CORRECTIONS POPULATION GROWTH

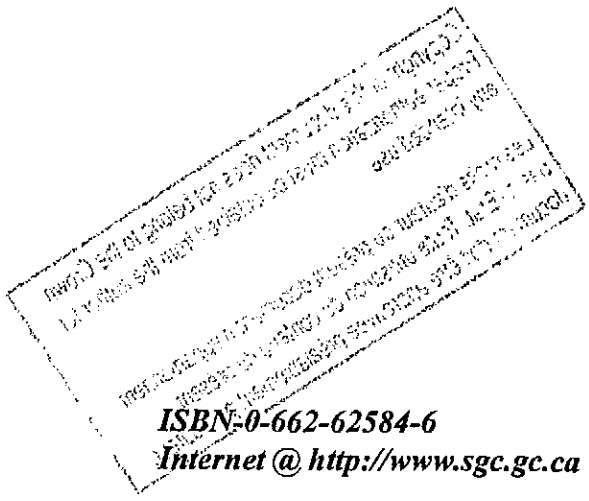
Report for Federal/Provincial/Territorial Ministers Responsible for Justice

May 1996

CORRECTIONS POPULATION GROWTH

Report for Federal/Provincial/Territorial Ministers Responsible for Justice

May 9 - 10, 1996
Ottawa, Ontario



ISBN-0-662-62584-6
Internet @ http://www.sgc.gc.ca

TABLE OF CONTENTS

August 1996

Background to the Report

At the January, 1995, meeting of Federal/Provincial/Territorial Ministers Responsible for Justice, Ministers asked Deputy Ministers and Heads of Corrections to identify options to deal effectively with the growing prison populations. Deputy Ministers were to report back to Ministers in 1996 with practical solutions to deal with this pressure.

Following this direction, a small working group of Deputies was established, comprised of those from Newfoundland, Prince Edward Island, Ontario, Saskatchewan, Yukon, British Columbia, chaired by the Deputy Solicitor General of Canada. A working group of officials from these jurisdictions was struck and a paper was drafted for discussion purposes. The working group of Deputies reviewed the paper and it was shared with the other provinces and territories for their review and comments.

The paper was subsequently approved by all Federal/Provincial/Territorial Deputy Ministers and was provided to Ministers Responsible for Justice at their meeting in May, 1996. Ministers reviewed and discussed the paper and subsequently endorsed the 11 recommendations in the paper. This report reflects a positive consensus of views amongst jurisdictions and underlines the importance of all components of the criminal justice system working together to achieve efficiency and effectiveness in their contribution to safe, just and peaceful communities.

Jurisdictions will continue to work over the next year in pursuing the implementation of the various initiatives contained in the paper, and will seek opportunities for collaborative initiatives with other jurisdictions and criminal justice partners when appropriate. A progress report will be provided to Ministers Responsible for Justice in 1997.

HISTORICAL OVERVIEW

When Federal, Provincial and Territorial Ministers met in Victoria on January 4 and 5, 1995, an item for discussion was the rapid and relentless growth of correctional workloads, particularly prison populations, that all jurisdictions are experiencing.

- Ministers asked Deputies, working together with Heads of Corrections, to identify priority options in each jurisdiction to deal effectively with growing prison population pressure, and to report back to Ministers in a year with practical solutions.

- Subsequently, the Deputy Solicitor General of Canada wrote to his provincial counterparts on June 9, 1995 to survey views on collaborative efforts to safely contain the rate of growth of prison populations. A second letter, dated September 14, 1995, sought information on current population pressures and strategies to deal with these pressures.

- Heads of Corrections discussed this question at meetings convened in Ottawa on May 3 and 4, and in Winnipeg on October 4 and 5, 1995.

- Deputies also reviewed issues related to population growth at meetings in Ottawa on May 16 and 17, and in Regina on December 4 and 5, 1995. At the Regina meeting, it was agreed to establish an *ad hoc* group chaired by Deputy Solicitor General Jean T. Fournier, with the participation of Yukon, PEI, Ontario, BC, Saskatchewan, and Newfoundland, with a view to preparing a report for FPT Ministers at their next meeting.

- Annex "A" contains a brief summary of information provided by each jurisdiction about its environment and activities related to the question of the safe management and containment of offender population levels.

INTRODUCTION

All jurisdictions have been experiencing prison population growth in recent years that threatens to outstrip available capacity and resources. At the same time, government resources have been declining. Such pressures undermine jurisdictions' ability to effectively treat, manage and return offenders to the community as law-abiding citizens.

- From 1989/90 to 1994/95:

  - the **Federal** penitentiary population grew by **22%**
  - **Provincial** prison populations grew by **12%** on average

- Rapidly escalating prison and penitentiary populations create both custodial management and fiscal problems.

Corrections Population Growth

- Most provincial and territorial jurisdictions have experienced significant community caseload increases; while these unit costs are lower than for institutions, they are nonetheless significant:

  - between 1984/85 and 1994/95 federal and provincial-territorial correctional caseloads (custodial and non-custodial) increased by 29% and 40.8% respectively;

  - during the same period their respective costs rose by 47% and 62.5% and now total $1.9 billion annually;

  - between 1984/85 and 1994/95 provincial and territorial community caseloads (primarily probation) increased by 45.9%;

  - as a proportion of the total correctional caseload, community cases rose from 73.8% to 76.9% during this period.

- Some believe that the criminal justice system today is too often used to deal with social problems that could be handled more cost-effectively in other less intrusive ways, often by other social services or programs, or by greater collaboration between health and social program areas with the criminal justice system.

- Notwithstanding a decline in the reported crime rate over the past three years, and while the source of growing workload pressures is not entirely clear (and would benefit from further study), there are indications that:

  - at the provincial/territorial level of the system more custodial sentences are being given and for longer periods of time; there has been significant growth in charges for sexual and other assaults;

  - federally, there have been fewer conditional releases granted and more revocations of conditional release resulting in more time being served by more offenders; in addition there has been significant growth in the proportion of offenders serving sentences for violent offences including homicide.

- Many believe the incarceration rate is excessive in view of domestic factors and international comparison. In Canada:

  - the combined (federal/provincial/territorial) rate is 130 youth and adult offenders per 100,000 population, representing 33,900 adult offenders (1994/95 daily average), with 59% in provincial and territorial custody and 41% federal;
  - the Canadian rate is higher than most western democracies and is exceeded by countries such as Russia (558), US (529), and South Africa (368);

  - it is far above the Netherlands (51), Germany (81), and UK (92);

Corrections Population Growth

- see Annex "B" for an international comparison chart, and Annex "C" for an overview of national correctional statistics.

- There may be any number of reasons for these different rates. But, for example, in some other Western nations:

  - The American experience suggests that a more punitive approach to criminal behaviour does not by itself increase public protection or reduce levels of crime. Between 1984 and 1989 the American crime rate rose by 14%, but the prison population increased by 58%. Today, more than 1.5 million Americans are incarcerated.

  - In the Netherlands, drug problems are viewed as a health rather than criminal justice issue. A close collaboration between health and criminal justice systems diverts cases into the health system at a high rate. Community sanctions are supported and sentence lengths are much shorter (4 years is considered a long sentence).

  - Germany has experienced a reduction in their incarceration rate. This is attributed to the broad discretion that is conferred upon prosecutors to dismiss cases and even impose sanctions of their own. These changes have been achieved less through legislative means than through administrative arrangements and close collaboration within the criminal justice system.

  - In Finland, prison populations have been reduced through policy changes that de-emphasize imprisonment, reduce penalties for offences such as theft and impaired driving, set parole eligibility earlier, and increase the use of suspended sentences.

- These experiences indicate that a country can substantially reduce the level of incarceration where there is a will to do so. To do so, it appears that a number of coordinated strategies must be pursued including a combination of policy changes, legislative reform, public information, viable community options and alternatives, and new partnerships.

