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PART FOUR

POST-JUDICIAL PROCESSES  
AND THEIR APPLICATION

## VII - EVALUATION OF POST-JUDICIAL PROCESSES

There are a variety of processes subsequent to the sentencing judgment. In a sentence of imprisonment, for example, parole and mandatory supervision are an integral part of the criminal justice system. Indeed, many authorities are empowered to make decisions that affect the administration and effective length of this sentence. This chapter will focus mainly on the duties and powers of these authorities.

### A. Escorted and Unescorted Temporary Absences

There is only one way to get into prison but there are many ways to get out. Escorted and unescorted temporary absences are one way. The purpose of the temporary absence program is to give inmates the opportunity to maintain and strengthen contacts with their families and the community, to evaluate the inmate's readiness for parole, etc.

Escorted temporary absence can be individual or in a group and, like unescorted temporary absence, it is made available to inmates for humanitarian or medical reasons or to promote social integration. Depending on the circumstances, various authorities have the power to grant the necessary authorization and specify the length and conditions of the absence. For example, unescorted temporary absence may be granted under supervision if deemed necessary.

The vast majority of the practitioners who answered the questionnaire are in favour of this program. Indeed, 87% approve of escorted temporary absence while 13% raised various objections. We observed the same trend with regard to unescorted temporary absence. Most of the practitioners (92.4) approve of this program while 6.4% mostly disapprove. Unlike the escorted temporary absence program, no one totally disapproved (see Tables 40 and 41).

Most of the practitioners agree with the underlying principles of the escorted and unescorted temporary absence programs, but this did not prevent them from voicing some reservations about their application.

"It gives good clues as to the guy's motivation, his ability to function on the outside. But the institutional warden should always have the power to decide in these cases." (22)

"It should be granted according to merit; it's not a vested right. Moreover, the cost is high, especially for escorted temporary absence..." (09)

"The principle is sound but it is associated too much with administrative prerogative. It depends too much on available space in the institution, not on the individuals themselves. It's not always fair, but alternatives are not always available. If ten guys come in and they don't have ten places, it is granted more readily." (28)

The practitioners also raised some questions about these measures which interrupt the period of imprisonment. Although they would

not consider eliminating them, they wish that they would be better administered and would better meet the purposes of the sentence of imprisonment.

"It's like giving candy to the guys and sentencing loses its impact." (20)

"The guys don't always understand why absences are granted or denied, which does not improve their perception of justice." (15)

Moreover, some practitioners have observed a certain degree of disparity in the granting of temporary absences. They would like to see better coordination between the decisions of various authorities as well as better continuity of action. Individual merit does not always seem to be the determining factor in the granting of this privilege, particularly in the case of unescorted temporary absence. However, the practitioners failed to offer any solutions to remedy these difficulties. It is obvious that the temporary absence program is indispensable at this time. The institutions need it but some practitioners deplore the fact that it is used more to make room in prison than to speed up the social reintegration of inmates and increase their motivation.

Table 40

## Position Regarding Unescorted Temporary Absences

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	72	51.4	72	52.2
Mostly approve	57	40.7	57	41.3
Mostly disapprove	9	6.4	9	6.5
Totally disapprove	--	--	--	--
No response	2	1.4	--	--
Total:	140	100.0	138	100.0

Table 41

## Position Regarding Escorted Temporary Absences

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	64	45.7	64	46.4
Mostly approve	56	40.0	56	40.5
Mostly disapprove	15	10.7	15	10.9
Totally disapprove	3	2.1	3	2.2
No response	2	1.4	--	--
Total:	140		100%	

## B. Parole

Parole can be defined as a measure by which selected inmates may benefit, before the expiry of their prison term, from a release subject to certain conditions. Paroled inmates remain in the custody of the State until the expiry of their prison term (Studies on Imprisonment, p. 103). With certain exceptions, inmates are eligible for day parole after one sixth of their sentence has been served, or full parole after one third of their sentence has been served. The decision to grant or deny parole is made by the National Parole Board for sentences of 2 years or more, and by the Quebec Parole Board for sentences of less than 2 years. The Board members also impose various special conditions with which the inmates must comply upon their release.

The vast majority of the practitioners who responded to the questionnaire approve of eligibility for full parole after one third of the sentence has been served. Indeed, 86.5% totally or mostly approve of this process and only 12.4% disapprove (see Table 43). We should not conclude, however, that the respondents are completely satisfied with this measure simply because they say that they approve of it. We were able to gather from the interviews that they consider the principle to be valid in theory but its application raised questions for many.

"I agree with the principle but not with the way it is being applied. It's burdensome and does not always achieve its purpose." (32)

"The period of eligibility for day or full parole is acceptable but more people should be released. Now, they often grant day parole after one third of the sentence has been served. The whole process is delayed while some are ready to leave." (34)

"You can't release a guy just like that. Parole is a way of providing support and assistance. It should be promoted more." (07)

One of the sharpest criticisms of parole was directed at the discretionary power of Board members. The practitioners at the federal level are the ones who complained about this the most.

"The Board members who are appointed for political reasons are not qualified at all and the assessment of inmates is being increasingly based on moral factors. They don't operate in any systematic way. You can't understand it and the guys don't understand it either." (32)

"I have nothing against parole except that the Board members have too much discretionary power and, furthermore, they have no competence in the matter. Perhaps they should consult us (case management officers)." (21)

"There are often disparities and they can't be explained." (20)

The majority of the practitioners (69.3%) believe that the decisions made by post-judicial authorities can increase disparities in sentences during their execution and can create new discrepancies in the administration of sentences (see Table 42). However, these disparities are not necessarily unwarranted when they are motivated by the desire to individualize the sentence. It remains



to be determined when disparities are warranted. Some practitioners believe that individual differences between Board members are mitigated by the fact that decisions to grant or deny parole are made collectively. For example, the decisions of a stricter Board member would be tempered by the influence of another more lenient member. However, the practitioners deplore the fact that Board members are appointed for political reasons in addition to the fact that they do not necessarily have the qualifications required to make judicious decisions.

"The Board doesn't take any chances, and that slows down the release process." (40)

Moreover, some practitioners made the following type of criticism during the interviews:

"If these programs (day and full parole) are used to empty prisons, it's ridiculous. The correctional authorities must not review the decisions of the courts. Sometimes, their actions are inconsistent, especially in the case of short sentences." (19)

Indeed, if parole undermines the decisions of the courts, it is because detention may not necessarily have been the most appropriate sentence. Thus, many practitioners would like to see the development of a more systematic policy with a clearer statement of the objectives of each of the systems.

Some practitioners also commented that parole and release after

two thirds of the sentence has been served are measures that are not necessarily complementary or compatible. Indeed, inmates may prefer to serve two thirds of their sentence in lieu of parole. They are not supervised in the provincial system but are subject to mandatory supervision in the federal system. In principle at least, inmates should be encouraged to take steps to obtain as early a release as possible. This is precisely one way of preparing an acceptable release plan, of motivating inmates and making them responsible. Inmates who are aware of the discretionary power of the Board members and their lack of competence may be reluctant to take the necessary steps to apply for parole and may prefer to serve two thirds of their sentence. Some case management officers (community) deplored this incongruence between the two post-judicial measures.

