APPENDIX D

Field Notes

Pre-Test

A pretest was held at the Vancouver Pre-Trial Services Centre (VPSC) on June 26, 1985 between 1830 and 2000 hrs. The center holds a representative population of all types of offenders and seemed ideal for testing our questionnaire. There were no major problems with the instrument itself but we learned much about the population we were to survey in this study.

On the first of four nights that we went to VPSC, we solicited prisoners by random, asking them if they would be interested in participating in a study that may have some impact on sentencing law in Canada. When we came back the second night to interview this group, only seven of 11 prisoners who initially agreed to participate in the study showed up and only three remained through the whole pre-test. The next time we used a slightly different method; the exception being the time period between when we asked them to participate and when we actually met with them (only about one hour). The decay of numbers on the first try may have been due to an apprehension that prisoners may have in showing others the limits of their education and

understanding of prison issues. There is also the danger of having so much time between the initial agreement to be involved in a study like this, and doing it, because people have time to think, discuss it with peers and change their minds.

We introduced ourselves as researchers from Simon Fraser University, doing a study for the Canadian Sentencing Commission (CSC), and expressed interest in their opinions and feelings about some proposed changes to sentencing laws. Generally, we were not more specific than that. The prisoners had little trouble articulating the types of problems they saw in the criminal justice system and at times it was difficult to keep the group on track. Each prisoner had his own particular story to tell about the disparities and unfairness in the system. In fact, some were openly hostile over certain issues. Some of their concerns (to do with sentencing) include:

1. The level of the court where their case is being heard. Two felt that the formality was greater and plea-bargaining was a less conspicuous feature at the higher level of court. The same two agreed that there should be an option to proceed to a higher court, especially for serious types of crimes.
2. When asked about the process of overcharging by police, there was a consistent level of agreement that overcharging is a fact of the criminal justice system (CJS) and that it was a tool the police and prosecutor used to manipulate the accused into pleading guilty in exchange for reduced charges.

3. Many thought it was unfair that time spent in remand (custody) was rarely considered in sentencing. One suggested that the time spent in remand should be 'automatically' deducted from whatever time the judge gave the offender.
4. Several offenders also mentioned that the time spent waiting for sentence appeals was too long. There were several examples cited where the offender had already served his sentence by the time that the final reduction in prison time came through.
5. Asked what they thought were the roots of inequality in sentencing practice, there was a general consensus that the different attitudes or personalities of judges was the primary source of sentencing disparity.

All of the groups we spoke to were cooperative and seemed interested in the goals of the study.

Creative Community Services - New Westminster Office - Probation

Individuals on probation were sampled in a non-random fashion from a privately run service on August 27,28 and 30. The service catered to offenders who had received a community work order in conjunction with their probation order, therefore the sample consisted of this select group of probationers. Participation was very difficult to solicit since these individuals were more interested in spending any spare time they had trying to complete their work orders. The probationers were approached in the office lobby, while awaiting their assignment for the day. Since interviews took place before they left for their work detail, time was often quite limited. A total of 10 people filled out the questionnaire and nine people stayed for the interview.

Some of their thoughts on the issues raised in the interview are as follows:

1. Disparity showed itself in many forms:
   a. socio-economic: Wealthy individuals are treated more leniently by the courts. For example, Hatfield's charges were thrown out and Mick Jagger has been "charged more times than me but he still walks" due to fame and money.

      The quality of the lawyer and legal representation at all

is dependent on socio-economic status. A "bum" who is not guilty may be convicted due to a lack of a defence lawyer, whereas the rich can afford the best and most influential lawyers.

b. geographical: Differences in sentencing outcomes were noted across provinces and cities.

c. types of crime: Some crimes, on the average, receive a much lighter or harsher sentence than they should. For example, sex offenders are treated too leniently. "In a lot of cases a male judge has no conception of what rape is" and, therefore, cannot sympathize with the victim. They indicated that the sentence should be similar to that given for murder.

d. sex of offender: It was stated that women receive the same, or less time than men. However, most felt they should be treated equally.

e. age: Juveniles should receive the same sentences as adults for if they are "old enough to go out and get into trouble, they are old enough to pay".

2. Guidelines should be employed so that judges "don't give too little or too much". More realistic maximum sentences need to be introduced. Restrictions on sentencing should be used for some crimes e.g., impaired driving, assault, break and enter, and drug related crimes (maximum sentences for different amounts of drugs should be devised). Although almost everyone

was in favour of guidelines, this did not undermine the need they expressed for individual circumstances to be considered.

3. They suggested various improvements to current practice.
   a. Appeal procedures should be quicker.
   b. Pre-sentence reports should be mandatory to shed light on the background of the accused; "you shouldn't just be a number".
   c. Juvenile records should not be brought up in court.
   d. Institutions should be held accountable for what occurs within their walls (e.g., a case of drug testing on offenders [ridolin] was cited).
   e. Psychiatric help should be made available to those who need the service.
4. Plea-bargaining was viewed as "part of the game". Occasionally, it is beneficial in terms of decreased sentence and saves the ordeal of going "to court over something you might lose". However, usually the accused does not end up with a deal. The fact remains that "if you do the crime, you're going to do the time".
5. They held a very negative opinion of the police. In addition to examples of police brutality and overcharging, the probationers stated that they "lie through their teeth" and "back each other up in court". If they are suspected of perjury, instead of being sentenced to jail like everyone else, they are "suspended and their badge taken away".

6. Parole and mandatory supervision should be used more cautiously. Violent offenders released on parole, or mandatory supervision, should be screened on factors related to premeditation and the circumstances of the crime. Furthermore, rapists should be psychologically tested to ensure that they will not repeat the offence once released. "If you let the person out then you should be able to trust them". In general, parole is seen as a positive opportunity for prisoners. However, more effort should be made to provide guidance and assistance in finding employment.
7. They commented on most of the purposes for sentencing with the majority expressing the opinion that punishment is the most appropriate justification. A number of people felt that a jail sentence should be used only as a means to protect the public rather than a method of "getting people off the street". Deterrence as a sentencing purpose may be applicable to young offenders, but it usually just serves to make the offender more vindictive. Restitution to the victim was viewed as a sentence that should be used more frequently. The victim is often neglected by the system, or even punished as in a case cited of a rape victim who was incarcerated for refusing to testify. Fines were viewed as inappropriate in some cases. "If a guy's a known criminal and doesn't have a job why do they give him a fine - he'll probably go out and steal it". Prison was viewed as a "school of crime" rather

than as an opportunity for self-improvement. It has a bad influence on young people for "if it's there, it's going to affect you in some way. You have to act like them".

8. Probation as a sentencing alternative was commented upon extensively. Probation officers, for the most part, care for their clients, but they should do more counselling and be "more clued in". For some people, there should be more contact with the probation officer which necessitates hiring more officers. For those working, accommodation should be made to ensure that reporting does not interfere with their job. With regards to hiring, it was proposed that ex-prison guards should not be employed as probation officers.
9. Community service orders provide a sense of importance because the offenders are helping the community. The only problem was that the time given to complete the required number of hours was often too short. Also it was suggested that people should have the same time to pay a fine as they are given to complete a work order, if both sentences are imposed.

Allouette River Correctional Centre

The Allouette River Correctional Centre is a minimum security provincial facility about 50 kilometers from Vancouver. The administration felt that our best forum for addressing inmates regarding sentencing issues would be through their alcohol awareness program. The director indicated that this would cause the least amount of disruption to the routine of the complex and he also thought that our sample would be fairly representative. We spoke to about 18 prisoners and 12 filled out a questionnaire and participated later in an open discussion. We recorded what we believe were the salient issues for this population:

1. Sentences for impaired drivers were on the increase in terms of time given and the number of people processed.
2. The public was largely responsible for the severity of the sentences given out; judges were reacting to pressure from lobby groups and media campaigns. There was a general consensus that the problems of impaired driving were real and that public involvement was justified. Some attributed the increase in alcohol-related crimes to an overall increase in leisure time, money and a lower drinking age.
3. Many felt that there was widespread disparity in sentencing because some offenders perceived to be more dangerous (e.g.,

sex offenders) were given probation, fines or lenient jail terms.

4. Judges are different in their perceptions of the harm generated by impaired drivers. One can mitigate the impact of the sentence by "judge shopping"; a good lawyer knows when to schedule a client before a judge who is lenient on impaired driving.
5. Sentences for impaired driving are generally fair. However, the amount of money one has to spend on a lawyer affects the sentencing outcome. Legal aid lawyers are not perceived to spend the amount of time necessary to secure a "not guilty" finding or accomplish some way of getting a lighter sentence for the accused. A lawyer who is not well-established may also not have the kind of rapport with the prosecutor or judge deemed essential to mitigate sentence severity.
6. There was no consensus about the relative advantages of determinate over discretionary sentencing practices. Some felt that legislated penalties would tell potential or actual offenders "for sure what they're going to get". Restricting judicial discretion was thought by some members of the group to be disadvantageous to the offender; each case is unique and should be decided on its own merits. Minimum penalties were viewed as desireable because it would prevent some people from benefitting from their wealth or community ties.
7. When asked about controlling plea-bargaining through law,

most responded that plea-bargaining was an integral part of the criminal justice system. Some also felt that the judge should be able to hear all the negotiations that take place between Crown counsel and the defence.

8. Police "overcharging" was a reality of the criminal justice system. There was division over the relative merits of this practice; some said that it was a way for the offender to get a good deal if he was caught red-handed in the offence, others thought that the laws were written in such a way to provide police with the leverage to secure a conviction. (One offender cited the dual charges laid in a theft case: theft and possession of stolen property. Police offer to drop one in exchange for a guilty plea on the other.)
9. When queried about the purposes for sentencing, we found that most offenders cited "punishment" as the real intention of the court. All the offenders we were speaking with were part of a compulsory alcohol awareness program imposed by the court. Many said that if the program were entirely voluntary, they would not be in it. Rehabilitation was not possible in a prison because many of the guards treated them like they were less than human.
10. The provincial Parole Board is staffed by two members of Mothers Against Drunk Drivers (MADD) and this presence severely hampers the possibility of early release.
11. Early releases for short-term sentences were impeded by the length of time it took to process the applications.

12. If police were involved in crime or homicide incidents, they had a much better chance of never being charged or receiving very light sentences.

