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THE CRIMINAL JUSTICE SYSTEM

DENMARK

Background Report No. 3

STRATEGIC PLANNING COMMITTEE

An Advisory Group to  
The Correctional Service of Canada

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no. 3

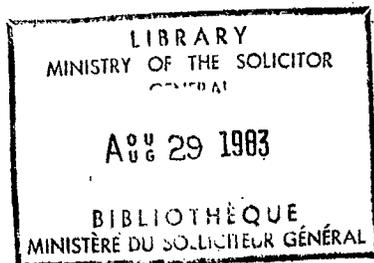


Correctional Service  
Canada

Service correctionnel  
Canada

HV  
1215  
A6  
B3  
no. 2

AN ADVISORY GROUP TO THE CORRECTIONAL SERVICE OF CANADA



THE CRIMINAL JUSTICE SYSTEM,  
DENMARK /

Background Report No. 3

*Canadian Corrections Service,*

Strategic Planning Committee //

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April, 1980

This report has been prepared as a background paper by The Strategic Planning Committee for its deliberations on the long-term future of The Correctional Service of Canada.

In the hope that it may be of value to government departments, agencies and individuals involved in criminal justice, I am pleased to share it with you.

A handwritten signature in cursive script, appearing to read 'D.R. Yeomans', written in dark ink.

D.R. Yeomans  
Commissioner

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Research Assistant: Cathy J. Gillis

This Report is a summary of the most recent literature available on the Criminal Justice System in Denmark.

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## I CRIMINAL JUSTICE SYSTEM

### A) Philosophy

- main aim of criminal law is general prevention; punishment dominant theme of law, but social tolerance high;
- justice is fair and uniform, with strict application of the law and regulations;
- recognition of the need to separate those offenders who require only punishment and those who require psychiatric treatment while being punished;
- free will philosophy operative;
- criminal justice system not rehabilitative; this function best left to external authorities (i.e. welfare agencies).

### B) Administration

- Ministry of Justice responsible for police, prosecution, and correctional operations;
- all sub-systems of criminal justice system under one policy body; allowing for consistency and uniformity;
- independence of judiciary.

### C) Operations

- wide police/prosecution discretionary powers regarding disposition and prosecution;
- 25% of crimes dealt with by prosecutorial waivers;
- arrested persons must be presented before judge within 24 hrs;
- no plea bargaining;
- no juvenile court system (offenders under 15 years of age dealt with by Child-Youth Welfare Authority);
- criminal responsibility relevant to the finding of guilt and to disposition; only basis for diversion from criminal justice system is legal insanity;
- drunkenness is a defence.

### D) Sentencing

- emphasis on punishment and maintenance of respect for the law;
- age of criminal responsibility is 15, offenders 18 years or younger usually waived by prosecution; these offenders handed over to children's welfare authorities;
- capital punishment abolished in 1930;
- maximum sentence is set out in criminal code and there are no statutory minimums;

- prison see as last resort.

Reform Act 1973 (last criminal code amendment)

- elimination of indeterminate sentence and institutions designed to house persons serving indeterminate sentences;
- abolition of youth prisons;
- abolition of special measures for alcoholics;
- abolition of workhouse detention;
- reduction in maximum sentences for property offenders and recidivists;
- emphasis on increase use of fines and probation.

E) Sanctions

i) fines

- frequently used sanction (25%);
- day fine - similar to Swedish day fine; elaborate schedules of payment;
- levied according to gravity of offence and offender's financial situation;
- jail terms for non-payment run from 2 days to 60 days but are rarely used.

ii) suspended sentence

- equivalent of probation sentence, but without supervision;
- used in approximately 25% of criminal cases (50% in 1975);
- conditions applied;
- treatment/assistance-oriented sanction.

iii) imprisonment

- sentences are for a definite period or life; life sentence usually pardoned after 10 - 12 years;
- 3 forms of imprisonment, lenient; ordinary; detention.

a) lenient imprisonment

- sentence length from 7 days - 6 months;
- served in local jail; which are usually limited in terms of resources/amenities;
- used for non-dangerous offenders;

- few restrictions on inmates;
- increase use of open camps for short sentences.

b) ordinary imprisonment

- used in 20% of sentences for criminal code violation (1975);
- sentence length 30 days to 16 years or life;
- most common form of imprisonment, although declining in use;
- served in "state prisons" (as distinct from local jails).

c) detention imprisonment

- used primarily for a small number of habitual and/or dangerous offenders;
- declining use of this sanction;
- basically indeterminate sentence.