Table 42

Responsibility of Post-Judicial Authorities  
for Increasing Disparities

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes	97	63.9	97	72.4
No	37	26.4	37	27.6
Don't know	6	4.3	--	--
Total:	140	100.0	134	100.0

Table 43

Position Regarding Eligibility for Parole  
 After Serving One Third of the Sentence  
 (All Practitioners)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	75	53.6	75	4.3
Mostly approve	46	32.9	46	33.3
Mostly disapprove	12	8.6	12	8.7
Totally disapprove	5	3.6	5	3.6
Don't know	2	1.4	--	--
Total:	140	100.0	138	100.0

Table 44

Position Regarding Eligibility for Parole  
 After Serving One Third of the Sentence  
 (Probation Officers)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	29	51.8	29	53.7
Mostly approve	18	32.1	18	33.3
Mostly disapprove	5	8.9	5	9.3
Totally disapprove	2	3.6	2	3.7
Don't know	2	3.6	--	--
Total:	56	100.0	54	100.0

Table 45  
 Position Regarding Eligibility for Parole  
 After Serving One Third of the Sentence  
 (Case Management Officers - Community)

	All Respondents	%
Totally approve	21	53.8
Mostly approve	14	35.9
Mostly disapprove	2	5.1
Totally disapprove	2	5.1
Total:	39	100.0

Table 46  
 Position Regarding Eligibility for Parole  
 After Serving One Third of the Sentence  
 (Federal and Provincial Detention)

	All Respondents	%
Totally approve	18	48.6
Mostly approve	13	35.1
Mostly disapprove	5	13.5
Totally disapprove	1	2.7
Total:	37	100.0

C. Statutory Remission and Mandatory Supervision

1. Statutory Remission

Statutory remission, equivalent to one fourth of the sentence, is granted to inmates upon admission to a custodial institution. Earned remission accrues by a certain number of days per month, provided the inmate has complied with institutional rules and regulations. Thanks to these measures, inmates who are not paroled can be released after having served two thirds of their sentence. In the provincial system, inmates released as a result of remission are not subject to supervision. Under the federal system, however, they are subject to mandatory supervision until the expiration of their sentence.

The original purpose of remission was to motivate inmates to follow a quick rehabilitation program. Today, critics denounce the automatic operation of these measures and their departure *from their initial purpose.*

"It should be granted on a true merit basis, like parole. At present, the guys take it like candy and it loses its true meaning." (20)

"Only extreme cases lose days. Those who make very little effort are rewarded the same as those who make a big effort. Also, institutional behaviour is not a guarantee of success in the community." (30)

Despite these comments, the remission system still has some benefits. It would appear, for example, that it helps to maintain a certain degree of discipline in the institutions.

"It's a safety valve for the penitentiaries." (18)

"It's mostly an aid to the officers, more than to the inmates." (08)

"We'd have problems if we didn't have this inside. It's a way to keep our guys in line." (35)

Thus, the current remission system seems to be moving away from one of its initial objectives which was to promote rehabilitation. However, it does enable the authorities to maintain a certain degree of control over the inmates. The practitioners would like the remission system to be better utilized and applied in a more rational manner.

From another point of view, many practitioners made the same kind of criticism about mandatory supervision which is an offshoot of remission.

"It's rubbish. I approve of giving a guy a chance, but not 7 or 8 times. Those who don't want to rehabilitate themselves, we should be able to keep them inside until the end of their sentence. Otherwise, it's too automatic." (40)

"We should be able to make exceptions. To release a guy under supervision when everyone knows he's dangerous, that's not right." (23)

Some practitioners believe that mandatory supervision, as it is applied at present, can run counter to one of the purposes of sentencing, the protection of society. One interviewee said:

"If it were not automatic, society would be protected for a longer period of time in some cases." (21)

## 2. Mandatory Supervision

A proportion of 64.2% of the questionnaire respondents are in favour of mandatory supervision (see Table 47). During the interviews, one practitioner commented as follows:

"I agree with the principle. It's a period for social reintegration. You can't leave a guy alone in nature. Also, the last third loses all meaning if there's no supervision. Social control must be exercised to the end." (09)

However, it is appropriate to question whether the respondents' area of activity is likely to influence their perception of the mandatory supervision process. Table 47 may enlighten us in this regard.

Table 47

Position Regarding the Mandatory Supervision Process  
by Area of Activity

Position	Area of Activity <sup>(1)</sup>							
	Federal and Provincial Detention		Parole		Probation		Total	
	N	%	N	%	N	%	N	%
Approve	22	59.5	20	51.3	40	72.7	82	63.6
Disapprove	15	40.5	19	48.7	13	27.3	47	36.4
Total:	37	100.0	39	100.0	53	100.0	129	100.0

(1) Non-responses were excluded from the sample as well as responses by practitioners from other areas of activity.

It would seem that a large part of the group that approves of the mandatory supervision process is made up of practitioners who are the least familiar with it. Are we to conclude that the practitioners who administer the process are facing serious problems? It would be premature to do so but it can nevertheless be said that the case management officers (community) are the least enthusiastic about this program and they are the ones who work with the clientele in question.

"It's there to promote social reintegration but the guys often see it as a means of control rather than an aid." (05)



"It's not effective. The recidivism rate is high. The majority of the guys are not prepared for release. You can't do anything when they don't want to hear anything. It's not interesting for anyone." (20)

Thus, the attitude of the offenders under mandatory supervision can be a problem for the practitioners who often deplore their lack of motivation. Many said that they feel helpless against this attitude. One case management officer (community) expressed the following view:

"Some guys don't need to be supervised after two thirds of their sentence has been served, while others should not be released." (25)

These are the supporters of individualized sentences and, therefore, of their administration. They would like to see a better assessment of offenders before and after sentencing. They deplore the automatic character and lack of flexibility of the process.

As far as supervision itself is concerned, some practitioners fail to see its pertinence. They say that results are not very encouraging and that this control aspect serves no purpose at present:

"You can't follow a guy all day. It's impossible to exercise adequate control. We lose time and energy for nothing. In any event, if a guy wants to turn to crime again, we (case management officers - community) are not the ones who will stop him." (24)

However, some practitioners say that it is unthinkable to release someone overnight without a support structure. If the inmates were better prepared for release, we might get better results.