  - However, even among these nations there are considerable differences of culture, values and social institutions which make it difficult to assume, without careful analysis, that direct adoption of the practices of other nations would be viable.

PROVINCIAL/TERRITORIAL ACTIVITIES

Initiatives and activities are underway in all jurisdictions to manage and counter the pressures described above (see Annex "A" for additional details).

- All jurisdictions are taking steps to reduce the demand for institutional beds in order to offset increases in the average counts of remanded or sentenced persons and to reduce the costs of incarceration.

- Some measures which have been integral parts of correctional practice for years are being given more emphasis today. For example, jurisdictions have traditionally considered community corrections to be a viable alternative to incarceration for low-risk offenders; today, however, community-based programs are increasingly being utilized as cost-effective means to offset escalating institutional populations and costs. Examples of community-based measures include:

  - bail verification and supervision programs;
  - electronic monitoring and house arrest;
  - fine option programs;
  - enhanced probation and community-based treatment programs;
  - temporary absences or "TA's" (including accelerated TA s; TA release to offender's residence with or without electronic monitoring; TA release to community residence; TA release to treatment program in community; TA release with intensive community supervision by probation services);
  - streamlined parole application procedures;
  - capping capacity and use of administrative TA s to relieve overcrowding.

Strategies that are common across many jurisdictions include: crime prevention and early intervention programs; police enforcement practices; bail assessments; Crown counsel charging practices; Crown counsel role in advocating for sentences; defence counsel/legal aid practices as they affect adjournments and extended stays in remand; pre-sentence assessments and reports; amendments to provincial legislation governing offences, fines and fine administration; federal amendments governing criminal procedure, sentencing provisions and conditional release; integration of health, social and employment services as part of correctional programs; expansion of services to victims, including victim/offender reconciliation; and, public information programs to increase public understanding of alternatives to incarceration.

FEDERAL ACTIVITIES

- It has been recognized for some time that federal correctional population growth will, in the medium term, be unsustainable from both a fiscal and social perspective: *if recent trends continue (growth rate twice the historic average), the* ***penitentiary population could increase by nearly 50% over next 10 years.*** While there has been a very recent leveling off in the growth rate, it is too soon to tell if this will continue.

- Among the reasons for the increased offender population are: more "challenging" offenders (e.g. sex offenders, violent offenders); growing accumulation of "lifers" in the inmate population; growing use of *Corrections and Conditional Release Act*

Corrections Population Growth

detention provisions; fewer offenders on conditional release; will be exacerbated by new and harsher measures for more serious offences (4 year minimum sentences for firearms, *YOA*, etc.).

- CSC now double-bunks approximately 25% of inmates - concern about the high rate of incarceration and double-bunking has been expressed by the Correctional Investigator, the Auditor General and other interested parties.

- Other measures being used to manage this growth: renovations and expansion of existing facilities; use of Exchange of Service Agreements; and inter-regional transfers to alleviate imbalances in regional populations.

- Both the Solicitor General of Canada and the Minister of Justice have spoken publicly about the need to continue to work with provinces and territories to develop strategies to contain the rate of growth of the inmate population.

- A number of on-going measures are already in place, in partnership with provinces and territories: Crime Prevention Council, Community Policing initiatives, Aboriginal Justice pilot projects.

- But it is recognized that more needs to be done in view of pressures experienced by the *Correctional Service of Canada.* Approaches are currently being considered for the future that would:

  - target resources on the highest risk offenders;
  - deal with more low risk offenders safely in the community through: increased use of Day Parole; full use of Accelerated Parole Review (APR) legislative provisions; intensive casework for first time non-APR offenders; and alternatives to re-incarceration following suspension of conditional release;
  - base more decisions on risk assessment at all stages of the criminal justice system;
  - reduce reliance on incarceration in criminal law and sentencing policy and practice;
  - consider F/P/T collaboration and pilot projects to develop innovative approaches and more efficient and cooperative corrections and criminal justice operations;
  - better inform the public and criminal justice practitioners about how the system functions and its environment.

FED/PROV DIVISION OF RESPONSIBILITIES - TWO YEAR RULE

In any discussion of pressures on the correctional system, the issue of the jurisdictional split or "two year rule" inevitably arises. The issue has been reviewed extensively over the years, without coming to a conclusion that change is required (see Annex "D"). The Deputy Solicitor General again surveyed opinions on the matter in the June 9, 1995 letter which was referenced earlier. Provincial responses ranged from a high degree of interest

in re-examining the matter by one jurisdiction to a strong concern expressed by a number of others that simply moving the dividing line would be unlikely to produce any increased efficiencies.

- There does not seem to be a consensus that constitutional or legislative change is either necessary or desirable with regard to the division of responsibilities.

- There is general agreement that the emphasis should be on the pursuit of practical solutions which would strengthen arrangements for the more efficient sharing of resources.

- CSC is taking part in bilateral discussions with provincial and territorial jurisdictions, and with New Brunswick and PEI in particular, to assess interest in correctional pilot projects. Work is also proceeding on several other fronts, i.e. aboriginal programs, policing, administration of justice.

- While there is no single approach to how best to combine our efforts, it is generally agreed by senior officials that a region by region dialogue will help to meet our shared objectives through targeted coordinated action.

PRINCIPLES

It is generally agreed that all jurisdictions would benefit from greater sharing of information about their efforts to manage and control correctional workloads and costs, and the development of collaborative operational arrangements wherever appropriate. It is also recognized that it would be useful to make explicit, shared underlying principles that guide efforts to safely contain mounting pressures on correctional and criminal justice services, while effectively achieving their objectives. Such principles would help communicate the rationale for policy choices and would express inter-jurisdictional support for similar and inter-related initiatives.

- In recent years statements of purpose and principles have increasingly been included in legislative initiatives such as:

  - Prince Edward Island's *Victims of Crime Act*
  - *Young Offenders Act* (1984)
  - *Corrections and Conditional Release Act* (1992)
  - amendments to the *Criminal Code of Canada* (1995)
  - amendments to the *Prisons and Reformatories Act* proposed by F/P/T Heads of Corrections (1996)

- While it is recognized that there are differential approaches to similar policy issues across jurisdictions, and such diversity must be respected, there are many principles and objectives that are held in common which could be made explicit and endorsed. Some of these would be:

  ⇒ The criminal justice system is a social instrument to enforce society's values, standards and prohibitions through the democratic process and within the rule of law;

  ⇒ The broad objective of the criminal justice system is to contribute to the maintenance of a just, peaceful and safe social environment;

  ⇒ Public safety and protection is the paramount objective of the criminal justice system;

  ⇒ The best long-term protection of the public results from offenders being returned to a law abiding lifestyle in the community;

  ⇒ Fair, equitable and just punishment that is proportional to the harm done and similar to like sentences for like offences is a legitimate objective of sentencing;

  ⇒ Offenders are sent to prison as punishment, not for punishment;

  ⇒ Incarceration should in most cases be used only where public safety so requires, and we should seek alternatives to incarceration if safe and more effective community sanctions are available;

  ⇒ The criminal justice system is formed of many parts within and across jurisdictions that must work together as an integrated whole to maximize effectiveness and efficiency.

RECOMMENDATIONS

All jurisdictions today are facing common problems with regard to escalating workload pressures in the criminal justice field. Solutions are being sought in diverse ways but with many common themes. Sharing knowledge about these efforts, working together to expand our knowledge about the problems and potential solutions and engaging in joint and collaborative efforts can maximize the results of each of our individual efforts and benefit all jurisdictions. **Underlying the following recommendations, it is recognized that all components of the criminal justice system (police, courts, corrections), share responsibility to work together collaboratively to achieve efficiency and effectiveness in their contribution to safe, just and peaceful communities.**

Consultation among Deputy Ministers and Heads of Corrections has resulted in a number of recommendations for consideration by Ministers.