F) Trends

- increased use of probation/fines;
- stress on depenalization;
- increased emphasis on 'modern' crime, economic/traffic offences;
- decriminalization of 'victimless' crimes (1969) (i.e. prostitution, possession of soft drugs, pornography);
- move to shorter prison sentences;
- crime rate - decrease in number of reported crime in 1975 by 15%;
  - increase in the number of property crimes;
  - basically long trend stability in rate.

## II CORRECTIONAL SYSTEM

### A) Philosophy

- punishment through deprivation of liberty;
- recognition of the negative effects and limits of imprisonment; prisons to punish not cure;
- the State has the right to deprive liberty, but also obligation to accord as much freedom as possible within confinement;
- loss of liberty is the only punishment;
- after-care seen as critical aspect of correction; aspects introduced early in offender's sentence;
- imprisonment should be reflective of Danish society - peaceful, orderly, humane;
- indirect treatment overtone in handling of young offender.

### B) Policy

- United Nations Standard Minimum Rules on Treatment of Offenders are part of the Danish rules on custodial treatment;
- attempts to make life in institutions as normal (as possible) as free society;
- provide humane care until release;
- low emphasis on security;
- little supervision of inmates.

### C) Administration

- one national, centralized, administration responsible for pre-trial arrangements, prisons, probation, after-care, hostels - Department of Prisons and Probation - an autonomous unit within the Ministry of Justice.

### D) Conditions

- small institutions, bed capacity 15 up to 285;
- security relatively lax in comparison to other western nations;
- placement determined by central administration; based on length of sentence and record of escapes;
- no reception/diagnostic centers;
- prisons either open (little security) or closed;
- 6 closed prisons; 9 open prisons; 50 local jails;
- most institutions rurally located;

- large inmate turnover due to brevity of sentences;
- few staff/inmate problems, ratio 2:1 or 1:1 (staff: inmate);
- little censorship;
- few restrictions on inmates; especially in open institutions;
- many institutions are old archaic structures; accommodations made as comfortable as possible.

E) Operations

i) local institutions (jails)

- utilized for remand and short sentences;
- total capacity 3,000; individual institutional capacity - 15 to 70 beds (except Copenhagen jail - 700 beds).

ii) open institutions

- low security;
- total capacity 1,100; individual institution capacity 75 to 250 beds;
- emphasize normal living conditions;
- dorm style; individual cubicles.

iii) closed institutions

- 'maximum' security; internal security lax; emphasis on external security;
- 150 to 285 bed capacity;
- considered large and archaic;
- utilized for long term offenders or when no other sanction feasible;
- special treatment available in certain institutions.

i.e. Herstedvester - prison for mentally disturbed offenders with fixed terms and for diagnosed "sexual psychopaths".

Ringe - maximum security; coed institution; no guards; static security only; electronic surveillance; work/study programs.

iv) operations - general

- few innovative attempts at rehabilitation;

- no therapeutic programs per se;
- all inmates required by law to work or study;
- paid for work/study; some wages comparable to union rates;
- inmates can choose work program and institution desired; waiting list procedure;
- weekly conjugal visiting; primarily for open institutions;
  - seen as a right;
  - work release presently reduced usage due to unemployment situation;
- disciplinary measures - isolation cells can be used up to three months, with no loss of privileges (i.e. conjugal visits) - declining use of this measure;
- fine or loss of privileges are common forms of discipline.

v) inmate profile

- young males, 25 years;
- average age declining;
- majority of property offenders are young;
- 20% prison population are drug addicts;
- large number of inmates are products of the child welfare system.

vi) inmate rights

- offenders retain all civil rights (i.e. right to vote, freedom of speech, association, etc.);
- inmates have full access to ombudsman; courts not utilized to adjudicate grievances.

vii) parole

- inmates eligible at one-half to two-thirds of sentence (at least 4 months must be served);
- 90% usually paroled at two-thirds, 8% at one-half of their sentence;
- parole decision made at institutional level - decision factors include - will inmate benefit from supervision; institutional behaviour, in theory, not an influence on parole decision;
- release date known on entry;
- parole supervision from 2 to 5 years;
- no court review applicable in administrative release decision.