Table 48

Position Regarding Release Under Mandatory Supervision  
 After Serving Two Thirds of the Sentence  
 (Federal and Provincial Detention)

	All Respondents	%
Totally approve	7	18.9
Mostly approve	15	40.5
Mostly disapprove	9	24.5
Totally disapprove	6	16.2
Total:	37	100.0

Table 49

Position Regarding Release Under Mandatory Supervision  
 After Serving Two Thirds of the Sentence  
 (All Practitioners)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	33	23.6	33	24.1
Mostly approve	55	39.3	55	40.1
Mostly disapprove	31	22.1	31	22.6
Totally disapprove	18	12.9	18	13.1
Don't know	3	2.1	--	--
<b>Total:</b>	<b>140</b>	<b>100.0</b>	<b>137</b>	<b>100.0</b>

Table 50

Position Regarding Release Under Mandatory Supervision  
 After Serving Two Thirds of the Sentence  
 (Case Management Officers - Community)

	All Respondents	%
Totally approve	9	23.1
Mostly approve	11	28.2
Mostly disapprove	12	30.8
Totally disapprove	7	17.9
<b>Total:</b>	<b>39</b>	<b>100.0</b>

Table 51

Position Regarding Release Under Mandatory Supervision  
 After Serving Two Thirds of the Sentence  
 (Probation Officers)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	14	25.0	14	26.4
Mostly approve	26	46.4	26	49.1
Mostly disapprove	9	16.1	9	17.0
Totally disapprove	4	7.1	4	7.5
Don't know	3	5.4	--	--
Total:	56	100.0	53	100.0

Table 52

Position Regarding Absolute Release (Without Supervision)  
 Following Remission for Good Behaviour  
 (All Respondents)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	28	20.0	28	21.4
Mostly approve	34	24.3	34	26.0
Mostly disapprove	40	28.6	40	30.5
Totally disapprove	29	20.7	29	22.1
Don't know	5	3.6	--	--
No response	4	2.9	--	--
Total:	140	100.0	131	100.0

Table 53

Position Regarding Absolute Release (Without Supervision)  
 Following Remission for Good Behaviour  
 (Practitioners in Custodial Institutions)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	3	8.1	3	8.8
Mostly approve	7	18.9	7	20.6
Mostly disapprove	11	29.7	11	32.9
Totally disapprove	13	35.7	13	38.2
Don't know	3	8.1	--	--
Total:	37	100.0	34	100.0

Table 54

Position Regarding Absolute Release (Without Supervision)  
 Following Remission for Good Behaviour  
 (Probation Officers)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	15	26.8	15	28.9
Mostly approve	16	28.6	16	30.8
Mostly disapprove	17	30.4	17	32.7
Totally disapprove	4	7.1	4	7.7
Don't know	2	3.6	--	--
No response	2	3.6	--	--
Total:	56	100.0	52	100.0

Table 55

Position Regarding Absolute Release (Without Supervision)  
 Following Remission for Good Behaviour  
 (Case Management Officers - Community)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Totally approve	6	15.4	6	16.2
Mostly approve	10	25.6	10	27.0
Mostly disapprove	9	23.1	9	24.3
Totally disapprove	12	30.8	12	32.4
No response	2	5.1	--	--
Total:	39	100.0	37	100.0

## VIII - POWERS AND DUTIES OF THE PRACTITIONERS

Given the objectives of this study, it was essential that the sample be composed of practitioners in various key positions. This chapter will deal with the duties and powers of these practitioners.

### A. Probation

#### 1. Duties of Probation Officers

A grand total of 71 probation officers or 39.2% participated in this research. Of these, 56 or 78.9% responded to the questionnaire and 15 or 21.1% were interviewed.

The probation officers in Quebec are responsible for various tasks: among other things, they administer the probation orders issued by the courts, supervise probationers, write pre-sentence reports and administer the parole of persons sentenced to less than 2 years.

We asked the practitioners which of the functions of assistance, supervision or counselling is the most important to them. Among the probation officers, 58.2% indicated assistance, 21.8% guidance and only 14.5% selected the supervision of probationers or parolees (see Tables 56 and 57).

The parole officers interviewed shared this opinion:

"Assistance is the most important." (04)

"Assistance is important, but our clientele is not there voluntarily, so it's different." (09)

"The helping relationship is the most important but it is not the most successful. If the probationer doesn't want any help, it's useless." (15)

While many practitioners ideally prefer the helping relationship, it is not always possible in practice. Indeed, it is difficult to motivate people in spite of themselves and many practitioners presently lack the time to do so. Therefore, it is not surprising that nearly 40% of the probation officers who responded to the questionnaire prefer the counselling and supervision aspects of their work. One officer interviewed commented as follows:

"Everyone's duties should be better defined. Probation officers are often uncertain about what the Service expects. The administrative aspect, for example, versus the assistance aspect. The Service is not very clear about what it expects from the professionals. The tasks and guidelines of intervention with clients should be defined more precisely. Work is presently under way in this direction." (14)

The lack of clear and precise policy could partly explain the differences observed among the respondents, in addition to the multitude of tasks and individual characteristics. For example, some practitioners singled out one important aspect while others perceive assistance, supervision and counselling as inseparable.



"It all depends on the officer. Personally, I prefer the assistance aspect but supervision and counselling are also very important. It must be borne in mind that our clientele is not always very motivated and that assistance is not always sufficient." (16)

Moreover, some of the officers interviewed mentioned evaluation of offenders for purposes of the pre-sentence report as a predominant function:

"The pre-sentence report is what gives me the most satisfaction. Informing the court is what's most important to me." (28)

As far as workload is concerned, a large number of the probation officers complained of being overloaded. This opinion, shared by many, was expressed by one respondent as follows:

"We find ourselves with more and more cases, and more and more difficult cases. We have cases involving psychotics, sexual offenders, people with serious problems. It's a very complicated problem and we don't have enough time to do everything." (17)

## 2. Powers of Probation Officers

Probation officers, who are responsible for administering court orders, have certain powers associated with case management. For example, they can close a case early, where appropriate, or determine the frequency of meetings with clients. The officers interviewed were almost unanimous in saying that things have

improved over the past few years. However, many are dissatisfied with the special conditions imposed by the courts. A proportion of 37.5% think that the conditions of probation are not always very useful or realistic. On the other hand, 55.4% hold the opposite view: (see Table 58)

"The situation has improved greatly in the past few years. The conditions are well adapted to the guys and this helps them not to succumb to temptation." (17)

"Some conditions are not very useful and represent an obstacle for us. They lead to keeping things back and this strains the helping relationship. Some conditions simply cannot be verified, therefore they cannot be useful or realistic." (14)

The practitioners deplore their lack of power or authority especially when a condition appears to be unrealistic or when conditions are breached.

"We have a problem with instituting proceedings. We can't speak to the court when we want to nor the way we want to. We can't obtain a sanction within a reasonable time and the deterrent effect of the order is lost." (15)

"The guys laugh at us. They know we can't do much. It takes a long time. We must prove that there was breach and the guys get away with it very easily." (18)

"We don't have enough authority to get their respect." (28)

Nevertheless, 64.8% of the questionnaire respondents are satisfied

with the freedom of action they have to ensure the effective individualization of sentences (see Table 59). Despite the difficulties mentioned above, some practitioners believe that they have sufficient power but that support is lacking.