1. Endorse a shared statement of principles for the Criminal Justice System

The legislative initiatives mentioned above each include statements of principles which have been the subject of extensive multilateral consultation. Such statements of principles help interpret legislation but are also useful to help guide and communicate policy development and choices. **The principles set out in the previous section could be endorsed in whole or in part by Ministers. Alternatively, Ministers may wish to request that further work be carried out by officials and to review this matter again when they next meet.**

2. Make greater use of diversion programs and other alternative measures

Programs to divert low-risk offenders out of the criminal justice system or to a lower degree of control, when it is safe and consistent with criminal justice objectives to do so, have been advocated for many years. Early intervention to divert offenders before a criminal behavior pattern has been established is regarded by many as a sound method to avoid future criminal involvement and the attendant costs to the system. Many such programs have been developed on both an experimental and on-going basis. Recent consultations have revealed that there is renewed interest in many jurisdictions and that there are many such programs being implemented or considered. For the most part these programs are locally based and require a high degree of cooperation among courts, crowns, probation authorities and voluntary sector program operators. Much of this activity is undocumented and evaluation results not widely distributed even though there are many positive anecdotal reports of positive results.

Particular statutes such as the YOA and the recent changes in C-41 (*Criminal Code*/sentencing reforms) provide for a variety of alternative measures that may be used by courts as sentencing options. They will have maximum impact when supported by appropriate programs, included in pre-sentence probation reports and are taken into account by Crown Attorneys when making sentencing submissions. The Department of Justice is prepared to work with provincial colleagues to help design approaches that may take best advantage of the alternative measures established by the YOA and C-41. Within available resources this may include pilot testing and evaluation of innovative models. **Ministers may wish to endorse and promote the use of alternatives to imprisonment.**

Ministers may wish to consider and encourage the development of diversion programs and other alternative measures within their jurisdictions and to encourage the sharing of information about successful programs, and about lessons learned from those that have not produced the desired results. In addition, with the support of Ministers, the federal departments of Solicitor General and Justice would be prepared to undertake a study of the research literature and document exemplary past and current diversion programs. **With the cooperation of all jurisdictions, a "best practices manual" could be prepared during the coming**

year that would help inform practitioners and policy makers about the "state of the art" in this field.

3. De-incarcerate low-risk offenders

Community-based sanctions and sentence management alternatives should be pursued for those low-risk, non-violent offenders who can be more effectively managed in the community under appropriate sanctions and controls. Incarceration should be reserved for high-risk violent offenders where that level of control is necessary for public safety. **In determining the most appropriate use of incarceration, a clear distinction should be made between violent and non-violent offenders. It is recommended that all jurisdictions vigorously pursue community-based alternatives to imprisonment that will provide the best short and long term contribution to public safety.**

4. Increase use of charge screening

Most jurisdictions have charge-screening policies to guide Crown Attorneys in laying and handling charges. In general it is good practice to apply scarce resources differentially, reserving the heaviest and most costly penalties and programs for the most serious offenders and directing the less serious offenders to less intrusive forms of prosecution and correctional programs. **Ministers may wish to consider putting in place charge screening policies that will ensure that criminal justice resources are focused on those most in need of control and correctional treatment.**

Recognizing the provincial/territorial interest in this area, Justice Canada will consider proposals for sentencing reform that would help facilitate such policies. Work that is underway on the reclassification of offences, the *Contraventions Act* and the like may provide a vehicle to accommodate such proposals.

5. Make wider use of risk prediction/assessment techniques in criminal justice decision making

Considerable advances have been made in recent years with regard to risk prediction. Our ability to assess risk is still far from precise, but it has improved and Canada is among the leaders in developing this methodology. It is being used to good effect in a number of jurisdictions and a number of experts exist in both the private and public sectors. While there is some danger of these methods being misunderstood and misused, they provide an invaluable tool to be used with other case assessment techniques to better differentiate high and low risk offenders when making criminal justice decisions. Greatest use has been made to date within the correctional system and some jurisdictions may still be considering incorporating this methodology into their process. The Department of the Solicitor General Canada and Correctional Service of Canada have provided assistance to jurisdictions who are moving into this field and, within available resources will continue to do so. Other areas of criminal

justice decision making could also benefit from making greater use of these techniques. It could prove most useful to utilize risk assessment at the pre-sentence stage. This could help courts make better informed sentencing decisions, and such assessments would then serve to inform successive stages of the process. **Ministers are encouraged to consider whether risk prediction techniques could be used more widely in pre-sentence assessments and other stages of the criminal justice process.** Solicitor General and Justice Canada would both be prepared to engage in consultations for this purpose and to offer assistance with the development of appropriate pilot projects to the extent possible.

6. ***Increased use of restorative justice and mediation approaches***

Experience with innovative approaches in the areas of Aboriginal justice, young offenders and adult diversion has demonstrated that restorative justice principles that concentrate on repairing the harm done rather than only penalizing the wrongdoer hold promise. Victims have a meaningful role to play in the criminal justice system, and such approaches can be more responsive both to the needs of victims and to those of the community. Where the conditions are appropriate, **jurisdictions are encouraged to explore approaches based on such principles.** Demonstration projects in which the federal government participates will be documented and evaluation results made available. Similar **sharing of information by all jurisdictions is encouraged.**

7. ***Support Provincial Conditional Release recommendations to amend Prisons and Reformatories Act for greater administrative flexibility (Heads of Corrections project)***

Federal/Provincial/Territorial Heads of Corrections have recommended amendments to the *Prisons and Reformatories Act* to provide for more flexible Temporary Absence provisions that will allow each jurisdiction to tailor its conditional release program to its own requirements. **These recommendations have been endorsed by F/P/T Deputy Ministers. Ministers are asked to agree that these proposals should be recommended to the federal Cabinet to be passed into legislation at the earliest opportunity.**

8. ***Better information sharing and technologies within the system***

The systemic nature of the criminal justice field is well recognized. Developments in any one area can have far-reaching repercussions in all others. Information is critical be it criminal history information, court information, case information, or research or statistical data. All jurisdictions are increasingly sensitive to the efficiency and effectiveness gains that can be made by sharing information and research more widely and avoiding both information gaps and duplicative information collection. The Canadian Police Information Centre (CPIC) and Canadian Centre for Justice Statistics (CCJS) are examples of collaborative efforts to facilitate information collection and sharing. The latter will sponsor in mid-April a national workshop on developing

Corrections Population Growth

integrated justice information systems. In addition, CCJS stands ready to assist in collecting better information with regard to how our systems interact as offenders flow through the various stages and levels of the system.

The Correctional Services Program of CCJS is currently working on a corrections special study, which will include the following three projects:

- A comprehensive one-day "snap-shot" profile of inmates in federal and provincial/territorial adult correctional facilities;

- A study of adult recidivists in the federal and provincial/territorial corrections systems; and

- An examination of jurisdictional policy and practice for using "Temporary Absence" to manage/control overcrowding, and a review of inmate releases to determine the length of sentences they have served by offence type, and by the nature of their involvement in programs while incarcerated.

With the concurrence of all jurisdictions, the Centre will assist with the collection and analysis of system data that will help better understand the source of prison population and other workload pressures across our shared system. A report to Ministers can be submitted at their next annual meeting.

