.

Recommendation 41

The Committee recommends that parole hearings be open to the public unless, on application to the Parole Board, it is decided to close a hearing to the public, in whole or in part, for reasons of privacy or security. The reasons for acceding to an application for a closed parole hearing should themselves be made public.

Recommendation 42

The Committee recommends that the National Parole Board be given full responsibility for the release process including the preparation of release plans, the release decisions and the provision of release supervision.

Recommendation 43

The Committee recommends that the National Parole Board develop and hold consultations on a risk assessment tool to be applied in cases where the offender is serving a sentence for, or has a recent criminal history of, violence.

Recommendation 44

Alternatively, or additionally, the Committee recommends that the following aspects of the jury recommendations 10 and 12 emanating from the inquest into the death of Celia Ruygrok be incorporated into National Parole Board policies and implemented:

10. If parole is granted, the inmate's [institutional] rehabilitation plan must be extended into a *Release Plan* clearly setting out how he or she is to be dealt with in the community. This release plan must be clearly identified in a document and communicated to all persons who will have dealings with the offender in the community, including parole supervisors, police, community residential centre staff, and community resource persons.

    (a) In formulating the plan, consultation must take place with persons in the community who will be supporting the parolee such as girlfriends and wives. They must be given all relevant information about the offence and the offender and be fully aware of their role in the release plan.

    (b) The release plan must include all psychiatric and psychological information and must give clear guidelines to parole supervisors and community residential centre staff as to how to deal with the parolee. *There must be an identification of any danger signals to watch for and action to be taken if problems are encountered.*

    (c) Where drugs or alcohol have been related to the original offence, there must be included in the parole plan a special condition that the parolee will submit to random alcohol and/or drug testing.

    (d) Where psychiatric problems were identified as being present at the time of the offence, the parole release plan

must include a special condition that the parolee will attend for professional counselling, psychiatric treatment and monitoring while on parole. In these cases, there should be periodic administration of psychological tests.

. . .

12. Parole supervision must take place in accordance with the release plan and there must be a full sharing of information between the various agencies working towards the same purpose.

    (a) The parole supervisor must be free to deal with problems encountered by the parolee and *intervene meaningfully when danger signals appear and at first sign of deterioration.* The parole supervisor must concentrate on getting to the root of the problem rather than mere policing.

. . .

Recommendation 45

The Committee recommends that conditional release in its various forms be retained and improved upon by the adoption of the recommendations that follow.

Recommendations 46

The Committee recommends that parole decision-making criteria be placed in law.

Recommendation 47

The Committee recommends that the eligibility date for full parole for those convicted of the violent offences set out in the Schedule to Bill C-67 be changed from one-third to one-half of a sentence of imprisonment.

Recommendation 48

The Committee recommends that appropriate directives and information be disseminated so that National Parole Board

decision-making patterns and judicial sentencing practices are adapted to a later parole eligibility date.

Recommendation 49

The Committee recommends that day parole be available to inmates six months before full parole eligibility date for restitutional, vocational, educational or employment purposes related to possible full parole.

Recommendation 50

The Committee recommends that the provision for automatic review prior to the day parole eligibility date be retained.

Recommendation 51

The Committee recommends that temporary absences be retained for purposes related directly to correctional programs and for clearly-defined humanitarian and medical reasons.

Recommendation 52

The Committee recommends that the National Parole Board be precluded from delegating to wardens the authority to authorize unescorted temporary absences for offenders serving sentences for offences involving any form of sexual assault or the taking of a life.

Recommendation 53

The Committee recommends that the legislative provisions for earned remission be repealed and that offenders be statutorily released under appropriate conditions (including residential conditions where necessary) and supervision for a period of 12 months or one-third of sentence prior to warrant expiry date, whichever of these periods is shorter.

Recommendation 54

The Committee recommends that the detention provisions of Bill C-67 be retained and be applied in appropriate circumstances.

Recommendation 55

The Committee recommends that the Correctional Service of Canada take all necessary steps to ensure that the *Standards and Guidelines For Community Residential Facilities* (incorporating the recommendations of the Ruygrok and Pepino Inquiries, among other conditions) are strictly adhered to by private agencies entering into contractual arrangements with it.

Recommendation 56

The Committee recommends that violent, recidivist offenders on conditional release be placed in community correctional centres operated by the Correctional Service of Canada with access to appropriate programs and supervision.

Recommendation 57

The Committee recommends that the Correctional Service of Canada, in partnership with private agencies, develop additional halfway houses to provide supervision and programming appropriate to the needs of Native offenders, female offenders, offenders with substance abuse problems and offenders with mental disorders.

Recommendation 58

The Committee recommends that the Correctional Service of Canada facilitate a continued and even greater degree of community participation in institutional programs.

Recommendation 59

The Committee recommends that the Correctional Service of Canada allocate more resources to Citizens Advisory Committees so that community participation in their activities may be more widespread and so that they may more effectively perform their functions, particularly those which increase inmates' job skills.

Recommendation 60

The Committee recommends that the Correctional Service of Canada devote a greater proportion of its resources to institutional programs, and that the government commit additional resources for it to do so.

Recommendation 61

The Committee recommends that the Correctional Service of Canada take the necessary steps to ensure that, whenever possible, offenders on conditional release may participate in programs that are continuous with those in which they have been involved while in institutions.

Recommendation 62

The Committee recommends that the Correctional Service of Canada ensure that its programs provide the requisite degree of skill development to enable inmates to be suitably certified where required for particular types of employment in the community.

Recommendation 63

The Committee recommends that the Correctional Service of Canada take the necessary steps to ensure that inmates transferring from one institution to another, or from one security level of institution to another, do not thereby lose access to post-secondary education programs in which they are involved.

Recommendation 64

The Committee recommends that the Correctional Service of Canada develop programs appropriate to the needs of inmates serving long periods of incarceration prior to their eligibility for conditional release.

Recommendation 65

The Committee recommends that the Correctional Service of Canada dramatically increase the resources allocated to sex offender treatment programs.

Recommendation 66

The Committee recommends that new programs aimed at high risk offenders not be developed at the expense of existing programs available to the general inmate population.

Recommendation 67

The Committee recommends that programs offered to offenders both in institutions and in the community build in, where feasible, a requirement for and a capacity to effect evaluations.