Lower Mainland Regional Correctional Centre - Main Jail

We received assistance from the Educational Coordinator at the Lower Mainland Regional Correctional Centre (Oakalla) and used her classroom as a forum for giving an overview of the research project to a small group of inmates. It was expained to us by the Educational Coordinator that this was the usual and preferred way of approaching the inmate population to introduce research. Our hope was that there would be enough enthusiasm generated for this group to encourage others to put their names on a "sign-up sheet" which would later be used to randomly select volunteers for our study. When we spoke to this group of nine prisoners, we were received somewhat skeptically, although at least two prisoners agreed that some research was necessary to help alleviate disparities in sentencing practice. We tried to be sensitive to the dynamics of subcultural prison values by ensuring the volunteers that they were free to withdraw at any time, participation was strictly voluntary and confidentiality would be ensured.

The next day we were informed by the Educational Coordinator that the prisoners in the Main Jail were "not interested" in participating in the Canadian Sentencing Commission - Offender Survey. She cited the following reasons:

1. a particular group of prisoners in the Main Jail at that time was generally negative and apathetic towards reform-oriented research;
2. earlier research that had been done on the same premises with assurances of confidentiality were not kept;
3. one researcher was identified as a former correctional officer at a pre-trial center, "once a bull, always a bull"; and
4. perhaps most importantly, one prisoner stated to us, "I don't know... sentencing is a pretty sensitive issue...I'm not sure too many guys on the tiers want to talk about it...".

We were encouraged by the Educational Coordinator to "try again in the fall" once some of the more negatively influential prisoners had been released or transferred to other prisons. It was apparent that our research strategy, at this point, seemed somewhat inappropriate for the issue we were studying and the population we wished to survey. The approach we viewed as being most desireable, based on the experience of other researchers and the earlier pre-test of our questionnaire include:

1. randomized selection of inmates;
2. a personal invitation to reflect their opinions <u>in private</u> with a researcher; and
3. a structured interview format that would include all of the questionnaire items but flexible enough to reach those inmates with a limited education or comprehension of sentencing issues.

Following the advise of the Educational Coordinator, a meeting was arranged with the Director of the West Wing (Oakalla, Main Jail) on September 3, 1985. The Director supplied us with an ABC list (inmates listed in alphabetic order). Participants were randomly selected by the last digit. From the 32 names originally selected we individually invited 15 inmates to attend a group discussion scheduled later that day. The remainder of those randomly chosen were either in court, transferred, or in hospital. We felt that the individual invitations beforehand would dispell any misconceptions about the study and, thereby, ensure some participation in the group interview. Misconceptions about the study were reflected by the comments of the staff, who referred to us as "students" working on a school project. Once the nature and purpose of the study was explained to each inmate individually, we obtained assurance from 15 of them that they would participate in the evening interview.

From the 15 who said they would participate, 11 showed up at the evening interview. One refused to fill in the questionnaire but sat back to observe. Much of the discussion of the group centered on mandatory supervision and parole.

1. There was general agreement in the group that mandatory supervision should be abolished except for sex offenders and violent offenders. Mandatory supervision was seen as unfair because one third of an individual's sentence is supposed to be earned remission for good behaviour but the supervision

infringes on the freedom the individual has earned. Therefore, the consensus was that the old system of earned remission should be brought back.

2. Parole itself was seen as self-defeating in that the restrictions placed on a parolee inhibit his chances of succeeding. Concern was expressed about the inmate's inability to make any kind of plans for his parole with the inhibitive restrictions placed upon him by the Parole Board.
3. The whole group felt that the institution has too much say in the decision-making of the Parole Board. It was stated that there was not enough cooperation between inmates and staff in parole issues; that too often an individual's "negative attitude" is a sole reason for denying him parole. In this regard, one inmate said that since prison is such a negative place, the inmate is bound to have a negative, even bitter attitude.
4. The relationship between a parole officer and his client was seen more as a punishment than supervision. Positive or constructive supervision is lacking as parole officers seem more concerned with enforcing restrictions.
5. The group agreed that Parole Board members should be representatives of the community, including ex-cons who are aware of the problems facing parolees. They did not feel that any kind of training was required for Parole Board members, but that they should be changed every 90 days. It was also

stated that more accountability to the courts would improve the Parole Board and its practices.

6. The group felt that there is a need for more opportunities for inmates to be in the community, such as halfway houses, day paroles and other non-institutional alternatives. It was stressed that everyone needs such an opportunity early in their sentence, but only one if they are not successful.
7. With regard to inequality in sentencing and its causes, the group agreed that the history of the offender plays too large a role in sentencing, that an individual's wealth or capacity to afford a good lawyer is very important for the result of a trial, particularly since a good lawyer can achieve a change of venue, or obtain a different judge.
8. The group was divided on whether the judge's personality has an effect on the sentence. They felt that disparity between localities or in different geographical areas was logical since small communities are normally more conservative than larger ones.
9. The group was in agreement that the police lack accountability and that they have too much influence with judges, who, for example, will deny an individual bail on the request of the police. It was stated that the Crown deceives the judge regarding a person's past record, by including past charges but not the outcome of those charges. Therefore, the judge should have the full record before him/her.

10. There was consensus in the group regarding sentencing guidelines. The group felt that judges need stricter guidelines to alleviate sentencing inequality by limiting discretion.
11. With regard to the purposes of sentencing, there was a great deal of discussion in the group. Several in the group felt that while a prison sentence may be a punishment initially, eventually it becomes "home". There was general agreement that prison should be rehabilitative but it is not now. For lesser offences there should be restitution programs. One suggestion was that 50% of an inmate's wages should be given to the victim and the other 50% should be kept for the inmate on his release. The group expressed the need for much more community programs since prison only serves to make criminals more criminal.
12. The group felt that sex offenders should receive determinant sentences because it is too easy for most of them to get out early or get off lightly. The main problem emphasized by this group was the fact that the offender faces a judge rather than victim, or the person hurt. A more effective method would be for the offender and victim to meet and arrange restitution.
13. The issues of police overcharging and plea-bargaining were combined at the end of the discussion. The group was cynical about police overcharging, commenting that, "if they can't

get you on one charge, they can always get you on another". Plea-bargaining was seen as a negative thing. "There are just too many deals going on which make the lawyers fat". The very least that should be done is to bring plea bargaining into the open with the judge taking an active role.

Toward the end of the interview we asked for their general suggestions regarding what they felt needed changing the most. They suggested that a few drugs should be legalized. Most crimes are drug related and if the government gave legal access to drugs the prison population would be cut in half. Another suggestion was that a justice of the peace should be available in prisons.

Lower Mainland Regional Correctional Centre - Westgate B

Westgate B is the wing at the Lower Mainland Correctional Centre (Oakalla) that holds an average daily count of 90 sentenced inmates. We spoke to nine inmates on July 16, 1985 after having obtained permission from the Educational Coordinator to use her classroom as a forum for presenting our study to the prisoners. One particular inmate from those we initially approached was interested in acting as our liaison and offered to distribute "sign-up" sheets to the various tiers. We had hoped that we would have enough prisoners interested in participating in the study so that we could randomly select individuals from these lists. However, due to a breakdown in communication these "sign-up" sheets never reached the general population of Westgate B. Instead, we spoke to nine members of our liaison's peer group who generally all came from the same tier.

Some of the concerns that this group enunciated are outlined below:

1. Correctional authorities do not always follow the recommendations of the sentencing judge. For example, a judge may say an inmate should go to the Allouette River Unit (ARU) for treatment purposes, but the correctional people will not assist in following this recommendation.
2. There is no effort to rehabilitate the inmates. They would

like to see more courses being offered (such as in Alberta) to include such things as computer training, trades and masonry. Farming was also brought up as a method for the prison to become more self-sufficient (by growing their own food) and also benefit the community (by selling the surplus).

3. The correctional officers are viewed as having a punitive and degrading perspective of prisoners. Some felt that this was one of the greatest impediments to personal reform. They suggested that staff attitudes should be improved through an increased educational standard which may partially alleviate this problem.
4. The role that the police play in sentencing was emphasized. They affect who gets sentenced through their discretionary practices. It was perceived that the police influence all aspects of the sentencing process from arrest to parole.
5. Disparity in sentencing is dependent upon the people working in the criminal justice system. The attitudes of the judge, prosecutor and the police have an effect on the selection and prosecution of offenders. An example to illustrate this point was articulated by an inmate who stated that a "judge's son was killed by impaired driving so he hangs anyone who commits an impaired". Sentences resulting from subjective atttitudes lead to inequality which should be controlled. It was suggested that this judge should not preside over cases of

this nature if he cannot be impartial.

6. They perceived that judges and prosecutors socialize together and these informal relationships affect sentencing outcomes.
7. Other sources of disparity include economic and geographical differences between offenders. Those accused persons who cannot afford a good defense lawyer have to rely on legal aid lawyers; the latter are not seen as performing their duties as well as the former. Legal aid lawyers are not remunerated sufficiently for their efforts and may be under some pressure to take on cases.

   Geographical disparity occurred throughout Canada; there were several examples cited where persons outside the Lower Mainland received harsher sentences than those within the more populated regions.
8. It was proposed that a person's position in society affects the perception of "wrong" and the sanction applied. The police were brought up as an illustration of this point. It was felt that police could commit similar offences to those who were in prison, for example homicide, and not be dealt with in the same manner as "criminals".
9. The inmates agreed with minimum and maximum sentences and the development of some standards to restrict judges' sentencing options. Many felt that it is necessary for the judge to exercise his own discretion to take in the wide range of cases that come before him.

10. A final point was made that Canada should examine the sentencing practices of Sweden for an example of an effectively run system.

Vancouver Island Regional Correctional Centre

The Vancouver Island Regional Correctional Centre (VIRCC) is a provincial correctional facility located on the outskirts of Victoria. It holds 128 inmates, 87 of whom have already been sentenced. We went there on August 13 to select our sample from the ABC list provided us by the institution's records staff. Using the last digit in the Correctional Service Numbers we randomly selected 45 names from the sentenced population. We were concerned about obtaining a sizeable sample and had discussed the possibility of speaking to some of these inmates before the interviews to solicit their cooperation. We decided, however, that this task was best left to a staff member for two reasons: one, we felt our extended presence and movement in the institution may put too great a strain on the patience of the staff; two, we felt that the inmates would respond to an informal approach more readily than to a formal explanation of the study's purpose.

We turned our list over to a staff member who approached inmates selected. This was a problem in our minds for two reasons: one, we were aware that the randomness of our sample would be compromised by the selectivity of the staff; and two, we felt that the inmates would feel that their participation in the study was more or less compulsory if approached by a staff

member. Regarding the first problem, we resolved that we would require a certain selectivity on the part of staff anyway in order that security would not be undermined; for example, we could not group protective custody inmates with those from any other unit. Furthermore, there were some names on our list that staff identified as potentially disruptive to our interviews. The staff member, therefore, selected 25 names from our random list and arranged three meetings for the following day. As to our second concern regarding the voluntary participation of the inmates, the staff member assured us that he informed them that their participation was not compulsory, and we, in turn, assured them in our introductions that they should feel free to leave at any time. Moreover, judging from the groups' responsiveness, we felt that the inmates were genuinely interested in expressing their concerns.