"The officers are not paralyzed but rather poorly or insufficiently supported by the judicial authorities." (14)

Again, they expressed the wish for better coordination between social practitioners and the judiciary.

Table 56

Most Important Function  
of Post-Judicial Practitioners

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Assistance	46	32.8	46	33.8
Supervision	54	38.6	54	39.7
Counselling	28	20.0	28	20.6
Counselling and supervision	2	1.4	2	1.5
Counselling and assistance	1	0.7	1	0.7
All of the above	5	3.6	5	3.7
No response	4	2.8	--	--
<b>Total:</b>	<b>140</b>	<b>100.0</b>	<b>136</b>	<b>100.0</b>

Table 57  
Most Important Function  
of Probation Officers

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Assistance	32	57.0	32	58.2
Supervision	8	19.3	8	14.5
Counselling	12	21.4	12	21.8
Counselling and supervision	1	1.8	1	1.8
Counselling and assistance	1	1.8	1	1.8
All of the above	1	1.8	1	1.8
No response	1	1.8	--	--
Total:	56	100.0	55	100.0

Table 58  
Perceived Usefulness and Realism  
of Conditions of Probation and Parole  
(Probation Officers)

	Number of Respondents	%
Generally useful and realistic	31	55.4
Sometimes useless or unrealistic	4	7.1
Often useless or unrealistic	21	37.5
Total:	56	100.0

Table 59

Perceived Freedom of Action  
of Probation Officers

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes it exists	35	62.5	35	67.3
No it does not exist	17	30.4	17	30.4
Don't know	2	3.6	--	--
No response	2	3.6	--	--
<b>Total:</b>	<b>56</b>	<b>100.0</b>	<b>52</b>	<b>100.0</b>

B. Parole

1. Duties of Case Management Officers (Community)

Of the 53 case management officers (community) who participated in this study, 14 or 26.4% were interviewed and 39 or 73.5% responded to the questionnaire. Like the probation officers, the case management officers (community) also assume functions of supervision, counselling and assistance. They supervise parolees, inmates under mandatory supervision, residents of halfway houses, etc. The majority (60.5%) indicated that, in practice, supervision is the most important aspect of their work. A proportion of 18.4% think that counselling is the most important and 15.4% mentioned the helping relationship as being the most important (see Table 60). Many more nuances were observed during the interviews. Indeed, although supervision is perceived, in practice, as making up the greater part of the work, the helping relationship cannot be overlooked.

"Once the helping relationship is established, control is achieved automatically. They are dual aspects of the work." (29)

"Supervision is important and with the type of clientele we have, we cannot help without supervision." (22)

"In practice, we mostly supervise and collect information. Assistance slips into all of this but I would like to do more of it." (25)

During the interviews, some practitioners deplored the fact that

their work is focused mainly on supervision while the assistance aspect would be more satisfying for all parties. Still, some pointed out that control is an essential and inseparable part of their work.

"Our clients are not angels who happen to be there by chance. We must control them, especially the repeat offenders." (26)

While some practitioners question their role as case management officers (community), a much greater number question the nature and scope of their powers.

## 2. Powers of Case Management Officers (Community)

Among the questionnaire respondents, 55.3% are satisfied with the latitude given to them to effectively individualize the cases assigned to them (see Table 61). A proportion of 39.5% believe that the special conditions imposed by the Parole Board are not very useful or realistic (see Table 62). Moreover, the fact that the officers cannot modify them without referring to the Board causes a whole series of cumbersome technical difficulties.

"Parole is interesting in terms of the special instructions that the Service can administer. But the special conditions imposed by the Board can be annoying and we have less and less control over them." (24)

"There are too many structures; it's sometimes difficult to make a move. We don't have enough autonomy vis-à-vis the Board." (27)

Some practitioners criticized specific conditions such as the requirement to report to the police, to undergo psychological therapy, to remain within a specific geographic area, etc. These types of conditions create a climate of distrust between officers and clients.

"You can't play fair with the clients when an unrealistic condition is imposed. It blocks communication. For example, you can't talk to a client about his alcohol problem if it is specified that he must not drink. They can't talk to us about it otherwise we have to report a breach of condition." (25)

"I can't stop a guy from seeing his girlfriend because she has a record, unless I move in with him!" (27)

Thus, some conditions are seen as restrictive for both the officer and his client. The officers would like to have greater autonomy vis-à-vis the Board, as expressed in the following comment:

"We think too much in terms of what the Board will approve. We could recommend a psychological follow-up but it is not absolutely necessary for parole." (20)

From another point of view, many interviewees complained that they are crushed by a bureaucracy that ties their hands and limits their action.

"We are caught between legalities, technicalities and paperwork." (01)



Greater autonomy vis-à-vis the Board could minimize this problem but the officers did not offer any concrete solutions.

Opinions were divided, however; some of the practitioners interviewed and some respondents to the questionnaire are satisfied with the current system of conditions and with their powers.

"The conditions are realistic and the guys need them." (22)

"I use my discretionary power a lot. Obviously, I can't overlook certain conditions, but I use it as much as possible." (30)

"We have some power but we must take it. That's what's difficult, because the officers often lose their motivation. We need group action." (20)

One point of agreement among the officers is that they have sufficient power to deal with a breach of conditions. The revocation procedure is quick and the individual is promptly summoned before the Board. The threat of a new sanction is also present.

"The guys know that we don't fool around and that's the only way to get their respect." (21)

Finally, it would appear that the powers of the National Parole Board can be a double-edged sword. While its power to impose special conditions is sometimes questioned, its preponderant authority in the revocation of parole or mandatory supervision is generally accepted.

Table 60  
 Most Important Function  
 of Case Management Officers (Community)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Assistance	6	15.4	6	15.8
Supervision	23	59.0	23	60.5
Counselling	7	17.9	7	18.4
All of the above	2	5.1	2	5.3
No response	1	2.6	--	--
Total:	39	100.0	38	100.0

Table 61  
 Perceived Freedom of Action  
 of Case Management Officers (Community)

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes it exists	21	53.8	21	55.3
No it does not exist	17	43.6	17	44.7
No response	1	2.6	--	--
Total:	39	100.0	38	100.0

Table 62

Perceived Usefulness and Realism  
of Conditions of Probation and Parole  
(Case Management Officers - Community)

	Number of Respondents	%
Generally useful and realistic	23	59.0
Sometimes usefull and realistic	9	23.1
Often useless or unrealistic	7	17.5
Total:	39	100.0

C. Detention

1. Duties of Practitioners in Custodial Institutions

Our sample included social workers in provincial prisons and case management officers (institutions) in federal penitentiaries. We interviewed a total of 8 people or 17.7% of the 45 participants in this study, while 37 people or 82.2% of practitioners in custodial institutions responded to our questionnaire. These people are responsible for the supervision and follow-up of inmates in custody. A proportion of 54.3% believe that supervision is the most important aspect of their work, while 20% think that it is assistance. Another 20% mentioned counselling as their most important function (see Table 63).