F) Evaluation Research

- emphasis on experimentation of different institutional programs, i.e. coed institutions; employment of female guards; inmate input into institutional policy;
- limited research on special institutions and control groups - indicate different methods of confinement do not create any different effects, re: recidivism.

G) Trends ○

- decreased use of imprisonment;
- increased use of community based alternatives;
- increased use of open institutions;
- increased use of unsupervised furloughs;
- removal of corrections from rehabilitative services and vice versa;
- possibility of a small hard-core prison population serving long sentences, as alternatives to shorter prison sentences are utilized.

### III CONCLUSION ON SYSTEM'S OPERATION

The Danish correctional system can be described as a realistic approach to the handling of offenders. There is an admitted awareness of what prison can and cannot do, and that social problems, not necessarily criminal, are better handled by other socio-economic measures; further incarceration and social readjustment are seen as contradictory.

No matter how small, comfortable and well staffed institutions are, the Danes do not place high expectations on the offender or the system. The concept of punishment and maintenance of a general respect for the law is actively applied. There is also high respect for the legal profession. The composition of the prison population is 85% property offenders, considered non-dangerous. This might appear contrary to North American positions which currently call for the limited use of incarceration of the non-dangerous offender, however the Danish view is that the state adequately and efficiently provide economic, medical and social assistance, taking care of the individual, thus offences against property are not as justified nor tolerated.

In essence the Danish system is humanitarian in its treatment of the offender, yet there are certain disadvantages in the operation of the criminal justice process. The use of mental institutions for labelled D.S.O.'s/habituals can be viewed as the Danish way to handle potential institutional and societal problems. The Danish public in general have little interest in either crime or criminals, and have left the handling of such to the state, thus prison reform is not a high political priority. The cost of the system is high, especially if one includes the social welfare system which probably takes a considerable pressure of the criminal justice system. Further, the 'progressive' Danish prison system is not without prison unrest, particularly in closed institutions where inmates complain about low wages, mandatory work and discipline procedures. However this unrest, usually taking the form of strikes, is rarely violent. The Danish system has its problems and the demonstration that humane and lenient imprisonment is ineffective in reducing recidivism or creating a drastic reduction in the crime rate has not prevented the system from continuing its tolerant approach to crime and criminals.

IV APPENDICES

A) Statistics

AVERAGE DAILY POPULATION (1974-78)

	<u>1974</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1978</u>
	<u>BASE NUMBER</u>	%	%	%	%	%	<u>NUMBER</u>
Copenhagen Prisons	560	100	96	86	81	98	546
Local Prisons	990	100	94	78	76	87	861
Closed Institutions	818	100	101	93	84	79	644
Open Institutions	1121	100	97	84	76	81	903
TOTAL	3489	100	97	85	79	85	2954

SOURCE: Kriminalforsorgens, Arsberetning, 1978.

ADMISSIONS BY OFFENCE TYPE (1974-77)\*

	<u>1974</u>		<u>INDEX 1974 = 100</u>			
	<u>#</u>	<u>%</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Sexual Offences	93	3.6	100	91	109	95
Crimes of Violence	568	21.7	100	121	139	151
Property Crimes	1777	68.0	100	92	78	75
Other	174	6.7	100	89	108	98
TOTAL	2612	100	100	95	88	86
(Women)	55	2.1	100	90	77	60

Synopsis

- relative rise in number of prisoners committed for crimes of violence;
- relative fall in property offenders.

\* Excluding Copenhagen prisons.

SOURCE: Kriminalforsorgens, Arsberetning, 1978.