9. Better inform the public about criminal justice dynamics and issues

There are many publics who wish and need to be better informed about the criminal justice system. These include the media and professional and lay interest groups and individuals who often have only partial knowledge, and often inaccurate knowledge of the system and its environment. Public opinion is important and must be given serious consideration. However, the better informed that opinion is, the better Canadians can assess the performance of the system and its many parts, and demand effective solutions to the most pressing problems. All jurisdictions are encouraged to engage in public information activities that will provide comprehensive information about criminal justice activities and dynamics and in particular about those components that are performing well and meeting the expectations held out for them. **While no specific initiative is being proposed in this area, Ministers may wish to consider whether there is a common interest in having officials consider options for joint action in this area.**

10. Aboriginal justice and corrections pilot projects to test innovative, traditional methods based on restoration and healing

While this is still an emerging field with a great deal of experimentation to be undertaken, there is little question that Aboriginal people have unique criminal justice

needs and that innovative approaches based on traditional values hold promise. Excellent results have been experienced in projects such as Hollow Water in Manitoba, and Saskatchewan is exploring a range of criminal justice options across that province in collaboration with Justice and Solicitor General Canada and with the Federation of Saskatchewan Indian Nations. Circle sentencing, elder assisted parole decision making and similar approaches should be encouraged. Consistent progress is also being made in developing tri-partite Aboriginal policing agreements and the Department of the Solicitor General will continue to seek such arrangements. **Both federal departments are prepared to enter into discussions around pilot projects that will demonstrate, test, and evaluate innovative community alternatives, sentencing and correctional approaches.**

11. F/P/T pilot projects to work more cooperatively together on programs and services

While there is little interest in attempting to re-configure current jurisdictional authority in the criminal justice field or to seek national program initiatives, there is considerable interest in a number of jurisdictions to re-engineer their current operations to realize efficiency and effectiveness gains. In doing so important lessons may be learned that will be of benefit to all. Regular progress reports are encouraged. In addition, collaboration between federal and provincial/territorial levels may offer innovative ways of delivering services that are mutually beneficial.

There are already some promising examples, where, through Exchange of Service Agreements, services are being shared or delivered by one level of government on behalf of another. Such arrangements can be achieved within existing authorities and require only agreement of both parties to undertake them on either a pilot or on-going basis. Being primarily of an operational nature such undertakings are of particular interest federally to the Correctional Service of Canada. But in view of the systemic nature of the criminal justice system more comprehensive arrangements can be considered that would involve police, courts, Crown Attorney's and others. **Solicitor General and Justice Canada are both open to discussing innovative arrangements with interested jurisdictions and to engage in pilot projects where they are feasible and mutually beneficial.** For example, discussions are underway with New Brunswick to consider the possibility of the federal system taking on a greater role with respect to managing custodial sentences (e.g. > 1 year), with the provincial system emphasizing community alternatives.

CONCLUSION

The foregoing recommendations are submitted for consideration by Ministers. Follow-up work that may be required will be undertaken by Deputies and Heads of Corrections via their regular meetings and any *ad hoc* work groups that may be required, with a progress report to Ministers at their next regular meeting.

Corrections Population Growth

ANNEX A

PROVINCIAL SUMMARIES

British Columbia:

- a sharp increase in number of beds has been required in past 5 years (5% per year);
- a further increase of 4%-5% is projected each year in the short term;
- an additional 100-120 beds per year will be required if demand continues;
- capital construction projects have been deferred, some indefinitely;
- in the past 5 years, probation and community corrections have increased 10% annually;
- these increases were accommodated by double-bunking, renovations/added beds, other interim accommodations, and extensive use of electronic monitoring;
- other measures are being explored such as intensive supervision, specialized community programs and residential options.

Yukon:

- has experienced a gradual decrease in the inmate population over the last year, but since August 1995, there has been a significant increase in the population;
- growth is attributed to longer sentences and more remand admissions;
- factors that have helped to contain the rate of growth include circle sentencing, the Community Justice Initiative, community-based programs for violent offenders and sentencing practices of judges;
- has implemented an administrative sanctions procedure for dealing with unpaid motor vehicle fines. Overall, the Yukon has few people going to jail for unpaid fines;
- a comprehensive crime prevention strategy called "Keeping Kids Safe" is presently being introduced, one element of which is a sex offender assessment and correctional management strategy;
- Yukon is exploring the possibilities of rebuilding/expanding their principal adult correctional facility (Whitehorse Correctional Centre) to accommodate increases in the inmate population;
- use of alternatives such as temporary absences to halfway houses, electronic home monitoring and house arrest are being utilized;
- although the number of offenders is small, there is a continuing desire to repatriate federal offenders from the Yukon closer to home since CSC has no correctional facility there.

Alberta:

- if sentencing practices remain unchanged, Alberta projects a 21% increase in the adult inmate population and 38% in the young offender population over the next 5 years;
- is currently double-bunking some offenders and this trend may increase;
- have closed three correctional centres in the past 3 years;
- given these pressures, Alberta commenced an initiative to seek longer sentences for serious and violent offenders and to avoid incarceration for lower risk offenders through alternative measures (conditional sentences, diversion as per C-41); a categorization of offences will guide Crown Attorneys;
- may also add more beds to existing facilities;
- is considering a different approach for impaired driving;
- has a fine option program and TA program;
- is exploring the possibility of privatization.

Northwest Territories:

- NWT developed a master plan and has been working with CSC to repatriate federal NWT offenders to the north (largely Aboriginal and Inuit), a joint option has been agreed to by both governments;
- support community supervision as an alternative to incarceration, but the lack of a strong community corrections infrastructure and proportion of violent offenders are obstacles;
- additional funding would be needed to move inmates into the community;
- inmate pay has been reduced and a portion of inmate pay is now used for programming.

Saskatchewan:

- current and short term demands will require full use of existing facilities;
- the projected rate of growth over next ten years is 2 % annually (25 beds per year);
- the reasons for this increase are more and longer remands and greater average sentence lengths;
- the province's primary alternative programs, bail supervision and administrative releases, reduce bedspace demand by 20%;
- intensive supervision electronic monitoring and parole has reduced demand by another 15% over the past 3 years;
- courts have been using probation more (and incarceration less);
- there are no plans to increase bedspace;
- will expand administrative releases, electronic monitoring and community supervision;

Corrections Population Growth

- will focus on alternative measures such as mediation and diversion (planning extensive program);
- hope to see major impact on the number of offenders in the next three years.

Manitoba:

- the number of inmates has declined in 3 of the past 5 years;
- last year the population increased by 6 % which was the first increase since 1991;
- probation counts are up; the use of parole and TAs is down;
- has had success in diverting some offenders to the restorative resolutions program;
- long-term projections indicate a slow growth pattern of 3 % annually;
- a 1993 strategic plan addressed bed space for the next 10 years;
- is examining intermediate sanctions such as electronic monitoring and mediation.

Ontario:

- adult institutional counts are projected to grow at a rate of 2.3% per year to 2005; during the same period, young offender secure custody counts are expected to grow annually by 0.8%, open custody counts by 3%, adult probation by 2.2%, and young offender probation by 0.3%;
- institutions in the larger urban centres are consistently operating at or above capacity; young offender secure custody facilities are also over capacity;
- peak counts occur at weekends due to the influx of large numbers of inmates serving intermittent sentences;
- over-capacity situations are addressed by transferring offenders to under-utilized facilities;
- a comprehensive business plan has been prepared to guide correctional operations into the next century - the plan has been submitted for approval;
- the plan employs a continuum of correctional services from incarceration to minimal community supervision for the lowest risk offenders and uses a proven risk assessment instrument (LSI-OR) as the basis for classification and conditional release decision-making.
- correctional facility, program and service rationalization projects are under way to streamline correctional operations and meet deficit reduction targets;
- initiatives include electronic monitoring as a replacement for most community residences, video court pilot projects, development of strict discipline facilities for young offenders, stricter eligibility criteria for conditional release decisions, adult diversion and young offender alternative measures programs, and an in-depth review of the Ontario Board of Parole

- planning initiatives contemplate a strategically located network of highly efficient and cost-effective correctional facilities using advanced security and business technology;
- discussions are under way with other justice ministries to establish an integrated justice system information system.