"In minimum security institutions, the job is to help and supervise. You plan the guy's release, his absences, etc. In medium security institutions, the environment forces you to mostly supervise. You don't have many tools or opportunities." (32)

"We supervise. Assistance is left up to the living unit officer." (35)

Thus, some practitioners deplore the lack of tools and means to effectively provide assistance. We observed a kind of cynicism regarding the bureaucratic nature of the system which seems to paralyze some practitioners:

"At present, I do administration, management. I am required to maintain the appearance of a certain therapeutic concern but it doesn't go any further than that. I don't have the means." (36)

Some practitioners commented during the interviews on one aspect of their work that was not addressed in the questionnaire, that of inmate assessment:

"Inmate assessment is of prime importance. We must know if he can be granted absences, transfers, how to plan his release, etc. A good professional must ensure the protection of both the guys and the public and work towards rehabilitation. In order to do this, we need an accurate assessment of the inmate." (11)

"We supervise but we also assess the guys, that's very important." (35)

The duties of these practitioners cannot be divided into clear and mutually exclusive categories. Indeed, as is the case with all the post-judicial practitioners, having to supervise an individual does not exclude helping him or counselling him. Of course, it can be difficult to combine these functions harmoniously but many practitioners say that the approach must be as complementary as possible.

Assistance and counselling can be useless when the offender does not want to cooperate and supervision is not always required when an individual is functioning well. The complaints of the practitioners in custodial institutions have more to do with

bureaucratic constraints and lack of autonomy and flexibility than with their duties per se.

## 2. Powers of Practitioners in Custodial Institutions

It is interesting to note that 48.6% of the questionnaire respondents believe that the powers of post-judicial practitioners are inadequate to permit effective individualization of the administration of sentences. A slightly lower proportion or 45.9% hold the opposite view (see Table 64). This distribution occurred only within this group of respondents. Indeed, more than 55% of the case management officers (community) and probation officers were satisfied with their powers. The situation is not radically different for the case management officers (institutions) and social workers but there is a difference between these two groups. At present, it is impossible to interpret this difference without speculation. Available data does not permit it. However, further investigation could prove to be interesting.

During the interviews, one practitioner explained the situation as follows:

"No, I don't have enough power. I am asked to collate information from 2 or 3 people that living unit officers could summarize. I have many administrative constraints. I simply meet the standards." (36)

Another point brought up during the interviews is the lack of

power over certain so-called "political" decisions:

"Soon, the guys will have the right to see our reports. If they ask for it. It doesn't make any sense. We're going to have to watch what we say and furthermore, write it so they can understand!" (21)

Again, the practitioners would like to see better coordination between themselves and the decision-making authorities.

Moreover, a significant number of respondents (45%) seem to be satisfied with their powers, as one interviewee said:

"Yes, we have some power and we should use it more. It's not being used enough, for various reasons: lack of resources, and also work habits. To change this would be a problem. It would require an extensive review process." (02)

Table 63  
Most Important Function  
of Practitioners in Custodial Institutions

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Assistance	7	18.9	7	20.0
Supervision	19	51.4	19	54.3
Counselling	7	18.9	7	20.0
All of the above	2	5.4	2	5.7
No response	2	5.4	--	--
Total:	37	100.0	35	100.0

Table 64  
 Perceived Freedom of Action  
 of Practitioners in Custodial Institutions

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes it exists	17	45.9	17	48.6
No it does not exist	18	48.6	18	51.4
Don't know	2	5.4	--	--
Total:	37	100.0	35	100.0

Table 65  
 Perceived Usefulness and Realism  
 of Conditions of Probation and Parole  
 (Practitioners in Custodial Institutions)

	Number of Respondents	%
Generally useful and realistic	21	56.8
Sometimes useless or unrealistic	4	10.8
Often useless or unrealistic	12	32.4
Total:	37	100.0



Table 66  
Position Regarding Increasing  
the Powers of Post-Judicial Practitioners

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Increase powers	75	53.6	75	55.6
Maintain powers	58	41.4	58	43.0
Reduce powers	2	1.4	2	1.4
No response	5	3.6	--	--
Total:	140	100.0	135	100.0

Table 67  
Perceived Usefulness and Realism  
of Conditions of Probation and Parole

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Generally useful and realistic	79	56.4	79	57.2
Sometimes useless or unrealistic	18	12.9	18	13.0
Often useless or unrealistic	41	29.1	41	29.7
Generally useless and unrealistic				
No response	2	1.4	--	--
Total:	140	100.0	138	100.0

Table 68  
 Perception of Conditions  
 of Parole and/or Probation

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Too restrictive for the supervisor	10	7.1	10	11.1
Too restrictive for the probationer/parolee	19	13.6	19	21.1
Too restrictive for the supervisor and the probationer/parolee	4	2.9	4	4.4
Excessive	4	2.9	4	4.4
Excessive, too restrictive for the supervisor and the probationer/parolee	2	1.4	2	2.2
Unrealistic	37	26.4	37	41.1
Unrealistic and too restrictive for the supervisor	6	4.5	6	6.6
Unrealistic and too restrictive for the probationer/parolee	3	2.1	3	3.3
Excessive and unrealistic	4	2.9	4	4.4
All of the above	1	0.7	1	1.1
Not applicable	50	35.7	--	--
Total:	140	100.0	90	100.0

Table 69

Perception of Workload of Practitioners  
Who Supervise Conditionally Released Inmates

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes, the workload permits adequate supervision	5	3.6	5	4.5
Yes, with reservations	62	44.3	62	55.8
No, the workload does not generally permit adequate supervision	28	20.0	28	25.2
No, absolutely not	16	11.4	16	14.4
Don't know	1	0.7	--	--
Not applicable	28	20.0	--	--
Total:	140	100.0	111	100.0

Table 70

Perceived Freedom of Action  
of Post-Judicial Practitioners

	All Respondents		Respondents Who Expressed an Opinion	
	N	%	N	%
Yes, it exists	75	53.6	75	56.8
No, it does not exist	57	40.7	57	43.2
Don't know	5	3.6	--	--
No response	3	2.1	--	--
Total:	140	100.0	132	100.0

SUMMARY AND CONCLUSIONS

### Methodology

Since the principal purpose of this study was to sound the opinion of non-jurist practitioners and professionals regarding sentencing, we first had to determine the sample as well as the methods by which we would collect these views.

Thus, we took an inventory of practitioners who work with adult offenders in the fields of probation and parole, in custodial institutions and various community centres. Care was taken to maintain the representativeness of the sample both in terms of area of activity and geographic area in Quebec.

Two methods were used: a questionnaire, which was sent to 250 people, and interviews. The purpose of the questionnaire was to determine trends of opinion among the practitioners while that of the interviews was to obtain more detailed feedback to enable us to better interpret the data compiled from the questionnaires.

The results of our analysis can be divided into three parts:

- (1) sentencing;
- (2) types of sentences; and
- (3) post-judicial processes and their application.

SENTENCING.