PERCENTAGE NUMBER OF COMMITMENTS AFTER CONVICTIONS OF THE  
CRIMINAL CODE DISTRIBUTED BY PENALTIES (EXCLUSIVE FINES  
AND LENIENT IMPRISONMENT)

Men and women

	1951	1956	1961	1966	1970	1973
1. Imprisonment	94,7	92,5	87,4	88,2	90,8	96,8
2. Special imprisonment	0,3	0,9	2,1	2,9	3,5	1,7
3. Youth prison (borstal)	1,6	3,2	7,2	6,5	4,8	1,4
4. Correctional workhouse	1,2	1,3	1,2	0,9	0,2	0,0
5. Security detention	0,1	0,1	0,0	0,1	0,0	0,0
6. Detention	2,1	2,1	2,1	1,4	0,7	0,1
Total	100,0	100,1	100,0	100,0	100,0	100,0
Numbers	4771	4475	3464	3492	4331	4786

AVERAGE NUMBER OF INMATES IN 1973

	MEN	WOMEN	TOTAL
Penal institutions	1857	43	1900
Copenhagen Prisons	488	21	509
Local Prisons	928	13	941
Total	3273	77	3350

Source: Ministry of Justice, Dept. of Prison and Probation, February, 1975.

NUMBER OF OFFENDERS IN 1973 SUBJECT TO TREATMENT IN STATE PRISONS AND THE INSTITUTION AT HERSTEDVESTER, BUT NOT THE COPENHAGEN PRISONS AND THE LOCAL PRISONS

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	MEN	WOMEN	TOTAL
Inmates present			
January 1, 1973	1519	26	1545
December 31, 1973	1376	33	1409
Admissions, total	3993	74	4067
Committed on conviction	3287	70	3357
Returned as a parole violator	80	1	81
Returned as a pardon violator	-	-	-
Transferred from other institutions	626	3	629
Discharges, total	4136	67	4203
Expiration of sentence	1184	29	1213
Parole	2141	38	2179
Pardon	7	-	7
Death	2	-	2
Transferred to other institutions	802	-	802

Source: Ministry of Justice, Dept. of Prison and Probation, February, 1975.

THE AVERAGE NUMBER OF INMATES (MEN AND WOMEN) OF THE INSTITUTIONS  
UNDER THE DANISH PRISON AND PROBATION ADMINISTRATION IN 1968  
AND THE ACTUAL NUMBER OF INMATES OCTOBER 2, 1974

	In closed institutions		In open institutions		Total	
	1968	2/10 1974	1968	2/10 1974	1968	2/10 1974
1. "Long-term" Inmates <sup>1)</sup>						
a. Ordinary imprisonment	520	744	602	948	1122	1692
b. Special imprisonment <sup>2)</sup>	93	x)	-	x)	93	x)
c. Correctional workhouse	y)	x)	83	x)	83	x)
d. Detention	230	16	2	3	232	19
e. Security detention	12	x)	-	x)	12	x)
f. Youth prison	162	x)	223	x)	385	x)
g. Asylum for inebriates	1	x)	-	x)	1	x)
Total 1	1018	760	910	951	1928	1711
2. "Short-term" Inmates <sup>2)</sup>						
a. Lenient imprisonment	427	313	68 <sup>4)</sup>	211	495	524
b. In custody on remand awaiting trial	755	979	2	2	757	981
c. Ordinary imprisonment	225	353	z)	z)	225	353
Total 2	1407	1645	70	213	1477	1858
3. Other groups of Inmates <sup>5)</sup>	24	23	- <sup>6)</sup>	3	24	26
Total 1, 2 and 3	2449	2428	980	1167	3429	3595

1) Serving in "State prisons" or so-called "special institutions".

2) Inclusive psychiatric observation centre.

3) Mainly in local prisons.

4) In special sections of the State prisons.

5) Placed in local prisons.

6) Included in the number of persons in custody on remand (2.b.).

x) Abolished penal measures.

y) Can only be served in an open institution.

z) No statistics available - all sentences of imprisonment place in 1.a.

Source: Ministry of Justice, Dept. of Prison and Probation, February, 1975.

General Statistics

Population: 5 million

Costs

- operating costs - \$67.5 million (1977);
- cost/inmate - daily \$49 (1976).

Prison Statistics

- average time served is less than 4 months (around 3.4 months);
- 80% of prison population sentenced to less than one year, of which 50% are sentenced to 6 months or less (1978 data). In 1975, 77% sentenced less than one year, 16% from one to two years, 7% from 2 years to life;
- average daily population 3,000 (1978);
- 76% of inmate population committed for property offences, 16% for violent crime, 8% for other.

Recidivism

- recidivism rate roughly 70%.

Sources: - Ministry of Justice, Dept. of Prison and Probation, February, 1975.  
- Corrections Magazine, March 1977 (23-46).