Recommendation 68

The Committee recommends that governments develop a greater number of programs offering alternatives to imprisonment to Native offenders — these programs should be run where possible for Native people by Native people.

Recommendation 69

The Committee recommends that institutional programs be developed and delivered in a way that is sensitive to the needs of Native inmates.

Recommendation 70

The Committee recommends that, wherever possible, Native instructors and teachers be hired to deliver programs to Native inmates.

Recommendation 71

The Committee recommends that non-Natives involved in the delivery of programs to Native inmates be provided with opportunities to receive sensitivity training to enable them to understand the cultural backgrounds and needs of Native inmates.

Recommendation 72

The Committee recommends that Native Brotherhoods/Sisterhoods be fully recognized and provided with the resources necessary to function properly.

Recommendation 73

The Committee recommends that Native spirituality be accorded the same recognition and respect as other religious denominations and that Native Elders be accorded the same treatment as other religious leaders.

Recommendation 74

The Committee recommends that the Correctional Service of Canada either hire more Natives or enter into further contractual arrangements with Native organizations to assist Native inmates in preparing release plans and applications for early release.

Recommendation 75

The Committee recommends that, where possible, the National Parole Board conditionally release a Native offender to his or her home community or reserve if that home community or reserve indicates that it is willing to and capable of providing assistance and supervision to the offender.

Recommendation 76

The Committee recommends that the National Parole Board carefully examine the implications of imposing a dissociation condition prohibiting association with people having criminal records before imposing it upon a Native offender.

Recommendation 77

The Committee recommends that governments fully support the expansion of Native-run programs and halfway houses to accept Native offenders upon their conditional release from prison.

Recommendation 78

The Committee recommends that the Correctional Service of Canada and the National Parole Board jointly establish an advisory committee on Native offenders upon which would be represented the major Native organizations involved in criminal justice matters.

Recommendation 79

The Committee recommends that where there is a significant number of Native offenders, the Correctional Service of Canada should ensure that there is proportionate Native representation on Citizens Advisory Committees attached to institutions and district parole offices.

Recommendation 80

The Committee recommends that the Solicitor General of Canada and the Minister of Justice jointly convene a Female Offender Research Working Group, involving representatives from other relevant federal departments and inviting the participation of relevant private sector agencies and interested provincial/territorial governments and academics to coordinate current and planned research about female offenders (criminality, sentencing and corrections). Further, this working group should recommend priorities for research undertaken or funded by the Ministry of the Solicitor General and the Department of Justice.

Recommendation 81

The Committee recommends that those who are developing and funding community sanctions include appropriate provision of quality childcare so that all offenders may benefit from them.

Recommendation 82

The Committee urges governments to make fine options programs more widely available and, in the meantime, to encourage the judiciary to use community service orders or other community sanctions in lieu of fines for economically disadvantaged female offenders.

Recommendation 83

The Committee recommends that governments provide greater support to the establishment, evaluation and maintenance of shoplifting counselling programs throughout Canada.

Recommendation 84

The Committee encourages the business community to support shoplifting counselling programs.

Recommendation 85

The Committee encourages criminal justice and addictions agencies to develop education/awareness programs suitable for use in conjunction with community sanctions. Such programs should be sensitive to the gender and culture of participants.

Recommendation 86

The Committee recommends that governments continue to expand their support for community-based addictions education/awareness and treatment programs and for sexual abuse counselling programs.

Recommendation 87

The Committee encourages Crown counsel, the defence bar and the judiciary to ensure that addictions treatment is explored with addicted offenders as a possible component of a community sanction where appropriate.

Recommendation 88

The Committee encourages breweries and distilleries to support innovative addictions education/awareness and treatment programs for offenders.

Recommendation 89

The Committee recommends that government departments with responsibilities for education, training, retraining and employment give priority to programs for female offenders and women at risk of coming into conflict with the law and that they provide adequate support to community initiatives which address the special needs of these women.

Recommendation 90

The Committee encourages Crown counsel, the defence bar and the judiciary, where appropriate, to consider the education, training and employment needs of female offenders in fashioning suitable community sanctions.

Recommendation 91

The Committee recommends that the federal government, preferably in conjunction with provincial/territorial governments, should fund community residential facilities for federal female offenders in the Prairies, Northern Ontario and Atlantic Canada.

Recommendation 92

The Committee urges community groups interested in operating such facilities and government funders to plan residential facilities and programs that will serve a diverse group of women at risk, where provincial/territorial correctional authorities are unwilling to cost-share "traditional halfway houses".

Recommendation 93

The Committee recommends that future federal-provincial Exchange of Service Agreements include halfway houses for women in the negotiated package and that no further federal-provincial agreements with respect to prison construction be made without agreement to fund or establish halfway houses for women in provinces/territories where they do not now exist.

Recommendation 94

The Committee recommends that, in the expansion of halfway houses for women, consideration be given to the prospect of accommodating dependent children with their mothers.

Recommendation 95

The Committee recommends that additional resources be made available to private sector agencies serving women in conflict with the law to enhance pre-release programming and services for female offenders.

Recommendation 96

The Committee recommends that the Solicitor General convene a Task Force on Federal Female Offenders, composed of representatives of appropriate federal government departments and agencies, the Canadian Association of Elizabeth Fry Societies and other relevant private sector agencies, and interested provincial/territorial correctional authorities, to:

(a) plan for and oversee closure of the Prison for Women within five years;

(b) propose at least one plan to address the problems related to the community and institutional accommodation of and programming for federal female offenders; and

(c) develop a workplan for implementing the plan accepted by the Minister.

Recommendation 97

The Committee further recommends that the Task Force consult widely with inmates, women's groups and private sector correctional agencies, as well as with provincial correctional authorities, across the country at various stages of its work.

APPENDIX B

TERMS OF REFERENCE

It was agreed, - That pursuant to the decision of the House of Commons Standing Committee on Justice and Solicitor General to undertake a study of sentencing, conditional release and related aspects of the correctional system, the terms of reference be as follows:

That the Committee consider, among others, the following documents which have been released in 1987:

- the Report of the Canadian Sentencing Commission;
- the Correctional Law Review's Working Paper on Conditional Release and other relevant working papers; and
- the Report to the Solicitor General of the Task Force to Study the Recommendations of the Inquest into the Death of Celia Ruygrok.