Of the 25 inmates the staff member talked to, 23 participated in the study; nine in the first group and seven in both of the other groups. Of those who filled out the questionnaire, eight of the first group remained to take part in discussion and five remained from the second group. All of the seven in the third group remained for discussion. The responses differed significantly in some instances between groups, while in others they were all in accord. Only with the second group was it difficult to guide the discussion as one member of the group was particularly dominant. For the most part, however, we were able

to solicit the views of everyone present or at least to ascertain their agreement or disagreement with the opinions being voiced.

1. With reference to the first question in the questionnaire regarding the purposes of sentencing, we received varied responses depending upon how the question was interpreted. In other words, we obtained their opinions on what they felt the system was accomplishing and what they felt it should be purposed to do. There was general concurrence that sentencing, prison sentences in particular, did not protect the public, mainly because too many people are not caught and sentenced. Moreover, they expressed the view that protection of the public through imprisonment was only a valid reason for certain offenders, which they identified as those committing crimes against the person and most particularly sex offenders. It was expressed in one of the groups that the majority of people in jail (the figure used was 70%) are not a threat to public safety.
2. There was general agreement in all groups that imprisonment is a form of warehousing and that more work and rehabilitation opportunities were needed inside so that people are not worse off when they are released than when they went in. Drug addicts were said to need more rehabilitative treatment of a medical nature. One individual suggested that many of the security staff have special skills

and talents that could be taught to the inmates (he gave the example of one staff member whose job was strictly security-oriented but who is a licensed landscaper. This is the kind of skill that could be useful to inmates).

3. All three groups were generally ambivalent about paying victims back for the harm done to them. Most agreed that restitution should be a major purpose in sentencing depending on the crime and that paying the victim back did not require imprisonment in most cases. They felt that there should be a greater emphasis on community restitution programs. There was some concern raised about "beefed up" restitution demands for property damage and the view was expressed that when restitution is made, a prison sentence should not be added.
4. There was general agreement among the groups that sentencing does not deter people from committing further crimes or others from committing the same crime. In one group the view was expressed that sex offenders may be deterred if inmate justice was carried out but that these offenders get the best treatment now and are paroled sooner. The system, one stated, conveys the attitude that "you can rape my family, but don't steal my money". Referring to a case involving a local politician and community leader, some of the group felt that for him to be treated so lightly was only "encouraging crime in the important classes".
5. Inequality in sentencing stems from judge's prejudice and the

inability of most offenders to obtain a good lawyer to "judge shop" for them. Most offenders get "dump truck" lawyers from legal aid who more often than not require coaching from the offender himself. The majority of the first two groups felt that judges should look closer at an individual's circumstances before sentencing, while all of the last group agreed that inequality in sentencing would be eliminated if judge's looked only at the offence. There was general overall agreement that judges needed stricter guidelines to limit their discretion. It was recommended and agreed to by most that maximum sentences should be narrowed with different levels of severity for the offence laid out for the judges. The view was expressed that an offender should know at sentencing how much time he would actually serve, this leading to a discussion of police overcharging.

6. Concern was expressed in the last group about the police having up to six months on provincial charges and up to two years on federal charges to actually lay the charge so that an inmate can find, upon release from prison, that there are more charges pending against him. If there are any outstanding charges, the offender should be informed of them prior to release from jail. A great deal of comment was generated in the second group with regard to police charging and investigative practices. It was suggested that if the police made consistent charges and reduced overcharging, the

amount of plea-bargaining would be reduced and there would be less back-up or overload in the courts. They felt that the entrapment defense should be re-enacted because the police spend too much of the taxpayers money "setting-up" crimes in order to make a bust, and their expense accounts are not available for public scrutiny. Generally, police were felt to have too much power and should be more accountable to the courts. Others felt that the police overcharge in order to prevent people from getting bail.

7. In both the first and last groups it was generally felt that plea-bargaining should be brought into the open with judges playing an active role in the process. The second group was divided on the issue, some feeling that the way it is now is alright as long as it works out in your favour. In other words, it would not make any difference in the results if it was brought into the open. Generally, the value of plea-bargaining depends on the kind of lawyer you can obtain.
8. Issues surrounding parole generated a great deal of discussion in all three groups. All three groups felt that the Parole Board should be more professional rather than randomly selected "community members". The point was raised that if Parole Boards are going to be like juries, (i.e., a panel of peers) then there should be a screening process much like in jury selection. (This was in response to the example given of members of MADD being members of the Parole Board).

9. The role of institutional staff in parole decision-making received varied responses from all groups. The first group felt that staff should have more input into parole decisions, that now they only provide the minimum input of the "oh, he's alright" variety. Living-unit officers should be providing more details on the inmate's performance and attitude inside the institution. This group also felt that the Parole Board places too much emphasis on past offences and not enough on the economic conditions and prospects of the inmate. The second group was in general accord with the latter view and also expressed the opinion that the Parole Board should be more accountable to the courts and the community. Unlike the first group, this group felt that the institution should have less say in parole decisions because the staff usually stresses the negative characteristics of an individual and builds a case against granting him parole. The Parole Board relies too heavily on the reports of criminal justice personnel as it is, and not enough on the personal references of the offender.

10. All the groups felt that the Parole Board has too much power and should be more accountable to the courts, who cannot infringe on the rights of the individual to the extent that a parole officer can with special conditions such as not associating with certain people. It was also suggested that the judge's reason for sentencing should be taken into

consideration at the parole hearing to determine if its intent has been fulfilled and whether any special restrictions are necessary.

11. The use of mandatory supervison also received varying replies from the three groups. The first group felt that mandatory supervision should be used only for violent offenders, sex offenders and some property offenders. The second group felt that mandatory supervision should be used for all but sex offenders, who should not be let out early at all. All of the third group felt that there should only be earned remission with no mandatory supervision, the view being that once they are released they do not want someone watching over them at all times. One mentioned that parole could be a good thing if it were improved upon, but that mandatory supervision was forced upon one. If a person is to be released on parole or remission, the decision should be based upon his "current abilities", i.e., employment or outside prospects.

12. In each group we asked for their suggestions on what they would most like to see changed. These included the need for more community facilities and programs as alternatives to imprisonment, the need for younger judges and more accountability in the courts. Sentencing should take into account, to a greater extent, individual circumstances and there should be more opportunity in prisons for inmates to improve themselves and to enable them to support themselves

when they are released. Also, the fact that prison leaves many people stranded when they are released should be a factor in the sentencing of repeat offenders. It was also suggested that drug addicts should have separate facilities where they could receive medical help and that drug offenders should not be given so much time, when compared to sex offenders. Also, sentencing should be standardized and individuals with 25-year minimum sentences should be given the choice of either a 25-year sentence or death by lethal injection.

Lakeside Correctional Centre

Lakeside is on the grounds of the Lower Mainland Regional Correctional Centre (LMRCC) and houses women serving both federal and provincial terms of incarceration. The study was conducted at Lakeside from July 16 to July 18.

We were given a list of 58 names and randomly chose individuals by using the last digit of their Correctional Service Numbers. On the first day, we spoke to a group of seven women but out of this sample two were not fluent enough in English to understand the purposes of our study. Later it became more difficult to speak to inmates in a group setting because many of the them were indisposed through work, court appearances, sleeping or suntanning. We compensated for this problem by randomly selecting more people from our original list. As a result approximately 70% of the females in the institution were selected for group interviews. There were also a number of occasions where females volunteered to participate who were not on the list. These people were genuinely interested in the study and we saw no reason why they should be excluded. Over the three day time period, 20 women filled out the questionnaire and 14 expressed their views in an interview.

Participation was solicited in various ways depending on the correctional officer on duty. In some instances the staff asked

the inmates on the list, at other times an inmate would do this for us, and a few times we were able to ask the inmates ourselves.

The groups we interviewed expressed fairly similar views on most of the issues raised:

1. They believed the reason for sentencing is to deter, protect and/or punish. An additional reason for sentencing was "to get us off the streets"; as a grudge/prejudice. Such jail sentences are viewed as a method to clean up the streets by bringing people in "for any bogus charges". It was hypothesized that this reasoning would cause an increase in the jailed population during the period of Expo '86.
2. Punishment and the protection of society were the most common responses to what the inmates felt the reasons for sentencing <u>should</u> <u>be</u>. The idea of rehabilitation was thought to be "a joke"; prison offered no opportunities for improvement. It was stated that the only opportunity that Lakeside provided was to learn more about crime. The prison was viewed as a "university of crime". In order for programs to be developed it was expressed that the administration would have to change their attitudes toward rehabilitation.
3. Some suggestions volunteered by the women included more half-way houses, forestry camps (similar to what the men have), a women's penitentiary in B.C., a separate remand centre, more education programs, raise in wages, a methodone

program, and work programs or workshops where they can be trained as mechanics or electricians.

4. Disparity in sentencing occurs frequently and takes on many forms in their minds.
   a. The individual differences of judges and lawyers was a prominent source of disparite sentencing. Some have "old-fashioned" attitudes, others are prejudiced and one individual even commented "I've seen judges fall asleep". An example was given of a judge whose daughter overdosed on drugs and it was their consensus that this judge "shouldn't be allowed to handle heroin cases".
   b. Some crimes were perceived as being treated too harshly or too leniently by the courts. Offences related to drugs were usually cited as examples of crimes that fall prey to unduly stiff penalties whereas sentences for sex offenders fell on the opposite end of the severity continuum.
   c. Sentencing disparity by reason of city size was also identified. Sentencing in small towns (e.g., on Vancouver Island) was unanimously thought to be harsher.
   d. Rich people were seen as receiving lighter sentences because "money always talks".
   e. There were mixed opinions on the sentencing of women compared to men. A few felt it was harsher for women because women criminals are a minority, while others

considered it to be the same or more lenient. One group also indicated that publicity causes differences in sentencing.