B) External Factors

Political

- constitutional democracy;
- welfare state;
- low geographic mobility of population; 59% urban  
41% rural;
- demographic bookkeeping - for national personal  
identification.

Economic

- little economic disparity between social classes;
- protection from personal hardship (free education/  
medical measures; job protection).

Social

- homogeneous society (religiously, ethnically);
- large and expensive social welfare system;
- collective responsibility for social welfare of  
individuals.

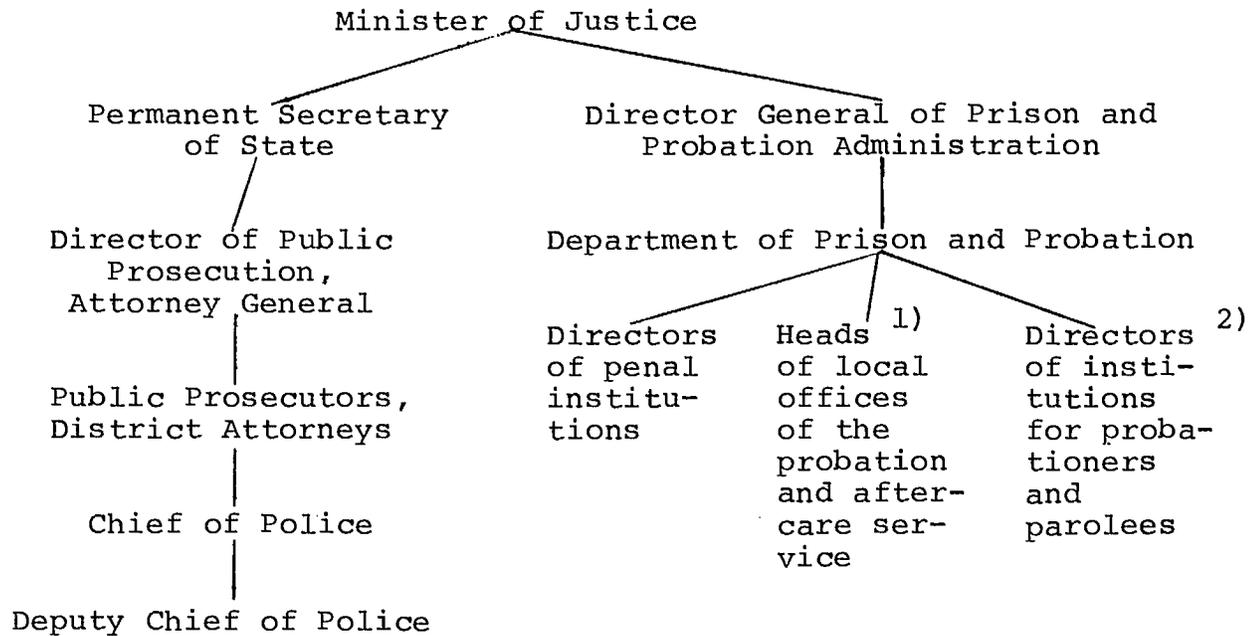
Cultural/Historical

- little competition between individuals;
- little social violence or little fear of crime;
- respect for individual;
- WWII - Nazi occupation and effects of concentration  
camps in part responsible for the short and lenient  
use of imprisonment and the humane treatment of of-  
fenders.

C) Organizational Chart

THE PUBLIC PROSECUTION, THE POLICE AND  
THE PRISON AND PROBATION ADMINISTRATION

The hierarchial organization of the public prosecution, the police and the prison and probation system is shown below.



Except for the persons in charge of 1) and 2), who are socially trained, all the above mentioned posts are held by people having a degree in law. Some directors of penal institutions do not, however, have a degree in law, but another comparable university degree.

Source: Ministry of Justice, Dept. of Prison and Probation, February, 1975.

D) Reform Proposals

Reform Proposals

Government Report - "Alternatives to Imprisonment" (1977)  
Ministry of Justice.

Recommendations

1. Offender be given the option of treatment, be it probation or parole.
2. Semi-detention - detain offender in his free time, night or weekend prison, administered by prison authorities.
3. Community Service be recognized as an alternative.
4. Greater use of parole - possible earlier release date.

E) Update

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