That the Committee invite the expression of views from all participants in the criminal justice system, both governmental and nongovernmental, federal and provincial, including, but not restricted to, the judiciary, crown prosecutors, defence lawyers, police forces, victims, inmates, aftercare agencies, advocacy groups and academic researchers.

That the Committee consider and examine the efficacy, responsiveness and appropriateness of legislation, regulations, policies, practices, and institutional structures and arrangements now in place in relation to sentencing, conditional release and related aspects of the correctional system.

That the Committee examine the following issues, among others, in relation to sentencing:

- Sentencing principles and goals;
- Sentencing disparity;
- Reform of minimum and maximum sentences;

- Incarceration and alternatives to imprisonment;
- Role of community and victims in the sentencing process;
- Sentencing guidelines:
  - a) Sentencing in relation to violent and non-violent offences; and
  - b) Fixed term or discretionary sentences.

That the Committee examine the following issues, among others, in relation to conditional release:

- Objectives of remission and conditional release;
- Impact of conditional release and remission on sentencing practices and public perceptions;
- Differential impacts of remission and conditional release on federal and provincial inmates;
- Retention or abolition of remission or conditional release in any or all of its forms;
- Eligibility of violent, non-violent and recidivist offenders for conditional release;
- Participation of parole and correctional staff, inmates, police, judiciary, community and victims in conditional release decision;
- Effectiveness of supervision and social re-integration of conditionally released offenders; and
- Efficacy of legislation, regulations, rules, policies, practices, information exchange, and agency collaboration and interaction of National Parole Board, Correctional Service Canada and aftercare agencies in the preparation for, granting and supervision of conditional release in all its forms.

That the Committee examine the following issues, among others, in relation to the correctional system:

- Use of sentencing information in case management and preparation of offenders for release;

- Efficacy of legislation, regulations, rules, policies, practices, information exchange, and agency collaboration and interaction of National Parole Board, Correctional Service Canada and aftercare agencies in case management and planning (from reception to release) and delivery of correctional programs and services (including treatment where appropriate); and

- Role of community in corrections.

That the Committee hold public hearings and visit institutions and facilities to determine not only how sentencing, conditional release and related aspects of the correctional system should work, but to see for itself how this system works in practice on a daily basis.

That the Committee prepare a Report to the House of Commons in which it will recommend the changes it has concluded may be necessary to improve sentencing, conditional release and related aspects of the correctional system and a target date for completion of the Report be autumn, 1988.

APPENDIX C

WITNESSES

ISSUE NO.	DATE	WITNESSES
23	Oct. 20, 1987 *In Camera*	**National Parole Board** Ole Ingstrup, Chairman; Malcolm Steinberg, Senior Board Member (Ontario).
	Oct. 22, 1987 *In Camera*	**National Parole Board** Ole Ingstrup, Chairman; Malcolm Steinberg, Senior Board Member (Ontario); and other officials.
	Oct. 27, 1987	**Ministry of Solicitor General of Canada** John Tait, Q.C., Deputy Solicitor General of Canada.
24	Oct. 29, 1987	**Correctional Service of Canada** Rhéal LeBlanc, Commissioner; Gord Pinder, Deputy Commissioner, Offender Programs and Policy Development; Andrew Graham, Assistant Commissioner Corporate Policy and Planning; Irving Kulik, Executive Secretary; Terry Sawatsky, Director, Offender Management; Thomas Townsend, Acting Director General, Offender Programs; Dr. Jim Millar, Acting Director, General Health Care Services; Drury Allen, Director, Community Release Programs.
	Nov. 3, 1987	**Correctional Service of Canada** Gord Pinder, Deputy Commissioner, Offender Programs and Policy Development; Drury Allen, Director, Community Release Programs; Irving Kulik, Executive Secretary.
25	Nov. 5, 1987	**Department of Justice** Mr. Frank Iacobucci, Q.C., Deputy Minister of Justice; Mr. Daniel C. Préfontaine, Assistant Deputy Minister, Policy, Programs and Research; Mr. Julius Isaac, Assistant Deputy Attorney General - Criminal Law;

ISSUE NO.	DATE	WITNESSES
		Mr. Neville Avison, Senior Criminal Justice Policy Coordinator, Policy, Programs and Research.
26	Nov. 19, 1987	**Andrejs Berzins**, Q.C., Crown Attorney for the District of Ottawa-Carleton;
		Gerry W. Ruygrok.
28	Nov. 23-25, 1987 Kingston, Ont. *In Camera*	**Various Correctional Institutions, Management and staff, Inmate Committees, Lifers' Groups, and Union of Solicitor General Employees.**
28	Dec. 3, 1987	**Ken Hatt**, Coordinator, Criminology & Criminal Justice Program, Associate Professor, Department of Sociology-Anthropology, Carleton University.
29	Dec. 8, 1987	**Law Reform Commission of Canada** The Honourable Mr. Justice Allen M. Linden, President; Josh Zambrowski, Consultant.
30	Dec. 10, 1987	**National Parole Board** Ole Ingstrup, Chairman; Daniel Therrien, Legal Counsel; Brendan Reynolds, Director, Corporate Development Services.
32	Jan. 26, 1988	**Professor Renate Mohr**, Department of Law, Carleton University.
		Canadian Psychological Association Dr. Paul Gendreau, President.
		Canadian Criminal Justice Association Gaston St. Jean, Executive Director; Réal Jubinville, Associate Executive Director; Professor Fred Sussman, Chairman, Legislative Committee.
33	Jan. 28, 1988	**Dr. Justin Ciale**, Director, Department of Criminology University of Ottawa;
		Dr. Jean-Paul Brodeur, School of Criminology University of Montreal.
34	Feb. 2, 1988	**Professor Irvin Waller**, Department of Criminology University of Ottawa.