In the part on sentencing, we first attempted to determine the practitioners' perceptions of the present situation and then asked them to suggest improvements deemed necessary in three areas:

- the provisions of the Criminal Code that deal specifically with maximum and minimum penalties;
- pre-sentence steps and procedures such as the pre-trial period and bail, plea bargaining and the pre-sentence report; and
- the severity and disparity of sentences.

1.- The present Situation

The practitioners we contacted consider that maximum penalties give an indication of the gravity of the offence but are not based on specific criteria of proportionality, far from it. For this reason, they lose much of their deterrent value because most people are more sensitive to the actual sentence imposed by the court than to that provided in the Code. Furthermore, the practitioners themselves are not that familiar with the maximum penalties provided for various types of offences but are aware that quite a wide range of serious offences, such as break and enter, robbery and murder, are subject to the same maximum penalty.

Minimum penalties are generally considered to be unfair and restrictive in regard to the judge's discretion to individualize the sentence.

The respondents approve of the criteria currently applied for granting bail but find that the criteria discriminate against offenders who lack financial means.

Plea bargaining is seen as a very common judicial practice. However, more than two thirds of the respondents reacted negatively to it.

As for the pre-sentence report, the vast majority of the respondents believe that it is taken into account by the judges and that it is a rich source of information. Unfortunately, it is often exploited by attorneys as a delaying tactic.

On the severity of sentences, the respondents feel that those imposed in Quebec are mostly fair but they are not sure about those imposed in Canada as a whole although they believe the situation to be not much different than in Quebec.

Disparities in sentencing are generally considered warranted, with some exceptions. That is the price to pay, we were told, for individualization. Disparities are often attributable to the offender's criminal record, the subjectivity of the judge,

the attorneys' skills, the desire to protect society, the objective and factual circumstances of the offence, and the influence of social reaction to the type of offence committed. In addition to these factors, listed in order of priority as indicated by the respondents, the interviewees suggested that disparities can also be explained by regional characteristics, the type of court where the accused is tried, and the offender's experience with the criminal justice system.

## 2.- Reform Proposals

Considering the practitioners' criticism of the Criminal Code provisions regarding maximum penalties, we expected them to suggest that they be reduced. This was done by nearly half of the practitioners but a large proportion advocated maintaining the status quo. The former argue that a reduction would provide a better deterrent by maintaining a correlation between the gravity of the offence, the penalty provided and the reality of the sentences usually imposed by the courts. The supporters of the status quo argue that the discretionary power of the judge must be preserved. However, we cannot ignore the fact that some practitioners would like stiffer maximum penalties for certain types of offences against the person.

In determining the maximum penalty to be imposed, the practitioners would like the following criteria to be taken into consideration:



- First, the gravity of the offence and the protection of society;
- to a lesser degree, the damages incurred by the victim and the deterrent value;
- to a very small degree, current judicial practice;
- also, the offender's criminal record, the development of his criminal profile, and the degree of planning and premeditation of the offence.

As for minimum penalties, the majority of the respondents are in favour of abolishing them except for various serious offences, especially those involving violence or the importation of drugs. Nevertheless, a small minority would like a fairly precise statement of the maximum and minimum penalties, the objective and subjective circumstances of the offence as well as mitigating and aggravating circumstances to be taken into consideration by the judge in sentencing.

The reader will recall that plea bargaining did not win the approval of our respondents by a wide margin. It is therefore normal that 86% of them would like very precise regulations to avoid possible injustice as a result of plea bargaining. However, even with guidelines, some still consider this procedure to be discriminatory.

The pre-sentence report should be mandatory in all cases of FIRST incarceration. Forty-four percent (44%) of the respondents believe

that it should be mandatory in ALL cases of incarceration. Nearly two thirds of the sample are in favour of including elements relating to the victim's opinion while one third are formally opposed to it.

On approaches to sentencing, the respondents favour or tend to favour the establishment of guidelines to the extent that they do not become binding on the judge. The best way to establish them would be to draft a legislative provision stating the purpose and principles of sentencing that must be considered by the judge as well as the weight to be given to individual criteria.

The criteria deemed most significant are the objective and factual circumstances of the offence, the offender's criminal record and the need to individualize the sentence. The protection of society was also mentioned by a majority of respondents while variations in social reaction and the victim's opinion were considered least important, having been mentioned by a mere third of the respondents. It is also appropriate, in their opinion, to consider subjective circumstances of the offender such as an alcohol or drug addiction problem.

A good number of practitioners would also like judges to give reasons for their choice of sentence in the sentencing judgment in order to permit better post-sentence control.

In short, the majority of the respondents approve of an approach based on individualization of the sentence by the judge, giving him full powers or recommending close collaboration with psychosocial practitioners.

#### TYPES OF SENTENCES

The practitioners were asked to consider the purposes of sentencing in both the questionnaire and the interviews. Some of them consider the protection of society to be ultimate goal, while others feel it is simply one of many objectives including punishment, deterrence and rehabilitation. Many also believe in combining punishment and rehabilitation.

In this perspective, it is generally believed that there is an over-reliance on imprisonment which is generally deemed ineffective but nevertheless necessary for serious offences, crimes of violence and habitual criminals. Imprisonment should be imposed only as a last resort. The sentencing judge is not required to take over-population of prisons into account.

Thus, 85% of the respondents support various alternatives to imprisonment with which they are generally familiar, with a few exceptions. They consider them to be effective and economical but maintain that the judge must be selective in his choice. They must be imposed with discernment and there must be close collaboration with psychosocial practitioners.

The respondents even suggested innovative measures in connection with these alternatives: involvement of victims, seizure of salary to compensate victims, participation of the education system in training programs for certain types of offenders, social sponsorship program involving the use of volunteers, etc.

However, the alternatives are not exempt from criticism. They are faulted for their lack of pertinence or effectiveness, the fact that they represent a means for offenders to shirk their responsibilities, that the persons on whom they are imposed are often used as cheap labour, and that the measures are often applied in addition to and not instead of the initial sentence.

As far as the administration of these measures is concerned, the practitioners complain that their powers are inadequate, that it increases their workload in terms of reports and control when they are already overloaded, and that the measures often represent an unproductive burden for the organizations within which community work is executed for example.

We could not ignore the issue of minimum 25-year terms before eligibility for parole in a study of this type.

Two thirds of the practitioners (65%) are in favour of abolishing this minimum term of imprisonment. Their arguments are many:

- It's a political decision;
- 25 years is inhumane;

- those who receive this sentence become even more dangerous in prison;
- they are difficult to manage: how can officials encourage them to participate in institutional programs when they have practically no hope.

The general consensus is to allow the judge or post-judicial authorities to release the inmates after a shorter period of imprisonment varying between 15 and 25 years.

As for indeterminate sentences for dangerous offenders and habitual criminals, 57% of the sample approve of them and 42% disapprove. They are considered useful only to protect society or when combined with a rehabilitation program. However, the practitioners fear arbitrariness on the part of the decision-makers, given the unreliability of predicting future behaviour or dangerousness.