Quebec:

- The Ministry of Public Security is presently evaluating the advisability of closing certain provincial prisons over the next 3 years;
- a more European approach to addressing crime and criminality will be taken;
- will reduce prison beds by 400;
- some detention units have been closed at Laval;
- a restructuring of correctional services has begun, with the effect of eliminating one level of management and amalgamating detention, probation and community services;
- the objectives are less reliance on incarceration and a better integration of services.

New Brunswick:

- over the last fifteen years, there has been a 33% increase in the correctional institution population;
- serious overcrowding began in 1989/90, and it has been particularly problematic on weekends due to intermittent sentences;
- populations did begin to decrease in 1994/95 and are continuing to decrease in 1995/96;
- strategies to address the population pressures include the construction of a new facility for adult males, a new young offender facility and an enhanced TA program;
- is in the process of developing a model for an integrated provincial criminal justice system (New Brunswick Integrated Justice Project);
- the integrated justice system will focus on prevention, diversion, resolution, mediation, community involvement and community-based approaches, with emphasis placed on community corrections and non-carceral sentences for offenders serving short sentences;
- other strategies under consideration include changing eligibility criteria for TAs to 1/6 and electronic monitoring in combination with community programming.

Corrections Population Growth

Nova Scotia:

- after many years of enjoying one of the lowest incarceration rates in the country, the number of offenders in custody has increased marginally in Nova Scotia;
- Nova Scotia still has a favourable probation/custody ratio;
- concerned about increase in the number of violent offenders in their institutions, Nova Scotia will pursue a "cooperative business solutions approach" with the private sector over the next 18 months;
- are considering privatizing an adult male facility for the first time.

Prince Edward Island:

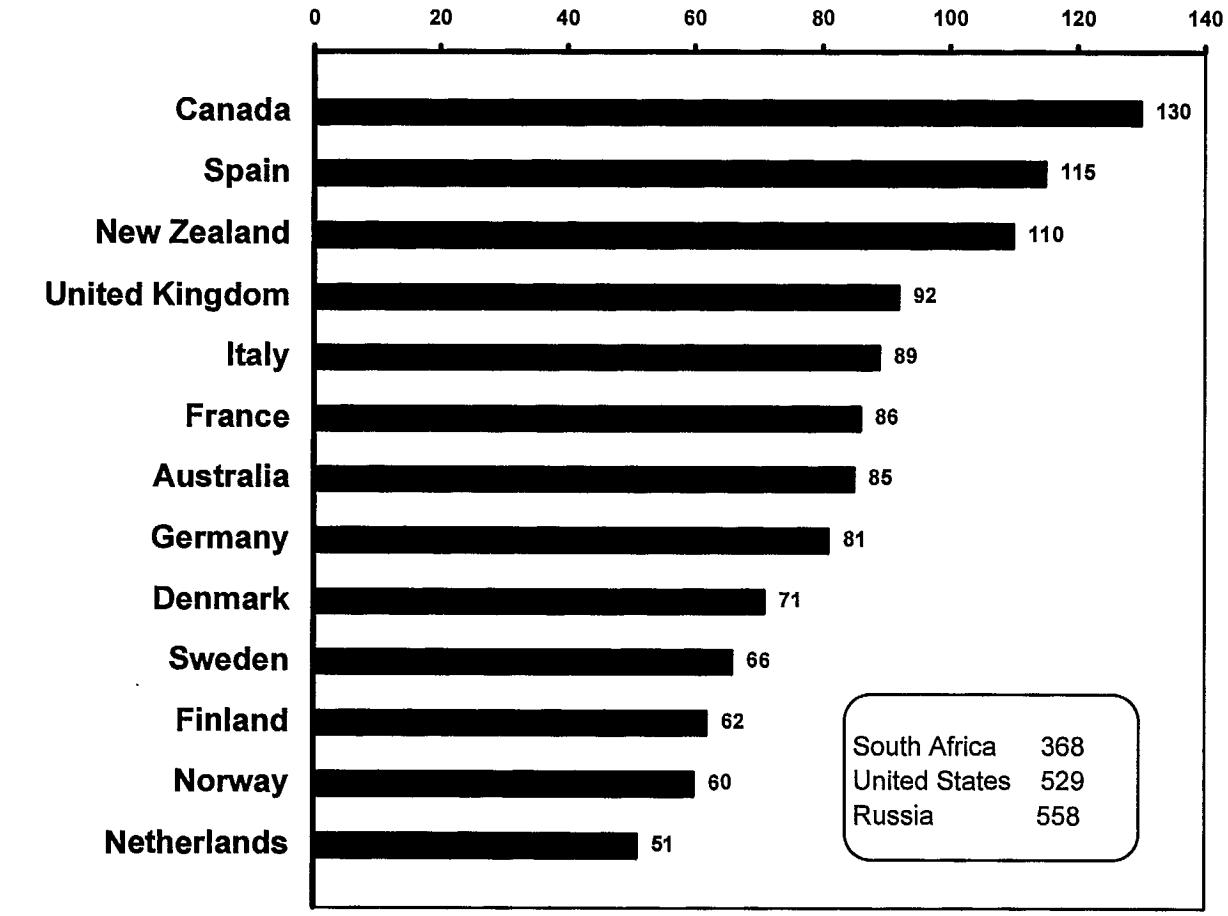
- PEI has had some success in managing and reducing demands on adult facilities over the past five years. A small 14-bed facility was closed in 1993 leaving the province with two multi-use facilities with a total of 107 beds for remand and sentenced adults;
- total sentenced admissions decreased noticeably from 1447 in 1990 to 802 in 1994, while probation cases remained stable;
- decrease has allowed the province to repatriate federally sentenced offenders through an ESA (initially 5 beds, recently increased to 10);
- improvements in fines management, correctional programming and an impaired driving initiative are believed to have contributed;
- in cooperation with Solicitor General, Justice and Correctional Service of Canada, PEI has undertaken a Criminal Justice/Corrections Review to assist with a long-range planning framework to reduce costs, reassess and rationalize responsibilities and resources, and improve administration and delivery of justice services consistent with government reform in the province;
- key themes of the Review are public participation (a public opinion survey was included in the review), alternatives, crime prevention, integration of services, legal education and agreed upon overall goals, principles and objectives.
- the province continues to work with CSC in identifying and addressing correctional-related issues in the context of a Federal-Provincial Memorandum of Understanding signed at the Ministerial level in 1992.

Newfoundland:

- for the first time in 3 years, Newfoundland is under capacity and not double-bunking in provincial institutions, with the exception of the Labrador Correctional Centre.
- the prison utilization rate has been reduced from 120% to slightly less than 100%;
- average daily inmate counts have been reduced by 5% in 1994/95 even though inmate admissions increased by 8% during the same period;
- this success is attributed to an Accelerated Temporary Absence program for low-risk offenders in conjunction with the introduction of electronic monitoring for moderate-risk inmates released on Temporary Absence;
- the provincial capacity has been reduced by 7% (26 beds) with the closure of one male correctional centre;
- revisions to the *Provincial Offenses* Act will expand the availability of non-carceral alternatives for fine default with an anticipated further decline in the rate of fine default incarcerations, currently in the range of 12%;
- a joint Task Force has been created to explore the feasibility of implementing an alternative measures strategy for dealing with offences committed by aboriginals (Innu);
- a pilot pre-trial mediation program is being tested in St. John's.