ISSUE NO.	DATE	WITNESSES
		Professor Micheline Baril, School of Criminology University of Montreal.
35	Feb. 4, 1988	**Dr. Anthony Doob**, Director, Centre of Criminology University of Toronto.
		Dr. Julian Roberts, Senior Criminologist Department of Justice.
36	Feb. 9, 1988	**Canadian Sentencing Commission** His Honour Judge J.R. Omer Archambault, (Provincial Court of Saskatchewan), Chairman; The Honourable Judge Claude Bisson, (Quebec Court of Appeal), Vice-Chairman; Dr. Anthony Doob, (Director, Centre of Criminology, University of Toronto), Member; Dr. Jean-Paul Brodeur (School of Criminology, University of Montreal) Director of Research.
37	Feb. 23, 1988	**Dr. Ken Pease** Neuropsychiatric Research Unit University of Saskatchewan (Saskatoon)
		Andrew Smith Director, Alternative Sentence Planning (Winnipeg)
38	Feb. 24, 1988	**Solicitor General of Canada** **The Honourable James F. Kelleher, Q.C.**
		Ole Ingstrup, Chairman of the N.P.B.
		Rhéal Leblanc, Commissioner of the Correctional Service of Canada
		John Tait, Q.C., Deputy Solicitor General
39	Feb. 25, 1988	**Herb Hoelter** Director, National Centre on Institutions and Alternatives Washington, D.C. U.S.A.
		Mark Corrigan Director, National Institute for Sentencing Alternatives Boston, Massachusetts U.S.A.
40	March 1, 1988 Abbotsford, B. C. *In Camera*	**Various Correctional Institutions Management and Staff, Inmate and Patient Committees**

ISSUE NO.	DATE	WITNESSES
		Mayors of Matsqui, Abbotsford, Chilliwack and Kent and other community representatives (Abbotsford, British Columbia)
40 (morning)	March 2, 1988 Vancouver, B.C. *In Camera*	**Directors of C.S.C Parole Districts (Pacific)** **Parole Officers (Pacific)** **Union of Solicitor General Employees (Pacific)** **National Parole Board members and staff (Pacific)**
40 (afternoon)	March 2, 1988 Vancouver, B.C.	**Dr. John Ekstedt** School of Criminology Simon Fraser University
		John Howard Society of British Columbia Willie Blondé, Executive Officer
		Joint Presentation: **Stephen Howell** Corrections Academy, Justice Insitute of B.C.; and **Jack Aasen** New Westminster Probation Office B.C. Corrections Branch Ministry of Attorney General
		Citizens United for Safety and Justice Inge Clausen, National Chairman
		Mothers Against Drunk Driving (M.A.D.D.) Sally Gribble, Executive Director
		Laren House Society B. Kyle Stevenson, Executive Director
		Fraser Correctional Resources Society Robert Kissner, Executive Director
		Laurier Lapierre, Journalist
		Neil Boyd, Director, School of Criminology Simon Fraser University
		Dr. John Hogarth, Faculty of Law, University of British Columbia
41	March 3, 1988 Vancouver, B.C.	**Joint presentation:** **Dr. Stephen Duguid** Director, Prison Education Program Simon Fraser University; and

ISSUE NO.	DATE	WITNESSES
41 (cont'd)	March 3, 1988 Vancouver, B.C.	**Tim Segger** Director of Contract Services Fraser Valley College (Abbotsford)
		Dr. Ezzat Fattah Department of Criminology Simon Fraser University
		Prisoners' Rights Group Claire Culhane
		Prof. Gerry Ferguson, Associate Dean, Faculty of Law University of Victoria
		Peter Leask, Barrister
		Native Justice Coalition and **Allied-Indian Métis Society** (Joint presentation)
		Canadian Bar Association John Conroy and Prof. Michael Jackson Special Committee on Imprisonment and Release
		Dr. Guy Richmond
		Citizen's Advisory Committee to C.S.C. Trish Cocksedge, Regional Representative (Pacific)
		M2/W2 (Man to Man/ Woman to Woman) Waldy Klassen
		Don Sorochan, Barrister
		Dave Gustafson Victim Offender Reconciliation Program (VORP) (Langley, B.C.)
		Richard Peck, Barrister
		Bernard Diedrich
		Georges Goyer, Barrister
		Glen Orris, Barrister
		Dan Pretula
		Doreen Helm
42	March 15, 1988	**Patricia Lindsey-Peck**, Barrister
		Children's Aid Society of Ottawa-Carleton Mel Gill, Executive Director; Ruth Bodie, Assistant Director, Family Services and Child Protection Department

ISSUE NO.	DATE	WITNESSES
43	March 17, 1988	**Dr. J.S. Wormith** Deputy Superintendent of Treatment Service/ Rideau Correctional & Treatment Centre **Dr. Vern Quinsey** Director of Research Mental Health Centre Penetanguishene **Dr. William Marshall** Department of Psychology Queen's University
44	March 22, 1988 Toronto, Ont.	**Clayton Ruby**, Barrister **Criminal Lawyers' Association** and **Law Union of Ontario** Mr. David Cole/ Prof. Allan Manson (Joint presentation) **Mennonite Central Committee** Dave Worth, Director, Offender Ministries **Joint presentation :** **Doug Call** Public Safety Commissioner for Monroe County (Rochester, New York) (former Sheriff of Genesee County) and **Dennis Whitman** Co-ordinator of Genesee County Sheriff's Department (Batavia, N.Y.) Community Service Program Victims' Assistance Program **Barrie & District Rape Crisis Line** Anne Marie Wicksted, Executive Director **Canadian Training Institute** John Sawdon, Executive Director **Les Vandor**, Barrister **Dr. J.W. Mohr**
45	March 23, 1988 Toronto, Ont. *In Camera*	**Director of C.S.C. Parole Districts (Ontario)** **Parole Officers (Ontario)** **Parole Supervisors, etc.** **(Operation Springboard)**

ISSUE NO.	DATE	WITNESSES
45 (morning)		**National Parole Board members and staff (Ontario)**
45 (afternoon)	March 23, 1988 Toronto, Ont.	**From Frontier College** Jack Pearpoint, President Tracy LeQueyere, Director Beat The Street Program
		Guelph Correctional Centre Dr. Prem Gupta and Frank Morton
		Judge J.L. Clendenning
		John Howard Society of Ontario Hugh J. Haley, Executive Director
		The Bridge Mrs. Elda Thomas, Assistant Community Chaplain
		Prison Fellowship Canada Ian J. Stanley, Executive Director
		People to Reduce Impaired Driving Everywhere (PRIDE) John Bates, President
		Quaker Committee on Jails and Justice Colin McMechan, Coordinator
		Junction High Park Residents' Association Clarence Redekop
46	March 24, 1988 Toronto, Ont.	**Metro Action Committee on Public Violence Against Women and Children** Pat Marshall, Executive Director
		Dr. Ruth Morris
		Dianne Poole, M.P.P.
		High Park Homeowners & Residents Assoc. Stephen Magwood, President
		United Church of Canada Justice and Corrections Committee (Hamilton Conference) Dr. Guy Mersereau, Member
		M2/W2 (Ontario) (Man to Man/Woman to Woman) Rev. A.H. Vickers