#### POST-JUDICIAL PROCESSES AND THEIR APPLICATION

The last part of our study dealt with temporary absences, parole, statutory remission as well as the duties and powers of those who administer these processes.

The practitioners generally approve of temporary absences with or without escort. However, these privileges should be granted with discernment and granting or denial should always be justified

so that the inmates know where they stand. It was pointed out that escorted temporary absences are expensive and should be granted with due consideration of the expense involved.

Parole is also widely accepted. However, many practitioners have reservations especially regarding the discretionary power of the federal Board members a number of whom are appointed for political reasons and, consequently, have no special expertise in the area of delinquency.

Our respondents pointed out that this can lead to disparities that are incomprehensible to the inmates as well as the practitioners themselves.

Furthermore, many have observed inconsistencies between the objectives of the judiciary and those of post-judicial authorities who hold discretionary power.

As for statutory remission, it is mostly criticized for its automatic application which reduces much of its value in terms of facilitating the management of inmates.

Finally, although mandatory supervision after serving two thirds of the sentence is generally approved of, the practitioners think that it is poorly administered and can jeopardize the principle of protection of society.

In this particular case, the inmates are not at all prepared for release and those who benefit from this measure are generally the most difficult, if not the most dangerous, offenders.

The duties and powers of practitioners in the post-judicial sector can be summarized as follows:

The probation officers consider that their main function is to assist probationers and to prepare assessments for purposes of pre-sentence reports. They are generally satisfied with their powers but have some complaints regarding their workload and the delays involved in bringing clients before the court when there is a breach of conditions.

For their part, the case management officers (community), commonly called parole officers, consider their main function to be supervision. The assistance aspect is secondary. They are generally satisfied with their powers.

In addition to supervision and assistance, the practitioners in custodial institutions mention assessment, a function that they share with living unit officers.

Finally, all expressed the unanimous desire for greater collaboration between judicial and post-judicial authorities.

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APPENDIX I: QUESTIONNAIRE

B U R C C A J

Bureau de recherche et de consultation en  
criminologie et administration de la justice

SURVEY ON SENTENCING

QUESTIONNAIRE

intended for non-judicial officials

prepared by

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January 1986

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SEVERITY OF SENTENCES

1.- Would you say that the sentences imposed in Quebec  
are generally

Do not write  
in this space

- 1) too severe
- 2) about right
- 3) not severe enough
- 4) don't know

2.- Would you say that the sentences imposed in Canada  
are generally

- 1) too severe
- 2) about right
- 3) not severe enough
- 4) don't know

.- Under the current system, do you think that the  
maximum penalties provided by law correspond to  
specific criteria of proportionality?

- 1) very often
- 2) often
- 3) rarely
- 4) never
- 5) don't know

.- Since maximum penalties are rarely imposed, should  
they be:

- 1) increased (across the board)
- 2) reduced (across the board)
- 3) left unchanged
- 4) don't know

5.- Do you think that maximum penalties are often imposed by the courts?

Do not write in this space

- 1) very often
- 2) often
- 3) rarely
- 4) never
- 5) don't know

6.- Do you think that there are very different serious offences which carry identical maximum penalties?

- 1) yes
- 2) no
- 3) don't know

If yes, name a few of these offences

---

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Minimum Penalties

The Criminal Code, the Narcotic Control Act and the Food and Drugs Act in particular provide minimum penalties for certain offences. For example, importing drugs carries a minimum penalty of 7 years of imprisonment.

Do not write  
in this space

- 12.- Do you think that limiting the discretionary power of judges through minimum penalty provisions is:
- 1) desirable
  - 2) undesirable
  - 3) don't know
- 13.- Do you think that limiting the discretionary power of post-judicial authorities through minimum penalties is:
- 1) desirable
  - 2) undesirable
  - 3) don't know
- 14.- Which of the following options would you prefer regarding the minimum term of imprisonment a person convicted of first-degree murder should be required to serve before becoming eligible for parole:
- 1) maintain the current minimum penalty
  - 2) increase the minimum term of imprisonment before eligibility for parole
  - 3) reduce the minimum term of imprisonment before eligibility for parole
  - 4) abolish the current minimum penalty

If you favour reducing the minimum term, which of the following options would you prefer:

Do not write  
in this space

- 1) reduce the current minimum term of imprisonment to 15 to 25 years, with discretion to set the parole eligibility date left to the judge as is currently the case for second-degree murder
- 2) abolish the minimum 25-year term before eligibility for parole, with discretion to determine the effective length of the sentence left to the judge
- 3) other (specify) \_\_\_\_\_  
\_\_\_\_\_

15.- Should the various statutes provide minimum penalties?

- 1) yes, for all offences
- 2) yes, for some offences
- 3) no, for all offences
- 4) don't know

If yes, give examples: \_\_\_\_\_  
\_\_\_\_\_

Guidelines

The term "guideline" usually refers to a method of structuring the decision-making process.

Do not write  
in this space

For example, guidelines were established from the start to provide a framework for the parole decision-making process.

9.- Do you think that it would be advisable to also establish guidelines for the sentencing decision-making process?

- 1) yes
- 2) maybe
- 3) no
- 4) don't know

10.- Which of the following guideline models would you prefer:

- |  | FOR | AGAINST | DON'T<br>KNOW |
|--|-----|---------|---------------|
| a) the development of a tariff system of sentencing with mathematical weighting factors relative to the gravity of the offence, the circumstances of the offence and the characteristics of the offender |     |         |               |
| b) a legislative provision stating   |     |         |               |
| - on the one hand, the purpose and principles of sentencing that should be considered by the judge   |     |         |               |

- |  | FOR | AGAINST | DON'T<br>KNOW | Do not write<br>in this space |
|--|-----|---------|---------------|-------------------------------|
| - on the other hand, the weight to be given to various factual elements (such as gravity of the offence, damages incurred, the circumstances of the offence, etc.) |     |         |               |                               |
| c) a system of directives issued by the provincial Court of Appeal   |     |         |               |                               |
| d) the establishment of average sentences based on the statistical analysis of current sentencing practice   |     |         |               |                               |
| e) giving the judge full discretionary power while requiring a clear statement of the reasons and purpose for his choice of sentence                               |     |         |               |                               |

Plea Bargaining

25.- Do you think that plea bargaining is a common practice?

Do not write in this space

- 1) yes
- 2) no
- 3) don't know

26.- Do you approve of this practice?

- 1) yes
- 2) no
- 3) don't know

27.- Do you think that plea bargaining should be expressly provided for in law?

- 1) yes
- 2) no
- 3) don't know

Comments (if any): \_\_\_\_\_  
\_\_\_\_\_

Preventive Detention

28.- In your opinion, which authority should take into consideration the time spent in preventive detention in determining the exact length of the sentence to be served?