ANNEX B

Number of Inmates Per 100,000 Total Population, 1992-93



(International statistics: Council of Europe, Council of Penological Co-operation, September 1, 1993)

ANNEX C

STATISTICS

Summary Table 1. Total Federal and Provincial Adult Operational Expenditures in Current Dollars (millions), 1990-91 to 1994-95

Year	Federal	Provincial	Total
1990-91	862	908	1,770
1991-92	876	994	1,870
1992-93	859	1,020	1,879
1993-94	882	997	1,879
1994-95	913	980	1,893
Percent Change 1990-91 to 1994-95	5.9	7.9	6.9

Summary Table 2. Average Offender Caseload in Canadian Corrections, 1990-91 to 1994-95

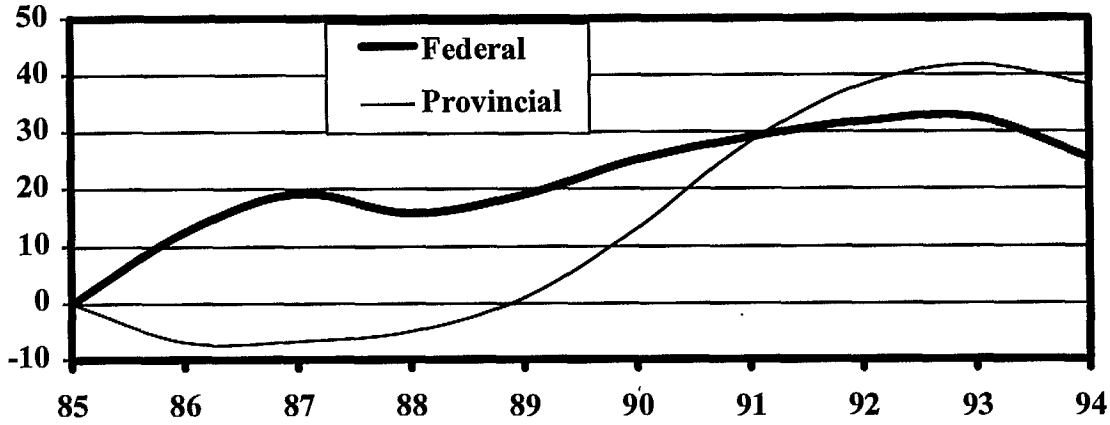
Average actual caseload	Year	Provincial	Federal	Total
Custodial(1)	1990-91	17,935	11,289	29,224
	1991-92	18,940	11,783	30,723
	1992-93	19,367	12,342	31,709
	1993-94	19,481	13,322	32,803
	1994-95	19,934	13,948	33,882
Non-custodial(2)	1990-91	84,635	9,406	94,041
	1991-92	95,970	9,707	105,677
	1992-93	103,579	9,914	113,493
	1993-94	106,262	9,967	116,229
	1994-95	103,586	9,422	113,008
Total	1990-91	102,570	20,695	123,265
	1991-92	114,910	21,490	136,400
	1992-93	122,946	22,256	145,202
	1993-94	125,743	23,289	149,032
	1994-95	123,520	23,370	146,890
Percent Change 1990-91 to 1994-95	**Custodial**	11.1	23.6	15.9
	Non-custodial	22.4	0.2	20.2
	Total	20.4	12.9	19.2

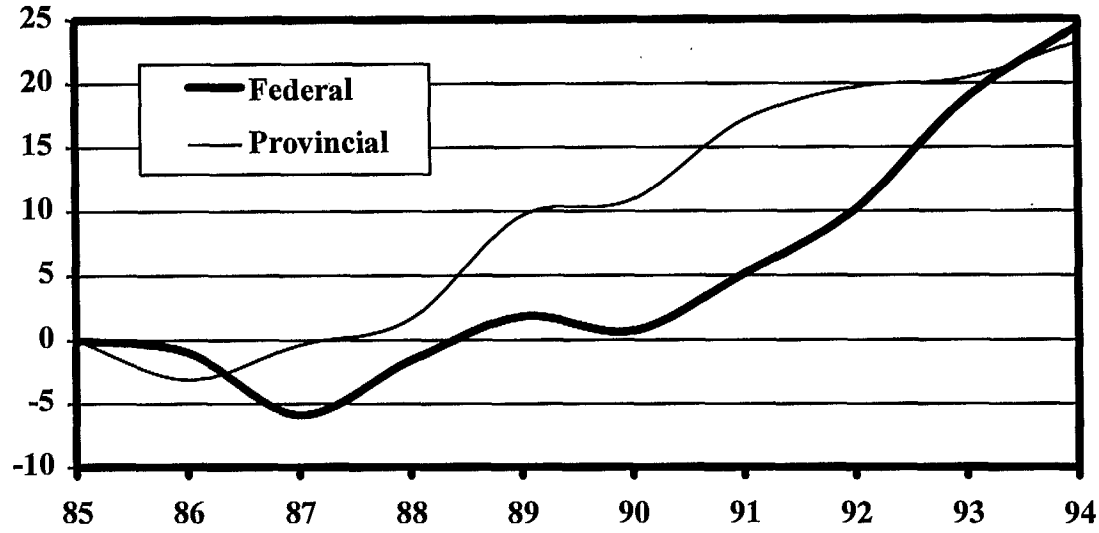
(1) Refers to average actual count. Excludes inmates temporarily not in custody at the time of the count.
(2) Figures for the federal non-custodial population include full parole, day parole and statutory release.

The charts on the next page show the percent change in the community versus inmate population over the past ten years.

Percent Change in Community Caseload

1985 to 1994





Percent Change in Average Inmate Count
1985 to 1994

Summary Table 3. Total Admissions to Canadian Corrections(1), 1990-91 to 1994-95

Types of Admissions	Year	Provincial	Federal	Total
Custodial	1990-91	207,946	4,296	212,242
	1991-92*	146,356	4,878	151,234
	1992-93*	148,026	5,583	153,609
	1993-94	240,734	5,084	245,818
	1994-95	238,912	4,758	243,670
Non-custodial	1990-91	70,428	5,423	75,851
	1991-92*	48,509	6,247	54,756
	1992-93*	46,994	6,191	53,185
	1993-94	86,412	8,158	94,570
	1994-95	85,124	7,423	92,547
Total	1990-91	278,374	9,719	288,093
	1991-92	194,865	11,125	205,990
	1992-93	195,020	11,774	206,794
	1993-94	327,146	13,242	340,388
	1994-95	324,036	12,181	336,217
Percent Change 1990-91 to 1994-95	**Custodial**	14.9	10.8	14.8
	Non-custodial	20.9	36.9	22.0
	Total	16.4	25.3	16.7

(1) These admissions include provincial inmate admissions as well as federal inmates admitted on a 30-day appeal period who are later transferred to a federal institution.

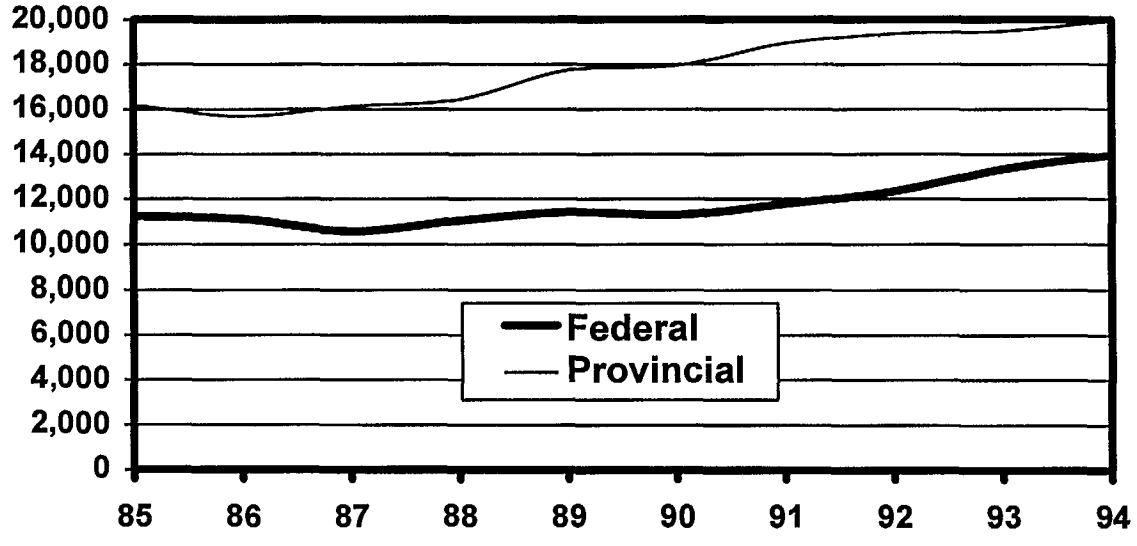
* Excludes Ontario due to system management conversion.