ISSUE NO.	DATE	WITNESSES
46 (cont'd)	March 24, 1988 Toronto, Ont.	**Dr. Cyril Greenland** **Addiction Research Foundation of Ontario** Toby Levinson, M.A., C.Psych, Program Coordinator, Treatment for Impaired Driving Offenders **From Niagara Citizens' Advisory Committee (Niagara Falls)** Robert Ciupa, Vice-Chairman Ron Dubciak, Employment Development Manager Derek Orr, Area Manager, C.S.C. **Barbra Schlifer Commemorative Clinic** Mary Lou Fassel, Legal Counsel **International Halfway House Association** Mike Crowley, Treasurer **Exodus Link Corporation** Paul Ivany, Associate Director **Operation Springboard** David Arbuckle, Executive Director **Beverly Mallette, Kellie Symons and Kathryn McCleary** **Dahn Batchelor**, Criminologist **George Lynn** **Peter McMurtry**
47	March 29, 1988	**Dr. Don Andrews** Psychology Department Carleton University **Dr. James Bonta** Chief Psychologist Ontario Ministry of Correctional Serv. Ottawa-Carleton Detention Centre
48	April 12, 1988	**From the Office of the Correctional Investigator of Canada:** Ron Stewart Correctional Investigator of Canada Ed McIsaac Director of Investigations
50	April 19, 1988 Edmonton, Alta.	**John Howard Society of Alberta** Brian Hougestal, President.

ISSUE NO.	DATE	WITNESSES
50 (cont'd)	April 19, 1988 Edmonton, Alta.	**Mennonite Central Committee (Manitoba)** *From Open Circle* Reverend Melita Rempel *From Mediation Services* Dr. Paul Redekop **Grant MacEwan Community College** Keith Wright (Correctional Services) **Citizens for Public Justice** John Hiemstra, Alberta Director **Victims of Violence** **Canadian Centre for Missing Children** Robert Glushek, Vice-president **M2/W2 (Alberta)** Harry Voogd, Edmonton Co-ordinator **Mothers Against Abduction and Murder** Sharon Rosenfeldt, Coordinator **Prof. Joe Hudson**, Faculty of Social Welfare, University of Calgary **Native Counselling Services of Alberta** Chester R. Cunningham, Executive Director. **Council for Yukon Indians (Whitehorse)** Rosemary Trehearne, Program Manager, Native Courtworkers Program. **MacKenzie Court Worker Services (Yellowknife)** Lawrence Norbert, Chairman of the Board. **Law Society of N.W.T.** Adrian Wright, Member of the Law Reform Committee **Alberta Crown Attorneys' Association** Scott Newark, Vice-President **The Elizabeth Fry Society of Edmonton** Trisha Smith, Executive Director **The Alberta Human Rights and Civil Liberties Association** John Kurian, Chairman **Saddle Lake First Nations** Henry Quinney, Counsellor, Tribal Justice Program

ISSUE NO.	DATE	WITNESSES
50 (cont'd)	April 19, 1988	**Dr. Tim Hartnagel**, Department of Sociology, University of Alberta
		Criminal Trial Lawyers of Edmonton Mona Duckett and Mac Walker
		Seventh Step Society of Canada Pat Graham, Executive Director
		Gerald Martin.
50	April 20, 1988 Alberta *In Camera*	**Various Correctional Institutions Management and staff, Inmate Committees and Lifer Groups**
51 (morning)	April 21, 1988 Saskatoon, Sask. *In Camera*	**Directors of C.S.C. Parole Districts (Prairies)**
		Union of Solicitor General Employees (Prairies)
		National Parole Board Members (Prairies)
		Parole Officers (Prairies)
51 (afternoon)	April 21, 1988	**Elizabeth Fry Society of Saskatchewan** Janice Gingell, President of the Board of Directors
		John Howard Society of Manitoba Graham Reddoch, Executive Director
		Indian-Métis Friendship Centre of Prince Albert Eugene Arcand, Executive Director
		Manitoba Crown Attorneys' Association Peter Murdock, Crown Attorney
		Gabriel Dumont Institute of Native Studies Christopher Lafontaine, Executive Director
		Ray Deschamps
		Larry Bell
		Regional Psychiatric Centre (Prairies) Robert Gillies, Executive Director
52	April 26, 1988	**John Howard Society of Ottawa** Bruce Simpson, Past President Don Wadel, Executive Director

ISSUE NO.	DATE	WITNESSES
53	May 3, 1988 Montreal, Que. *In Camera*	**Directors of C.S.C. Parole Districts (Quebec)** **Parole Officers (Quebec)** **National Parole Board members and staff (Quebec)**
53	May 4, 1988 Montreal, Que.	**Société de Criminologie du Québec** Samir Rizkalla, Secretary General Bernard Cartier, Senior Research Officer **Association des services de réhabilitation sociale du Québec** Johanne Vallée, Executive Director Martin Vauclair, Liaison Officer Ken Wager, Executive Director of Salvation Army and François Bérand, Executive Director of *Maison St. Laurent* **Prisoners' Rights Committee** Stephen Fineberg and Jean Claude Bernheim **Prison Arts Foundation** Michel M. Campbell, President Earl D. Moore, Secretary of the Foundation. **Ste-Anne-des-Plaines Citizens' Advisory Committee** H. Claude Pariseau, Clinical Coordinator **Jacques Casgrain**, Crown Attorney **Defence Lawyers' Association of Montreal** David Linetsky, Attorney Milton Hartman, Attorney **Native Alliance of Québec** Martial Joly, Vice-President Edmund Gus, Vice-President; N.C.C. Paul Tumel, Executive Director, Native Para-Judicial Services of Quebec