5. When we inquired about their attitude regarding mandatory supervision the majority viewed it unfavourably. The restrictions were so all-encompassing that "they can bring you back on anything". Although most preferred to have just earned remission with no supervision, a couple of women indicated that mandatory supervision could be selectively applied to certain violent offenders. Half-way houses were deemed to be helpful, if needed, but should be voluntarily sought.
6. Parole seemed to evoke both good and bad reactions. A person could be returned on mere suspicion of violating any of the numerous restrictions and, in some cases, it could increase the length the sentence. Conditions associated with employment often made it difficult to see a parole supervisor. One individual referred to an inability on the part of parole supervisors to do anything for parolees.
7. The minimum and maximum penalties now embodied in the Criminal Code were seen as being too broad. Some thought minimum sentences for some crimes were appropriate (e.g., drunk driving, sex offences), but it was generally felt that judges should be allowed the discretion to take into consideration the individual circumstances of each case. Most

wanted the range of penalties narrowed or guidelines applied to judicial sentencing because it was felt that there was "too much power given to one individual". One group said that they wanted to know the penalties for the crime in advance. They proposed that different charges be laid to account for different circumstances and in this way sentences could be consistent for similar charges.

8. Attitudes toward plea-bargaining varied. Some thought they were "taken for a ride" while others were pleased with the process. A guilty plea could be entered for charges of which the accused is not aware. Sometimes these are not laid at once but are staggered over time. An example was given where a women who served her sentence at Lakeside was arrested, upon release, at the gatehouse on new charges.
   In regard to plea-bargaining issues, overcharging was cited to be a common practice. Some women talked about the uncertainty of not knowing whether they would have "gotten off" if they went to trial. It was mentioned that innocent women are the ones hurt by this process. The accused's participation in the negotiations is minimal and it was felt that she/he should be present when the lawyers discuss it so that they know exactly what kind of a deal is made.
   Plęa bargaining is beneficial for those that are wealthy and for those who are guilty. The former are sentenced right away with little "dead time" served. The expediancy of the process

and the perceived leniency in sentencing were the advantages that some of the women appreciated. However, even the women who favoured plea-bargaining expressed a need for guidelines to ensure that any negotiations would be carried through as agreed.

9. Lengthy imprisonment terms were not advocated, or as one woman said, "Long, long sentences won't do any good to an individual". Life sentences should be abolished. Mass murderers, who would be given such sentences, are insane and should be in Riverview (an institution for the mentally handicapped), not jail. It was proposed that if after five years of a prison term the person has improved, she/he should be given the opportunity to demonstrate this.
10. Other more personalized remarks were:
    a. bail supervisors, who know how the accused has performed while on bail, should have input into sentencing;
    b. whether the person felt remorse should not be ascertained by the judge who is not an expert in psychology nor is privy to the internal thoughts of the offender;
    c. police officers have too much to say when it comes to sentencing;
    d. twenty-four hours should pass before giving statements to the police in order to ensure that the person is composed and not emotionally distressed at the time;
    e. there should be lawyers, judges and other members of the

criminal justice system who know what it is like in prison; and

f. other offences for which a person is accused should not be brought up during the sentencing process.

Matsqui Institution

Matsqui is a federal prison located about 30 miles east of Vancouver in Abbotsford. We initially spoke to members of the Inmate Committee (on the recommendation of the institutional psychiatrist). At this time we explained the nature of the study to them and inquired as to the best way to approach other inmates. We had been given a list of all the prisoners and we randomly selected individuals by their Federal Penitentiary Service Numbers. Two inmates offered to ask the people identified by our random list. The list was returned at the lifer's meeting which we attended a few days later (see following section). However, the response was not what was anticipated. A number of people could not be located (were in protective custody, on parole, or in segregation) and many were not interested in participating. Therefore, we randomly selected some additional names and confirmation of those willing to take part was given to us on our next visit.

The following Monday we intended to interview the prisoners on our first random list and some volunteers who had indicated an interest. Problems with the need for advanced notices for passes arose and, as a result, our contact within the institution phoned around the institution in an effort to locate the inmates requested. Consequently, we only interviewed one group of six

inmates that afternoon. The time frame we had to work within was limited due to the availability of the boardroom and the times when inmate counts were taken.

The group size ranged from three to six prisoners with a total of 18 prisoners completing the questionnaire and 17 remaining for the interview.

Several issues were raised in regard to parole:

1. It was felt that the Parole Board has arbitrary control over people's lives. Many believed that the absolute power given to the Board had "corrupted" the members; instances were cited where we were told of their "power trips" and "manipulation". It was felt that the Board does not function logically or follows its own guidelines. Parole officers were accused of playing "power games" due to a lack of trust in the professional relationship. The prisoners saw themselves as not being treated as humans for "anyone empathetic with inmates is shunned off".
2. All groups suggested a change in the composition of the Parole Board. Some indicated that the Board should be composed of peers from the community (similar to a jury), a few thought the Board should be elected, and others pointed to a need for professionalism. Presently, it is felt that the members of the Board have no qualifications or experience for the position.
3. There should be explicit criteria for parole eligibility and

not left to the "whim" of the Board members. They are responsive to the public and media; vacillating to accommodate these groups produced inconsistency in decision-making. They base their decision on a prisoner's attitude which may not be the same when he/she is released. The first offender may have a better chance at making parole but it was perceived that many others are being denied parole because of their previous record. Similarly, those maintaining their innocence are unlikely to receive parole. If the classification of an inmate is changed then it is more difficult to obtain parole because the prisoner has not been in that particular institution long enough. Sole responsibility should not be given to the Parole Board to make decisions regarding a person's life in the form of granting and revoking parole.

4. The stigma attached to an individual on parole is counter-productive. The police were seen as reacting to stereotypes of convicts when parolees showed their identity cards to police. Many believed that the mere suspicion of doing anything illegal would be grounds enough for parole revocation.
5. Restrictions on parole should be limited. The perception was that the Board loads everything onto the parole restrictions that they can get away with. For example, there are restrictions on alcohol consumption even if the individual

does not have an alcohol problem. Normal freedoms taken away from the parolee make it difficult to reintegrate into society. One individual commented, "We can't function half in the system and half out". Parole is an extension of the prison with rules and regulations, or as another inmate put it, "We do every day of our time".

6. While most prisoners approved of parole, a few saw it as a failure in its present form and expressed a need to abolish it. These individuals felt that initially parole had been "much straighter" and no "games" were played, now it causes problems and anxiety, producing a "mental prison out there". As one inmate put it, "In order to get out they're [prisoners] going before the Parole Board and become compulsive liars". They have to "play the game and go with the flow" for the Board was not seen as wanting to hear the truth.
7. They wished to emphasize the fact that those in prison need help and support structures to reintegrate them into the community rather than making them bitter. If used properly, parole can be a really constructive tool that fosters trust rather than paranoia. In their opinion, there needs to be more than just the <u>appearance</u> of justice.

Mandatory supervision received many of the same critisms as parole but was viewed much more negatively.

1. One group mentioned that many people were not applying for

parole because of the games involved and as a result MS was introduced as a means to gain control over these prisoners. They expressed a wish to see it eliminated for the idea of remission is a "farce". They are told they are being given time off their sentence, but they must still be supervised. "You're out there on MS. You're not - you're in jail. It's an illusion...sometimes it is even worse than jail."

2. Their perception is that most of the people coming back to prison have not committed a crime but have been returned for what the Parole Board perceives as troublesome behaviour. It is believed that, since Canada has had mandatory supervision, recidivism has increased. Some stated that the present system is not working and our presence, as researchers, was an indication of the failure of current sentencing practice.
3. Prisoners do not have any input into the restrictions put on them. One of the restrictions frequently stipulated is not to associate with other criminals but in prison the only people one sees are inmates "so who are you suppose to associate with out there?". Reintegration is a difficult step for you "can't be expected to fit into society just like that".
4. Some believed that mandatory supervision is used by the police as blackmail in order to get even for what may be considered a light sentence.
5. While in prison, "good time" is lost on an inconsistent and selective basis. "Tickets" are anonymously slipped under the

doors in the evening with no opportunity for the inmate to defend himself.

Disparity in sentencing was another area that attracted extensive comment. The most salient issues are presented below.

1. The difference in terms of socio-economic status was exemplified by the "justice - just us" philosophy. The poor have "no justice or property to protect" but are the ones that receive the punishment.
2. Penalties for white collar crime such as embezzlement, or stock fraud, are less severe even though the actual amount stolen may exceed that of the typical lower class thefts. A remark furnished by a prisoner while he was filling out the questionnaire elucidates this point, "Bribery is only a crime for poor people. For rich people, they don't call it bribery, they call it business".
3. It was thought that family background should not be a consideration in sentencing. Presently, not only are the economically privileged favoured by the bail process, but they are not sent to prison for lengthy periods of time, if at all. (The Elgert case, in which a Vancouver man received two years for killing two French Canadians, was brought up as evidence of this).
4. The system discriminates against native Indians and other minorities who may lack the education necessary to understand the criminal proceedings and are, therefore, vulnerable. It

was mentioned that some alcohol related charges are selectively used against natives.

5. British Columbia was viewed as imposing more severe sentences than the Eastern provinces for it was stated that "only in B.C. would they sentence a blind man to three years for traffic violations". Within British Columbia itself, harsher penalties were more prevalent in less populated areas such as Vancouver Island. The city of Vancouver is home to a variety of crimes which have become quite commonplace, whereas "out in the sticks, it's a big thing".
6. There seems to be a wide discrepancy in sentences for similar crimes (the example of manslaughter and attempted murder was given).
7. Sex offences are dealt with too lightly by the courts. Long sentences for rape, or sexual assault, are rare due to the assumption that these offenders are "ill" and need treatment. To bring this point across it was stated that some child molesters are given community sentences while offenders charged with breaking and entering serve time in jail.
8. The media adds an arbitrary quality to sentencing in that publicity can either increase or decrease the sentence (e.g., victims' statements are often reported). It was expressed that public opinion has no place in justice.
9. Teenagers should be given non-custodial sentences because it is "stupid to put kids that age in jail".

Most prisoners interviewed believed that maximum and minimum sentences should be used to limit the judge's discretion. One option to alleviate the wide discretion and disparity is determinant sentencing. A need for some kind of criteria or guidelines was recognized. However, there was concern that Canada may experience the same problems that some states in the U.S. have encountered (e.g., California). Although everyone wished to curtail inconsistency in sentencing, a few prisoners felt that "each case should be judged on the merits of the individual case".

The prisoners were of the opinion that police overcharge as a matter of form rather than "charging you with what you're suppose to be charged with and that's it". If they cannot convict the accused on one offence then they have additional charges to fall back on. "What is done is that if you look at somebody's chart automatically you look like John Dillinger". In some cases the police charge people for the sole purpose of detaining them in custody since charges can be easily dropped at a later date. It is believed that this practice of "loading you up with charges to hold you" or "get you off the street" will increase with the advent of Expo.