Summary Table 4. Federal and Provincial Inmate Counts, Adults Charged and Incarceration Rate per 10,000 Adults Charged

	Inmate Counts	Adults Charged	Incarceration Rate per 10,000 adults charged
1990-91	29,224	821,973	356
1991-92	30,723	842,315	365
1992-93	31,709	810,625	391
1993-94	32,803	759,245	432
1994-95	33,882	698,932	485
Percent Change 1990-91 to 1994-95	15.9	-15.0	36.3

This chart shows that while the numbers of adults charged has decreased over the last five years, the rate of those charged who are being incarcerated has increased.

AVERAGE INMATE COUNT 1985 - 1994



Summary Table 5. Provincial Remand Admissions and Counts, 1990-91 to 1994-95

	Remand Admissions(1)	Remand Counts
1990-91	92,102	4,713
1991-92*	69,335	4,947
1992-93*	66,598	5,111
1993-94	112,373	5,130
1994-95	112,723	5,378
Percent Change 1990-91 to 1994-95	22.4	14.1

(1) Admission numbers greatly exceed count numbers, due to the high number of offenders who may be admitted for very short periods of time. A single offender may also be admitted several times in one year, but for "count" purposes constitutes only one inmate.

* Excludes Ontario due to system management conversion

ANNEX D

A BRIEF HISTORY OF THE TWO-YEAR RULE

(Solicitor General Canada, October 1994)

1. INTRODUCTION

The "two year rule" provides that offenders serving sentences of two years or more do so in penitentiaries, while those serving sentences under two years (hence the expression "two years less a day") do so in provincial correctional facilities (formerly, and often still, called "prisons" or "reformatories"). Over the intervening years this separation of jurisdiction has often been attacked as arbitrary and of limited effectiveness from a variety of perspectives such as integrated service delivery, "good corrections", economies of scale, and overlaps and duplication of programs and administration. Many "solutions" have been proposed, ranging from transferring all responsibility to one or the other level of government to most gradations in between.

2. ORIGINS

Custodial facilities in the early 1800's consisted primarily of "common gaols", which were small, local, and included all ages, sexes, and sentencing purposes in their populations. A smaller number of persons were confined in reformatory prisons, as well as lunatic asylums. Following trends established in the United Kingdom, Europe, and the United States, Upper Canada constructed its first penitentiary in 1835 ("Portsmouth Penitentiary", now called Kingston Penitentiary). Two common gaols (St. John , N.B., and Halifax, N.S.) were also designated by local governments as penitentiaries. Penitentiaries contrasted with gaols in that the former were centralized, specialized in their populations, and structured like small communities (e.g. a residence building, a chapel, separate work buildings). Penitentiaries also had a more reformative purpose -- there was a focus on work ("moral treatment") and rehabilitation ("moral reform"). There was no "hard labour" in gaols, and hence less opportunity for moral reform.

The earliest references in law to dividing custodial populations according to sentence length date from 1841, but they provide no details.

Records of the Quebec Conference of 1864 contain no discussion of a constitutional division of jurisdiction over penal institutions leading up to the Conference. Similarly, there is no record to explain the Conference's resolution that:

> "The local Legislatures shall have power to make laws respecting the following subjects...
> 9. The establishment, maintenance and management of penitentiaries, and of public and reformatory prisons."

This intention to leave all penal institutions to provincial control was reversed at the London Conference of 1866, which reserved jurisdiction over penitentiaries to the Dominion. No record of the reasons for this reversal of the Quebec Conference resolution appear to exist. Several theories have been proposed over the years. Some believe that the cost of these institutions were the deciding factor although the prevailing view of the day was that they would be self-supporting through prison industries. Another view is that penitentiaries provided a very visible and useful means of exerting social control by the state at a time when Dominion authority was being established, particularly in the more remote western regions of the country.

The London Conference resolutions formed the basis of the *British North America (BNA) Act* of 1867, which united the provinces into a Dominion and formally divided legislative jurisdiction and administrative responsibility between the two (federal and provincial) levels of government.

The *BNA Act* gave Canada jurisdiction over "penitentiaries", and provinces over "prisons and reformatories". These terms are nowhere defined nor, again, is it known with certainty what was the intention of this separation of jurisdiction.

The *BNA Act* also did not make clear what was the difference between prisons and penitentiaries in terms of their respective functions, programs, or the characteristics of their clientele. Instead, the *Criminal Code* was used as a mechanism to differentiate between the clientele who would be the responsibility of the two levels. Two year sentences and above would go to penitentiary and all others would remain the responsibility of the province to house. Again the reasons are not clear (Fauteux wrote in 1956: "There is no basis in logic.") Conditional release (temporary absences, day parole, parole, statutory release, earned remission) was not contemplated by the *BNA Act*. However since the constitutional responsibility for the "criminal law power" is assigned to Canada, it has been held that it follows that the authority to alter the length or character of a sentence rests with Canada.

In addition to Kingston Penitentiary, the *BNA Act* also gave Canada jurisdiction over the two common gaols which had been designated as penitentiaries (these two ceased to function as penitentiaries in the years following). Four new penitentiaries were built in seven years beginning in 1873 (St. Vincent de Paul, Manitoba, B.C., and Dorchester). No more were built for the next twenty-nine years. The penitentiary population by 1900 numbered some 1400 inmates. The precursors of today's conditional release system were established in 1868 with the introduction of earned remission, and in 1899 with the *Ticket of Leave Act.*

3. REVIEW OF THE TWO YEAR RULE

(a) Interprovincial Conference 1887

Called at the request of the Premier of Quebec, the purpose of the conference was to reconsider the financial basis of Confederation. Administration of justice was highlighted as a cost issue. Rising populations and the effects of federal legislation on provinces were the motivating concerns. The Quebec delegation recommended that the dividing line in corrections be changed to six months -- historians are divided in opinion as to whether this recommendation was actually passed as a resolution by the Conference. What is more certain is that the issue was not acted on nor raised in two subsequent interprovincial conferences in 1902 and 1906.

(b) Archambault Report 1939

There were by this point seven penitentiaries, 22 provincial reformatories, and 118 county jails. In its report, the Archambault Royal Commission brought together two lines of concerns: the objective of rehabilitation (versus punishment or incapacitation) in corrections, and the inadequate conditions of provincial reformatories to achieve this objective. This led the Commission to the conclusion that only a centralized correctional system would be able to provide effective rehabilitation of offenders and protection of the public. (The only exceptions to this were female offenders who, presumably because of their small numbers, were recommended to be kept in provincial facilities.)

The Commission recommended:

> "1. The Canadian penal system should be centralized under the control of the Government of Canada, with the federal authorities taking charge of all the prisons in Canada, the provinces retaining only a sufficient number to provide for offenders against provincial statutes, prisoners on remand, and those serving short sentences.
>
> 2. An immediate conference between the federal and provincial authorities should be held with a view to obtaining the full co-operation of the provincial authorities in putting the recommendations of the Commission into effect."

"Short sentences" were not defined by the Commission.