ISSUE NO.	DATE	WITNESSES
53 (cont'd)	May 4, 1988 Montreal, Que.	**Le Mitan Women's Shelter** Monique Pelletier, Social Worker
		Centre d'aide et de prévention d'assualts sexuels Alya Hadgen
		Elizabeth Fry Society of Greater Montreal Lyse Brunet, Executive Director Sylvie Durant, Member of the Board of Directors Nicole Bois, Lawyer Andrée Bertrand, Criminologist
		Church Council on Justice & Corrections (Quebec) Marie Beemans, Provincial President
		From the University of Montreal: Guy Lemire, Professor, School of Criminology Jean Dozois, Professor, School of Criminology Pierre Carrière, Faculty of Continuing Education
		Study Group on Penal Policies & Practices University of Québec Bruno Théroet Marie-Marthe Cousineau
		Mike Gutwillig, Victor Drury and Mike Maloney
		Anibal C. Tavares
		Gabriel Lapointe, Q.C.
		Mark Jaczyk
		Brian J. Rogers
54	May 10, 1988	**Help Program (Kingston, Ontario)** Bob Young, Executive Director; Paul Bastarache, Director, Help Freedom Farm
		Community Service Order Co-ordinators' Association of Ontario Russ Elliot, President Julie Connelly, Vice-President
		Canadian Psychiatric Association Dr. Frèdèric Grunberg, M.D., F.R.C.P., Past President

ISSUE NO.	DATE	WITNESSES
55	May 12, 1988	**St. Leonard's Society of Canada** Michael J. Walsh, President L.A. Drouillard, Executive Director
		Church Council on Justice & Corrections Lorraine Berzins, Program Co-ordinator Research and Analysis Vern Redekop
56	May 17, 1988	**Native Council of Canada** Christopher McCormick, Vice-President
		Prof. Bradford W. Morse, Faculty of Law University of Ottawa
		John Howard Society of Canada James M. MacLatchie Executive Director
57	May 26, 1988	**Citizens' Advisory Committee (National Executive) to the Correctional Service of Canada** Philip Goulston, National Chairperson,
		Canadian Association of Elizabeth Fry Societies Felicity Hawthorne, President Bonnie Diamond, Executive Director
		Salvation Army of Canada Captain David Moulton Regional Co-ordinator (Ontario) Stewart King Director for Administration
		Attorney General for the Province of British Columbia Hon. Brian R.D. Smith, Q.C.
60	June 7, 1988 Halifax, N.S.	**New Brunswick Probation Officers' Association** Guillaume Pinet, Treasurer
		Provincial Advisory Committee on the Status of Women (Newfoundland and Labrador) Ann Bell, President
		Tearman Society for Battered Women (Nova Scotia) Dr. Anthony Davis, Chairperson Research Committee
		Elizabeth Fry Society of Halifax Maureen Evans, President Heather Hillier, Vice-President

ISSUE NO.	DATE	WITNESSES
60 (cont'd)	June 7, 1988 Halifax, N.S.	**Canadian Criminal Justice Association (New Brunswick Chapter)** Eric Teed, Q.C., Secretary
		Gene Devereux, Barrister
		George A. Noble, Barrister
		Brian Howe and **Sandra Lyth**, Superintendent, Carlton Centre
61 (morning)	June 8, 1988 Halifax, N.S. *In Camera*	**National Parole Board members and staff (Atlantic)**
		Officials from the Correctional Service of Canada (Atlantic)
		Parole Officers (Atlantic)
		Paroled lifer
61 (afternoon)	June 8, 1988 Halifax, N.S.	**Acadia Divinity College** Dr. Charles Taylor, Program Director, Diploma and Prison Ministry.
		John Howard Society of Newfoundland Terry Carlson, Executive Director
		Victims of Violence (P.E.I.) George Bears, Director Bert Dixon
		Joint Presentation:
		John Howard Society of Nova Scotia C. Robert MacDonald, Executive Director Mary Casey, Board Member Judge Robert McCleave, Board Member and
		St. Leonard's Society of Halifax-Dartmouth Viki Samuels- Stewart, Executive Director and
		Coalition Supportive Services Alan Kell, Staff Person
		Christian Council for Reconciliation Sr. Agnes LeBlanc, Office Manager Rev. Alfred Bell, Regional Chaplain

ISSUE NO.	DATE	WITNESSES
		Canadian Association for Crown Counsel William McCarroll, Q.C., Past President
		Barbara Fuller
62	June 15, 1988	**The Honourable James F. Kelleher, P.C., Q.C., Solicitor General of Canada.**
		John Tait, Q.C., Deputy Solicitor General Ole Ingstrup, Commissioner of the Correctional Service of Canada
64	June 30, 1988	**Correctional Service of Canada**
		Ole Ingstrup, Commissioner

APPENDIX D

WRITTEN SUBMISSIONS

Antoine, Hilda, Quesnel, British Columbia
Aasen, Jack, Vancouver, British Columbia
Acadia Divinity College
Addiction Research Foundation
Alberta Crown Attorneys Association
Alberta Human Rights & Civil Liberties
Allied Indian and Métis Society of B.C.
Alternative Sentence Planning
Andrews, Don, Ottawa, Ontario
Aslam, Syed, Campbellford, Ontario
Association des services de rehab. social du Québec
Association des substituts du procureur général (Québec)
Attorney General for the Province of British Columbia
B.C. Civil Liberties Association
Barbra Schlifer Commemorative Clinic
Baril, Micheline, Montréal, Quebec
Barrie & District Rape Crisis Line
Batchelor, Dahn, Rexdale, Ontario
Bell, Don, Mississauga, Ontario
Bonta, James, Ottawa, Ontario
Booth, William, Cobourg, Ontario
Bourque, Yves, Donnacona, Quebec
Boyd, Neil, Burnaby, British Columbia
Bridge (The)
Brooks, K., Fort St. John, British Columbia
Bunnah, Maureen, Quesnel, British Columbia
Calgary Sexual Assault Centre
Call, Douglas, Rochester, New York
Canadian Advisory Council on the Status of Women
Canadian Association for Adult Education
Canadian Association of Crown Counsel