The inmates felt that the effect the police have on sentencing is reflected by the power they wield. This power is revealed by the fact that the police never get charged for any crimes that others would "get cold-blooded murder". One offender,

elaborating on this issue, stated "police always want the death penalty, but for every cop that gets killed there are about 10 that are shot by police". Some offenders went to the extreme by stating that it was "almost a police state". They are under the impression that the police construct crime by building up cases and setting up people. Police officers decide who is brought into the CJS and it is this "inequity which brings the law into disrepute".

The idea of plea-bargaining received mixed reactions ranging from people who wished to see it eliminated to those who thought it greatly benefitted the accused. Some stated that no actual plea bargaining occurred. Instead, justice is destroyed by taking the "judge out of the equation" resulting in the judge "taking it out" on the offender. The inconsistency and bias toward the wealthy which plea negotiations produce were viewed as reasons for its annihilation.

In opposition to the distaste expressed by the aforementioned prisoners, others felt that the process worked well by reducing sentences and charges. As a corollary to this, a couple of older inmates cited examples where guns and hand-grenades were turned over to the police, in exchange for a lighter sentence, or even freedom.

Offenders believe that they are sentenced as a form of punishment and to protect the public (especially from violent

offenders). They felt this justification for sentencing should be clear and not camouflaged behind rehabilitation rhetoric. Furthermore, the notion of deterrence is perceived as an "absolute absurdity" and a "farce".

One individual questioned society's entire value system by suggesting that sentencing philosophy stems from the cultural encouragement to attain material wealth. "You can do anything to a person's family, but don't mess around with their money". In a simplified version of what criminologists have termed "Merton's theory" this prisoner explained that those who are underprivileged must steal the possession that society holds out as desirable.

Prison is seen as a warehouse with few programs or opportunities to be productive and contribute to society. Inmates "should leave with a mental feeling of self-worth". It was suggested that larger hobby shops be constructed that tap the abundant talents within the institutions and render a service to the community (e.g., the handicap program at Matsqui). Programmes where the prisoners own a share of the industry, such as a prisoner owned autobody shop, were favoured. They wanted education programs to be put into effect (e.g., Simon Fraser University Prison Education Program) and made readily available to the general prison population.

Problems they indicated with existing programs are listed below:

1. The success of programs such as Alcoholics Anonymous are dependent on voluntary participation; this is not the case in prison. "It is being a systems player. If they want you to do it, then you do it".
2. The violent offenders program does not address its goal since people who are too violent are not accepted.
3. In their opinion, the Regional Psychiatric Centre Program has never worked and, furthermore, is not facilitated by mixing "stool pigeons" with sexual offenders.

Other concerns that do not fit into our predetermined topics are cited below:

1. Judges should take time spent in jail awaiting trial into account when sentencing. If a person has been remanded in custody then found to be innocent, the government should provide compensation for such things as lost wages.
2. Judges and Parole Boards should be elected so that they can be held accountable for their practices and decisions.
3. The classification of offenders should take into account the types of facilities available near the offender's residence, thereby, facilitating family visits.
4. Previous records should not be a consideration in sentencing.
5. One individual pointed out that although a person from a wealthy family background may receive a lighter sentence, anything he does in prison is not seen as an accomplishment but as something that is expected of a person of that

stature. For example, completing Grade XII or taking university courses is a supposition correctional authorities hold for individuals from that background and is not viewed as an achievement.

6. Half-way houses should be made available on a voluntary basis. Those who have a family may benefit more and the adjustment process may be smoother if they are released to their homes rather than forced into half-way houses. Moveover, it is not possible to turn down a job at a half-way house even though some employers may cheat an offender out of wages.
7. "Any sentence over seven years is crazy" for "long sentences serve no purpose". In fact, it was noted that long-term sentences for drug offences are "killing" people. The psychological effect on those serving a life sentence is that they are "owned lock, stock and barrel". One suggestion was that parole replace this sentencing option, for people change during their incarceration period. In addition, this supervision should provide better integration of long-term inmates into the community.
8. The sentencing process does not end in the courts, but is also carried out in jail, by guards who exhibit their own method of justice.
9. Psychiatric tests may adversely affect a prisoner's sentence, or chances for parole, if misinterpreted by unknowledgable

individuals.

10. Currently, unemployment is high and a prisoner's chances of finding a job are quite slim. Some sort of financial support should be available to reduce the likelihood of the individual returning to a life of crime.
11. A weekend sentence should be used for people on the extreme ends of the age continuum, or for those working. It is "great if the situation warrants it".
12. Canada should look to Norway, Netherlands and other European countries for suggestions on improvements.

Matsqui Lifer's Organization

On July 26, 1985 we attended a meeting with 16 members of the Matsqui Lifer's Organization, a group of men who are serving lengthy terms of imprisonment in medium security. The meeting lasted over one and one half hours during which time we heard their opinions on various aspects of sentencing relevant to the mandate of the Canadian Sentencing Commission. We found the group to be polite and mature. Their perceptions of the sentencing process and the criminal justice system in general were often linked to the political structure as a whole. Although it is difficult to neatly categorize each of their concerns under the specific headings in which the Commission is interested, it is possible to generalize certain themes that are important to these men as a group. We agreed to attend the meeting on their invitation because we think this group has a special interest in sentencing reform. Some of their concerns include the following:

1. There is no remission for those serving life sentences. Many felt this to be unfair; any positive progress that these men make during the course of their incarceration is not officially recognized by the government. Some members of the group were openly frustrated by this selective exclusion from the remission clauses.

2. At least three of the lifers recalled times when they were-visited by police, while in prison, and were asked for information about their aquaintances or about ongoing investigations. The police threatened to make reports to the Parole Board if they were not cooperative. (The inmates speaking were those who were serving long sentences, but were still eligible for parole.) This was cited as unfair.
3. Most felt that there should be maximum sentences in law for Criminal Code offences. There was less agreement to minimum sentences because it was felt that the judge needed to take everything into consideration before making a sentencing decision. Mandatory minimum sentences would not allow the exercise of this discretion. The seven year minimum sentence for some narcotics offences was viewed to be unrealistic and "out of touch" with societal values today. The only crimes that were viewed to be serious enough to warrant mandatory minimum sentences were sexual offences.
4. Judges are often prey to public pressure to increase sentences for particular types of crime. The public is often informed about the nature and extent of crime from American television. One or two inmates thought that judges should be more impartial and objective rather than allowing the public to (erroneously) target specific groups, or crimes, as worthy of increased sanctions.
5. Some of the older prisoners, many who had served sentences in the B.C. Penitentiary, thought that there was an increasing

severity in the length of sentences being given out by judges. One commented that five years used to be considered a long time but now, that sentence length was considered relatively short.

6. One prisoner, with others concurring, felt that the appellate courts were not active and decisive enough when it came to setting trends and precedents in sentencing. Appealing a lengthy sentence was described as "futile" because the appellate court seldom reverses lower court decisions or reduces prison sentences.
7. It was mentioned that judges are restricted in their sentencing options and that greater advantage should be taken of non-custodial alternatives.
8. Some sentences were identified as totally unreasonable: the 15 and 25 year minimum sentences for second and first degree murder denied the potential of human change and development. Men began to deteriorate after having reached a "saturation point" in confinement.
9. The punishment for the crime committed was, specifically in regard to lengthy imprisonment, not delivered until the offender was released. The handicap that imprisonment created was at no time more obvious than when an offender was released. As one inmate stated, "the effect of time doesn't come until you release them because it's [prison] home for them - that's when the punishment starts".

10. The minimum time that had to be served before an inmate was eligible for an unescorted temporary absence was thought to be unreasonable. This arbitrary minimum sentence for unescorted temporary absence eligibility was not based on an assessment of the offender's perceived dangerousness, or lack of it, but on legislated criteria.
11. The inability to maintain and develop outside contacts was cited by several inmates as an impediment to personal development.
12. There were strong sentiments reflected by virtually everyone in the group concerning the National Parole Board. They felt that the Board was too conservative, too politically dependant and improperly trained for their role. It was felt that one Board member could not be objective in her decisions because her son was shot in a hold-up at a large department store several years ago (the validity of this perception is not known; however, it seemed to be a salient factor in their perceptions of how the Board operates).
13. The secrecy of the parole decision-making process was a source of concern for some of the inmates. Many felt that they were not privy to the information that the Board used in making decisions.
14. Recent litigation launched by prisoners to make the parole decision-making process more accountable and fair was not viewed to be particularly effective. One inmate commented

that the Board "just rewrites the rules" whenever a federal court decision required further "due process" be incorporated into Board decision-making.

15. Many felt that the Board should operate like a public trial, with open hearings into applications for early release. The Board, under this plan, would be required to furnish all details informing their decision-making.
16. It was also suggested that the Board be subject to a "reverse onus" clause to prove that an inmate was ineligible for conditional release because of dangerousness or likelihood to recidivate.
17. Many inmates (and parolees) are under the impression that the Board considers drug offences to be a "violent" crime whereas the Supreme Court has referred to drug offences as "victimless crimes". The disparity in perceptions indicates to them that the Board is rejecting parole applications on the basis of an archaic and inaccurate stereotype.

We asked them if there were any types of offences that they felt were subject to greater disparity in sentencing than others. We also queried the perceived rationale for this disparity and if they had any suggestions for improvement. They made the following comments:

1. Drug offenders received the most widely variant sentences. This was frequently shaped by the geographical location of the offence.

2. The status of the victim shaped the outcome of the sentencing decision.
3. The mood of the public and the amount of media coverage often put pressure on the court to inflate a sentence.
4. The socio-economic status of the offender was perceived to be crucial in the court's decision to impose short or long terms of incarceration. One inmate produced newspaper clippings of people who had committed very serious crimes: one a double murder of two French Canadian vagrants who allegedly sold drugs to the daughter of the murderer. He received a two year sentence. The other involved a businessman who murdered his partner because the partner had stolen his life savings; he received a one-year term. These were cited as examples of disparate sentencing; that the intrinsic nature of killing had less to do with the disposition of the court than public attitudes towards undesirable types.
5. The issue was raised that the government may be creating its own nightmare of correctional management by continuing to sentence men and women to 15 and 25 year prison terms. Some men feel they have "nothing to lose" in escape plans and hostage-taking incidents; the triple murder and double suicide at Archambault was cited as evidence of this perception.
6. Judges were seen to take the possibility of parole and mandatory supervision into account when they determined

length of prison sentences, however some did not consider that an offender may not be eligible for conditional releases (e.g., mandatory supervision is not applicable to murderers).