- 1) the law
- 2) the sentencing judge
- 3) post-judicial authorities
- 4) other (specify): \_\_\_\_\_
- 5) don't know



Imprisonment and its Alternatives

29.- Do you think that Quebec courts impose:

Do not write  
in this space

- 1) too many sentences of imprisonment
- 2) just enough sentences of imprisonment
- 3) not enough sentences of imprisonment
- 4) don't know

30.- In your opinion, what should be the purpose of  
a sentence of imprisonment?

- 1) to protect society
- 2) to punish the guilty
- 3) to facilitate rehabilitation
- 4) to deter potential offenders
- 5) other (specify): \_\_\_\_\_  
\_\_\_\_\_

37.- Do you think that increasing the number of alternatives can reduce the number of sentences of imprisonment?

Do not write  
in this space

- 1) a lot
- 2) a little
- 3) very little
- 4) not at all
- 5) don't know

Post-Judicial Processes

38.- Where do you stand on each of the following?

(Check only one answer for each item)

- a) Eligibility for parole after serving one third of the sentence
  - 1) totally approve
  - 2) mostly approve
  - 3) mostly disapprove
  - 4) totally disapprove
  - 5) don't know
  
- b) Release under mandatory supervision after serving two thirds of the sentence
  - 1) totally approve
  - 2) mostly approve
  - 3) mostly disapprove
  - 4) totally disapprove
  - 5) don't know

c) Absolute release (without supervision)  
following remission for good behaviour

Do not write  
in this space

- 1) totally approve
- 2) mostly approve
- 3) mostly disapprove
- 4) totally disapprove
- 5) don't know

d) Escorted temporary absences

- 1) totally approve
- 2) mostly approve
- 3) mostly disapprove
- 4) totally disapprove
- 5) don't know

e) Unescorted temporary absences

- 1) totally approve
- 2) mostly approve
- 3) mostly disapprove
- 4) totally disapprove
- 5) don't know

f) Intermittent sentences (weekends)

- 1) totally approve
- 2) mostly approve
- 3) mostly disapprove
- 4) totally disapprove
- 5) don't know

.- For those of you who supervise conditionally released inmates, do you think that your workload enables you to exercise adequate supervision?

Do not write  
in this space

- 1) yes, absolutely
- 2) yes, with reservations
- 3) no, generally not
- 4) no, absolutely not
- 5) don't know

B U R C C A J

Bureau de recherche et de consultation en  
criminologie et administration de la justice

Montreal, March 5, 1986

Dear sir or madam:

We wish to extend our thanks for your cooperation  
in the study conducted for the Canadian Sentencing Commission.

Yours very truly,

(signed)

Anne Morrissette  
Research Officer

(signed)

Sylvie Bellot  
Research Officer

SB/dt

B U R C C A J

Bureau de recherche et de consultation en  
criminologie et administration de la justice

Montreal, January 9, 1986

Dear sir or madam:

The Canadian Sentencing Commission has asked us to conduct research with non-jurist practitioners in the criminal justice system to sound their opinion on the principal elements of sentencing and various related procedures.

By completing the attached questionnaire, you would assist us greatly in achieving this objective and, at the same time, you would gain the opportunity to contribute to future reform in the sentencing process.

Since our final report must be submitted no later than the end of March, only those questionnaires received by Tuesday, February 18, will be included in our compilations.

Attached, please find a letter of introduction from the Commission.

Thank you very much for your cooperation.

Yours very truly,

(signed)

Samir Rizkalla, Ph.D.  
Director  
873-6167

The Canadian  
Sentencing Commission

January 10, 1986

To whom it may concern:

This is to certify that Mr. Samir Rizkalla, Mrs. Sylvie Bellot and Mrs. Anne Morrissette are conducting research for the Canadian Sentencing Commission with non-jurist practitioners involved in various capacities in the administration of sentences.

We would be very grateful if you would cooperate with them and facilitate their task should the opportunity arise.

Yours very truly,

(signed)

J.R. Omer Archambault, P.C.J.

Maximum Penalties

Criminal law provides maximum terms of imprisonment for various types of offences. For example, robbery is punishable by imprisonment for life.

What do you think of Maximum penalties in general?

Do they correspond to specific criteria of proportionality?

Ideally, what criteria should they be based on?

In your opinion, how frequently are they imposed?

Do you think that maximum penalties should be changed?

Do you believe there are very different serious offences that carry identical maximum penalties?



In your opinion, what is the deterrent value of maximum penalties?

What is your opinion on imposing indeterminate sentences for habitual criminals considered dangerous under section 688 of the Criminal Code?

Minimum Penalties

The Criminal Code, the Narcotic Control Act and the Food and Drugs Act in particular provide minimum penalties for certain offences. For example, importing drugs carries a minimum penalty of 7 years of imprisonment.

What do you think of minimum penalties in general?  
(among other things, universality versus abolition)

In relation to the discretionary power of judges?

In relation to the discretionary power of post-judicial authorities?

In relation to first-degree murder?

Disparity of Sentences

Do you think that disparities in sentencing are warranted?

To what do you attribute these variations?

Do you think that the decisions made by post-judicial authorities increase these disparities? (Granting parole for example)

Where do you stand on this issue?

Guidelines .

The term "guideline" usually refers to a method of structuring the decision-making process. For example, guidelines were established from the start to provide a framework for the parole decision-making process.

Do you think that it would be advisable to also establish guidelines for the sentencing decision-making process?

What criteria should judges apply in sentencing?

What do you think of pre-sentence reports (content, scope, usefulness)?

Plea Bargaining

What do you think of plea bargaining?

(a common practice?, for or against it?, effect?, consequences?, legislative framework?)

Preventive Detention

Which authority should take into consideration the time spent in preventive detention in determining the exact length of the sentence to be served?

In your opinion, what criteria should be applied for keeping an accused in preventive detention?

Do you think that it would be useful to establish bail hostels?

Imprisonment and its Alternatives

Do you think that the sentence of imprisonment is imposed too frequently? Warranted (compared to its alternatives for example)?  
Realistic (available prison space)?

What should be the purpose of imprisonment?

Do you know of any alternatives to imprisonment?

What is your opinion regarding these alternatives? (valid, effective)

What do you think is the opinion of other parties regarding these alternatives? (judges, police, Crown and defence attorneys, offenders, the public, the victims)

Post-Judicial Processes

What do you think of release under mandatory supervision?  
(After serving two thirds of the sentence)

What do you think of eligibility for parole after serving one third of the sentence?

What do you think of remission for good behaviour?

What do you think of escorted temporary absences?

What do you think of unescorted temporary absences?

What do you think of intermittent sentences (weekends)?

What do you think of the conditions of parole or probation  
(useful, realistic, restrictive...)?

What is the most important aspect of your work (supervision,  
assistance, control)?

Do you think that post-judicial practitioners have sufficient freedom of action in their work (powers of judges versus powers of post-judicial practitioners)?

Do you think that the pre-release report has an impact on parole decisions?

For those of you who supervise conditionally released inmates, do you think that your workload enables you to exercise adequate supervision?