Canadian Association of Elizabeth Fry Societies

Canadian Bar Association

Canadian Criminal Justice Association

Canadian Pharmaceutical Association

Canadian Psychiatric Association

Canadian Psychological Association

Canadian Sentencing Commission

Canadian Training Institute

Cape Breton Transition House

Carrigan, Owen, Halifax, Nova Scotia

Centre d'accueil de Cowansville

Centre d'aide et de lutte contre les agressions à caractère sexuel

Centre d'aide et de prévention d'assaults sexuels

Children's Aid Society of Ottawa-Carleton

Chitty, Philip, Ganonoque, Ontario

Christian Council for Reconciliation

Church Council on Justice and Corrections

Ciale, Justin, Ottawa, Ontario

Citizens United for Safety and Justice

Citizens for Public Justice

Citizens' Advisory Committee to the Correctional Service of Canada (National Executive)

Clancy, Dorothy, Edmonton, Alberta

Collins Bay Institution Infinity Lifers Group

Coalition Supportive Services

Comité Consultatif de l'Extérieur (Ste. Anne des Plaines)

Community Service Orders Co-ordinator's Association of Ontario

Conway, Neal L., Barry's Bay, Ontario

Cooley, Dennis J., Ottawa, Ontario

Correctional Service of Canada

Council for Yukon Indians

Craig, Neil A., North York, Ontario

Criminal Lawyers Association of Ontario

Criminal Trial Lawyers Association of Edmonton

Czerny, Robert E., Ottawa, Ontario

Darbyshire, Doris, Edmonton, Alberta

Defence Lawyers Association of Montréal

Devereux, Gene J., Moncton, New Brunswick
Diedrich, Bernard, South Burnaby, British Columbia
Dixon, Bert, Dartmouth, Nova Scotia
Doob, Anthony, Toronto, Ontario
Duguid, Steve, Burnaby, British Columbia
Dyck, Diane A., Kingston, Ontario
Edmonton Penitentiary Lifers Group
Elizabeth Fry Society (Sudbury Branch)
Elizabeth Fry Society of Greater Montreal
Elizabeth Fry Society of Halifax
Elizabeth Fry Society of Kingston
Elizabeth Fry Society of Saskatchewan
Établissement Carceral Leclerc Groupe Vie-Plus
Exodus Link Corporation
Fattah, Ezzat A., Burnaby, British Columbia
Forst, Marc, Kingston, Ontario
Fraser Correctional Resources Society
Freisting, Edwin A., Prince Albert, Saskatchewan
Frontier College
Fuller, Barbara, Halifax, Nova Scotia
Gabriel Dumont Institute of Native Studies
Geltman, Harold, Montréal, Quebec
Goyer, Georges A., Vancouver, British Columbia
Grant MacEwan Community College
Greenland, Cyril, Toronto, Ontario
Gupta, Prem, Guelph, Ontario
Gustafson, Dave, Langley, British Columbia
Gutwillig, M.M., Montréal, Quebec
HELP Program
Hall, John E., Vancouver, British Columbia
Hartnagel, Tim, Edmonton, Alberta
Hatt, Ken, Ottawa, Ontario
High Park Homeowners & Residents Association
Hogarth, John, Vancouver, British Columbia
Howe, Brian, Halifax, Nova Scotia
Howell, Stephen D., Vancouver, British Columbia

Hudon, Robert, Donnacona, Quebec
Hudson, Joe, Edmonton, Alberta
Hurst, Sid, Windsor, Ontario
Husk, Gordon, St. John's, Newfoundland
Hyde, G.B., Tiverton, Ontario
International Halfway House Association
Irvine, A.G., Nepean, Ontario
Jacobson, Walter Garry, Campbellford, Ontario
Jaczyk, Mark, Montréal, Quebec
Janes, Randy, St. John's, Newfoundland
Jobson, Keith, Victoria, British Columbia
John Howard Society of Alberta
John Howard Society of British Columbia
John Howard Society of Canada
John Howard Society, Collins Bay Chapter
John Howard Society of Kingston and District
John Howard Society of Manitoba
John Howard Society of Newfoundland
John Howard Society of Nova Scotia
John Howard Society of Ontario
John Howard Society of Ottawa
Kelowna Secondary School (Communications 12 Class)
Kingston Penitentiary Lifers Program
Kinsella, Allan M., Campbellford, Ontario
Lapierre, Laurier, Britannia, British Columbia
Lapointe, Gabriel, Montréal, Quebec
Laren House Society
Law Reform Commission of Canada
Law Society of Northwest Territories
Leask, Peter, Vancouver, British Columbia
Lehnert, John H., Westmount, Quebec
Lilley, Brian, Innisfail, Alberta
Lindsey-Peck, Patricia, Ottawa, Ontario
Lingley, Robert M., Campbellford, Ontario
Lockie, Janie, Toronto, Ontario
Lynn, George W., Moffat, Ontario

MacNeil, Malcolm H., Fredericton, New Brunswick
Maison d'accueil pour femmes (Le Mitan)
Mallette, Beverley D., Palgrave, Ontario
Maltby, Clifford David, Kingston, Ontario
Man to Man (M2)/Woman to Woman (W2) (Alberta)
Man to Man (M2)/Woman to Woman (W2) (B.C.)
Man to Man (M2)/Woman to Woman (W2) (Ontario)
Manitoba Crown Attorneys Association
Marshall, W.L., Kingston, Ontario
Martin, Gerald, Edmonton, Alberta
Matsqui Institution Prisoner's Justice Initiative
McMurtry, Peter A., Toronto, Ontario
Mediation Services
Mennonite Central Committee (Canada)
Mennonite Central Committee (Manitoba)
Metro Action Committee on Public Violence Against Women and Children
Mid-Island Sexual Assault Centre
Mohr, J.W., Gananoque, Ontario
Mohr, Renate, Ottawa, Ontario
Morse, Bradford, Ottawa, Ontario
Morris, Ruth, Toronto, Ontario
Morton, Frank, Guelph, Ontario
Mothers Against Abduction and Murder
Mothers Against Drunk Driving
National Associations Active in Criminal Justice
National Council of Women
National Parole Board
Native Alliance of Quebec
Native Clan Organization of Manitoba
Native Council of Canada
Native Counselling Services of Alberta
Native Justice Coalition
Nelson, Eleanor, Wallace, Nova Scotia
New Brunswick Probation Officers' Association
Niagara Citizens' Advisory Committee
Noble, George, Fredericton, New Brunswick