7. Many believed that a sentence which included restitution to society or the victim was a sound alternative to strictly punitive-oriented sentences.
8. A point was raised that police officers were often afforded special treatment by law, whether they were the victims of crime or involved in homicides in the course of their duty.
9. Some viewed the correctional enterprise as a bureaucracy that provided employment and careers for thousands of Canadians, that the government had a "vested interest" in building prisons.
10. Several inmates thought that Canadian decision-makers should look to Sweden and Norway for examples of sentencing reform, rather than depend upon the American experience for future policy.

We asked the group what kept them, in light of their long terms, from actively rebelling or trying to escape. We were told that they were generally perceived to be "good risks" and had been transferred from other prisons to help stabilize the Matsqui prison environment. There seemed to be some agreement that certain prison programs, such as visiting privileges in modular housing units on the prison complex, were extremely valuable and transfer to a higher level of security would jeoprodize this

benefit. Others openly admitted that it was the presence of armed guards that made rebellion or escape not an alternative.

We should include some other comments that we thought were important for the Commission to note:

1. While there was some general agreement that life sentences were a rational response to some types of offenders, rather than some types of offences, most prisoners expressed frustration and anger at what they perceived to be "political trade-offs" at their expense. Instituting the 15 and 25 year sentences in exchange for the abolition of the death penalty was a retrogressive step. In fact, many expressed an opinion to see the death penalty reinstated.
2. Incarceration has a saturation point. There is a point in time (some said five years, some said 10) where further incarceration serves no useful purpose for society, the victim, or the offender. Any further imprisonment is debilitating and counter-productive to whatever was believed to be accomplished in confinement.
3. The legitimacy of the whole government is called into question when it allows men serving long sentences to deteriorate in prison. Many perceived themselves (especially those convicted of major drug offences) to symbolize society's aversion to particular behaviours. Some cited examples of similar behaviour made by the government, or its agents, that were tantamount to the crimes of which they were

convicted.

We realize that the group we spoke with was unrepresentative of offenders in general. However, we have included their perceptions because they are, we believe, a genuine set of opinions and concerns by a group of men who have received the most severe sentence available to the court.

Kent Institution

The selection process at Kent, a maximum security federal prison located in Agassiz, was undertaken by our contact person in the institution. Initially, it was arranged for us to interview 25 randomly selected (based on Federal Peniteniary Service Numbers) inmates on August 2 and 6, but only 16 prisoners from the general population and five from the protective custody unit turned up at the scheduled times. In total, 20 questionnaires were completed and the same number participated in the discussions following.

Protective Custody Unit

When we arrived at Kent, the men in the protective custody unit were "locked down" due to a stabbing incident in the general population which occurred the day before. These circumstances may have affected the type of information we received, although the situation was only brought up in relation to problems specific to the protective custody unit.

One person from the group interviewed later expressed his views in a lengthy letter. His opinions did not differ in any substantial way from those offered by the remaining prisoners. In fact, he writes:

> During the session, I found most the the comments offered, to be similar to those expsressed through the years by people in prisons, and I think you will come to see the attention towards paroles and espeacially mandatory supervision frequently exspressed to you. This was a main reason I sat back and earred the comments, because I, had no different views than that of the other men [sic]. . . .

The most prominent issues raised by these prisoners are as follows:

1. Harsher sentences are perceived to be given to repeat offenders for two reasons:
   a. the court tends to judge the offender's prior record rather than the current incident; and
   b. the offender might appear before the same judge on more than one occasion.

   A related aspect to this is the notoriety gained through contact with the CJS. "When you get out the battle is just beginning. The RCMP will find me guilty of anything. It doesn't matter if I stay clean."
2. Economically impoverished people who rely on legal aid representation, or who do not come from a good family background, are viewed as receiving longer sentences. In support of this perspective one inmate wrote:

   > . . .alot of the cases in B.C. are funded by a legal aid society lawyers who, are sometimes ill motivated towards any particular case and poorly represent their clients and, then do not support a appeal afterwards or push for funding by the appeals committee. I have seen so many cases suffer because of the above factors, and men, who are forced into doing their own appeals, only to see it become a futile effort [sic].

3. Native Indians are discriminated against by the courts. An example was cited of a Saskatchewan case where a white offender received seven years for manslaughter and his native accomplice was handed a 25 year life sentence for murder. This ruling was later changed on appeal to second degree murder and 10 years imprisonment. The prisoner indicated that this change was an effort to bridge the disparity.
4. The opinion was expressed that white collar crimes such as embezzlement are treated quite leniently. After a brief discussion it was decided that this is sensible, since no violence or harm is involved.
5. The indefinite sentence imposed on a 'dangerous offender' cannot be justified. "No matter what the crime you should have a sentence" otherwise the situation gives the person nothing to live for.
6. They indicated that there should be restrictions on judges in the form of maximum sentences. In addition, a person's past history and juvenile record should not be introduced in court.
7. The prisoners recommended that mandatory supervision be replaced with earned remission. Mandatory supervision was regarded as a "revolving door" where only suspicion of a crime is needed to return a person to prison. If offenders receive another charge while on mandatory supervision then "you get that plus mandatory supervision time". The power

held by the authority in this area was seen as being greater than that of the courts.

8. They expressed the opinion that parole is "bogus" and granted in an inconsistent fashion. The Parole Board members are influenced by what the police and judge have said about the offender rather than emphasizing the progress an offender has made in jail. Their decision is too subjective for they "don't know how you feel or will act".
9. One of the stipulations often included in mandatory supervision and parole is that the offender cannot associate with known criminals. But "how do you know if a guy is a criminal". Moreover, they felt that they should be given the opportunity to make their own decisions regarding such personal matters. They indicated a need for more assistance upon release with regard to employment and finances. "You don't know other alternatives, so you go back to what you know" - which is crime.
10. Plea-bargaining is seen as "unfair" and unreliable. One prisoner said that an offender could plead guilty for one year but receive three years instead. If they appealed their sentence, they indicated that 95% of the time the penalty is increased. Lawyers "trade you off" meaning that concessions are made on one client to the benefit of another (usually wealthier) client. There is a strong preference for guidelines because lawyers "should have to live up to their

word" and ensure that judges accept the deal.

11. Most young offenders have a problem, but after a certain age (around 16) the system no longer attempts to help them.
12. Prisoners should be able to deal with their problems in confidence and off the record. Presently, at the Regional Psychiatric Centre any discussions held with the psychiatrist may be brought up in court and have an effect on the sentence. Furthermore, the decision regarding the time of release from programs should be left to the offender, for some people require more assistance than others. It is natural for an offender to be angry and violent when he first enters the system and the psychiatrist should be cognizant of this.
13. Drug or alcohol programs in the institutions "are a joke because you're not facing that in jail". These programs are valuable only to offenders that are in the community with easy access to such items.
14. They felt that a long sentence makes a person "more bitter and worse than when he came in". Prison cuts offenders off from the world and their families. They "expect you to get out and not feel bitterness because they've taken everything".
15. The offenders recommended that separate units or jails house people who commit similar crimes to reduce the dissemination of crime techniques. To minimize violence it was also

suggested that the length of sentence be similar.

16. In relation to protective custody itself, a few problems were expressed:
    a. there are no programs;
    b. they do not get the same benefits as the general population but receive the same punishments; and
    c. facilities should be available as close to the offender's home as possible. That is, every province should have a facility for protective custody offenders.

General Population

On the topic of parole and mandatory supervision the following points were made:

1. The power the Parole Board has is illustrated by the comment, "It doesn't matter what the judge gives you, the Parole Board makes the length". Recommendations made by judges "don't hold any water" in the institutions. The Parole Board and the institution make all the decisions for the "Parole Act and the Penitentiary Act supercede the Criminal Code".
2. In the decision regarding early release it was felt that too much weight is given to inmate attitudes toward parole officers or staff. "Attitudes aren't conducive to rehabilitation, but what's an attitude". A prisoner's behaviour within the prison is not indicative of his

performance on the outside. Similarly, less weight should be placed upon reports written by living-unit officers unless the offences committed while in jail are covered in the Criminal Code.

3. Discrimination exists in the parole process since native Indians, Chinese, Blacks and sometimes non-Christians are not granted parole on the same basis. To compensate for this, it was suggested that the Parole Board include minority members.
4. The restriction placed on prisoners who are on parole, or mandatory supervision, are too stringent. They may be returned to prison on the statement of a police officer - no evidence is required, just suspicion. If parole is revoked, an offender's "good time" is taken away and he is automatically sent to maximum security even if he is acquitted on the charge. This person must then begin the long process (four to six months) of reapplying for parole.
5. Discontent was expressed at the lack of consistency which occurs when different members are on the Parole Board at different stages in the decision process. In addition, the Board members should have practical experience in relation to what is occurring in prisons and the possibilities which exist.
6. It was felt that parole is "something that has to exist", especially for those serving long sentences, but mandatory supervision should be abolished. In its place they wanted

earned remission. It was stated that mandatory supervision was a concept borrowed from California, which has since been abolished in that state.

The discussion presented below focuses on the issue of guidelines:

1. One group felt that restrictions on sentencing options should be placed on minor crimes only. The second group indicated that the only minimum sentence should be on sex offenders, otherwise all current minimums should be abolished including the 25 year life sentence for first degree murder. Maximums were useful, however, in curbing inequality. They believed that judicial discretion is still necessary to accommodate varying circumstances.
2. "Life sentences shouldn't even exist" because there is "no light at the end of the tunnel". They firmly believed there should be no minimum 25 year sentences. "Heavy sentences don't make you stop, just more aggravated". Long term prisoners lack the life skills and communication skills necessary to function when released. As one lifer stated, "I'm not going to know nothing for job trades". Instead of being on parole for life, it was proposed that those that have done well on parole be discharged. Another suggestion was that early parole be mandatory for lifers to see if they can function in society. Release after 15 years is still perceived as better than 25 years because the offender at least has time to do something with his life.

3. The comment was made that people generally start to deteriorate after the first three years of imprisonment. "I'm now a threat to society, but they have to let me out". People may be prepared to go out after a few years, but over long periods of time they lose their ability to function normally.

As for the purposes and principles of sentencing they felt that the idea of rehabilitation was politically important, but that it did not exist within the prison milieu. The institution provides few opportunities for offenders to learn new work skills that can be transferred to the community. It was suggested that the institution provide accredited government apprentiship programs or certificate courses which verify the knowledge and experience gained. In addition to this, they wanted more school programs that had a practical orientation rather than courses in humanities.

Various factors were suggested that affect the length of the sentences given.

1. Individual differences in judges result in different sentences for similar crimes.
2. More lenient sentences are given to people from an influencial or wealthy family background. As well, poorer people are dependent on "legal aid, so there's only a one percent chance of getting a deal", review, or appeal. These lawyers will not exert as much effort as they would if the

offender were paying them. Also, lenient sentences that are the result of plea negotiations produce disparity.