(c) Fauteux Report 1956

The establishment of the Fauteux Committee in 1953 was prompted by serious concerns respecting penitentiary and prison overcrowding, and the desire to increase releases (the number of penitentiaries had only increased by one since the Archambault Report, but the number of inmates had more than doubled). The Fauteux Report was consistent with Archambault in terms of its commitment to the rehabilitative objective of incarceration, and recognized a need to have sentences long enough to provide meaningful treatment.

Corrections Population Growth

Fauteux acknowledged the problems with a fragmented system, and (in an "analysis" of half a page out of a 90-page report) concludes that the jurisdictional split should be moved to six months:

> "Such a change, if effected, would result in greater uniformity of treatment of offenders throughout Canada and should ultimately result in the establishment of a greater number of types of institutions for prisoners who are sentenced to terms in excess of six months."

(d) Federal/Provincial Conference 1958

This conference was called in order to consider the Fauteux recommendations (several of which most notably resulted in the creation of the *Parole Act,* the National Parole Board, and the National Parole Service).

There was agreement that rehabilitation was the essence of good corrections, that short sentences offered little opportunity for meaningful rehabilitation, and that effective programs could only be carried out with sentences in excess of six months. As a result, Ontario, for example, urged the adoption of the Fauteux recommendation "because it believes that if [it is] adopted throughout Canada there will be better correctional processes for the benefit of the country as a whole".

The Conference representatives agreed that provinces should retain responsibility for sentences under 6 months, with the federal government to assume responsibility for those in excess of 6 months. In an interesting wrinkle, the Conference agreed that a minimum of a year sentence was necessary to work effective rehabilitation, and so agreed that sentences between 6 months and one year should be eliminated.

The Conference agreed that it would take some time, up to two or three years, to develop a detailed plan for a revised penal system along these lines.

In the interim, the federal government embarked on a multi-faceted and ambitious program of correctional reform oriented towards the rehabilitative model. This led to the creation of a regionalized system with differentiated security levels, as well as specialized treatment facilities. However, with the passage of time the agreement respecting the six month split dissipated.

(e) Ouimet Report 1969

This report noted the decline, although not the demise, of the rehabilitative ideal. Ouimet stated that while punishment has been "over-stressed" as a means of crime prevention, it does have a role to play in sentencing and may indeed take precedence over rehabilitation in some cases. Ouimet's embrace of the rehabilitation imperative being somewhat less forceful than his predecessors' may be part of the reason why he was less inclined to recommend a shift in the jurisdictional split. As well, he noted the "considerable growth in provincial correctional services" since the Fauteux Report, thus making any realignment much more complex to effect:

> "These difficulties have impressed the Committee as has the lack of consensus among the many people across the country with whom the Committee has discussed this problem. The Committee has therefore concluded that insufficient reasons exist to recommend any major transfer of responsibility for prisons."

In fact, Ouimet recommended further entrenchment of the two year rule, recommending that certain anomalies running counter to it be removed, and that parole authority be clearly divided with provinces being solely responsible for paroling provincial inmates.

(f) Goldenberg Report 1974

This Senate Committee assumed the continuation of the existing constitutional framework, though in principle supported the transfer of responsibility for all convicted offenders to the provinces, given provincial responsibility for the administration of justice and the closer proximity to health, education and welfare services which are important supports to a correctional system.

(g) Law Reform Commission (LRC) 1976

The LRC went even further than Ouimet, and concluded that imprisonment as a rehabilitative tool was unworkable. They proposed that incarceration should only be imposed as a last resort and only for three reasons. "Incapacitation" sentences, because they would only be imposed in cases of violence, should be served in federal penitentiaries regardless of actual sentence length. "Denunciatory" sentences could be served in either federal or provincial institutions. "Coercive" sentences (eg. fine default) would be served in provincial institutions. At the heart of this model, though, was the assumption of an overall reduction in the number of persons sentenced to incarceration.

(h) Steering Committee on the Split in Jurisdictions in Corrections ("Wakabayashi Report") 1978

This federal/provincial committee was struck by the Continuing Committee of Deputy Ministers Responsible for Corrections. Their final report was based on the work of two separate task forces which had examined the jurisdictional question within the preceding few years following expressions of concern about possible overlaps and duplications between the two levels of government. Federal/provincial corrections Ministers had reviewed the findings of those two task forces, and asked that three options be examined in greater detail:

1) provinces take over all adult corrections

2) the split be moved to six months

3) a joint federal/provincial corporation be established to be responsible for all corrections in a province.

Corrections Population Growth

The Steering Committee added two more options:

4) a mixed model, employing a different option in each province; and

5) the federal government taking over all adult corrections.

No consensus was achieved around any of these models, and no one model was recommended. As well, no real evidence of overlap and duplication was found. Rather, the Committee recommended that improvements be made in coordination between the two systems, and that the five options receive further study. Deputy Ministers subsequently agreed to retain the status quo respecting the split, given no overwhelming support for any of the models.

(i) Nielsen Task Force 1985

The Task Force, which included some provincial representation, came to no definitive recommendations respecting a shift in the split, although it noted that the split "creates practical difficulties which impede effective service delivery and efficient administration". They concluded that "interested provinces or groups of provinces [should] be allowed to assume full responsibility for all corrections within their borders, through the most appropriate mechanism (constitutional reform or delegation)".

They considered, but were less supportive of, an option of greater use of exchange of service agreements between the two levels of government. Under this option, "more program delivery functions could be passed to the provinces" through "ad hoc sharing arrangements" with the provinces retaining primary responsibility for community-based sentences and "institutions whose linkages to community services are of primary importance", and the federal government focusing on correctional services where security is the primary consideration.

(j) Canadian Sentencing Commission 1987

The Commission did not address the jurisdictional issue per se, but by recommending much shorter sentences it recognized that its proposed model would have a dramatic impact on provincial inmate population levels. As a result, if their additional recommendations respecting the use of incarceration did not provide an off-setting effect, they were prepared to recommend lowering the two year split to an unspecified point.

(k) Correctional Law Review 1988

This comprehensive correctional reform project, led by Solicitor General Canada, published a Working Paper on federal/provincial issues in corrections and conducted extensive cross-country consultations. No consensus was achieved on the issue of the jurisdictional split, and no change was recommended.

(l) Re-emergence of the issue in the 1990's

The issue of the jurisdictional split has re-emerged from several directions. The issue has been raised by federal government central agencies in the context of "overlap and duplication" issues and the search for greater efficiencies. Similarly the issue has been raised formally and informally in the context of federal-provincial-territorial consultations on a variety of correctional issues.

4. CONCLUSION

As this summary indicates, the two year rule has been the subject of nearly a dozen major reviews since Confederation. There have been speculative concerns respecting the impact of the split of jurisdiction, but none of the reports have confirmed substantial overlaps or duplications between the two systems, or ones that could be overcome by a change in jurisdiction.

The level of analysis which was conducted in some of these reviews was quite comprehensive (Ouimet, for example). Any study undertaken at the present time would require the same thoroughness of review; in the absence of that, it is unlikely that different results would be achieved.

SUMMARY OF MAJOR REVIEWS SINCE CONFEDERATION

Interprovincial Conference 1887 ←
Quebec recommended 6 month split

→ **Archambault Report 1939**
Centralized authority with feds

Fauteux Report 1956 ←
6 month split

→ **Fed/Prov Conference 1958**
Feds 1 year +
Provs < 6 months

Ouimet Report 1969 ←
Status quo

→ **Goldenberg Report 1974**
All authority to provs

LRC 1976 ←
Division according
to purpose of sentence

→ **Wakabayashi Report 1978**
Status quo

Neilsen Task Force 1985 ←
Status quo, with option to interested
provinces to take on full responsibility

→ **Sentencing Commission 1987**
Status quo, prepared to lower
split if necessary

Correctional Law Review 1988 ←
Status quo