Northorp, Bruce L., Burnaby, British Columbia
O'Berton, William, Saskatoon, Saskatchewan
Office des droits des détenues
Olson, Clifford Robert, Kingston, Ontario
Olson, Margaret, St. Albert, Alberta
Ontario Native Council on Justice
Operation Springboard
Ottawa Rape Crisis Centre
Pappas, Steven, Ottawa, Ontario
Pease, Ken, Saskatoon, Saskatchewan
Peck, Richard, Vancouver, British Columbia
People to Reduce Impaired Driving Everywhere
Poole, Dianne, Toronto, Ontario
Prince, G., Renous, New Brunswick
Prison Arts Foundation
Prison Fellowship Canada
Prison for Women Institution Inmate Committee
Prisoners' Rights Group
Provincial Advisory Committee on the Status of Women (Newfoundland)
Quaker Committee on Jails and Justice
Quinsey, Vernon L., Penetanguishene, Ontario
Ray, A.R., Gloucester, Ontario
Reddecliff, Wes, Campbellford, Ontario
Regional Psychiatric Centre (Prairies)
Reid, Barbara E., Eastern Passage, Nova Scotia
Rempel, Melita, Winnipeg, Manitoba
Richmond, Guy, Port Coquitlam, British Columbia
Roberts, Julian, Ottawa, Ontario
Rockwood Institution Inmate Welfare Committee
Rogers, Brian J., Baie D'Urfé, Montreal
Ruby, Clayton C., Toronto, Ontario
Ruygrok, Gerry, Ottawa, Ontario
Saddle Lake First Nations
Salvation Army
Saskatchewan Action Committee Status of Women
Segger, Tim, Abbotsford, British Columbia

Seventh Step Society of Canada
Skinner, James, Toronto, Ontario
Smith, Judith, Victoria, British Columbia
Société de Criminologie de Québec
Solicitor General for the Province of Nova Scotia
Solicitor General of Canada
Sorochan, Don, Vancouver, British Columbia
St. Leonard's Society of Canada
St. Leonard's Society of Halifax-Dartmouth
Summers, Gordon K., Innisfail, Alberta
Sutherland, Neil, Vancouver, British Columbia
Tatum, J.B., Victoria, British Columbia
Tavares, Anibal C., Montréal, Quebec
Tearman Society for Battered Women
Teed, David, Kingston, Ontario
Teed, Eric L., Saint John, New Brunswick
Tilson, Patricia, Scarborough, Ontario
Union of Solicitor General Employees
Vandor, L.A., Toronto, Ontario
Viau, Louise, Montréal, Quebec
Victims of Violence
Waller, Irvin, Ottawa, Ontario
Wittman, Dennis, Batavia, New York
Wormith, J.S., Burritts Rapids, Ontario

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 99(2), the Committee requests that the Government table a comprehensive response to the Report within one hundred and fifty (150) days.

A copy of the relevant Minutes of Proceedings and Evidence of the Standing Committee on Justice and Solicitor General (*Issues Nos. 23 to 26, 28 to 30, 32 to 48, 50 to 57, 60 to 62, 64 and 65 which includes this Report*) is tabled.

Respectfully submitted,

DAVID DAUBNEY

Chairman

MINUTES OF PROCEEDINGS

TUESDAY, AUGUST 16, 1988
(111)

[*Text*]

The Standing Committee on Justice and Solicitor General met *in camera* at 9:35 o'clock a.m. this day, in Room 307 W.B., the Chairman, David Daubney, presiding.

Members of the Committee present: David Daubney, Bill Domm, Robert Horner and Jim Jepson.

Acting Member present: Girve Fretz for Rob Nicholson.

In attendance: *From the Library of Parliament*: Bill Bartlett, Marlene Koehler and Philip Rosen, Research Officers.

The Committee resumed consideration of a report to the House of Commons on sentencing, conditional release and related aspects of the correctional system.

At 11:30 a.m., the sitting was suspended.

At 12:15 p.m., the sitting resumed.

At 1:15 o'clock p.m., the Committee adjourned to the call of the Chair.

AFTERNOON SITTING
(112)

The Standing Committee on Justice and Solicitor General met *in camera* at 3:40 o'clock p.m. this day, in Room 307 W.B., the Chairman, David Daubney, presiding.

Members of the Committee present: David Daubney, Bill Domm, Jim Jepson and Rob Nicholson.

In attendance: *From the Library of Parliament*: Bill Bartlett, Marlene Koehler and Philip Rosen, Research Officers.

The Committee resumed consideration of a report to the House of Commons on sentencing, conditional release and related aspects of the correctional system.

At 5:55 o'clock p.m., the Committee adjourned to the call of the Chair.

WEDNESDAY, AUGUST 17, 1988
(113)

The Standing Committee on Justice and Solicitor General met *in camera* at 3:40 o'clock p.m. this day, in Room 307 W.B., the Chairman, David Daubney, presiding.

Members of the Committee present: David Daubney, Bill Domm, Robert Horner, Jim Jepson and Rob Nicholson.

Acting Member present: Joe Price for Allan Lawrence.

In attendance: *From the Library of Parliament*: Bill Bartlett, Marlene Koehler and Philip Rosen, Research Officers.

The Committee resumed consideration of a report to the House of Commons on sentencing, conditional release and related aspects of the correctional system.

It was agreed,—That the draft report, as amended, be adopted as the Committee's Sixth Report to the House and that the Chairman be authorized to make such editorial changes as may be necessary without changing the substance of the draft report and that the Chairman be instructed to present the said report to the House; and,

—that, in the event Parliament is dissolved prior to the presentation of the Committee's Report to the House, a copy of the Committee's Working Paper on sentencing, conditional release and related aspects of corrections be made an Appendix to this day's Minutes of Proceedings and Evidence; and that 5,000 copies of the said issue be printed.

It was agreed,—That, pursuant to Standing Order 99(2), the Committee request that the Government table, within 150 days, a comprehensive response to its Sixth Report.

It was agreed,—That, the Committee cause to be printed 5,000 copies of its Sixth Report to the House in tumble bilingual format with a distinctive cover.

At 5:10 o'clock p.m., the Committee adjourned to the call of the Chair.

Luke Morton
Clerk of the Committee