3. Native Indians and other ethnic groups receive harsher sentences and experience greater difficulty because of cultural differences and the complexity of Canadian legal proceedings.

Other items mentioned include:

1. Prison reports are condensed and frequently do not include the circumstances of the offence which may contain mitigating factors. Prisoners also expressed a need for more indepth explanations about the reasoning behind certain decisions.
2. The classification system needs to be improved. Some individuals are never 'cascaded' before release and others are placed in inappropriate security levels due to overcrowding. This may result in a negative impact on the individual for parole is usually denied if the person is in maximum security. Examples were cited of youths between 15-17 years of age who were held in a maximum security facility.
3. In some instances the accused is forced to prove his innocence which is contrary to the belief of 'innocent until proven guilty'. Examples of such occurrences are, possession for the purpose of trafficking and the provisions under the Dangerous Offenders Act.
4. First offenders should not be put in prison.
5. There should be compensation for time spent in remand

especially if the accused is found innocent.

6. Prison psychiatrists are viewed as paid informants. Since their reports are influential in parole decisions, as well as other future plans the offender may have, it was felt that a person should be able to choose psychiatrists from the street. Their assessments should be more extensive to ensure a greater level of confidence in their decisions.
7. Police overcharge because they "want to keep you in jail as long as they can". If an offender manages to beat most of the charges a heavier sentence is given to compensate for this.

Robson Street Community Correctional Centre

The Robson Street Community Correctional Centre is a residence for day parolees serving federal sentences. We spoke with six residents on July 25, 1985 for about 90 minutes during which time they also filled out a questionnaire. This number represented about one third of the count in the Centre at that particular time.

Many of the issues raised by this group concerned mandatory supervision and parole. Some of the comments include:

1. Mandatory supervision is not fair in the sense that prisoners are offered a reduction in their original sentence for good institutional behaviour but that "reduction" includes all the behavioural restrictions inherent with full parole.
2. Reporting conditions were a source of stress for many parolees because they felt they were stigmatized by the label and treated differently by police due to that label.
3. The conditions of parole and mandatory supervision were too ambiguous, the parole supervisor could interpret and apply the rules in any fashion he/she so desired. The reasons for revocation were not always that clear. In fact, one parolee stated that being on parole "was like going before a judge all over again".
4. All of the group we spoke with agreed in principle to the

idea of a conditional release before the expiration of the sentence, but did not like the arbitrary nature of parole revocation decisions.

5. Mandatory supervision was identified as only useful for certain types of offenders and should not be applied to every federal prisoner. This program was not beneficial for those inmates who were not likely to be dangerous once released. Many felt that mandatory supervision should be used sparingly and not as a blanket policy for all inmates.
6. The rapport that a parolee has with his parole supervisor was cited as the most crucial determinant of success or failure on mandatory supervision or parole.
7. Post-sentence programs should include treatment for sexual and violent offenders (it was not asked if this should be mandatory).
8. Prison transfers often reduce a person's eligibility for parole because he has no outside support networks to secure stable employment or otherwise meet the Parole Board's criteria for early release.
9. Parole decisions were only made in instances where "they looked good on paper", where the prisoner was about to be released anyway. The Board was unwilling to put itself in a position where they might be seen as taking a risk.
10. Federal prisoners are becoming disillusioned with the Parole Board and many are not applying for a conditional release because they think it is only an exercise in futility.

11. Support staff, such as classification officers, were in too short supply to handle all the paperwork involved with applying for conditional releases; long delays were to be expected.

We asked the group what they thought was the rationale for sentencing, whether the sentence included time in prison or community based sentences. Some of their responses are listed below:

1. The sentencing purpose is predominantly punishment.
2. Rehabilitation is an individual decision on the part of the offender and correctional authorities are "wasting their time" trying to get people involved in rehabilitation programs.
3. Judges seem to erroneously assume that rehabilitation is a given fact of incarceration and that certain programs are available to offenders. The group we spoke with thought the judiciary was naive about the true conditions of imprisonment.
4. The longer the sentence, the greater the deterioration of the prisoner. One parolee stated, "The only thing you learn in prison is how to be patient".
5. There was unanimous agreement that opportunities and programs to enhance job skills or educational advancement should be a continuing adjunct to imprisonment.

We asked about the perception of unequal sentencing practices, why they thought that disparity existed and what they thought might alleviate those conditions. Comments were:

1. All the parolees (some of them had been in prison for over ten years) felt there was sometimes a wide discrepancy in sentencing practices for offenders with similar backgrounds and similar offences.
2. The group we spoke with was divided on what they thought was the best approach to curb sentence disparity. One suggested a tariff table that would apply to everybody for specific offences. Others rejected this idea, stating that the individual discretion that judges have is an integral part of the criminal justice system; abuses of this discretion were few but created widespread feelings of unfairness among prisoners.
3. A suggestion was made that only maximum penalties should be instituted in law, providing a ceiling for judicial power.
4. Some parolees said that they were informed before they were formally sentenced what the disposition of the court would be in their case. This seemed to leave them with the impression that sentencing was more a function of pre-trial bargaining than an impartial decision by the court. Usually their lawyers told them what to expect, based more on the geographical location of the court and personality of the sentencing judge rather than the intrinsic nature of the offence.

5. If there was to be a tariff table for offences, one parolee suggested that this table be revised every two or three years by the legislature to respond to changing community perceptions of the seriousness of offences.
6. Unfairness in the sentencing process seemed, according to some, to be linked to a person's socio-economic status, although not everyone agreed. Examples such as the light sentences given to millionaire J. Bob Carter for his sexual involvement with two underage females were cited.
7. Political or other powerful ties in the community seemed to be a mitigating factor in sentencing.
8. A person's demeanor and presentation of self in front of the sentencing judge was also cited as an important determinant of sentence length. This was felt to be unfair because some offenders had come from deprived backgrounds and were not as able to "talk their way out" of a stiff sentence.

When asked if there were specific crimes for which there seemed to be a greater deal of disparity in sentencing, sexual offences and narcotics offences were immediately identified. However, some parolees felt that middle class offenders with "respectable" backgrounds might be given harsher sentences for the above mentioned crimes because they had either violated a position of trust or had risen to their socio-economic position through the proceeds of criminal activity.

Suggestions for change included a mandatory retirement age for judges at 50 years (some felt that the nature of the judicial task was such that one could not help but become jaded over the years).

At least two members of the group we interviewed thought that the judiciary should be made up of two to three judges to "balance" personalities and hopefully reduce disparity due to this type of bias.

Howard House

Howard House is a "half-way house" for offenders released on parole or, occasionally, mandatory supervision. We initially made arrangements with the parolees at Howard House to survey their opinions in regard to sentencing one week prior to administering the questionnaire. We were given verbal assurances by the group that they were collectively interested in the goals of the study. Furthermore, they invited us to join them for supper just prior to filling out the questionnaire which we hoped would be an opportunity to "break the ice" and develop some rapport with the parolees.

When we actually attended Howard House to begin the study, we found that there was less enthusiasm for participation than had originally been indicated. Of the eight residents who were there, only four filled out questionnaires and only two remained through the duration of the study. There were several distractions and some parolees had to occasionally leave. Our "group" interview actually consisted of the impressions, opinions and values of one outspoken parolee. He seemed to articulate many values to which the others concurred. However, when we later looked at the questionnaire responses made by the group as a whole, there were several very conservative reactions to sentencing policy that were not made verbally. As in our

experience with the prisoners at the Lower Mainland Regional Correctional Centre (both the Main Jail and Westgate B), it seemed reasonable to us that we may have been able to enhance the quality of the information we were attempting to gather, free from the biases and peer pressure generated by group discussions, if we had employed a methodology sensitive to these influences. Individual interviews would probably have increased our rate of response.

For these reasons it seems futile to record the opinions of one parolee and try to generalize his perceptions to that of the group. We believe that his opinions were not necessarily those of the others, and this was confirmed by the type of answers we received on the more private mode of questionnaire response.

North Shore St. Leonard's Society

The North Shore St. Leonard's Society is a federally funded non-profit society for offenders released on day parole or mandatory supervision. The home has a maximum capacity of seven placements; we interviewed three of these men for the Canadian Sentencing Commission. Some of the more salient concerns they expressed are listed below:

1. Mandatory supervision was not necessary for all offenders. The need for the post-release program should be assessed individually and not be a universal condition for offenders.
2. This group was unanimous in their belief that mandatory supervision did not deter offenders from committing further offences.
3. Remission is something that should be earned and not have the constraints inherent with supervision. They felt that the old system of earned and statutory remission was more fair than the present system.
4. Despite the limitations on freedom with parole, the program was assessed as being more favourable than imprisonment.
5. Some expressed the opinion that parole was only another bureaucracy to supplement the police function, and, as such, was unnecessary. The police "know more than the parole officer, so why do we need them?" was one reaction.

We asked this group how they felt about disparity in sentencing.

1. Sexual offenders were identified as one group that received lighter sentences than the gravity of their crime required. A few examples were offered (cited from the media) where sex offenders received intermittent sentences or probation.
2. Sentencing in western Canada was viewed as more severe for certain crimes such as drug offences. In eastern Canada, sentences for armed robbery were seen as receiving harsher penalties.
3. Socio-economic disparity was summed up in the phrase, "money talks". Rich people were seen as more often getting probation or community service hours if convicted of a crime. Other examples were noted where affluent offenders had not been spared a severe sentence.
4. If a magistrate or judge recognized an offender from a previous court hearing, they believed that the offender's chance of receiving a fair sentence was diminished.
5. Prosecutors had greater power to "judge shop" than did the counsel for the defendant. Only the most affluent offenders could afford a lawyer who is able take the court's time to select a particular judge thought to be sympathetic to the offender's charge(s).

On the subject of the purposes and principles of sentencing, we recorded the following responses:

1. The overwhelming view was that sentencing was for punishment. Several opinions were voiced that advocated the use of imprisonment for public protection.
2. Opportunities for self-improvement within the prison system were few and far between. Furthermore, people that might benefit from rehabilitative programs (younger offenders) were frequently too rebellious to take advantage of what was offered. Some of the attitudes that prison staff had towards rehabilitative programs were cited as being a liability to their realization. Those prisoners with special skills were not allowed to reach their maximum potential, especially if those skills earned them some monetary reimbursement.

We concluded by asking them what changes they would like to see to the present system of sentencing. Their comments include:

1. Separate facilities were advocated for younger offenders. The perception of prisons as "universities for crime" is not entirely inaccurate.
2. A review of lengthy sentences after a specified period of time. Life sentences deny the potential for human change and development and only increase bitterness toward the system.
3. Prisoners should be allowed more liberal access to their families. Conjugal time is one of the few "carrots" left in the prison system and this should be expanded.

Balaclava House

Balaclava House is operated by the Elizabeth Fry Society and situated in Kitsilano, an attractive housing area in Vancouver. The maximum population of this resource is 12 women; we spoke with five of them on August 6, 1985. (There were four women in the group and one transsexual.)

After the women had completed the questionnaire, we directed the discussion around certain issues related to their concerns with sentencing. The following issues were raised:

1. There were limited federal facilities for women to serve their sentences in the Pacific Region. Transferring a woman to Kingston often severed her ties with the community and family. Limited space was available in the Lakeside Correctional Centre and this was usually reserved for those who were considered to be good security risks. They were of the opinion that a federal facility for women should be built in British Columbia.
2. The rationale in sentencing which claimed to "protect the public" could only be justified in cases of violent offences or where there was serious harm done to the victim.
3. General deterrence was viewed as a plausible rationale for incarceration. The group was unanimous in their claim that incarceration often protected the female offender; that some

women were far worse off on the street. Many women whom they had seen in prison "did not belong there", but a lack of alternative facilities forced their confinement. Some women were so "institutionalized" that they wanted to return to prison. (Two women said, in effect, "Yeah, that thought has been on my mind a lot these last few days...")

4. If the courts and the government were sincere in wanting to protect the public, they would be doing more to curb violent pornography and protect children from exploitation. Two women cited some activities of corporations that were dangerous to public health; "protecting the public" seemed to be a more appropriate rationale for legal intervention in such examples.
5. Paying restitution to the victim was viewed to be a logical reason for imposing a sentence on an offender. This was difficult to do if one was in prison. In the case of serious crimes, the victim may not be compensated by the sentence of the court, but the family of the victim may receive some compensation in knowing that the offender is being punished.
6. There was a general consensus in the group that the punishment for a behaviour must be made more fitting to the crime. Imprisonment was simply "warehousing" the offender for a certain length of time after which they would return to society in worse shape than they had been originally.
7. If a person received an unusually short sentence, he or she

might have problems in prison because rumours would spread that they had "ratted" on their co-accused or made a deal with the police.

8. Sentences for sexual offences were deemed to be excessively lenient; crimes which they felt were less serious, such as narcotic convictions, received unduly harsh sentences.
9. Geographical location was cited as one of the main determinants of sentence severity. Many felt that this was unfair and that all laws should be applied equally wherever the crime occurs.
10. All of the women agreed that sex was a mitigating factor in sentencing with men getting heavier sentences for the same crimes. If a woman's co-accused were men, especially older men, women usually received a lighter sentence even though their involvement may have been equal.
11. Sexual offences carry with them the defence that the offender is "sick" or "maladjusted" which mitigates the severity of the sentence. Several women thought that this was unfair because the same defence was not extended to other crimes.
12. Appeal times take too long. Some have gone on for two years, greatly increasing the anxiety of the offender.
13. Parole and mandatory supervision are the only "carrots" available in the institution for good behaviour. These conditional releases were viewed as "keeping the lid on" prisons and necessary to keep things relatively peaceful.

Maximum sentences which did not provide for parole or mandatory supervision were creating tensions in federal prisons.

14. Plea-bargaining was perceived as being good "if you're caught cold turkey" in the commission of an offence. Who represented the accused also affected sentencing outcome. If a person has the money to afford a good lawyer, they could expect to be found not guilty of the charge or receive a light sentence. As one woman stated, "You've got to find a lawyer who has a good working relationship with the Prosecutor".
Plea-bargaining was also cited as a way of helping to reduce the backlog of cases going to court.

John Howard Society - Sexual Offender Program

We decided to interview sex offenders for the Canadian Sentencing Commission for the following reasons:

1. It became apparent to us from interviewing other offender groups that sex offenders received the brunt of social condemnation and ill treatment from inmates. Inmates generally perceived them to be the worst of all offenders and that sentencing practices were not severe enough for the gravity of their crime(s).
2. A great deal of media attention is directed towards this particular sub-group. Concern is expressed that sex crimes are particularly heinous, on the increase, and that sentencing practices fail to rehabilitate or deter people from committing these crimes. The Parole Board and the program of mandatory supervision are frequently slammed as being too lenient, ineffective and unresponsive to concerned interest groups.
3. We were curious as to how these men perceived the sentencing process.

Although it may have been possible to interview sex offenders in institutional confines, we decided to approach them in a unique setting.

In the Pacific Region, all sex offenders released on mandatory supervision must attend counselling sessions as a condition of their freedom. The John Howard Society is used as a forum for their discussions three evenings a week. The Monday night group are those offenders whose victims were under the age of 16. The Tuesday night group is for offenders whose victims are over 16. The Wednesday night group consists of offenders who have recently been released and have not been assigned to either of the other two groups.

We were allowed to attend these meetings for the last few minutes of their regular session, whereupon, we introduced ourselves as researchers for the Commission, described the objectives of the study and asked if anyone was interested in filling out a questionnaire and participating in a discussion around sentencing issues. Ten offenders from these groups filled out the questionnaire and 13 participated in the open discussion.

The comments listed below reflect some of the concerns these men had about sentencing practice:

1. One of the first points raised was why the Parole Board had the power to require offenders to participate in a compulsory treatment program while judges did not have the same power, or if they did, seldom exercised it. Many complained that compulsory participation in group counselling was a feature particular only to the Lower Mainland of British Columbia.

2. Some felt that the idea of compulsory treatment only for sex offenders was curiously discriminatory. Their rationale for this was that the same motivating force that compelled armed robbers to kill someone during a holdup (greed or selfishness) was, simply speaking, the same motivation that led them to assault their victims sexually. Why were they selected out to be involved in treatment if all offenders were inherently deviant (selfishness)?
3. Many offenders involved in these groups, especially the ones who left us with a few parting comments before they withdrew from participating in the survey, were openly hostile about compulsory treatment. In fact, one stated that if he had to participate weekly in these groups for the balance of his sentence (five years), he would sooner go back to prison. We heard several comments to the effect that group counselling was "all bullshit" to create jobs for professionals such as psychiatrists, psychologists and criminologists.
4. There was a consensus among virtually everybody from these groups that the purpose of sentencing was to punish the offender and protect society. There was less agreement for the principle of general deterrence, some felt there was no way to prevent sexual deviance through punishing others. Conversely, some offenders said the threat of imprisonment was the only thing that kept "normal men" from committing sex crimes.

5. When we directed the discussion to the topic of sentencing-disparity, most men in the groups we spoke to believed that there was a vast range of sentences given to sexual offenders. If a sexual offence was committed by a person with wealth or political contacts, or a person deemed to be a "pillar of the community" prior to their arrest, they were given lighter sentences. As one person commented, "I got 10 years, the other guy got 30 days and yet another a suspended sentence - all for the same crime".
6. The primary source of sentencing inequality, according to the majority of the members in these groups, was due to individual characteristics, biases and values held by the sentencing judge. Many felt that some judges were overly harsh when sentencing sex offenders. Some participants also felt that judges should be subject to mandatory retirement at age 50 and should receive specialized training for their role. The general awareness was that sentencing practice is a subjective practice left to the judge based on his/her values concerning sexual behaviour.

   Sentence severity was augmented by the media coverage given to sex offenders, their victims and recent unsolved sex crimes in the Lower Mainland. One offender stated that "Clifford Olson put sex offenders behind bars for at least another two years."
7. We asked the members of the three separate groups what they thought could be done to curtail sentencing disparity. Most

felt that mandatory minimum sentences or tariff sentencing would alleviate the cases where offenders from higher socio-economic backgrounds received relatively light dispositions. Others firmly held that individual judicial discretion was an essential element in sentencing fairness.

8. Members of at least one group of sexual offenders we spoke with were concerned that there were no voluntary post-sentence programs for sexual offenders. One man said, "Yeah, I don't like coming here every week but where else am I going to go to talk to someone? Nobody out there is going to talk to a sex offender".

   There was diverse evaluation of the treatment program offered at the Regional Psychiatric Centre for violent/sexual offenders. For some, it was a waste of time, others said it helped them to deal with their sexual problems.

9. Few members of any of the groups we spoke to had anything positive to say about the Parole Board. One man looked around the room and noted that everyone there, with one exception, was on mandatory supervision. Most sex offenders believed that their chances for early release through parole was improbable, given the gender of all of the Board members in the Pacific Region and their (perceived) attitudes towards sex crimes.

   Mandatory supervision was regarded negatively by most of the sex offenders we encountered. Most felt that earned remission

should not be subject to community supervision and that what few incentives remained for prisoners to "be a squarejohn" were gradually being eroded away. Many were of the opinion that with an increasing population of offenders serving 15 and 25 years before parole eligibility, there needed to be some internal "carrots" offered to inmates to maintain stability.

10. One inmate described how he found himself in a "Catch-22" situation where the Parole Board was refusing his application for early release because he had not received treatment. His only way of receiving treatment was to attend a violent offender program at the Regional Psychiatric Centre in Matsqui. Unfortunately for him, the program had only limited numbers of vacancies and he had been unable to join this therapeutic group before his first hearing before the Board. His only option at that point was to apply for temporary unescorted passes so he could undergo treatment privately and at his expense. Some offenders also saw their applications for early release denied because they refused to attend the Regional Psychiatric Centre's violent offenders program. There were other concerns expressed about the Parole Board as well. Most of the individuals we spoke to felt that the Board based their decisions to refuse early release on the basis of their own prejudices and values, rather than the offender's progress and living-unit personnel assessments of their risk

to society. They felt the Board was less than impartial and selective in the information they chose to consider in an application. There was concern expressed that many sincere and motivated inmates were denied parole because they were convicted of sex crimes while a "revolving door syndrome" characterized the careers of several manipulative property offenders.

11. Our attention was drawn to what many offenders considered to be a fault of the judiciary in understanding the prospects for early release in the case of sex offenders. They thought that judges gave heavy sentences to sex offenders on the assumption that these people would be eligible for parole after serving two-thirds of their sentence. In their opinion, judges should be aware that even good institutional behaviour and participation in therapy did not assure a sex offender's possibility for release through parole.

In conclusion, we must add that we gained a different perspective by speaking to this special group of offenders who, as mentioned before, have been scapegoated and castigated not only by society but other offenders as well. It may seem that we only heard comments from those who are embittered by the sentencing process. However, these were the men that chose to take their own time to talk with us about their concerns. One might speculate that the offenders who refused to stay and contribute to the discussion were also embittered by the sentencing process and saw little hope for change.